



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



ITEM: 15.1
(ID # 26511)

MEETING DATE:

Tuesday, December 03, 2024

FROM : RUHS-MEDICAL CENTER

SUBJECT: RIVERSIDE UNIVERSITY HEALTH SYSTEM – CORRECTIONAL HEALTH SERVICES: Approval of the Software License and Service Agreement with NaphCare, Inc., for the TechCare® EHR Software System and Service, effective January 01, 2025, through December 31, 2030; All Districts. [Total Aggregate Cost \$5,453,750; up to \$545,375 in Additional Compensation 67% State Grant Funds, 33% Correctional Health General Fund 10000] (4/5 Vote Required)

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Software License and Service Agreement with NaphCare, Inc., for the TechCare® EHR Software System and Service, effective January 01, 2025, through December 31, 2030, for an aggregate cost of \$5,453,750, and authorize the Chair of the Board to sign the Agreement on behalf of the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved as to form by County Counsel: (a) issue Purchase Order for any goods and/or services rendered (b) sign amendments that make modifications to the scope of services that stay within the intent of the agreement, and (c) sign amendments to the compensation provisions that do not exceed the total sum of ten percent (10%) of the total cost of the agreement.
3. Approve and direct the Auditor Controller to make the budget adjustment as shown on the attached Schedule A.

ACTION:Policy, 4/5 Vote Required

Jennifer Cruikshank
Jennifer Cruikshank, Chief Executive Officer – Health System 11/18/2024

MINUTES OF THE GOVERNING BOARD

On motion of Supervisor Gutierrez 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: December 3, 2024
xc: RUHS

Kimberly A. Rector
Clerk of the Board
By: *[Signature]*
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 1,822,750	\$ 907,750	\$3,638,250	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$1,815,500	\$ 0
SOURCE OF FUNDS: 67%State Grant Fund 33%Correctional Health General Fund 10000			Budget Adjustment: Yes	
			For Fiscal Year: 24/25 – 29/30	

C.E.O. RECOMMENDATION:

BACKGROUND:

Summary

The requested Board action will approve the Software License and Service Agreement with NaphCare, Inc., to provide the TechCare® EHR Software System for Riverside University Health System – Correctional Health Services. NaphCare’s software provides a comprehensive and specialized Electronic Health Record (EHR) system tailored specifically for correctional facilities. This technology offers a number of benefits that enhance the efficiency, effectiveness, and quality of healthcare provided to incarcerated populations. NaphCare also highlights the significance of proactive and preventive care by automating and standardizing healthcare processes. The software system helps ensure that inmates receive consistent and high-quality care. This proactive approach focuses on early intervention and prevention.

On January 9, 2024 (Item 3.38), the Board accepted grant funds from the California Department of Health Care Services (DHCS) for the Providing Access and Transforming Health (PATH). A portion of this funding is to improve infrastructure of the EHR. This funding will cover three years of cost including the initial upgrade to TechCare® and two subsequent years of the licensing cost, as the grant expires in Fiscal Year 26/27. The ongoing cost is \$907,750 annually, which is an increase to the existing annual licensing cost of \$500,000. Therefore, RUHS will request general fund support for the difference in cost upon grant funding expiration.

Impact on Citizens and Businesses

These services covered by this Agreement are a component of RUHS- Correctional Health Services system of care aimed at improving the health and safety of its patients and the community. By continuing this software service RUHS is focusing on early intervention and prevention and this can help to alleviate health emergencies and better overall patient outcomes.

Contract History and Price Reasonableness

On November 17, 2014, the Board of Supervisors (Board) approved Agenda Item #3.106, for the implementation of an Electronic Healthcare Medical Record System in the County Jails and

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

Juvenile Detention Facilities without obtaining competitive bids in the amount of \$5,000,000 over a 10-year period.

On May 24, 2016, the Board approved the Second Amendment Agenda Item #3-16, for a one-time payment not to exceed the amount of \$80,000 related to the Forensic Behavioral Health implementation of the Electronic Healthcare Medical Records System in the County Jails and juvenile detention facilities.

Subsequently 9 additional amendments were executed under the Purchasing Agents authority to extend the period of performance. The current agreement with Naphcare will be concluding on 12/31/2024. RUHS is currently requesting to enter into a new five-year agreement with NaphCare for Correctional Healthcare Software Services.

This Agreement requires Board approval as the annual compensation of the Agreement exceeds the Purchasing Agent's delegated authority for contracting with a single vendor for Healthcare Software Services per Resolution 2024-127.

ATTACHMENTS:

Attachment A: SOFTWARE LICENSE AND SERVICE AGREEMENT WITH NAPHCARE
INC FOR TECHCARE® EHR SOFTWARE SYSTEM

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

Schedule A

The requested budget adjustment will increase appropriation two within the Riverside University Health System Correctional Health Systems.

Recommended Motion: *That the Board of Supervisors approve and direct the Auditor-Controller to make budget adjustments increasing estimated revenue and appropriations for RUHS-CHS follows:*

Increase Appropriations:

10000-4300300000-523220	Licenses and Permits	\$1,822,750
-------------------------	----------------------	-------------

Increase Estimated Revenues:

10000-4300300000-751680	CA-State Grant Revenue	\$1,822,750
-------------------------	------------------------	-------------



Meghan Hahn, Director of Procurement 11/14/2024



Jacqueline Ruiz, Principal Analyst 11/26/2024



Gregg Gu, Chief of Deputy County Counsel 11/19/2024

Software License and Service Agreement

Cover Page

This License and Service Agreement (the “**Agreement**”) is made and entered into by and between NaphCare, Inc., an Alabama corporation (“**NaphCare**”), and the County of Riverside, a political subdivision of the state of California on behalf of its Riverside University Health System Medical Center (“**Customer**”) as of the Effective Date indicated below (the “**Effective Date**”).

Effective Date: 01/01/25

Customer Name: County of Riverside
(Full Legal Name of Customer)

Licensed Site: **PRIMARY:** 3403 10th St., Suite 110, Riverside, CA 92501
(Physical Street Address) (City) (State) (Zip)

SECONDARY: _____
(Physical Street Address) (City) (State) (Zip)

Customer Address (for notices): 3403 10th St., Suite 110, Riverside, CA 92501
(leave blank if same) (Physical Street Address) (City) (State) (Zip)

CHS-Admin Correctional Health Care Services
(Department/ Attention)

Send copies of notices to: _____
(leave blank if inapplicable) (Street Address or P.O. Box) (City) (State) (Zip)

(Department/Attention)

Customer Address (for billing): AP@ruhealth.org
(leave blank if same) (Street Address or P.O. Box) (City) (State) (Zip)

(Department/ Attention)

Exhibits and Addenda:

This Agreement is comprised of this page (the “**Cover Page**”) together with the **Background, Term of Agreement, Governing Law, Location of Performance, Definitions** and the following exhibits: **Exhibit A** (General Terms and Conditions) (the “**General Terms**”), each of which is attached hereto and incorporated herein by this reference, **Exhibit B** (Business Associate Agreement), **Exhibit C** (Licensed Sites), **Exhibit D** (Implementation Services), **Exhibit E** (Cloud Hosted Services), **Exhibit F** (Maintenance and Support Services), **Exhibit G** (Information Security Addendum), **Exhibit H** Application Warranties and Remedies), **Exhibit I** Customization for Waiver 1115 Implementation), **Exhibit J** (Medical Billing and Claims Management Services), and **Exhibit K** (Deliverables, Acceptance, Schedule and Fees). Any additional terms and conditions or modifications to the terms and conditions set forth in the General Terms shall be reflected in one or more amendments executed by the parties that expressly reference this Agreement.

Capitalized terms not otherwise defined shall have the meanings ascribed in the Definitions. In the event of a conflict between the provisions of an exhibit or amendment to this Agreement and the General Terms, the General Terms shall govern unless the exhibit or addendum (i) expressly states otherwise, or (ii) includes additional and/or more specific terms and conditions with respect to a concept addressed generally in the General Terms.

DEC 03 2024 15.1

Background

NaphCare, Inc. is an Alabama corporation providing its correctional healthcare software services throughout the United States.

The Customer, County of Riverside, seeks to use the services of NaphCare for implementation and use of NaphCare's TechCare® EHR Software System.

Term of Agreement

The term of this Agreement shall commence on January 1, 2025 and, unless otherwise terminated as provided herein, shall continue for a period of three (3) years from the Effective Date (the "Initial Term"), after the initial three year term, this Agreement may be renewed for additional terms of one year each for a maximum of two years (each a "Renewal Term") by mutual written amendment signed by both parties. In the event the parties fail to execute an amendment for a Renewal Term, the Agreement shall expire at the end of the then-current Initial Term or Renewal Term, as applicable. The Initial Term and the Renewal Term(s) shall together constitute the "Term".

Governing Law

This Agreement shall be construed and enforced in accordance with the laws of the State of California (other than its conflicts of law provisions) and venue shall be exclusively in the federal or state courts sitting in Riverside County, California. The parties to this Agreement hereby specifically submit to the jurisdiction of said courts and waive all objections based upon jurisdiction and venue.

Location of Performance

Except where NaphCare obtains the Customer's prior written approval, Contractor shall perform all of the Services only from or at locations within the geographic boundaries of the continental United States, as further specified herein. Any Customer approval for the performance of Services outside of the continental United States shall be limited to the specific instance and scope of such written approval, including the types of Services and locations involved.


[Signature Page Follows]

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

NAPHCARE, INC., a Alabama corporation:

By: 

By: 

Name: Chuck Washington

Name: Bradford T. McLane

Title: Chairman, Board of Supervisors

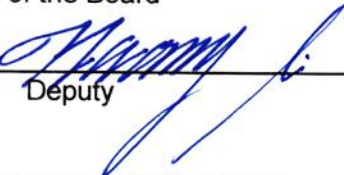
Title: Chief Executive Officer

Date: 12/03/2024

Date: 11/12/2024

ATTEST:

Kimberly A. Rector
Clerk of the Board

By: 
Deputy

APPROVED AS TO FORM:

Minh C. Tran
County Counsel

By: Esen Sainz

Name: Esen Sainz

Title: Deputy County Counsel

Date: Nov 12, 2024

Table of Contents

Cover Page	1
Exhibits and Addenda.....	1
Background	2
Term of Agreement	2
Governing Law	2
Location of Performance	2
Signatures	2
Definitions	5
Exhibit A – General Terms and Conditions	10
Exhibit B – Business Associate Agreement	29
Exhibit C – Licensed Sites	42
Exhibit D – Implementation Services	43
Exhibit E – Cloud Hosted Services	46
Exhibit F – Maintenance and Support Services	50
Exhibit G – Information Security Addendum	58
Exhibit H – Application Warranties and Remedies	67
Exhibit I – Customization for Waiver 1115 Implementation	69
Exhibit J –Medical Billing and Claims Management Services	74
Exhibit K – Deliverables, Acceptance, Schedule and Fees	76

Definitions

Unless otherwise defined herein, capitalized terms used in this Agreement shall have the following definitions.

- a) "Affiliate" means, as to a party, any other entity that directly or indirectly controls, is under common control with, or is controlled by, such party; as used in this definition, "control" and its derivatives mean possession, directly or indirectly, of power to direct the management or policies of an entity. For clarification and avoidance of doubt, in the case of Customer, Affiliate shall mean any entity that has a formal or informal relationship with Customer, including, but not limited to Customer's subsidiaries.
- b) "Application" means the current version of the System Software offered by NaphCare in object/executable (and/or encrypted source code) form only, and any associated database structures and queries, interfaces, data conversion software, tools, and the like, together with any and all Updates thereof, as may be licensed by NaphCare to Customer pursuant to this Agreement. For clarification and avoidance of doubt, the Application shall include all customizations and Feature Requests developed by NaphCare for Customer. For the purposes of this definition, "current version" means the current Production version as well as any new Update of the Production version that has been release but is not yet installed.
- c) "Application Error" means an error or defect in the Application Software which requires correction by NaphCare.
- d) "Available" means that the Application is available and functioning correctly for use in accordance with the warranties and the SLAs.
- e) "Authorized User" means any individual, whether on-site at a Licensed Site or at a remote location, who is (a) a Customer employee, including temporary employees or contract employees (b) a physician or other medical professional authorized to perform services at a Customer facility or Licensed Site, or (c) an employee of such physicians and medical professionals, in each case as duly authorized by Customer to access the System.
- f) "BAA" means, a business associate agreement executed by the parties in compliance with HIPAA.
- g) "Change Advisory Board" means the group of Customer personnel responsible for decisions related to requested changes in the System.
- h) "Concept" means (i) any method, process, procedure, know-how, and the like utilized by NaphCare in performing its obligations under this Agreement or otherwise and related to the Licensed Materials or the Services that is used, held, or acquired for use by NaphCare in the course of its business and (ii) any finding, invention, improvement, discovery, or idea of NaphCare, either alone or jointly with Customer or a third party, whether or not patentable, and related to the Licensed Materials or the Services that is conceived or reduced to practice during the Term.
- i) "Confidential Information" means any information of any type in any form that (i) is disclosed to or observed or obtained by one party from the other party (or from a person the recipient knows or reasonably should assume has an obligation of confidence to the other party) in the

course of, or by virtue of, this Agreement and (ii) either is designated as confidential or proprietary in writing at the time of such disclosure or within a reasonable time thereafter (or, if disclosure is made orally or by observation, is designated as confidential or proprietary orally by the person disclosing or allowing observation of the information) or is of a nature that the recipient knew or reasonably should have known, under the circumstances, would be regarded by the owner of the information as confidential or proprietary. Without limiting any other provisions of this Agreement, and whether or not otherwise meeting the criteria described herein, the Application shall be deemed conclusively to be Confidential Information. For purposes of this Agreement, however, the term “Confidential Information” specifically shall not include any portion of the foregoing that (i) was in the recipient’s possession or knowledge at the time of disclosure and that was not acquired directly or indirectly from the other party, (ii) was disclosed to the recipient by a third party not having an obligation of confidence of the information which the recipient knew or which, under the circumstances, the recipient reasonably should have assumed to exist, (iii) is or, other than by the act or omission of the recipient, becomes a part of the public domain not under seal by a court of competent jurisdiction, or (iv) is independently developed by a party without reference to or use of the other party’s Confidential Information, and the term “Confidential Information” specifically shall not include protected health information (as defined under HIPAA), because such information is subject to the provisions of the BAA. No combination of information will be deemed to be within any of the foregoing exceptions, regardless whether the component parts of the combination are within one or more exceptions. In the event of any ambiguity as to whether information is Confidential Information, the foregoing shall be interpreted strictly and there shall be a rebuttable presumption that such information is Confidential Information.

- j) “Customer Data” means (i) all data entered, collected, stored, processed or generated through Customer’s use of the Application, or (ii) entered into the Application by or on behalf of Customer pursuant to a conversion of data from another system, in either case as such data is maintained in the Application from time to time. Customer Data includes all Protected Health Information (“PHI”) as such term is defined by HIPAA.
- k) “Deliverables” mean the specific Deliverables set forth in Exhibit G, Section 1.
- l) “Documentation” means all documentation (whether printed or in an electronic retrieval format) supplied to Customer by NaphCare for use with or in support of the Application, including descriptions of how to configure and use the features and functions of the Application, and any and all Updates thereof as may be supplied by NaphCare to Customer during the Term. Documentation shall also include the Functional Specifications.
- m) “Excusable Outage” means unavailability (i) during Scheduled Maintenance, or (ii) caused by or resulting from negligent or intentional acts or omissions of Customer, its Affiliates, an Authorized User, their respective employees, agents, contractors, or vendors, or any other party gaining access to the Application due to any such negligent act or omission, or (iii) arising from Customer’s direction that NaphCare cease making the Application Available for use other than in the event of a material breach of the Agreement by NaphCare, or (iv) caused by outages of Customer’s LAN, or (v) caused by outages of Network Connectivity not provided by NaphCare, or (vi) caused by outages of individual end-user devices (e.g., workstations, printers, and peripheral devices).
- n) “Functional Specifications” means (i) the specifications describing features and functions of the Application as set forth in Exhibit C and, (ii) any mutually agreed upon specifications for

customizations, interfaces, data imports/conversions, Feature Requests, and other deliverables related to the Application that are attached to this Agreement, a Statement of Work, or are subsequently agreed upon by the parties.

- o) "HIPAA" means, collectively, the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act (commonly referred to as the "HITECH Act"), and the regulations promulgated under the foregoing from time to time by the United States Department of Health and Human Services, each as amended from time to time.
- p) "SLAs" means the service level agreements for the System which includes hosting.
- q) "Information blocking" is a practice by a health care provider, health IT developer, or health information network or exchange that, except as required by law or covered by an exception, is likely to interfere with the access, exchange, or use of electronic health information.
- r) "LAN" refers to Customer's Local Area Network, specifically the interconnection via IP communication of computers within a single physical location (i.e., Licensed Site).
- s) "Licensed Materials" means the Application and the Documentation.
- t) "Licensed Site" means the primary and secondary locations (facilities) set forth or referred to on the Cover Page of this Agreement.
- u) "Malfunction" means a material failure of the System, when operated in accordance with the Documentation, to provide the functionality described in the Documentation or to perform in conformance with any standards and specifications expressly stated therein. A Malfunction may or may not be caused by an Application Error.
- v) "Minor Deviations" means those adjustments to the tasks or resources required of NaphCare or to the date on which Services are to be performed or a Deliverable is scheduled to be delivered and/or Accepted which do not (i) alter or eliminate any specifications, Deliverables or training; (ii) change the period of time Customer is given to review any Deliverable or training; (iii) result in NaphCare deviating from the deadlines for milestones (earlier or later); or (iv) require any greater resources from the Customer than those identified in the Project Plan that has been accepted by Customer.
- w) "Network Connectivity" means connectivity of two (2) or more computing resources via Internet Protocol communication technology.
- x) "Defendant" means a person incarcerated in or otherwise confined to a penal or correctional facility, jail, reformatory, detention center, work farm, halfway house, or residential community program center operated by, or under contract to, the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, for the confinement or rehabilitation of persons charged with or convicted of a criminal offense or other persons held in lawful custody, including juvenile offenders adjudicated delinquent, aliens detained awaiting deportation, persons committed to mental institutions through the criminal justice system, witnesses, or others awaiting charges or trial.
- y) "Peering Points" means the physical location where NaphCare provided connectivity to

Hosting Services is terminated within the Customer's computing environment.

- z) "Private Connection" means Network Connectivity between geographically separate locations by way of a 3rd Party telecommunication provider in which the communication is segmented from Internet traffic.
- aa) "Problem Report" means a written report delivered to NaphCare by Customer describing in reasonable detail a suspected Malfunction or deficiency of a Deliverable.
- bb) "Project Plan" means the schedule of activities, tasks, events, Deliverables, milestones, and responsibilities of both parties for the implementation of the Application. At a minimum, the Project Plan will address the configuration and customization of Application, Customer's testing of the Application, the training of Authorized Users, and the activation of the Application in a production environment.
- cc) "Software" means (i) the proprietary computer program(s) wholly owned by NaphCare that comprise a series of instructions, rules, routines, or statements, regardless of the media in which recorded, that allow or cause a computer to perform a specific operation or series of operations; and (ii) recorded information comprising source code listings, design details, algorithms, processes, flow charts, formulas, and related material that would enable the computer program to be produced, created, or compiled.
- dd) "Scheduled Maintenance" means System downtime associated with or caused by (i) maintenance, upgrades, or replacement of infrastructure, hardware, software, or telecommunications services provided as part of the Hosting Services; or (ii) maintenance or Updates to the Application, but only if the foregoing occurs between 12:00 a.m. (midnight) and 4:00 a.m. Eastern Time (Monday-Saturday) and between 12:00 a.m. (midnight) and 4:00 a.m. Eastern Time on Sunday, but not more than once in any calendar month. Schedule Maintenance shall also include System downtime for which NaphCare has notified Customer at least twenty-four (24) hours in advance and Customer has consented to such downtime.
- ee) "Statement of Work" means an addendum to this Agreement duly executed by each party that sets forth requirements, pricing, acceptance methodology, fees, and other respective responsibilities of the parties as to implementation, interface development, customization and other Services to be provided by NaphCare to Customer pursuant to this Agreement; provided, however, that the failure of a Statement of Work to comply with the foregoing standards shall not, in itself, invalidate such Statement of Work.
- ff) "Subject Matter Experts" means those Customer personnel with sufficient training or job function that qualifies them to be an authority with respect to a specific workflow or operation.
- gg) "System" means the combination of (i) the Application; (ii) any third-party software or content that is licensed by NaphCare for use in conjunction with the Application, specifically including the Third-Party Products, and (iii) the equipment and software that comprise the Hosting Services, as may be supplied by NaphCare to Customer pursuant to this Agreement.
- hh) "TechCare" (or "TechCare®"), "Coordify®" (or "Coordify"), "ForensicCare," "DiversionTech," means the proprietary name assigned to the Application or System, as applicable, by NaphCare.

- ii) "Third Party Products" means the third-party software and content identified in Exhibit E, Section 1.2.
- jj) "Update" means all corrections, changes, and improvements to the Application, regardless of the term used by NaphCare to describe such changes (e.g., updates, upgrades, enhancements, versions, releases, etc.). Updates shall not materially diminish any functionality available in the then-current release of the Application.
- kk) "Including" means "including without limitation" unless otherwise expressly provided in a given instance.
- ll) "Waiver 1115" means the program by which correctional facilities are allowed to bill for pre-release services and includes billing services to CalAIM, MediCal, Department of Health Care Services, or Medicaid.
- mm) "WAN" means Wide Area Network, specifically the interconnection via IP communication of physically separate locations.

Exhibit A – General Terms and Conditions

1. License to Customer.

Subject to terms and conditions of this Agreement, NaphCare grants to Customer a non-exclusive, non-transferable (except as otherwise provided herein) license during the Term (i) for use of the Licensed Materials and Third Party Products by Authorized Users in the course of providing, or related to the provision of, healthcare services to Patients, (ii) for access to and use of the System by Authorized Users in the course of providing, or related to the provision of, healthcare services to Patients, (iii) for access to and use of the Services (as defined below) by Authorized Users for purposes of System implementation, operation, maintenance, and support, and (iv) for copying and use of the Documentation by Authorized Users in furtherance of the foregoing.

2. Services.

Subject to terms and conditions of this Agreement and provided Customer is not in material breach of its obligations hereunder, NaphCare shall provide the following services (the “Services”) during the Term:

- 2.1. Requirements Gathering. NaphCare shall provide requirements gathering services as set forth in Exhibit D.
- 2.2. Application Customization. NaphCare shall provide the Customization Services set forth in Exhibit D, Exhibit I, and in any subsequent Statement of Work executed by the parties.
- 2.3. Interface Development. NaphCare shall provide the Interface Development as set forth in Exhibit D, Exhibit I, and in any subsequent Statement of Work executed by the parties.
- 2.4. Implementation and Training. NaphCare shall provide the Implementation and Training Services set forth in Exhibit D, Exhibit J and in any subsequent Statement of Work executed by the parties.
- 2.5. Maintenance and Support. NaphCare shall provide the Maintenance and Support Services set forth in Exhibit F.
- 2.6. Hosting. NaphCare shall provide the Hosting Services in accordance with Exhibit E.
- 2.7. Other Services. NaphCare shall perform such other services as may be set forth in Statements of Work executed by the parties concurrent with the execution of this Agreement or from time to time thereafter. Unless otherwise set forth in such Statements of Work, all such other services shall be billed at NaphCare’s rates as defined in Exhibit K.

If any services, functions and responsibilities not specifically described in this Agreement are reasonably required for the proper performance of the Services, or are an inherent part of a necessary service, function or task included within, necessary to, appropriate in the provision of, or otherwise ancillary to the Services, such services, functions and responsibilities shall be deemed to be implied by and included within the scope of the Services, and no such service, function and responsibility shall be subject to an additional order or any increase in fees payable hereunder.

3. Restrictions.

Except as may be expressly authorized in this Agreement, Customer shall not do, nor shall it authorize any person do, any of the following: (i) use the Licensed Materials for any

purpose or in any manner not specifically authorized by this Agreement; (ii) except as permitted in Sections 1 and 2 hereof, make any copies or prints, or otherwise reproduce or print, any portion of the Licensed Materials, whether in printed or electronic format; (iii) distribute, republish, download, display, post, or transmit any portion of the Licensed Materials for the benefit of any third party who is not an Affiliate; (iv) create or recreate the source code for, or re-engineer, reverse engineer, decompile, or disassemble any Licensed Materials that is computer software; (v) modify, adapt, translate, or create derivative works from or based upon any part of the Licensed Materials, or combine or merge any part of the Licensed Materials with or into any other software, document, or work; (vi) refer to or otherwise use any part of the Licensed Materials as part of any effort to develop a product or service having any functional attributes, visual expressions, or other features or purposes similar to those of Licensed Materials; (vii) remove, erase, or tamper with any copyright, logo, or other proprietary or trademark notice printed or stamped on, affixed to, or encoded or recorded in the Licensed Materials, or fail to preserve all copyright and other proprietary notices in any copy of any portion of the Licensed Materials made by Customer; (viii) sell, market, license, sublicense, distribute, rent, loan, or otherwise grant to any third party (other than an Affiliate) any right to possess or utilize any portion of the Licensed Materials without the express prior written consent of NaphCare (which may be withheld by NaphCare for any reason or conditioned upon execution by such party of a confidentiality and non-use agreement and/or other such other covenants and warranties as NaphCare in its sole discretion deems desirable); (ix) use the Licensed Materials to gain or attempt to gain access to any software applications, computer systems, or data not expressly authorized under this Agreement; or (x) attempt to do or assist any third party in attempting to do any of the foregoing.

4. Ownership.

4.1. Customer Data. As between NaphCare and Customer, Customer has and retains exclusive ownership of all Customer Data. All data (a) created by Customer and/or (b) stored by Customer within NaphCare's and on NaphCare's servers are Customer's property and is for Customer's exclusive use. The Customer shall allow access to such data by authorized Customer personnel and shall provide access in compliance with the Customer's Privacy Policy. NaphCare makes no claim of ownership of any server content, Application content, or any other type of data contained within the Customer's server space on NaphCare's servers. NaphCare may access, use and disclose the Customer Data for purposes permitted by the BAA and solely to the extent required to perform the Services and provide the System or as otherwise agreed upon in a Statement of Work. Any other use of the Customer Data by NaphCare, even if such Customer Data is de-identified, is strictly prohibited unless NaphCare receives prior written consent from an officer of Customer.

4.2. Licensed Materials. As between NaphCare and Customer, NaphCare has and retains exclusive ownership of the Licensed Materials and all intellectual property and proprietary rights therein. Customer acknowledges that the foregoing constitutes valuable assets and may constitute trade secrets of NaphCare. Customer acknowledges that Customer may suggest Concepts and the parties may discover or create Concepts jointly and that NaphCare, at its sole option, may incorporate such Concepts in the Licensed Materials or in other products or services that may or may not be made available to Customer. Any such Concept shall be and remain

solely the property of NaphCare and may be used and sold, licensed, or otherwise provided by NaphCare to third parties, or published or otherwise publicly disclosed, in NaphCare's sole discretion without notice, attribution, payment of royalties, or liability to Customer. Customer hereby assigns to NaphCare any and all of its right, title, and interest, including copyright and patent rights, in and to any such Concepts.

5. Confidentiality.

- 5.1. Security of Confidential Information. In addition to any other restrictions or obligations imposed at law or provided under this Agreement, each party possessing Confidential Information of the other party will maintain all such Confidential Information under secure conditions, using the same security procedures used by such party for the protection of its own Confidential Information of a similar kind and in any event not less than reasonable security measures.
- 5.2. Non-Disclosure Obligation. Except as otherwise may be permitted by this Agreement, neither party shall disclose any Confidential Information of the other party to any third party without the express prior written consent of the other party; provided, however, that either party may disclose appropriate portions of Confidential Information of the other party to those of its Affiliates, employees, contractors, agents, and professional advisors having a substantial need to know the specific information in question in connection with such party's exercise of rights or performance of obligations under this Agreement provided that all such third parties (i) have been instructed that such Confidential Information is subject to the obligation of confidence set forth by this Agreement and (ii) are bound either by contract, employment policies, or fiduciary or professional ethical obligation to maintain such information in confidence. NaphCare acknowledges that Customer is a governmental entity subject to the public records and meeting laws of the State of California, including the California Public Records Act (Government Code Section 6250 et seq.) and the California Brown Act (Government Code Section 54590 et seq.). Notwithstanding any other provision contained in this Agreement, any information (including Confidential Information), communications, and documents given by NaphCare to Customer and meetings involving Customer may be subject to disclosure pursuant to the Public Records Act and Brown Act. To the extent Customer is required by law to disclose any of the above-described information, communications, and documents, Customer shall comply with such law. Customer has the right in its sole discretion to determine what shall be disclosed and is not required to obtain written consent from NaphCare to respond to any required disclosures.
- 5.3. Compelled Disclosure. If either party (as the recipient of the other party's Confidential Information) is ordered by a court, administrative agency, or other governmental body of competent jurisdiction to disclose Confidential Information, or if it is served with or otherwise becomes aware of a motion or similar request that such an order be issued, then such party will not be liable to the other party for disclosure of Confidential Information required by such order if such party complies with the following requirements: (i) such party promptly shall notify the other party of the motion or order by the most expeditious possible means so that

the disclosing party may contest the disclosure or seek a protective order with respect to such Confidential Information; and (ii) such party shall not oppose a motion or similar request by the other party for an order protecting the confidentiality of the Confidential Information, including not opposing a motion for leave to intervene by the other party; and (iii) such party shall exercise its best efforts to obtain reasonable assurance that confidential treatment will be accorded the Confidential Information so disclosed.

- 5.4. Non-Use Obligation. Except as expressly authorized in this Agreement, during the Term and forever thereafter (or for such shorter period as may be imposed by applicable law), neither party shall use any Confidential Information of the other party, except at the request of and for the benefit of such other party, without the express prior written consent of the other party.
- 5.5. Copying of Confidential Information. Except as necessary to carry out a party's responsibilities and to perform a party's duties and obligations pursuant to this Agreement or as otherwise may be permitted by this Agreement, neither party shall copy or otherwise reproduce any part of any Confidential Information of the other party, nor attempt to do so, without the prior written consent of the other party. Any embodiments of Confidential Information of a party that may be generated by the other party, either pursuant to or in violation of this Agreement, will be deemed to be the sole property of the first party and fully subject to the obligations of confidence set forth herein. Notwithstanding the foregoing, Customer may freely reproduce Documentation for use by Authorized Users.
- 5.6. Proprietary Legends. Without the other party's prior written consent, neither party shall remove, obscure, or deface on or from any embodiment of any Confidential Information any proprietary legend relating to the other party's rights.
- 5.7. Reports of Misappropriation. Each party promptly shall report to the other party any act or attempt by any person of which such party has knowledge or reasonably suspects (i) to use or disclose, or copy Confidential Information without authorization from the other party or (ii) to reverse assemble, reverse compile, or otherwise reverse engineer any part of the Confidential Information.
- 5.8. Post-Termination Procedures. Upon written request of the disclosing party after the termination date of the Agreement, the receiving party shall turn over to the other party (or destroy and certify the same in writing) any embodiments of any Confidential Information of the other party. Notwithstanding the foregoing, neither party shall be required to return or destroy (i) Confidential Information which the receiving party requires for its own business records (such as, for example, copies of deliverables or work product containing Confidential Information), or (ii) Confidential Information which is not readily available for return or destruction (such as, for example, Confidential Information which is stored on backup media that also contains other unrelated information). If return or destruction of certain Confidential Information is not feasible, the receiving party will extend the protections of this Agreement to the retained Confidential Information and limit further uses and disclosures to those purposes that make the return or destruction of the Confidential Information not feasible.

6. Representations and Warranties; Remedies; Disclaimers.

- 6.1. Right to License. NaphCare represents and warrants that it either owns or has the right to (i) license all property included in the Application and that all such property is free of liens and claims, (ii) provide and perform all the Services. Further, NaphCare warrants that it has the right to license (i) any third-party software or content included in the Application (ii) the Third-Party Products.
- 6.2. Services. NaphCare warrants that it will perform the Services described in this Agreement in a competent, professional and workmanlike manner consistent with industry standards and the requirements of this Agreement using duly qualified and experienced personnel. Customer's remedy for the breach of this warranty shall be (i) replacement of the assigned NaphCare personnel, if requested by Customer, and (ii) re-performance of the Services at NaphCare's sole expense if re-performance can reasonably cure the breach. The foregoing remedy shall not limit Customer from pursuing any other remedy that is otherwise permitted under this Agreement, at law or in equity.
- 6.3. Application. The warranties and remedies related to the Application are set forth in Exhibit H.
- 6.4. Excluded Participant. NaphCare represents that it is not now and at no time has been excluded or debarred from participation in any federally-funded healthcare program, including Medicare and Medicaid. NaphCare will notify Customer immediately of any such exclusion or debarment, which shall be deemed a breach of this Agreement pursuant to which Customer may terminate this Agreement, as of the effective date of such exclusion or debarment, by written notice to NaphCare, without prejudice to any other rights and remedies available to such party.
- 6.5. REPRESENTATION AND WARRANTY DISCLAIMERS. THE EXPRESS WARRANTIES AND EXPRESS REPRESENTATIONS OF NAPHCARE SET FORTH IN THIS AGREEMENT ARE IN LIEU OF, AND NAPHCARE DISCLAIMS, ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE LICENSED MATERIALS OR ANY PART THEREOF, INCLUDING MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT NAPHCARE KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR OTHERWISE IS IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING, OR OTHERWISE. NAPHCARE EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN CUSTOMER WITH RESPECT TO THE LICENSED MATERIALS OR ANY PART THEREOF.
- 6.6. Responsibility for Medical Use. Customer shall communicate to each Authorized User that the Application is a support tool only and expressly is not to be relied upon as a sole source of information in connection with medical advice or the provision of medical services. Customer shall indemnify, defend, and hold harmless NaphCare and its directors, officers, and employees from and against any

loss, cost, or liability (including without limitation reasonable attorney fees and expenses) resulting from or relating to a claim of a third party who is an end user of the Application or who uses or is affected by the Customer Data, excluding claims to the extent caused by (i) errors or defects in the Application due to the direct negligence of NaphCare or (ii) the negligence or intentional misconduct of NaphCare or its agents in the performance of Services. Customer's obligations specified in this paragraph will be conditioned on NaphCare's notifying Customer promptly in writing of such claim or threat thereof (whether or not litigation or other proceeding has been filed or served) and giving Customer full and exclusive authority for, and information for and assistance with, the defense and settlement of such claim and any subsequent appeal; provided, however, that Customer shall not agree to any settlement which contains an admission of liability or fault by NaphCare or that otherwise creates an obligation for NaphCare without NaphCare's prior written consent.

6.7. Intent of Software. Customer acknowledges and understands that the Application is being used for an intended purpose and goal, specifically to facilitate the delivery and administration of healthcare services; however, Customer further acknowledges and understands that NaphCare cannot and does not guarantee that such intended purpose and goal will be completely met by the Application and that other methods and services currently in place or contemplated to be put into place must also work independently and in tandem to achieve success. Customer acknowledges and understands, and shall communicate to each user of the Software, that the Software is a support tool only and expressly is not to be relied upon as a sole source of information in connection with medical advice or the provision of medical services.

6.8. Other Disclaimers. Customer will be exclusively responsible as between the parties for, and NaphCare makes no representation or warranty with respect to, determining whether the Licensed Materials will achieve the results desired by Customer, ensuring the accuracy of any Customer Data entered by Customer, or selecting, procuring, installing, operating, and maintaining Customer's internal technical infrastructure for Customer's access to and use of the Licensed Materials. NaphCare shall not be liable for, and shall have no obligations with respect to, (i) any aspect of the Licensed Materials that is modified by any person other than NaphCare or its contractors, (ii) use of the Licensed Materials other than in accordance with the most current operating instructions provided by NaphCare, (iii) malfunctions or failures caused by defects, problems, or failures of software or hardware not provided by NaphCare, or (iv) malfunctions or failures caused by acts or omissions of Customer or any third party not affiliated with NaphCare. Customer acknowledges that the operation of the Licensed Materials will not be error free in all circumstances, that not all immaterial defects in the Licensed Materials may be corrected, and that the operation of the Licensed Materials may be interrupted by reason of defect therein or by reason of fault on the part of NaphCare; provided, however, that such interruptions may be subject to the SLAs.

7. Intellectual Property Indemnification; General Indemnification.

7.1. Indemnity. NaphCare agrees to indemnify, defend and hold harmless Customer, its officers, directors, employees, and agents against any damage (including

reasonable attorney's fees and expenses), suit, or proceeding brought against Customer for patent, copyright, trade secret or other proprietary right infringement arising out of the Licensed Materials provided by NaphCare under this Agreement ("Infringement Claim"). Customer shall give NaphCare prompt written notice of the Infringement Claim, allow NaphCare the sole control of the defense or settlement of the Infringement Claim, and provide NaphCare with assistance, information, and authority reasonably necessary to carry out NaphCare's obligations under this Section. NaphCare shall reimburse Customer its reasonable out-of-pocket expenses incurred in providing such assistance. In the event an injunction is threatened or issued against Customer relating to an Infringement Claim, in addition to any other obligation NaphCare may have to Customer under the Agreement or otherwise, NaphCare shall, at NaphCare's option: procure for Client, at NaphCare's expense, a license from the patent, copyright or other proprietary right owner to use the Licensed Materials; or modify or replace the offending portion of the Licensed Materials or Services, at NaphCare's expense, to make the Licensed Materials non-infringing without materially impairing their usefulness or performance. Notwithstanding anything in this Agreement to the contrary, any limitations on liability or damages contained in this Agreement shall not apply to indemnification for Infringement Claims.

- 7.2. Exceptions. The foregoing notwithstanding, NaphCare shall have no liability for any claim arising from (i) the combination, operation, or use of any Licensed Materials with equipment, devices, or software not supplied by NaphCare if such claim would not be valid but for such combination, operation, or use, (ii) modification of any Licensed Materials other than by or on behalf of NaphCare, (iii) NaphCare's compliance with Customer's designs, specifications, or instructions, or (iv) Customer's use of the Licensed Materials after NaphCare has informed Customer of modifications or changes in the Licensed Materials required to avoid such claims if such claim would have been avoided by implementation of NaphCare's recommended modifications and NaphCare has offered to pay Customer's out-of-pocket costs of implementing any such modifications.
- 7.3. EXCLUSIVE REMEDY. THE FOREGOING STATES THE ENTIRE OBLIGATION OF NAPHCARE, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO THIRD-PARTY CLAIMS REGARDING INFRINGEMENT OF INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS AND MISAPPROPRIATION OF TRADE SECRETS.
- 7.4. General Indemnification. NAPHCARE shall indemnify and hold harmless the County of Riverside (the Customer), 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 liability, action, claim or damage whatsoever, based or asserted upon any services of NAPHCARE, 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. NAPHCARE shall not be required to indemnify the Customer for any claims arising from the negligent actions or omissions of the Customer's employees, including but not limited to instances where an employee inputs incorrect patient information. In such cases, the responsibility for any resulting claims shall remain with the Customer and its staff. NAPHCARE shall defend the Indemnitees at its sole expense including all costs and fees

(including, but not limited, to attorney fees, cost of investigation, defense and settlements or awards) in any claim or action based upon such acts, omissions or services. With respect to any action or claim subject to indemnification herein by NAPHCARE, NAPHCARE 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 Customer; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes NAPHCARE indemnification to Indemnitees as set forth herein. NAPHCARE'S obligation hereunder shall be satisfied when NAPHCARE has provided to Customer the appropriate form of dismissal relieving Customer from any liability for the action or claim involved. The specified insurance limits required in this Agreement shall in no way limit or circumscribe NAPHCARE'S obligations to indemnify and hold harmless the Indemnitees herein from third party claims

8. Termination.

- 8.1. Notice of Breach; Cure Period. In the event of a breach of provision of this Agreement, except as otherwise may be provided in a BAA, the notice and cure procedures set forth in this paragraph shall apply. The non-breaching party shall give the breaching party notice describing the breach and stating the time within which the breach must be cured. The cure period shall be at least thirty (30) days. The non-breaching party shall have the option, but not the obligation, to extend the cure period beyond the stated time period. Any such extension shall not prejudice the non-breaching party's right to terminate at any time thereafter if the cure has not been provided in a timely fashion.
- 8.2. Termination for Cause. If a breach of any provision of this Agreement has not been cured at the end of the applicable cure period, then the non-breaching party thereupon may terminate this Agreement by notice to the other party. Termination of this Agreement by NaphCare for breach by Customer shall terminate all licenses granted to Customer herein. This Agreement and the licenses granted to Customer herein shall terminate automatically, to the extent permitted by applicable law in the jurisdiction or jurisdictions in question, if Customer makes an assignment for the benefit of its creditors, files a petition in bankruptcy, receivership, reorganization, or other like proceeding under any present or future debtor relief law (or is the subject of an involuntary such petition or filing that is not dismissed within sixty (60) days after the effective filing date thereof), or admits of a general inability to pay its debts as they become due. Any termination of this Agreement for cause shall be (i) subject to the provisions of Section 8.4 (Transition Assistance), and (ii) in addition to, and not in lieu of, any other rights or remedies available at law or in equity.
- 8.3. Transition Assistance Upon Termination. Except in the event of termination relating to Customer's material breach of its payment obligations, for a period of up to six (6) months following termination, expiration or non-renewal of this Agreement (the "Transition Period"), NaphCare agrees to provide Customer continued, uninterrupted and undiminished access to and use of the Application and Services at the contracted fees (prorated monthly) to allow for the orderly transition of the Customer Data to an alternative of Customer's choosing. Further, during the Transition Period, NaphCare shall cooperate fully with Customer and provide conversion services at NaphCare's hourly rates set forth in Exhibit G, Section 2 for the purpose of assisting Customer in obtaining an orderly migration of the Data to

a new platform. NaphCare will provide the Customer Data in an industry-standard format and transmission method mutually agreed to by the parties. If the Agreement is terminated by NaphCare for material breach by Customer of its payment obligations, then NaphCare will provide transition assistance as described in this Section only if, prior to the start of the Transition Period, Customer pays to NaphCare all past due undisputed accounts receivable and prepays (at least 15 days in advance of the commencement of the applicable monthly period) the applicable monthly fees during the Transition Period. For clarification and avoidance of doubt, the actual termination date shall be the last day of the Transition Period as determined by Customer.

- 8.4. Upon the termination date, Customer will immediately cease all use of the Application and Services. Notwithstanding the foregoing, (i) NaphCare shall not destroy any Customer Data maintained by NaphCare until Customer has received a full and complete copy of the Customer Data and has notified NaphCare that it has successfully migrated the Customer Data to a new platform; and (ii) NaphCare may not retain any archival copies of Customer Data.
- 8.5. "Compliance with the 21st Century Cures Act. NaphCare agrees that it will comply with the Cures Act by refraining from practices that constitute information blocking as defined in Section 3022(a) of the Public Health Service Act."

9. Risk Allocation.

- 9.1. EXCLUSION OF INDIRECT DAMAGES. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY (NOR TO ANY PERSON CLAIMING RIGHTS DERIVED FROM THE OTHER PARTY'S RIGHTS) FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING LOST PROFITS, LOSS OF BUSINESS, OR OTHER ECONOMIC DAMAGE), WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND REGARDLESS OF WHETHER THE PARTY LIABLE OR ALLEGEDLY LIABLE WAS ADVISED, HAD OTHER REASON TO KNOW, SHOULD HAVE ANTICIPATED, OR IN FACT KNEW OF THE POSSIBILITY THEREOF. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS BY ANYONE. THE PROVISIONS OF THIS PARAGRAPH ARE INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER ENFORCEABLE OR UNENFORCEABLE PROVISION OF THIS AGREEMENT.
- 9.2. MAXIMUM AGGREGATE LIABILITY. OTHER THAN WITH RESPECT TO (I) A PARTY'S INDEMNIFICATION OBLIGATIONS EXPRESSLY SET FORTH IN THIS AGREEMENT, (II) CUSTOMER'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT, (III) CUSTOMER'S USE OF THE LICENSED MATERIALS OTHER THAN IN ACCORDANCE WITH THE LICENSE GRANTED IN THIS AGREEMENT, (IV) LOSS OF CUSTOMER DATA BY NAPHCARE; (V) NAPHCARE'S BREACH OF THE INFORMATION SECURITY ADDENDUM; OR (VI) NAPHCARE'S BREACH OF THE BAA, IN NO EVENT SHALL A PARTY'S AGGREGATE LIABILITY

TO THE OTHER PARTY (INCLUDING LIABILITY TO ANY PERSON OR PERSONS WHOSE CLAIM OR CLAIMS ARE BASED ON OR DERIVED FROM A RIGHT OR RIGHTS CLAIMED BY OR THROUGH SUCH PARTY), WITH RESPECT TO ANY AND ALL CLAIMS AT ANY AND ALL TIMES ARISING FROM OR RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, IN CONTRACT, WARRANTY, TORT (EXCLUDING GROSS NEGLIGENCE OR WILLFUL MISCONDUCT), OR OTHERWISE, EXCEED THREE TIMES THE FEES PAID OR PAYABLE HEREUNDER DURING THE ONE-YEAR PERIOD IMMEDIATELY PRECEDING THE ACT GIVING RISE TO THE CLAIM. THE PROVISIONS OF THIS PARAGRAPH ARE INDEPENDENT OF, SEVERABLE FROM, AND TO BE ENFORCED INDEPENDENTLY OF ANY OTHER ENFORCEABLE OR UNENFORCEABLE PROVISION OF THIS AGREEMENT.

- 9.3. Intentional Risk Allocation. Each party acknowledges that the provisions of this Agreement were negotiated, as a material part of the agreement memorialized herein, to reflect an informed, voluntary allocation between them of all risks (both known and unknown) associated with the transactions involved with this Agreement. The warranty disclaimers and limitations in this Agreement are intended, and have as their essential purpose, to limit the circumstances of liability. The remedy limitations and the limitations of liability are separately intended, and have as their essential purpose, to limit the forms of relief available to the parties.

10. Insurance.

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

A. Workers' Compensation: If NAPHCARE has employees as defined by the State of California, NAPHCARE 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. Policy shall name the CUSTOMER as Additional Insureds.

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 NAPHCARE'S performance of its obligations hereunder. Policy shall name the

CUSTOMER 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. Policy shall name the CUSTOMER as Additional Insureds.

C. Vehicle Liability: If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then NAPHCARE 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 CUSTOMER as Additional Insureds.

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

E. Cyber Liability Insurance, with limits not less than \$5,000,000 per occurrence or claim, \$5,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by NaphCare in this agreement and shall include, but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Cyber Liability is further provided in Exhibit G, Section 11.

F. If the NaphCare maintains broader coverage and/or higher limits than the minimums shown above, the CUSTOMER requires and shall be entitled to the broader coverage and/or higher limits maintained by the NaphCare. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CUSTOMER. Policy shall name the CUSTOMER as Additional Insureds

G. 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 CUSTOMER Risk Manager. If the CUSTOMER'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) NAPHCARE 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 CUSTOMER Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the CUSTOMER, and at the election of the CUSTOMER's Risk Manager, NAPHCARE'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the CUSTOMER, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.

3) NAPHCARE shall cause NAPHCARE'S insurance carrier(s) to furnish the CUSTOMER of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the CUSTOMER Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that a minimum of 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. If NAPHCARE insurance carrier(s) policies does not meet the minimum notice requirement found herein, NAPHCARE shall cause NAPHCARE'S insurance carrier(s) to furnish a 30-day Notice of Cancellation Endorsement.

4) 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. NAPHCARE shall not commence operations until the CUSTOMER has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.

5) It is understood and agreed to by the parties hereto that NAPHCARE'S insurance shall be construed as primary insurance, and

the CUSTOMER'S insurance and/or deductibles and/or self-insured retentions or self-insured programs shall not be construed as contributory.

6) If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the CUSTOMER and NAPHCARE agree to meet and confer regarding adjustments to the types of insurance and the monetary limits of liability required under this Agreement, if after meeting and conferring, the CUSTIOMER and NAPHCARE agree the amounts or types of insurance carried by NAPHCARE has become inadequate. In the event that the parties cannot agree on the types of insurance and the monetary limits of liability required, Riverside County shall retain the right to determine such coverage and limits.

7) NAPHCARE shall pass down the insurance obligations contained herein to all tiers of subNaphCares working under this Agreement.

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

9) NAPHCARE agrees to notify CUSTOMER of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

11. Nature of Relationship; Subcontractors. NaphCare shall provide all Services hereunder as an independent contractor to Customer. Subject to the provisions of this Agreement regarding confidentiality, NaphCare may perform its obligations hereunder through its employees and through subcontractors. With respect to use of subcontractors, NaphCare shall provide prior written notification to Customer stating (i) the identity of the subcontractor and (ii) the work that is being assigned to the subcontractor. NaphCare will be responsible for the work performed by the subcontractor to the same extent that NaphCare would be if it were NaphCare's own work. All other provisions of this Agreement, including but not limited to Customer's right to require NaphCare to remove and replace personnel, will apply to the work of the subcontractor in the same manner and to the same extent as if the work were performed by NaphCare hereunder. NaphCare shall also execute a Subcontractor Business Associate Agreement with each subcontractor that contains provisions at least as strict as the BAA. Notwithstanding the foregoing, NaphCare shall not use any subcontractor personnel who are located outside of the United States. Nothing contained herein shall be deemed to create any agency, partnership, joint venture, or other relationship between the parties or any of their Affiliates, and neither party shall have the right, power, or authority under this Agreement to create any duty or obligation on behalf of the other party.

12. Customer Data.

- 12.1 Location. Customer Data will be stored and accessed at Amazon Web Services' (AWS) datacenters owned, managed, and maintained by AWS within the continental United States.
- 12.2 Segregation. NaphCare will implement reasonable and appropriate measures designed to secure and segregate Client content and resources against accidental or unlawful loss, access or disclosure as the Customer is a "Business Associate" of NaphCare as defined in the Health Insurance Portability and Accountability Act of 1996, as amended. NaphCare will provide documentation, at Customer's request, of technical configuration supporting this segmentation and protection.

13. Other Provisions.

- 13.1. Notice. Except as otherwise expressly provided herein, notices given under this Agreement shall be made in writing and shall be transmitted by (i) personal delivery, or (ii) nationally recognized overnight courier service with delivery confirmation capability, or (iii) registered or certified mail, postage prepaid, return receipt requested. Notices shall be effective upon receipt. Such notices shall be sent to NaphCare at Attn: CEO, NaphCare, Inc. 2090 Columbiana Road, Suite 4000, Birmingham, Alabama 35216, and to Customer at the address shown on the Cover Page, with copy to any other addressee shown on the Cover Page, if so indicated. Either party may change its address for purposes of notice by written notice thereof to the other party.
- 13.2. Survival. The covenants, conditions, and rights set forth herein concerning license rights and restrictions relating thereto, Confidential Information, indemnification, post-termination procedures, and any other provision that, by its nature, is intended to survive this Agreement shall survive any termination or expiration of this Agreement except as otherwise expressly set forth in this Agreement.
- 13.3. Force Majeure. Neither party shall be liable for any failure to perform its obligations under this Agreement if such failure arises, directly or indirectly, out of causes reasonably beyond the direct control of such party and not due to such party's own fault or negligence or that of its contractors or representatives or other persons acting on its behalf, and which cannot be overcome by the exercise of due diligence and which could not have been prevented through commercially reasonable measures, including acts of God, acts of terrorists or criminals, acts of domestic or foreign governments, change in any law or regulation, fires, floods, explosions, , disruptions in communications, power, or other utilities, strikes or other labor problems, riots, or unavailability of supplies. For clarification and avoidance of doubt, (i) software, hardware, or telecommunications failures caused by NaphCare, (ii) failure, inadequate performance, or unavailability of NaphCare's suppliers or subcontractors, and (iii) configuration changes, software changes, changes to the hosting environment, malware, or other errors or omissions introduced, or permitted to be introduced, by NaphCare that result in an outage or inability for Customer to access the System or utilize the Services, shall not constitute a force majeure event. Further, a force majeure event shall not relieve NaphCare of its obligations under this Agreement to provide disaster recovery

services. Notwithstanding any other provision of this Agreement, Customer shall be relieved of its payment obligations for amounts due for Services which Client is unable to receive or NaphCare is unable to perform during the period or duration of a force majeure event.

- 13.4. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the parties and their successors and assigns permitted by this Agreement.
- 13.5. No Third Party Beneficiaries. Nothing in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.
- 13.6. Entire Agreement. Except as otherwise expressly provided herein, this Agreement constitutes the entire agreement between the parties concerning the subject matter hereof. No prior or contemporaneous representations, inducements, promises, or agreements, oral or otherwise, between the parties with reference thereto will be of any force or effect. Each party represents and warrants that, in entering into and performing its obligations under this Agreement, it does not and will not rely on any promise, inducement, or representation allegedly made by or on behalf of the other party with respect to the subject matter hereof, nor on any course of dealing or custom and usage in the trade, except as such promise, inducement, or representation may be expressly set forth herein.
- 13.7. Amendment and Waiver. No modification or amendment to this Agreement will be valid or binding unless in writing and duly executed by authorized representatives of the parties. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect the right of such party to require performance of that provision. Any waiver by either party of any breach of this Agreement shall not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right under this Agreement.
- 13.8. Severability. If any provision of this Agreement is ruled wholly or partly invalid or unenforceable by a court or other body of competent jurisdiction, then (i) the validity and enforceability of all provisions of this Agreement not ruled to be invalid or unenforceable will be unaffected; (ii) the effect of the ruling will be limited to the jurisdiction of the court or other body making the ruling; (iii) the parties will negotiate in good faith in order to amend the provision held wholly or partly invalid or unenforceable to the minimum extent necessary to render such provision valid and enforceable in conformity with the parties' intent as manifested herein; and (iv) if the ruling or the controlling principle of law or equity leading to the ruling subsequently is overruled, modified, or amended by legislative, judicial, or administrative action, then the provision in question as originally set forth in this Agreement shall be deemed valid and enforceable to the maximum extent permitted by the new controlling principle of law or equity.
- 13.9. Attorney Fees. Omitted

- 13.10. Injunctive Relief. Each party acknowledges that any violation of its covenants in this Agreement relating to the other party's Confidential Information and intellectual property may result in damage to such party that is largely intangible but nonetheless real and that is incapable of complete remedy by an award of damages. Accordingly, any such violation shall give such party the right to a court-ordered injunction or other appropriate order to enforce specifically those covenants.
- 13.11. Headings. The headings of the sections used in this Agreement are included for convenience only and are not to be used in construing or interpreting this Agreement.
- 13.12. Counterparts. This Agreement may be executed in separate counterparts, each of which so executed and delivered shall constitute an original, but all such counterparts constitute one and the same instrument. Manually-executed counterparts may be delivered in faxed or scanned electronic form, each of which (whether originally executed or such a faxed or scanned electronic document) shall be deemed an original, and all of which together shall constitute one and the same instrument. The parties agree that the electronic signature of a party shall be as valid as an original signature of such party and shall be effective to bind such party to this Agreement. In making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart hereof signed by each of the parties.
- 13.13. Dispute Resolution. Customer and NaphCare agree to first attempt in good faith to resolve any dispute or controversy by negotiation and consultation between the senior executives, or their designees, of each party with the authority to agree to any proposed resolution. In the event that such dispute or controversy is not resolved on such informal basis within thirty (30) days after one party provides written notice to the other party of such dispute or controversy, and 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, California 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.
- 13.14. Invoice Payment Terms. All fees and expenses due and payable to NaphCare pursuant to this Agreement shall be paid by Customer within thirty (30) days after receipt of an undisputed invoice. NaphCare shall have the right to suspend Services if any undisputed invoice to Customer is not paid within ninety (90) days of the due date; provided, however, that NaphCare will provide written notice and a cure period of at least ten (10) days prior to any suspension of Services.

NaphCare shall not be held responsible and payment shall not be withheld for the delay, noncooperation, nonperformance, inability or noncompliance of the Customer or third-party vendors as it relates to services and features NaphCare agrees to provide under this agreement. This includes, but is not limited to, provided customizations or interfaces that rely on external systems managed by the Customer or third-party vendors. If the Customer delays implementing a service or feature NaphCare will provide the service or feature at a later date during the course of this agreement or any renewals hereof. In the event NaphCare discovers inability, noncooperation, nonperformance or noncompliance by interface vendors or third-

party vendors it shall inform Customer in writing and Customer shall have thirty (30) days from the date notification is received to cure the stated issues raised by NaphCare.

- 13.15. Access to Books, Documents & Records. In the event that the Secretary of the Department of Health and Human Services (the “Secretary”) or the Comptroller General of the United States (the “Comptroller General”) or their representatives determine that this Agreement is a contract described in Section 1861(v)(1)(I) of the Social Security Act, NaphCare agrees that for a period of four (4) years after the furnishing of goods or services under this Agreement, it will make available upon written request to Customer or to the Secretary, or, upon request, to the Comptroller General, or any of their duly authorized representatives, this Agreement, and those books, documents and records of NaphCare that are necessary to certify the nature and extent of amounts paid to NaphCare by Customer pursuant to this Agreement. If NaphCare carries out any of the duties of this Agreement through a subcontract with a value of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, with a related organization as defined in applicable regulations, such subcontract will contain a clause to the effect that, until the expiration of four (4) years after the furnishing of such goods or services pursuant to such subcontract, the related organization will make available, upon written request to Customer or to the Secretary, or, upon request, to the Comptroller General, or any of their duly authorized representatives, the subcontract, and all books, documents and records of such organization that are necessary to verify the nature and extent of such costs. In the event access to books, documents and records is requested pursuant to this Section by the Secretary, the Comptroller General, or any of their duly authorized representatives, NaphCare will promptly notify Customer, and the books, documents, records and subcontracts will also be made available to Customer.
- 13.16. Compliance with HIPAA, HIPAA Regulations and the HITECH Act. Under this Agreement, NaphCare will receive or create Protected Health Information (“PHI”) on behalf of Customer and will, therefore be, a Business Associate, as defined in the HIPAA Regulations. NaphCare, and Customer, hereby agree to comply with all applicable regulations and breach reporting requirements contained in the HIPAA Regulations and the HITECH Act, including the terms of the Business Associate Agreement (“BAA”) attached hereto as Exhibit B.
- 13.17. NaphCare Personnel.
- 13.18.1. Customer shall have the right to review resumes or statements-of-qualifications and to conduct interviews (either on-site or via telephone, at Customer’s discretion and expense) for key or primary personnel which NaphCare contemplates assigning to Customer for onsite Implementation and Training Services and, after consultation with NaphCare, to reject individuals who are reasonably deemed to be unqualified.
- 13.18.2. For NaphCare personnel providing onsite Services, NaphCare will comply with Customer’s policies and requirements for background checks and health screening.

- 13.18.3. Customer shall have the right to require NaphCare to replace any NaphCare personnel providing onsite Services whom Customer reasonably deems to be unqualified, unfit or otherwise unsatisfactory. Race, gender, age, national origin, disability, or other grounds impermissible by State or Federal law shall not be valid grounds for such request. NaphCare will replace such personnel as soon as reasonably possible, so as not to cause a material delay in the Project Plan. Additionally, NaphCare shall bear all costs and expenses associated with the transition of service responsibility to the replacement resource.
- 13.18.4. Continuity. NaphCare acknowledges and agrees that continuity of personnel is important to the success of the projects for which services are being provided. Except upon Customer's request or in the event of resignation, termination for cause, death, disability, leave of absence, family emergency, or other circumstance out of NaphCare's control, NaphCare will not replace key or primary assigned Implementation and Training personnel without prior written consent of Customer. In the event NaphCare must remove any personnel for reasons permitted in the preceding sentence, NaphCare will provide Customer with adequate notice, except in circumstances where such notice is not possible, and will work with Customer in good faith to develop a mutually agreeable transition plan to ensure continuity of the contracted Services. NaphCare will transition the responsibilities from the removed staff member to the replacement staff member without charging Customer for time or expenses involved with the replacement staff member becoming familiar with the assigned project(s) and responsibilities.
- 13.19. Application Alerts. NaphCare shall maintain a procedure whereby Customer is alerted (promptly notified in a manner commensurate with the severity) of Application Malfunctions, whether discovered by NaphCare or another NaphCare customer, that NaphCare believes will likely (i) critically impact Patient care or Patient safety, or (ii) create, cause, or result in a material negative financial impact to Customer.
- 13.20. Outstanding Litigation. As of the Effective Date, NaphCare represents and warrants that there is no outstanding litigation or arbitration to which NaphCare is a party which, if decided unfavorably to NaphCare, would adversely affect NaphCare's ability to fulfil its obligations under the Agreement.
- 13.21. Confidentiality. Customer's confidentiality obligations set forth herein shall not prohibit Customer from sharing its experiences in using the System and/or the Services with other healthcare entities who are using, or who are contemplating using, the System or the Services.
- 13.22. Solicitation and Hiring. Customer and NaphCare agree that, during the term of this Agreement and for a period of one (1) year thereafter, each party will not solicit or hire, directly or indirectly, and will not knowingly engage as an independent contractor, any employee of the other party who has been involved in rendering or receiving Services hereunder without the prior written approval of the other party; provided, however, that the foregoing provisions shall not apply with respect to any person who seeks employment or engagement from the other party on such person's

own initiative such as, but not limited to, in response to a party's general announcement or advertisement of an employment opportunity.

- 13.23. Taxes. Customer shall pay when due all taxes, levies, or assessments based on or in any way measured by this Agreement, including the Licensed Materials and the Services provided hereunder, but excluding taxes based on NaphCare's net income; provided, however, that if Customer notifies NaphCare in writing that Customer is exempt from paying applicable state, county, city or other local sales or use taxes and delivers to NaphCare a copy of Customer's tax exemption certificate or other evidence satisfactory to NaphCare demonstrating such exemption, then NaphCare shall not collect and pay such taxes on Customer's behalf except pursuant to an order from a court of competent jurisdiction or notice from such taxing authority. If Customer has notified NaphCare of such a tax exemption, Customer shall notify NaphCare promptly of any change in the status of such exemption.
- 13.24. Escrow. Should Customer choose to enter into any escrow agreement, NaphCare shall be financially responsible for all escrow fees and services from the third-party vendor selected by NaphCare. The parties will work diligently to complete the escrow agreement and all other documents required by the selected vendor after the Effective Date of this Agreement. In addition to any other terms stated in this Agreement, the parties agree the following shall be included in the escrow agreement: all Licensed Materials. Customer and NaphCare agree the occurrence of any of the following conditions will trigger a release of the source code for the Licensed Materials to the Customer from escrow:
- 13.24.1. A trustee or receiver is appointed for NaphCare or of any substantial part of NaphCare's assets; or NaphCare becomes bankrupt.
- 13.24.2. NaphCare ceases operations; or NaphCare is materially unable to support or materially fails to support the Licensed Software.
- 13.24.3. NaphCare discontinues support and maintenance of the Licensed Software.
- 13.24.4. In the event any of the above events occur and Customer obtains the source code, Customer may at no additional cost modify, correct, or enhance the Licensed Materials, the source code, modifications, corrections, enhancements, any related materials and documentation, in any manner Customer determines is appropriate.
- 13.24.5. NaphCare shall update the escrow deposit materials within 30 days of each release of a new version or update of the Licensed Software. Such updates shall be added to the existing escrow deposit. All new escrow deposits shall be listed on a schedule provided by the selected escrow vendor and signed by NaphCare and Customer.
- 13.25. In the event NaphCare discovers material non-cooperation, non-performance or non-compliance by Customer, NaphCare shall inform Customer in writing and Customer shall have sixty (60) days from the date notification is received to cure the stated issues raised by NaphCare.

Exhibit B – Business Associate Agreement

Addendum to Contract

Between the County of Riverside and NaphCare, Inc.

This HIPAA Business Associate Agreement (the “Addendum”) supplements, and is made part of the Underlying Agreement between the County of Riverside (“County”) and NaphCare, Inc. (“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 Addendum to address the requirements and obligations set forth in the Privacy Rule, Security Rule, HITECH and HIPAA as they apply to Contractor as a business associate of County, including the establishment of permitted and required uses and disclosures of PHI and/or ePHI created or received by Contractor during the course of performing functions, services and activities on behalf of County, and appropriate limitations and conditions on such uses and disclosures;

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.
 - A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.
 - (1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:
 - (a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;
 - (b) The unauthorized person who used the PHI or to whom the disclosure was made;
 - (c) Whether the PHI was actually acquired or viewed; and
 - (d) The extent to which the risk to the PHI has been mitigated.
 - (2) Breach excludes:
 - (a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.
 - (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
 - (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

- B. "Business associate" has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
- C. "Data aggregation" has the meaning given such term in 45 CFR §164.501.
- D. "Designated record set" as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
- E. "Electronic protected health information" ("ePHI") as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
- F. "Electronic health record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
- G. "Health care operations" has the meaning given such term in 45 CFR §164.501.
- H. "Individual" as defined in 45 CFR §160.103 means the person who is the subject of protected health information.
- I. "Person" as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
- J. "Privacy Rule" means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
- K. "Protected health information" ("PHI") has the meaning given such term in 45 CFR §160.103, which includes ePHI.
- L. "Required by law" has the meaning given such term in 45 CFR §164.103.
- M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
- N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
- P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.

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

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

- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
- 1) Use PHI and/or ePHI if necessary for Contractor’s proper management and administration and to carry out its legal responsibilities; and,
 - 2) Disclose PHI and/or ePHI for the purpose of Contractor’s proper management and administration or to carry out its legal responsibilities, only if:
 - a) The disclosure is required by law; or,
 - b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:
 - i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
 - ii. Notify 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 Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. **Prohibited Uses and Disclosures.**

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

4. **Obligations of County.**

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

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

- I. Comply with requirements of satisfactory assurances under 45 CFR §164.512 relating to notice or qualified protective order in response to a third party's subpoena, discovery request, or other lawful process for the disclosure of PHI, which Contractor shall promptly notify County upon Contractor's receipt of such request from a third party.
- J. Not require an individual to provide patient authorization for use or disclosure of PHI as a condition for treatment, payment, enrollment in any health plan (including the health plan administered by County), or eligibility of benefits, unless otherwise excepted under 45 CFR §164.508(b)(4) and authorized in writing by County.
- K. Use appropriate administrative, technical and physical safeguards to prevent inappropriate use, disclosure, or access of PHI and/or ePHI.
- L. Obtain and maintain knowledge of applicable laws and regulations related to HIPAA and HITECH, as may be amended from time to time.
- M. Comply with the requirements of the Privacy Rule that apply to the County to the extent Contractor is to carry out County's obligations under the Privacy Rule.
- N. Take reasonable steps to cure or end any pattern of activity or practice of its subcontractor of which Contractor becomes aware that constitute a material breach or violation of the subcontractor's obligations under the business associate contract with Contractor, and if such steps are unsuccessful, Contractor agrees to terminate its contract with the subcontractor if feasible.

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

- A. **Access to PHI, including ePHI.** Provide access to PHI, including ePHI if maintained electronically, in a designated record set to County or an individual as directed by County, within five (5) days of request from County, to satisfy the requirements of 45 CFR §164.524.
- B. **Amendment of PHI.** Make PHI available for amendment and incorporate amendments to PHI in a designated record set County directs or agrees to at the request of an individual, within fifteen (15) days of receiving a written request from County, in accordance with 45 CFR §164.526.
- C. **Accounting of disclosures of PHI and electronic health record.** Assist County to fulfill its obligations to provide accounting of disclosures of PHI under 45 CFR §164.528 and, where applicable, electronic health records under 42 USC §17935(c) if Contractor uses or maintains electronic health records. Contractor shall:
 - 1) Document such disclosures of PHI and/or electronic health records, and information related to such disclosures, as would be required for County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record in accordance with 45 CFR §164.528.
 - 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.

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

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

- A. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
- B. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
- C. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
- D. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
- E. Ensure compliance with the Security Rule by Contractor's workforce;
- F. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;
- G. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
- H. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

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

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

- 1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who

is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).

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

- a) The identification of each individual whose unsecured PHI has been, or is reasonably believed by Contractor to have been accessed, acquired, used or disclosed during the breach;
- b) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known;
- c) A description of the types of unsecured PHI involved in the breach, such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved;
- d) Any steps individuals should take to protect themselves from potential harm resulting from the breach;
- e) A brief description of what Contractor is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches; and,
- f) Contact procedures for individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, web site, or postal address.

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

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

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

E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the

Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.

- F. **Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.
- G. **Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15. For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).
- 1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and to the California Department of Public Health ("CDPH") in a timely manner under the California Health & Safety Code §1280.15.
 - 2) Contractor agrees to report to County any unlawful or unauthorized access, use, or disclosure of patient's medical information without unreasonable delay and no later than two (2) business days after Contractor detects such incident. Contractor further agrees such report shall be made in writing, and shall include substantially the same types of information listed above in Section 8.A.2 (Content of Notification) as applicable to the unlawful or unauthorized access, use, or disclosure as defined above in this section, understanding and acknowledging that the term "breach" as used in Section 8.A.2 does not apply to California Health & Safety Code §1280.15.

9. **Hold Harmless/Indemnification.**

- A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. Contractor shall not be required to indemnify the Customer for any claims arising from the negligent actions or omissions of the Customer's employees, including but not limited to instances where an employee inputs incorrect patient information. In such cases, the responsibility for any resulting claims shall remain with the Customer and its staff. Contractor shall defend, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, of County, all Agencies, Districts, Special Districts and Departments of

County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.

- B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
 - C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.
 - D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.
 - E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.
10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.
11. **Termination.**
- A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:
 - 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
 - 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-

breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.

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

B. Effect of Termination.

- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.
- 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.

12. **General Provisions.**

- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.
- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.
- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.
- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
 - 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.

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

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

County HIPAA Privacy Officer: HIPAA Privacy Manager

County HIPAA Privacy Officer Address: 26520 Cactus Avenue,
Moreno Valley, CA 92555

County HIPAA Privacy Officer Phone Number: (951) 486-6471

Exhibit C – Licensed Sites

1. Correctional Health Services Administration at 3403 10th Street, Suite #110, Riverside 92501
2. Cois Byrd Detention Center (SW) at 30755-B Auld Rd, Murrieta, 92563
3. Robert Presley Detention Center at 4000 Orange St, Riverside 92501
4. Smith Correctional Facility at 1627 S. Hargrave, Banning, 92220
5. John Benoit Indio Jail at 82675 HWY 111 Indio, 92201
6. Blythe Jail at 260 N. Spring St. Blythe, 92225
7. Alan M. Crogan Youth Treatment and Education Center (YTEC) JUVENILE HALL at 10000 County Farm Road Riverside, CA 92503
8. Cois Byrd (SW) Juvenile Hall at 30755-C Auld Rd, Murrieta, CA 92563
9. Indio Juvenile Hall at 47665 Oasis St., Indio, CA 92201
10. SouthWest Juvenile Hall at 30755 Auld Rd Ste C, Murrieta, Ca 92563
11. RUHS Medical Center at 26520 Cactus Ave, Moreno Valley, CA 92555

Exhibit D – Implementation Services

1. NaphCare Obligations. Subject to terms and conditions of this Agreement and provided Customer is not in material breach of its obligations hereunder, NaphCare shall provide the following Implementation and Training Services during the Term:
 - 1.1. Software Implementation. The Customer currently utilizes NaphCare’s TechCare EHR v4.5 (client-server application). In order to provide an Electronic Health Record to Customer via a web-based platform, NaphCare will implement TechCare v5.0 (web-based). NaphCare shall plan, customize, configure, integrate, test, document, migrate, and deploy, the System and provide to Customer all deliverables in accordance with the requirements of this Agreement and the Deliverables Chart set forth in Exhibit E. Without limiting the generality of the foregoing, NaphCare shall provide all its personnel, equipment, accessories, tools and other items and do all work required for the Project where the same are not expressly identified in this Agreement as being provided by Customer.
 - 1.2. Cloud Hosted Services. Server Infrastructure services will be provided as defined in Exhibit E.
 - 1.3. Implementation.
 - 1.5.1. Planning and Project Start. Within thirty (30) days following the execution of this Agreement, NaphCare will provide for Customer review a phased, milestone-based detailed **Project Plan**. The Plan will be comprehensive, providing detailed timelines and milestones for the Services outlined herein and will be utilized to provide the Services defined herein.
 - 1.5.2. Requirements and Design. NaphCare is responsible for the configuration and/or customization of existing functionality of the System in order to meet the needs of the Customer. NaphCare will analyze and review all existing customization to the customer-specific version of TechCare in use today and will develop the requirements necessary for changes to the v5 application. Note that many customizations in v4.5 are handled by newly developed modules/tools in v5 further simplifying the need to “customize” the application. A **Software Requirements Document** shall be jointly prepared by the parties and will include all required modifications to the System.

In the event a new required customization is identified which does not already exist within the current customer-specific v4.5 application, NaphCare shall have the right to propose an additional one-time cost for development and implementation of such new customization in v5 of the application. Following Go Live, all revisions to previous customizations and/or new customizations shall be treated as Feature Requests.
 - 1.5.3. Development and Delivery. NaphCare will complete customization of the TechCare v5 application to meet the defined requirements established. The hosted production and test environments be fully deployed in preparation for migration activities.

- 1.5.4. Testing and Migration. NaphCare and the Customer will conduct testing activities as defined herein. NaphCare QA staff will review all customizations made to v5 and thoroughly test via manual and automated routines. Customer will review all customizations made to TechCare v5 following the Requirements Document and thoroughly test via manual and automated routines. NaphCare will migrate the existing data storage, integration endpoints, and client access endpoints to the cloud service provider. Impact to application availability will be discussed and planned with Customer.
- 1.5.5. Hosting Services Deployment. NaphCare is responsible for configuration and deployment of the Server Infrastructure Services and Network Connectivity Services, including primary and failover capabilities at the server and network layer supporting the System as defined in Exhibit D. NaphCare will deploy the hosting environment on the schedule defined in the Project Plan in accordance with a Hosting Design Document that is jointly developed by Customer and NaphCare and includes all aspects of the configuration of the hosting environment.
- 1.5.6. Training and Go Live. NaphCare is responsible for pre-Go-Live and Go-Live training/support for all Authorized Users in order to support the management of and ongoing productive use of the System within the Customer's environment. Training will be provided via the following methods and be fully defined within a Training and Go-Live Plan that is jointly created by NaphCare and the Customer.
 - i. Introductory Remote Training via Online Meetings
 - ii. Pre Go-Live Onsite Classroom Training
 - iii. Go-Live Onsite Training and Support

The commitment for the completion and Go-Live of the overall EHR project shall be determined by both parties. NaphCare shall not be liable for any project delay(s) unless such delay(s) is (are) due to NaphCare's fault. Customer shall provide written confirmation to NaphCare of go-live start date two (2) weeks in advance of agreed upon date.

- iv. Readiness. At such time as all Deliverables required by the Project Plan for Go-Live are delivered to Customer, and NaphCare determines that the System and Services are completed, installed and operational, then NaphCare shall provide Customer with written notice that the System is ready for Go-Live. Upon receipt of such notice, Customer will perform Pre-Live Acceptance in order to verify that (i) all required Deliverables have been delivered and accepted (ii) all reported material Malfunctions identified during Acceptance testing have been corrected or otherwise resolved and (iii) the System and Services are completed, installed and operational. Upon successful completion of Pre-Live Acceptance, Customer shall provide written confirmation to NaphCare of the Go-live start date two (2) weeks in advance of the date. The Go-live start date

shall not occur within seven (7) days of a national or Customer observed holiday.

- 1.4. Documentation. NaphCare is responsible for the provision and ongoing updating of end-user and technical Documentation of the System in the form of a User's Manual, Data Dictionary and Knowledge Base online repository.
 - 1.5. Minor Deviations. NaphCare may make Minor Deviations from the Project Plan, Data Migration Plan and Training Plan without obtaining prior written consent of Customer and shall give Customer prior written notification of any such planned deviation through the delivery of an updated status report (including a revised applicable Plan) which shows the impact, if any, of such deviations on the remainder of the Project.
 - 1.6. Reporting and Status. NaphCare is responsible for providing Customer a detailed status report for each calendar month during the Project. The report will describe the progress of the Project, including, (i) an updated Project Plan reflecting any mutually agreed changes to the Project Plan or any changes resulting from Minor Deviations, (ii) a report updating the status of each Deliverable under development and Services being performed, (iii) a detailed description of the tasks and schedules as required to implement the System for the interim period until the next monthly status report, including the level of compliance with the Project Plan, (iv) a listing of the resources Customer is required to provide, in accordance with the Project Plan, during the subsequent calendar month, (v) a general updated description of the tasks and schedules required to implement the System for the remainder of the Project Plan, (vi) specific identification of all new tasks commenced by NaphCare, all ongoing tasks, and identifying any tasks which are overdue or behind schedule, and (vi) such other information as is customarily included in monthly status reports prepared by NaphCare, or which is reasonably requested by Customer.
2. Customer Obligations. Subject to terms and conditions of this Agreement and provided NaphCare is not in material breach of its obligations hereunder, Customer shall provide the following services during the Implementation and Training service delivery:
 - 2.1. Facilities and Access. Customer shall provide sufficient access and facilities and/or working space within a facility for NaphCare to complete its obligations pursuant to the terms of the Agreement.
 - 2.2. Human Resources. Customer shall provide access to sufficient Subject Matter Experts (SMEs) whose knowledge of existing and future workflows will drive the customization of the Application to fit Customer's environment. Required SMEs include, but are not limited, to the following roles:
 - 2.3. Remote Access. Customer shall provide reasonable access to the existing system environment and support additional connectivity to aid in the migration to the Hosted environment.
 - 2.4. Interface Vendor Management. Customer shall initiate communication with interface vendor partners in support of integration end-point migrations to the Hosted environment.

Exhibit E – Cloud Hosted Services

1. NaphCare Responsibilities.

1.1. Server Infrastructure. NaphCare will provide a cloud hosted environment in order to remotely host the Application. All necessary network infrastructure, computer hardware, data storage, third party software (such as database software), technology, operating systems, and remote access software needed to remotely host the Application and the Customer Data will be provided by NaphCare. NaphCare will (i) monitor the infrastructure; (ii) provide backup and restoration services for the Application; (iii) coordinate preventative maintenance; and (iv) provide system management services including database maintenance (including database upgrade services), data archiving, system troubleshooting, production change control, and scheduled operational tasks. NaphCare shall be responsible for maintaining appropriate security measures, systems, and procedures designed to protect against anticipated threats or hazards to the availability, security or integrity of the Customer Data.

1.2. Data Location. NaphCare shall provide its services to the State and its end users solely from data centers within the Continental United States. All storage, processing and transmission of State data shall be restricted to information technology systems within the Continental United States. NaphCare shall not allow its personnel or sub-contractors to store Customer data on portable devices, including personal computers, except as specified and allowed by the contract, and then only on devices that are used and kept at its data centers within the Continental United States. NaphCare shall permit its personnel and NaphCare to access Customer data remotely only to provide technical support and as specified or required by the contract.

1.3. Server Environments.

1.2.1. NaphCare will provide a System development environment (“Dev”) in order to support the implementation including (i) Dev Application environment, (ii) Dev database services and storage, (iii) Dev file storage, and (iv) Dev interface services within NaphCare’s infrastructure environment.

1.2.2. NaphCare will provide a System test environment (“Test”) in order to support the ongoing productive use, including (i) Test Application environment, (ii) Test database services and storage, (iii) Test file storage, (iv) Test interface services.

1.2.3. NaphCare will provide a System production environment (“Production”) in order to support the Go-Live (activation) and ongoing productive use, including (i) Production Application environment, (ii) Production database services and storage, (iii) Production file storage, (iv) Production interface services.

1.4. Network Infrastructure. NaphCare will provide Network Connectivity Services to support the connectivity of Customer to hosted Server Infrastructure as follows:

- 1.3.1. Internet. NaphCare will provide sufficient Internet services for the Hosted environment.
- 1.3.2. Static VPN over Internet. Network communication between NaphCare's datacenters and Customer's network via VPN in which Internet is provided by NaphCare at the Hosted environment and Internet is provided at Customer's Licensed Sites by Customer.

1.5. Service Level Agreement.

- 1.4.1. Availability Requirement. NaphCare shall make the System Available ninety-nine (99.67%) percent of the time. Availability is measured on a 24x7 basis during any calendar-month period, excluding Excusable Outages. NaphCare cannot be held responsible for services, software, or equipment not provided hereunder. The Availability percentage during the month will be calculated as follows:
- (Total hours during the month) minus (Total hours related to Excusable Outages) equals Maximum Hours
 - [(Maximum Hours) minus (Total hours of unplanned downtime)] divided by (Maximum Hours) equals Availability percentage
- 1.4.2. Response Time Requirement. In the event that Authorized Users at one or more Licensed Sites experience degraded System response time such that the affected Authorized Users are no longer able to effectively perform core workflows using the System, then Customer shall have the right to declare the period of such degraded System response time as unscheduled System downtime for the purpose of calculating monthly System Availability. NaphCare cannot be held responsible for services, software, or equipment not provided hereunder.
- 1.4.3. Data Backups. NaphCare will backup Customer data with a one (1) hour Recovery Point Objective ("RPO") and a four (4) hour Recovery Time Objective ("RTO"). Retention of backups will include daily backups for one (1) week, weekly backups for one (1) month, monthly backups for eleven (11) months, and yearly backups for two (2) years.
- 1.4.4. Redundancy. NaphCare will maintain redundant Hosted environments for Customer's System. Application data will remain in synchronization between hosted environment within the one (1) hour RPO. Should the primary hosted environment become damaged, destroyed, or otherwise unavailable for any reason, the Application will fail-over to the backup datacenter for continued System access. Testing of the failover capability may occur at the Customer's request with no more than one test during a 365-day period.
- 1.4.5. Monitoring. NaphCare will monitor its compliance with the Availability Requirement. NaphCare shall provide monthly reports to Customer setting forth the percentage of time the System was Available to all Licensed Sites in the applicable month. NaphCare shall notify Customer of service level

deficiencies (i.e., the failure to comply with the Availability Requirement) and the associated cause(s) within two business days thereof.

1.4.6. Audit. NaphCare shall maintain complete and accurate records of all transactions and information necessary to calculate or measure the service levels described (the "Service Level Data"). All Service Level Data shall be maintained by NaphCare throughout the Term of this Agreement. Not more than once in any twelve (12) month period during the Term of this Agreement, Customer or its designated representatives shall be entitled to (i) audit and inspect the Service Level Data during business hours upon reasonable notice to NaphCare and (ii) make copies and summaries of such Service Level Data.

2. Customer Responsibilities.

2.1. Network Infrastructure. Customer will provide Network Connectivity Services to support the connectivity of Customer endpoints to hosted Server Infrastructure as follows:

2.1.1. Customer shall provide sufficient internal LAN network connectivity and WAN infrastructure for Customer's Licensed Sites. Customer LAN and WAN networks will support at least 0.12Mbps per concurrent session with <40ms latency.

2.1.2. Customer shall provide sufficient Internet connectivity to support Customer endpoints accessing the Hosted environment. Customer Internet services will support at least 0.12Mbps per concurrent session with <40ms latency.

2.1.3. Customer will provide and support any network equipment which resides within Customer facilities which is required for implementation of connectivity.

2.1.4. Customer shall provide access to the use of enterprise network management services including, but not limited to, Domain Name Services (DNS) and Shared/Network Printing Services in order for proper Application functionality.

2.1.5. Customer shall provide and support a Static VPN over Internet in order to provide offline mode functionality (if applicable).

2.1.6. Customer shall allow communication across the following ports within the before mentioned connections:

- TCP 1433, 1434 – SQL
- TCP 445 - SMB Windows File Share
- ICMP – Ping
- TCP 53
- UDP 53

2.2. Customer is responsible for providing and supporting software that may complement the System, but not be a part of it. Such supporting software includes, but is not limited to, the following:

- Office Productivity Software
- Dictation Software
- Clinical Reference Software
- Identity Management Services
- 2-Factor Authentication Services
- Operating System Patching
- Security of Network, Infrastructure
- Interface Vendor Services from 3rd Parties
- Computer Workstations (Desktop, Laptops, Tablets)
- Peripheral Printing Devices
- Peripheral Signature Capture Devices

Exhibit F – Maintenance and Support Services

1. NaphCare Obligations. Subject to terms and conditions of this Agreement and provided Customer is not in material breach of its obligations hereunder, NaphCare shall provide the following Services during the Term:
 - 1.1. System Maintenance. NaphCare will maintain the System which operates as a fully contained Electronic Health Record designed for the corrections industry. NaphCare shall provide Application Updates to all modules of the System as a part this Agreement. Without limiting the generality of the foregoing, NaphCare shall provide all labor, facilities, equipment, accessories, tools and other items and do all work required for the maintenance and support of the System where the same are not expressly identified in this Agreement as being provided by Customer. Specifically, NaphCare shall:
 - 1.1.1. Maintain the Application to provide the functionality defined in the Documentation.
 - 1.1.2. Maintain compliance of the Application in all material respects with the warranties.
 - 1.1.3. Provide all Application Updates along with updated user and operational Documentation. In consultation and coordination with Customer, install all Updates in the Test environment and, when Customer testing is completed, migrate all Updates to the Production environment.
 - 1.1.4. Provide “first line support” for all incorporated Third Party Products. NaphCare will coordinate any required support and corrective action required from the third party vendors or suppliers that NaphCare cannot directly provide. NaphCare will apply all updates that the vendor of such Third Party Products provides to NaphCare. Finally, NaphCare will maintain compatibility and integration of the Application with the Third Party Products.
 - 1.1.5. Maintain compatibility and integration with any third party outcome reporting tools, which have been implemented by Customer as part of the EHR Application. Should any of these packages be upgraded, Customer will notify NaphCare in advance, so that analysis and code changes can be implemented as quickly as possible.
 - 1.1.6. Maintain comprehensive change control procedures to control software versions and releases. All changes to be implemented at Customer are at the discretion of the Customer Change Advisory Board (CAB).
 - 1.1.7. Correct any Application Errors which are (i) reported by Customer or (ii) reported by other NaphCare clients, or (iii) identified by NaphCare, all within a reasonable period, depending upon the severity of the error. Application Error resolution is further described Section 1.2 below.
 - 1.2. Application Error Resolution. During the Term, NaphCare will provide Application Error resolution services. Upon notification by Customer that a Severe Malfunction has occurred, NaphCare will, as soon as possible, diagnose the problem and determine if an Application Error is the cause. NaphCare will use continuous diligent effort to (i) correct the error or defect as soon as possible and provide an Application Update, or (ii) provide a reasonable workaround solution if the error or defect cannot be immediately corrected. NaphCare will provide periodic maintenance releases to distribute corrections to Application Errors (i) which have

caused other Malfunctions, or (ii) which have been identified by other NaphCare customers or by NaphCare.

For the purposes of this Exhibit F, a Severe Malfunction refers to an instance where (i) the System is rendered unusable; (ii) the performance of the System is severely degraded; or (iii) Customer's use of the System for its intended purpose is materially impaired.

1.3. Cloud Hosting Services. NaphCare will provide Server Infrastructure services as defined in Exhibit E.

1.4. Network Connectivity Services. NaphCare will provide the Network Connectivity services as defined in Exhibit E.

1.5. Support.

1.6.1. Support Services. NaphCare will maintain a 24/7/365 Help Desk which includes live staffing by NaphCare employees with the required expertise to provide support for the System and associated deliverables as outlined herein. Help Desk services shall include, but not be limited to:

- i. Assistance with Application function questions.
- ii. Assistance in diagnosing and determining the cause(s) of and resolving System Malfunctions.
- iii. Assistance with report generation questions.
- iv. Assistance with general computer management, operating system software, or networking software questions related solely to the use of the Application.
- v. Assistance in testing Application Updates supplied by NaphCare.
- vi. Assistance using any non-production environments.

The term "assist" (or "assistance"), when used to describe Help Desk services, means a help that NaphCare will provide, including, without limitation, troubleshooting, providing advice, answering questions, providing diagnosis, and sharing information.

1.6.2. Service Level Agreement. NaphCare's Help Desk Services will be provided in accordance with the following Service Level Agreement (SLA).

In response to a Problem Report related to the System, NaphCare shall correct a reported Malfunction or provide a reasonable workaround sufficient to substantially mitigate the adverse effects of the problem on the normal use of the System. Customer agrees to reasonably assist NaphCare in its efforts to diagnose the problem and correct a Malfunction by making available information, documentation, access to personnel, and testing reasonably requested by NaphCare from time to time to assist NaphCare in identifying and correcting the problem. From time to time at its discretion, NaphCare also may (i) implement new releases of the System that contain changes, updates, patches, and fixes, and (ii) deliver to Customer new

releases of the client Application Software that contain changes, updates, patches, and fixes.

In the event a Malfunction exists due to an error in the Documentation, NaphCare may correct such Malfunction by providing corrected Documentation; provided, however, that no revision, modification, or update to Documentation shall eliminate or materially diminish any operational functionality of the Application previously described therein.

Customer's requests for support services shall be submitted by telephone (Critical Issues) or via NaphCare's online self-service portal.

1.6.3. Service Level Agreement:

		IMPACT			
		All Deployments	Single Deployment	Business Unit	Individual User
Urgency	Critical	1	1	2	3
	High	1	2	3	3
	Medium	2	3	3	4
	Low	3	3	4	4

The above SLA and associated definitions below pertain only to those Services provided by NaphCare.

- Urgency
 - Critical - Mission critical service not available
 - System error/defect directly impacting patient care.
 - Application cannot be used.
 - No workaround, bypass or alternative is available.
 - High - Mission Critical module or portion of service not available
 - System error/defect directly impacting patient care.
 - A critical portion of the application cannot be used.
 - No workaround, bypass or alternative is available.
 - Medium - Unable to normally complete work, workaround is available
 - System error/defect negatively & substantially impacted operations, impact to patient care is manageable via workaround.
 - Application can be used.
 - Workaround, bypass or alternative is available.
 - Low - Able to work, would assist with completion of work.
 - System error/defect is not critical. Impact is limited & no risk to patient care.
 - Application can be used.
 - Workaround, bypass or alternative is available.
- Impact

- All Deployments – All deployments of the System across all customers are impacted.
- Single Deployment – A single deployment of the System to a single customer, with one or more locations, is impacted.
- Business Unit – A single business unit, or function, is impacted across one or many deployments.
- Individual User – A single user is impacted.

Response & Resolution SLA

	Initial Acknowledgement	Response	Resolution
P1 Critical	5 Minutes	30 Minutes	24 Hours
P2 High	5 Minutes	90 Minutes	3 Days
P3 Medium	5 Minutes	5 Days	8 Days
P4 Low	5 Minutes	10 Days	20 Days

- **Initial Acknowledgement** – This is an automated response confirming we have received your issue. This is performed 24 hours a day, 7 days a week, 365 days a year.
- **Response** – This is the time it takes for an agent from the NaphCare Help Desk to respond to the issue reported.
- **Resolution** – The time it will take to work and resolve your reported issue.

1.6.4. Support Escalation Process

Tier	Responsibilities
Tier 0 - Super Users (Customer)	<ul style="list-style-type: none"> ● At each Licensed Site, Customer will identify a “Super User” who will be trained to have a good overall working knowledge of the Hardware Devices and the System. The Super Users will assist local Authorized Users with general Hardware Device and Application problems. and will be able to generally distinguish between hardware, operating system, network and application errors If Tier 0 support is unable to resolve the problem, it will be referred to the Tier 1 Help Desk.
Tier 1 - Help Desk (Customer)	<ul style="list-style-type: none"> ● Responsibilities include but are not limited to: <ul style="list-style-type: none"> ● Resolving service tickets involving system access problems, passwords, System downtime and Malfunctions not directly related to the Application ● Provide assistance in use of the Application and any related System component. ● Refer unresolved problems to NaphCare’s Tier 2 Help Desk if related to NaphCare’s System or Services.
Tier 2 – Help Desk (NaphCare)	<ul style="list-style-type: none"> ● Functioning as an escalation point for unresolved Tier 1 problems. Responsibilities include but are not limited to: <ul style="list-style-type: none"> ● Troubleshoot hardware and network problems related to NaphCare provided System or Services. ● Troubleshoot all database integrity and performance problems. ● Routine maintenance, deployment of Updates.

	<ul style="list-style-type: none"> • Resolve operational problems with Production deployment. • Coordinate problem resolution with all third party vendors (e.g., suppliers of Third Party Products, vendors supporting interfaces applications/systems). • Refer unresolved problems to NaphCare Tier 3 Help Desk.
Tier 3 – Help Desk (NaphCare)	<ul style="list-style-type: none"> • Functioning as a final escalation point for unresolved Tier 2 problems. Responsibilities include but are not limited to: <ul style="list-style-type: none"> • Provide "24 X 7" support to diagnose and resolve System Malfunctions. • Resolve problems with the EHR Application including all core functionality, interfaces and other middleware. • Resolve problems with any third party software which has been imbedded or integrated with the Application.

1.6. Conditions for Maintenance and Support Services. NaphCare’s obligation to provide Maintenance and Support Services is conditioned upon (i) Customer’s use of the Application in an information technology environment meeting the requirements set forth in the Documentation and (ii) Customer’s having installed in accordance with NaphCare’s instructions the latest (i.e., most current) version of the Application; provided, however, that NaphCare shall provide Maintenance and Support Services with respect to a prior version of an Application for at least three (3) months following delivery to Customer of an updated version of the Application. NaphCare shall extend support of a prior version of the Application beyond three (3) months if Customer, through its testing, is unable to accept the updated version of the Application.

1.7. Training. During the Term, NaphCare will provide ongoing, remote and on-site training for all Authorized Users in order to support the management of and ongoing use of the System within the Customer’s environment. Training will be provided via the following methods and following a formal request by Customer.

- 1.8.1. Remote Training via Online Meetings
- 1.8.2. Classroom Training
- 1.8.3. On the Job Training

1.8. Documentation. During the Term, NaphCare will update and maintain (i) an online User’s Manual specific to the customizations made for Customer; (ii) a custom database Data Dictionary; and (iii) a Knowledge Base online repository. Online resources will be made available by an online Customer Portal.

1.9. Software Updates. NaphCare shall provide Updates to Customer as and when they become generally available, at no additional charge (including retrofit of all prior customizations and Feature Requests). NaphCare agrees to deploy any such Update, including any prior customizations and Feature Requests that are contained in the Production System, into the Test environment within ninety (90) days of release of the Update, unless otherwise directed by Customer. Upon successful testing of the new Update, Customer will provide notice of acceptance to NaphCare, and the parties will mutually agree on a scheduled date for the migration of the Update to the Production environment.

For Updates to client (workstation) Application Software, NaphCare shall provide all Updates through the secure System File Portal. Application Update files will be appropriately named with version and date identifiers along with appropriate technical documentation. Customer will be responsible for the retrieval and execution of Application Updates for the workstation environments based on the files and documentation provided. Customer will provide written notification to NaphCare when installing workstation versions of the Application.

1.10. Post Go-Live Software Customization. Following the last Go-Live Wave and Final System Acceptance, Customer may, in its discretion, request that NaphCare develop certain enhancements to the System desired by the Customer. NaphCare agrees to develop and install such Customer-requested enhancements, following the below process:

1.11.1. Feature Requests will be submitted to NaphCare by Customer via the System Online Portal along with detailed business and functionality requirements.

1.11.2. NaphCare will review and estimate the work effort required to implement the feature and notify the Customer accordingly.

1.11.3. Customer designee shall allow implementation (approve) or deny implementation of each Feature Request and will provide the priority of each approved Feature Request.

1.11.4. NaphCare shall commence work on all approved Feature Requests and shall provide updated information on a recurring basis including the Feature Request, its status, the hours worked to date and the estimated hours needed for completion of the Feature Request.

1.11.5. NaphCare shall include the Feature Request in a future version of the Application for Customer testing and acceptance.

1.11.6. Upon successful testing of the new Update (and completion of any required regression testing), Customer will provide notice of acceptance to NaphCare, and the parties will mutually agree on a scheduled date for the migration of the Update to the Production environment.

1.12. Hours Pool. Customer may, as a part of the costs outlined in Exhibit K, pre-purchase labor hours (hereinafter referred to as 'Hours Pool'). It is agreed that said Hours Pool shall be subject to the process as set forth above until such time that the Hours Pool is exhausted.

NaphCare shall maintain the accounting of the Hours Pool outlining the services rendered as identified in this Agreement and shall provide a detailed report to Customer on a quarterly basis or other timeframe as agreed upon by both Parties.

Both parties agree that following the exhaustion of the Hours Pool, additional Post Go Live Software Customization will be performed at the rates defined in Exhibit

K. Customer shall also have the option of renewing the Hours Pool; in this event, an amendment will be executed by both parties memorializing this renewal.

2. Customer Obligations. Subject to terms and conditions of this Agreement and provided NaphCare is not in material breach of its obligations hereunder, Customer shall provide the following services during the Term:

2.1. Network Connectivity Services. Customer shall provide sufficient internal LAN Network Connectivity and WAN Connectivity for communication between Customer's Licensed Sites. Customer LAN and WAN networks will support at least 0.12Mbps per concurrent session with <40ms latency. Customer will support the efforts of NaphCare in providing Network Connectivity Services as defined in Exhibit E.

2.2. Remote Access. Customer shall provide NaphCare remote access to Customer owned and maintained infrastructure supporting the application as necessary for NaphCare personnel to provide the Maintenance and Support Services set forth in this Agreement.

Customer and NaphCare will establish a static, point-to-point virtual private network (VPN) connection between Customer network and NaphCare infrastructure. The mutually established VPN will traverse the existing Internet connections of both Customer and NaphCare using industry standard protocols and encryption techniques.

Customer shall allow communication across the following ports within the before mentioned point-to-point VPN connection:

- 2.3.1. TCP 1433, 1434 – SQL
- 2.3.2. TCP 445 - SMB Windows File Share
- 2.3.3. ICMP – Ping
- 2.3.4. TCP 53
- 2.3.5. UDP 53

Customer shall provide NaphCare with a network/system account that maintains local administrative privileges on Customer owned server infrastructure that supports the application including but not limited to the database, file, and interface servers. Customer shall provide NaphCare with a local SQL account for accessing the database.

Failure of the Customer to provide access methods or properly maintain those methods outlined above will result in NaphCare being unable to provide certain Maintenance and Support Services as outlined in this Agreement.

2.3. Facilities and Access. Customer shall provide sufficient access and facilities and/or working space within a facility for NaphCare to complete its obligations pursuant to the terms of the Agreement.

2.4. Human Resources. Customer shall provide reasonable access to sufficient Subject Matter Experts (SMEs) whose knowledge will assist with NaphCare providing the Services described herein. Examples of such SMEs include, but are not limited to,

health care clinical and technical roles directly related to the use of the System in Customer's environment.

- 2.5. Security and Authentication. Customer's ongoing responsibilities are set forth in Exhibit G, Section 2.
- 2.6. Supporting Hardware, Software and Services. Customer is responsible for providing and supporting software that may complement the System, but not be a part of it. Such supporting software includes, but is not limited to, the following:
 - 2.7.1. Office Productivity Software
 - 2.7.2. Dictation Software
 - 2.7.3. Clinical Reference Software
 - 2.7.4. Identity Management Services
 - 2.7.5. 2-Factor Authentication Services
 - 2.7.6. Operating System Patching
 - 2.7.7. Security of Network, Infrastructure
 - 2.7.8. Interface Vendor Services from 3rd Parties
 - 2.7.9. Computer Workstations (Desktop, Laptops, Tablets)
 - 2.7.10. Peripheral Printing Devices
 - 2.7.11. Peripheral Signature Capture Devices

Exhibit G – Information Security Addendum

1. General.

- 1.1. This Information Security Addendum (the “Addendum”) outlines particular organizational, administrative, technical, and physical security requirements that NaphCare shall maintain as part of the provision of the Services (“Security Requirements”) to protect the availability, confidentiality, and integrity of the Customer Data and of NaphCare systems, applications and platforms processing or accessing Customer Data (the “NaphCare Network”). These requirements are not intended to be exhaustive. NaphCare shall ensure that it maintains a comprehensive information security policy containing policies and procedures to protect Customer Data from unauthorized access, disclosure or use in accordance with industry-wide best practices, including National Institute of Standards and Technology (“NIST Standards”), and applicable state and federal data protection and privacy laws. The Security Requirements shall apply to all access to, processing of, or maintenance of Customer Data.
- 1.2. If NaphCare subcontracts the provision of Hosting Services to a subcontractor, NaphCare shall insure that such subcontractor complies with all Security Requirements applicable to the Hosting Services. However, NaphCare shall not be responsible for the Services performed or provided by the subcontractor to the same extent that NaphCare would be if the Services were NaphCare’s own work.

2. Access Controls.

- 2.1. Customer Data shall be physically or logically segmented from NaphCare’s other customers. NaphCare shall access Customer Data and Customer’s network(s) or information technology system (the “Customer Network”) only in accordance with the Agreement or as otherwise instructed by Customer in writing. Individual, user-specific accounts must be used when accessing Customer Data (i.e. no common or shared accounts shall be permitted). Passwords for access to the NaphCare Network shall be stored securely, not in plain text, on a separate server or file from Customer Data that is not readily identifiable as the location of the passwords. After ten (10) minutes, NaphCare shall provide automatic logoff for applications that grant access to Customer Data.
- 2.2. With respect to NaphCare Personnel, NaphCare will restrict access to the NaphCare Network Systems that contain Customer Data only to those employees, subcontractors and agents (“NaphCare Personnel”) with a need to access such systems or features in order to provide the Services, and only to the extent necessary to perform such Services. When any NaphCare Personnel no longer has a business need for the access privileges to Customer Data assigned to him/her (such as, for example, when an employee or subcontractor is transferred to a new assignment), the access privileges shall be revoked without unreasonable delay, but in any event within five (5) business days.
- 2.3. NaphCare shall maintain, in accordance with industry best practices, logs of all persons who have been granted access to Customer Data (and any features and

functions of the NaphCare Network that contain Customer Data) and the activities

of such persons exercising those access privileges. Each log entry must include the following information about the logged event: date and time of event; type of event; event description; user associated with the event and network identifiers (IP address, etc.) or logical identifiers (system name, port, etc.). Upon Customer's request, NaphCare shall provide such logs to Customer. Access logs shall be retained for a minimum of two (2) years.

2.4. If granted access to the Customer Network, NaphCare shall only access those portions of the Customer Network expressly authorized by Customer in the manner specified by Customer, in each case in writing and in advance. NaphCare acknowledges and agrees that Customer may revoke its authorization or permission for NaphCare to access the Customer Network at any time without further obligation or liability to NaphCare.

2.5. Mobile Device Management. If Customer Data is accessed in any way by NaphCare Personnel using a mobile device (e.g., cell phone, laptop computer), then NaphCare will install a mobile device management solution on such devices to ensure at least the following security standard security protocols are activated and maintained: (i) multi-factor authentication mechanism (i.e., password/pin and registered device); (ii) full disk encryption enforcement; (iii) anti-malware software; (iv) firewall enabled.

3. NaphCare Personnel.

3.1. NaphCare shall provide the name(s) and contact information for its Privacy and Security Officers.

3.2. NaphCare shall maintain policies that require its Personnel to promptly (but in any event within forty-eight (48) hours) report suspected security incidents and suspected violations of the confidentiality terms of the Agreement, the Security Requirements, and NaphCare's data security policies to NaphCare management for investigation and action.

3.3. NaphCare must ensure that all NaphCare Personnel who access Customer Data and the Customer Network: (i) attend IT security and awareness training at least once per year; (ii) are fully informed (at least annually) of, and monitored for adherence to, the Security Requirements and NaphCare's data security policies and standards, and (iii) are subject to disciplinary action (and/or legal action where appropriate) for violations of same.

3.4. NaphCare, or its agent, shall perform a local, state, and federal background investigation ("Background Investigation") on all NaphCare Personnel performing Services under the Agreement or otherwise having access to Customer Data. NaphCare shall contractually obligate all subcontractors performing Services to perform such Background Investigation on any subcontractor Personnel performing Services under the Agreement. The Background Investigation shall include a detailed examination of: (i) criminal convictions involving a dishonest act (including but not limited to fraud, theft, and embezzlement); and (ii) injury or threatened injury to another person. NaphCare shall not permit any NaphCare

Personnel with a criminal record falling into categories (i) and (ii) above to perform Services under the Agreement or gain access to Customer Data.

- 3.5. NaphCare shall ensure immediate revocation of all access rights to Customer Data for any NaphCare Personnel who are terminated. Further, NaphCare shall obligate such terminated NaphCare Personnel to immediately return any Customer Data and destroy any copies of Customer Data within such Personnel's possession.
- 3.6. Customer Data may not be stored or accessed by NaphCare Personnel on personal accounts (e.g., individual email or cloud services accounts) or stored locally on personally-owned computers, devices or media. NaphCare shall implement technical controls to prevent downloading of Customer Data onto personally-owned computers, devices or media.
- 3.7. No NaphCare services provided to Customer shall be performed using NaphCare Personnel who are located outside the United States.

4. Physical Security Requirements.

- 4.1. When present at a Customer facility, NaphCare Personnel shall abide by all Customer security policies (including required escort policies) and any additional Security Requirements that have been provided or made available by Customer to NaphCare. Additionally, all NaphCare Personnel visiting a Customer facility must possess (and present upon request) photo identification in the form of a state/country provided document (i.e., Passport or driver's license). NaphCare Personnel must wear a Customer-issued visitor ID badge while on Customer premises.
- 4.2. NaphCare must document and maintain adequate physical security controls and procedures over all facilities where Customer Data is received, processed, filed, or stored and the Customer Network is accessed, including at a minimum, appropriate alarm systems, access controls (including off-hours controls), visitor access and escort procedures, security guard force, fire suppression, environmental controls, video surveillance, and staff egress searches as deemed necessary by NaphCare under the circumstances. NaphCare shall maintain and monitor external logs of all persons who have been granted access to NaphCare's data center. Upon Customer's request related to a breach investigation or other security incident, NaphCare shall provide such logs to Customer. Access logs shall be retained for a minimum of two (2) years.
- 4.3. NaphCare shall securely store physical files, workstations, and devices that contain Customer Data. NaphCare shall maintain security standards for situations when Customer Data is in transit, including training of NaphCare Personnel regarding security practices and technical controls such as encryption of laptops, thumb drives, files, and disks to prevent access to Customer Data if physical media is lost. NaphCare Personnel will store or copy Customer Data to de-centralized devices (i.e., portable media or devices such as laptops or thumb drives) only when necessary to perform NaphCare's obligations under the Agreement. When de-

centralized devices are authorized for use, such devices must be protected using encryption and access controls.

- 4.4. NaphCare will not store, maintain, host, transmit to or permit the presence of Customer Data outside of the United States without the prior written consent of Customer

5. System and Network Security.

- 5.1. NaphCare shall follow industry best practices when implementing firewalls, managing network traffic and segmenting the NaphCare Network.
- 5.2. NaphCare shall implement industry best practices to protect Customer Data and/or the Customer Network from risks when the NaphCare Network and NaphCare Personnel connect to or access the Customer Network or process, store or access Customer Data, including without limitation (i) installing and maintaining a malware detection program and anti-virus software; (ii) maintaining configuration management, access control, auditing and patch management policies and procedures. Details with respect to all such practices and policies shall be made available to Customer upon request.
- 5.3. NaphCare shall use industry best practices to protect Customer Data by implementing an intrusion detection and prevention system for the NaphCare Network to detect inappropriate, incorrect, or anomalous activity. NaphCare, through its third-party subcontractor, shall actively monitor system logs in real time for suspicious activity and take appropriate action to prevent and attempt to stop such activity. In the event of a breach or other security incident, NaphCare shall allow Customer access to system security logs that affect or relate to Customer Data. NaphCare shall cooperate with Customer as requested in providing information and assistance relating to Customer Data processed through the System and/or the NaphCare Network (e.g. data corruption and restoration, access/activity logs). NaphCare shall establish and follow operational procedures to stop or mitigate any real or reasonably foreseeable potential attack or attempted attack.
- 5.4. NaphCare shall report to Customer any data breach NaphCare discovers as soon as discovered and in no event later than two (2) days after confirmation of the breach. At a minimum, any report to Customer shall contain, to the extent known: (i) date and time when the breach, incident or failure occurred; (ii) the date and time when such breach, incident or failure was discovered by NaphCare; (iii) identification of the systems, programs, networks, or aspects of the Customer Network and/or Customer Data impacted or otherwise affected by such breach; (iv) preliminary impact analysis regarding such breach; (v) a description of the scope of the breach; and (vi) all mitigation steps taken by NaphCare to prevent and reduce the potential harm, or re-occurrence, of such breach. Following the initial breach notification, as NaphCare learns additional details about the breach, NaphCare shall notify Customer promptly as such information becomes available. [In assessing and mitigating any breach, NaphCare will use reasonable care to not destroy possible forensic evidence, where possible.] NaphCare shall document any attempted but unsuccessful breach of which it becomes aware and promptly report the same to Customer; provided, however, that NaphCare shall not be obligated to report

incidents that are trivial and do not result in unauthorized access, use, or disclosure of Customer Data (such as pings and other broadcast attacks on NaphCare's Network, port scans, unsuccessful log-on attempts, and denials of service). NaphCare shall develop and maintain a documented breach response plan for promptly responding to a breach, security incident and/or any circumstance which has a potential impact on (or has impacted or affected) the Customer Network or Customer Data, and such procedure shall comply with all applicable laws. Upon the request of Customer, NaphCare shall provide Customer with a copy of all incident response plans applicable to a breach or security incident. NaphCare shall designate in writing a contact person for Customer to contact in the event of a breach. This contact person should possess the requisite authority and knowledge to: (i) act as a liaison to communicate between NaphCare and Customer regarding the incident (including providing information requested by Customer); (ii) perform the reporting obligations of NaphCare under this Addendum, and (iii) develop a mitigation strategy to remedy or mitigate any damage to the Customer Network, Customer Data, or the System that may result from a breach.

6. Encryption. NaphCare shall use encryption, where possible and appropriate, to secure Customer Data. NaphCare's encryption shall be consistent with validated cryptography standards as specified in NIST Standards.

6.1. NaphCare must use SSL/TLS with encryption consistent with industry best practices when transferring Customer Data over the Internet.

7. Backup, Business Continuity and Disaster Recovery.

7.1. NaphCare shall be responsible for developing and maintaining procedures for the timely backup of Customer Data and the recovery and restoration of destroyed, corrupted, lost, misused or damaged Customer Data with respect to such data in the possession of NaphCare or NaphCare Personnel. NaphCare shall correct or recreate, to the extent possible and without cost to Customer, any destruction, corruption, loss, misuse or damage of any Customer Data caused by NaphCare or any NaphCare Personnel or in the possession of or under the control of NaphCare or NaphCare Personnel.

7.2. NaphCare's business continuity and disaster recovery plan that encompasses NaphCare's Network and the System that processes and stores Customer Data shall be tested at least annually in accordance with industry best practices. NaphCare shall promptly notify Customer of a business interruption that activates NaphCare's business continuity and disaster recovery plan.

8. Software.

8.1. NaphCare shall ensure that that the development and maintenance of the Software follows industry best practices for developing secure applications using an industry standard SDLC (systems development lifecycle) process and following secure coding practices (e.g., OWASPTop 10).

8.2. In connection with any software (i) licensed to or otherwise provided to Customer under the Agreement, or (ii) used by NaphCare in order to provided Services to

Customer pursuant to the Agreement, NaphCare shall maintain vulnerability and patch management processes and tools to regularly assess the software for security vulnerabilities and to deploy software patches and updates. NaphCare shall apply software patches and updates at a time and in a manner commensurate with the level of security vulnerability (i.e. risk based on probability and impact).

9. Audits and Reporting.

- 9.1. NaphCare shall monitor the effectiveness of its security program by conducting self-audits and risk assessments no less frequently than annually of the NaphCare Network against the written policies and procedures maintained by NaphCare as required herein, including without limitation, confirming that Customer Data are located in the proper location(s).
- 9.2. Upon request, NaphCare shall complete a security assessment questionnaire provided by Customer ("Security Assessment"). To the extent that the Security Assessment identifies any material risks or deficiencies for which remediation is required, such remediation requirements or compensating controls (and the timeframes within which they must be successfully implemented) shall be mutually agreed upon by the parties and set forth in an attachment to this Addendum. NaphCare's failure to complete any remediation requirements set forth in an attachment to this Addendum within the required timeframe shall be deemed to be a material breach of the Agreement.
- 9.3. Compliance Audit. Customer shall have the right, at its expense, during normal business hours and with reasonable advance notice, to evaluate, test, and review at NaphCare's premises, services and network(s) to ensure compliance with the terms and conditions of this Addendum ("Compliance Audit"). If the Hosting Services are being provided by a NaphCare subcontractor, this audit right shall extend to such subcontractor. Customer shall have the right to conduct such audit by use of its own employees and internal audit staff, or by use of outside consultants and auditors at Customer's sole expense. NaphCare shall cooperate with and provide reasonable assistance to Customer and provide all pertinent books and records (including, but not limited to, system and facility maintenance records, product and service vulnerability reports, relevant Audit Log files and NaphCare's internal information security assessment reports) and any other information reasonably requested by Customer in connection with such audit at no additional cost to Customer. To the extent that the Compliance Audit identifies any material risks or deficiencies for which remediation is required, such remediation requirements or compensating controls (and the timeframes within which they must be successfully implemented) shall be mutually agreed upon by the parties and set forth in an attachment to this Addendum. NaphCare's failure to complete any remediation requirements set forth in an attachment to this Addendum within the required timeframe shall be deemed to be a material breach of the Agreement.
- 9.4. From time to time NaphCare may be requested to respond to, inform and provide updates on the specific security gaps or exposures that exist for new or emerging security vulnerabilities that are made known for systems, applications, hardware, or other information technology. In all instances, NaphCare will provide a response

to any such inquiry within thirty (30) days, and will provide specific details as to the questions asked to ensure that Customer can appropriately evaluate the risk or exposure to Customer Data and/or the Customer Network.

- 9.5. NaphCare shall, at NaphCare's expense, provide Customer with the most recent, general (i.e., not Customer-specific) SOC 2, Type II, AT section 101, report. At a minimum, the SOC 2 report shall include a review of controls relevant to the Security Trust Service Principle, with additional Trust Service Principles potentially required based on the nature of the Services. The SOC 2 report of the third-party auditors will be solely for the use of NaphCare and Customer, its regulators and its independent accountants and will not be distributed or used by any other parties unless approved by NaphCare, such approval not to be unreasonably withheld.
- 9.6. NaphCare shall audit user access of NaphCare Personnel at least quarterly to ensure that only active, valid users have access to Customer Data and, as necessary, disable and/or delete non-active user accounts as soon as possible.
- 9.7. NaphCare shall engage a third party to conduct periodic (but in any event no less than once every eighteen (18) months) penetration tests of NaphCare's internal/external networks, systems, devices and processes that are used to process, store, and transmit Customer Data to identify the strengths and weaknesses of NaphCare's existing security controls and to ensure NaphCare's compliance with the Agreement.

10. Secure Destruction of Data.

- 11.1. Upon expiration or termination of the Agreement or upon written request by Customer, NaphCare shall return to Customer (in the manner set forth in the Agreement or otherwise specified by Customer) any Customer Data in NaphCare's possession or control.
- 11.2. Upon successful return of Customer Data, NaphCare shall ensure the secure disposal of all production copies of Customer Data and any media or hardware containing Customer Data within twelve (12) months and NaphCare shall certify in writing to Customer that Customer Data has been destroyed. In the event NaphCare believes that certain Customer Data is infeasible to destroy, NaphCare shall notify Customer in writing and describe the circumstances which cause the Customer Data to be infeasible to destroy. Upon Customer's written consent, NaphCare shall extend the protections of this Addendum to such Customer Data for so long as NaphCare maintains such Customer Data. However, NaphCare's continued retention of Customer Data shall not obviate NaphCare's obligation to provide written certification when the Customer Data is eventually destroyed.

11. Miscellaneous.

- 12.1. A material breach of this Addendum by NaphCare shall be deemed a material breach under the Agreement, with the rights and remedies of the parties under the Agreements being applicable to any such breach. The provisions of this Addendum shall survive the termination or expiration of the Agreement. In addition, as the

sole option of Customer, including without limitation, when the underlying Agreement has expired or been terminated, may bring action on this Addendum for all remedies available at law or in equity.

- 12.2. In addition to other insurance requirements set forth in the Agreement, NaphCare shall, at its own expense, procure and maintain in full force and effect during the term of this Addendum, policies of insurance, of the types and in the minimum amounts as follows, with responsible insurance carriers duly qualified in those states (locations) where the Services are to be performed and Customer Data is to be stored, covering the operations of NaphCare, pursuant to this Addendum: cyber liability (\$5,000,000 per occurrence) covering network security and privacy risks, including but not limited to unauthorized access, failure of security, breach of privacy perils, wrongful disclosure, collection, or other negligence in the handling of Customer Data, and including coverage for related regulatory defense and penalties. The policies of insurance shall be primary without right of contribution from any insurance by Customer. Such policies shall require that Customer be given no less than thirty (30) calendar days' prior written notice of any cancellation thereof or material change therein. NaphCare shall provide Customer with certificates of insurance evidencing the above coverage, and shall provide Customer with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) calendar days prior to the effective date of such renewal or substitution.

12.2.1. Technology Professional Liability Errors & Omissions: Technology Professional Liability Errors and Omissions Insurance appropriate to the Consultant's profession and work hereunder, with limits not less than \$2,000,000 per occurrence. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by the Vendor in this agreement and shall include, but not be limited to, claims involving security breach, system failure, data recovery, business interruption, cyber extortion, social engineering, infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, and alteration of electronic information. The policy shall provide coverage for breach response costs, regulatory fines and penalties as well as credit monitoring expenses.

- i. The Policy shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the Agency in the care, custody, or control of the Vendor.
 - ii. If the Vendor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.
- 12.3. The failure by either party to exercise any right provided hereunder shall not be deemed a waiver of such right. Any ambiguity in this Addendum shall not be interpreted against either party and shall be interpreted as if each party hereto had prepared this Addendum. This Addendum and the provisions in the Agreement, Customer policies, procedures, or guidelines addressing the subject matter hereof and/or referenced herein constitute the entire understanding and agreement between

the parties with respect to the subject matter hereof, and supersede all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written, of the parties and/or subsidiaries of the parties. This Addendum may be amended, modified, or supplemented only by writing signed by the parties to this Agreement. NaphCare shall comply with all applicable federal, state and local laws and regulations as it relates to the System and Services, including but not limited to the Health Insurance Portability and Accountability Act ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and the implementing rules thereunder. In the event of any conflict between the Business Associate Agreement executed by the parties and this Addendum, the Business Associate Agreement shall control unless the provisions of this Addendum are more stringent.

- 12.4. As of the Effective Date of the Agreement, NaphCare represents and warrants that its hosting platform for Customer data (i) has not experienced a security incident which resulted in a breach of Customer data reportable under HIPAA; (ii) has not experienced a successful ransomware attack.
- 12.5. Due to the continual development of new malicious techniques for intruding upon and attacking networks, NaphCare will use reasonable, industry accepted, procedures, methods, and hardware/software tools to protect against vulnerabilities to intrusion or attack, but cannot guarantee the System will be completely free of vulnerability to intrusion or attack.

Exhibit H – Application Warranties and Remedies

1. NaphCare represents and warrants that, during the term of this Agreement, the Application:
 - 1.1. shall perform in all material respects in accordance with the applicable Documentation;
 - 1.2. shall not contain any software routine, code or instruction, or combination of the above (collectively referred to as a "Virus"), that is intentionally designed to: (A) permit unauthorized access to the Application or the computer system on which the Application operates, (B) permit unauthorized access to Customer's data network, or (C) disable, delete, modify, damage or erase software, hardware or data maintained at Customer's premises;
 - 1.3. shall comply with all applicable federal regulatory requirements, including HIPAA (including but not limited to applicable certifications required by ARRA/HITECH) and FDA (should the Software come under the jurisdiction of FDA), all in respect of the intended functions of the Application;
 - 1.4. shall comply with applicable state rules and regulations in respect of the intended functions of the Application;
 - 1.5. shall be compatible with any third-party content or software provided by NaphCare under this Agreement or otherwise required by NaphCare for the proper operation of the Software, and all updates thereto;
 - 1.6. shall be compatible with the equipment and supporting software (e.g., operating system, database software) that constitute the Hosting Services.
2. NaphCare further represents and warrants that, during the term of this Agreement:
 - 2.1. the Application is "generally available", as that term is commonly understood in the software industry;
 - 2.2. all components of the Application shall operate together, and such operation will include without limitation the integration features described in the applicable Documentation;
 - 2.3. all third-party software content incorporated with the Application, specifically including the Third-Party Products, are in material compliance with the terms and conditions of the applicable licenses governing its use and distribution;
 - 2.4. it shall qualify the Application on new releases of supporting software (e.g., operating system, database software) required by NaphCare as part of the Hosting Services.
3. Notwithstanding the foregoing, NaphCare does not represent or warrant that the operation of the Software will be uninterrupted or error-free. Upon receipt of written notice from Customer that the Application fails to meet this warranty, NaphCare shall provide Maintenance and Support Services in accordance with the terms of the Agreement.

Customer's primary remedy for breach of a performance warranty under this Sections 1 and 2 above shall be the prompt and efficient correction or replacement of the defective Application. If the primary remedy fails in its essential purpose, such failure shall be deemed a material breach of the Agreement for which Customer may pursue any other remedy permitted under the Agreement, at law or in equity.

Exhibit I – Customization for Waiver 1115 Implementation

1. NaphCare Obligations. Subject to terms and conditions of this Agreement and provided Customer is not in material breach of its obligations hereunder, NaphCare shall provide the following Implementation and Training Services during the Term:
 - 1.1. Software Customization. In order to provide necessary application customizations to support updated clinical workflows and work queues that will allow the capture of charges within TechCare, NaphCare will implement updates to the existing System designed for the Waiver 1115 Justice-Involved Initiative NaphCare shall plan, customize, configure, integrate, test, document, and deploy, the customizations and modules and provide to Customer all deliverables in accordance with the requirements of this Agreement and the Deliverables set forth. Without limiting the generality of the foregoing, NaphCare shall provide all its personnel, equipment, accessories, tools and other items and do all work required for the Project where the same are not expressly identified in this Agreement as being provided by Customer. This section solely focuses on the implementation of the Waiver 1115 Justice-Involved Reentry Initiative and includes the implementation of a Medi-Cal eligibility and application workflow, screening workflow, reporting workflow, encounter workflow, orders workflow and medical billing/claims workflow.
 - 1.2. Third Party Products. NaphCare will install the following Third-Party Products for testing and use with the Application:
 - 1.2.1. MediSpan Drug Database
 - 1.2.2. ICD10 Database
 - 1.2.3. Medi-Cal's Contract Drug List
 - 1.3. Implementation.
 - i. Project Plan. Within thirty (30) days following the execution of this Agreement, NaphCare will provide for Customer review a phased, milestone-based detailed **Project Plan**. The Plan will be comprehensive, providing detailed timelines and milestones for the Services outlined herein and will be utilized to provide the Services defined herein. The Project Plan must be approved by Customer following the Deliverable acceptance procedure set forth in Exhibit G, Section 3.
 - ii. Software Customization. A **Software Requirements Document** shall be jointly prepared by the parties and will include all required modifications to the System related to Waiver 1115 Justice-Involved Reentry Initiative including, but not limited to, the following functions and workflows:
 1. Medi-Cal Eligibility Workflow. NaphCare will implement software customizations to assist with the process of eligibility determination. NaphCare bears no responsibility for submitting applications on behalf of customer.
 2. Screening Workflow. NaphCare will implement software customizations to assist with the screening of the justice involved

population to ensure compliance with Medi-Cal eligibility requirements for pre-release service.

3. Reporting Workflow. NaphCare will provide standard data and information to assist customer with Waiver 1115 Justice Involved Reentry Imitative reporting. Any specialized reports will require additional development beyond the scope of this agreement.
4. Encounter Workflow. NaphCare will assist with compliance with the minimum documentation requirements to satisfy billing requirements, to include bundled billing and non-bundled billing.
5. Medical Billing/Claim Workflow. NaphCare will implement software customization to allow charge capture and export data to be billed. TechCare will not submit directly to the payor and/or a clearinghouse.

In the event a new required customization is identified prior to Final System Acceptance, NaphCare shall have the right to propose an additional one-time cost for development and implementation of such new customization. Following Final System Acceptance, all revisions to previous customizations and/or new customizations shall be treated as Feature Requests.

iii. Interface Development. NaphCare is responsible for the development of interfaces by which the System sends and receives data from outside computer systems in order to meet the needs of the Customer. An **Interface Requirements Document** shall be jointly prepared by the parties and will include all technical definitions of, and specifications for, all required interfaces, including, but not limited to, the following:

1. NaphCare will provide an interface with Medi-Cal directly or through an approved EDI (Electronic Data Interchange) clearinghouse to provide eligibility status.
2. NaphCare may augment existing integrations with the offender management system as a part of this project as it relates to information needed to verify the incarcerated individuals Medi-Cal status, projected release date and when possible confirmed release date.
3. NaphCare will provide communication methods that meet Waiver 1115 requirements with enhanced care management (ECM) providers for the purposes of transition of care, sharing needs assessments, discharge summaries, connecting the individual to a community-based care manager and follow up post-release for any missed appointments. If the Customer requires a specific communication method, e.g. a specific interface, export, referral letters, emails, etc., it will require additional development beyond the scope of this agreement

4. Contingent upon being granted access by DHCS, NaphCare will provide an export/interface to export data to DHCS Screening / ECM Portal.

- iv. Acceptance Testing and Quality Assurance. NaphCare is responsible for the initial testing and quality assurance of the System based on the Software Requirements Document and Interface Requirements Document. NaphCare shall develop and deliver to Customer by the dates set forth in the Project Plan suggested Acceptance Tests by which the Customer will, with NaphCare's assistance, accurately determine whether the System and each deliverable conforms to the applicable Documentation. Each such Acceptance Test shall set forth in adequate detail the expected results thereof and will focus on changes and customizations to the base Application. In addition, the Customer at its option may define certain additional acceptance criteria that it wishes to have included in the System Acceptance Test. Customer will document any Malfunctions identified during Acceptance Testing using a Problem Report. NaphCare will promptly correct any material Malfunctions and notify Customer when re-testing may be conducted. All Acceptance Tests must be approved by Customer following the Deliverable acceptance procedure set forth in Exhibit G, Section 3.

- v. Training Plan. NaphCare is responsible for unlimited pre-Go-Live and Go-Live training/support for all Authorized Users in order to support the management of and ongoing productive use of the System within the Customer's environment. Such training/support will include 7 x 24 coverage as needed. Training will be provided via the following methods and be fully defined within a Training and Go-Live Plan that is jointly created by NaphCare and the Customer.
 - a. Introductory Remote Training via Online Meetings
 - b. Pre-Go-Live Onsite Classroom Training
 - c. Go-Live Onsite Training and Support

The Training and Go-Live Plan must be approved by Customer following the Deliverable acceptance procedure set forth in Exhibit G, Section 3.

- vi. Application Delivery and Installation. NaphCare is responsible for providing the customized Application, specific to the Customer. Customer is responsible for initial Application deployment for devices. Following initial deployment, Customer is responsible for ongoing deployment of the Application, including Updates, to all end-user devices, including the Hardware Devices.

- vii. Go-Live. NaphCare is responsible for supporting Go-Live activities for use of the System within the Customer's Production environment. Go-Live scheduling will be defined in the Training and Go-Live Plan jointly created by NaphCare and the Customer.

NaphCare shall not be liable for any project delay(s) unless such delay(s) is (are) due to NaphCare's fault. Customer shall provide written confirmation to NaphCare of go-live start date two (2) weeks in advance of agreed upon date. Go-live start date shall not occur within 7 days of a national holiday.

At such time as all Deliverables required by the Project Plan for Go-Live are delivered to Customer, and NaphCare determines that the System and Services are completed, installed and operational, then NaphCare shall provide Customer with written notice that the System is ready for Go-Live. Upon receipt of such notice, Customer will perform Pre-Live Acceptance in order to verify that (i) all required Deliverables have been delivered and accepted (ii) all reported material Malfunctions identified during Acceptance testing have been corrected or otherwise resolved and (iii) the System and Services are completed, installed and operational. Upon successful completion of Pre-Live Acceptance, Customer shall provide written confirmation to NaphCare of the Go-live start date two (2) weeks in advance of the date. The Go-live start date shall not occur within seven (7) days of a national or Customer observed holiday.

- 1.4. Documentation. NaphCare is responsible for the provision and ongoing updating of end-user and technical Documentation of the System in the form of a User's Manual, Data Dictionary and Knowledge Base online repository.
- 1.5. Minor Deviations. NaphCare may make Minor Deviations from the Project Plan, Data Migration Plan and Training Plan without obtaining prior written consent of Customer and shall give Customer prior written notification of any such planned deviation through the delivery of an updated status report (including a revised applicable Plan) which shows the impact, if any, of such deviations on the remainder of the Project.
- 1.6. Reporting and Status. NaphCare is responsible for providing Customer a detailed status report for each calendar month during the Project until Final System Acceptance. The report will describe the progress of the Project, including, (i) an updated Project Plan reflecting any mutually agreed changes to the Project Plan or any changes resulting from Minor Deviations, (ii) a report updating the status of each Deliverable under development and Services being performed, (iii) a detailed description of the tasks and schedules as required to implement the System for the interim period until the next monthly status report, including the level of compliance with the Project Plan, (iv) a listing of the resources Customer is required to provide, in accordance with the Project Plan, during the subsequent calendar month, (v) a general updated description of the tasks and schedules required to implement the System for the remainder of the Project Plan, (vi) specific identification of all new tasks commenced by NaphCare, all ongoing tasks, and identifying any tasks which are overdue or behind schedule, and (vi) such other information as is customarily included in monthly status reports prepared by NaphCare, or which is reasonably requested by Customer.
- 1.7. Customizations and Limitations. NaphCare is responsible for providing tools to assist with Waiver 1115 Justice Involved Reentry Initiative and billing claims

within the TechCare environment. Any specialized requests will require additional development beyond the scope of this agreement

- 1.8. Unanticipated Expenditures. Due to the nature of the ever-evolving Justice Involved Reentry Initiative, there may be unanticipated expenditures related to implementation and ongoing claims management and billing. Because the Justice Involved Reentry Initiative has numerous unknowns at this time, NaphCare and customer agree to meet and confer on any unanticipated expenditures. NaphCare nor customer is under any duty to engage in work or expense related to unanticipated expenditures until both parties agree to an equitable division of labor and expenses.

2. Customer Obligations. Subject to terms and conditions of this Agreement and provided NaphCare is not in material breach of its obligations hereunder, Customer shall provide the following services during the Term:
 - 2.1. Facilities and Access. Customer shall provide sufficient access and facilities and/or working space within a facility for NaphCare to complete its obligations pursuant to the terms of the Agreement.

 - 2.2. Information Sharing. Customer shall provide any information regarding an incarcerated individual necessary for compliance with the Justice Involved Reentry Initiative.

 - 2.3. Human Resources. Customer shall provide access to sufficient Subject Matter Experts (SMEs) whose knowledge of existing and future workflows will drive the customization of the Application to fit Customer's environment.

Exhibit J –Medical Billing and Claims Management Services

1. NaphCare Obligations. Subject to terms and conditions of this Agreement and provided Customer is not in material breach of its obligations hereunder, NaphCare will support the Customer by providing medical billing and claims services. NaphCare will assist providers with documentation verification through audits to ensure billing compliance for all bundled and non-bundled billing procedures in accordance with Medi-Cal payment methodologies. NaphCare will provide tools that allow customer to efficiently document information with the goal of submitting medical claims for reimbursement . It is the responsibility of the customer and customer’s providers to select accurate codes relevant to each encounter. As part of this process, NaphCare will submit HIPAA compliant 837s, electronic data interchange (EDI), claims forms to Medi-Cal following CalAIM/Waiver 1115 program guidelines. NaphCare will also allow for the receipt of 835s, electronic remittance advice (ERA), from Medi-Cal. NaphCare will work in conjunction with customer to handle issues related to claim denials, re-submissions, submissions of replacement claims and/or corrected claims. When necessary, NaphCare will manage any appeals throughout the appeals process. While NaphCare will manage the appeals process, customer and customer’s providers may be required to aid in resolving the appeals. NaphCare will also manage fee schedule updates, manage recoupment issues, and provide payment reconciliation services to ensure that all providers are being reimbursed in accordance with recognized Medi-Cal Payment Methodologies. As part of TechCare v.5, Customers and providers will be able to view claims submission, their status and generate summary reporting for all claims. The services provided under this Agreement do not involve billing Medi-Cal Rx in any way, including but not limited to pharmacy services, over-the-counter medications, or prescription medications. In addition, NaphCare shall provide the following Services during the Term:

- 1.1. Support.

- 1.6.1. NaphCare will allow Customers and providers to view the status of claims. NaphCare will also allow the Customer and providers to submit questions and concerns regarding any claim.
- 1.6.2. As part of this process, NaphCare’s claims adjudication team can review concerns in the most efficient manner. In support of the claims adjudication team.

- 1.2. Conditions for Support Services. NaphCare’s obligation to provide Maintenance and Support Services is conditioned upon (i) Customer’s use of the Application in an information technology environment meeting the requirements set forth in the Documentation and (ii) Customer’s having installed in accordance with NaphCare’s instructions the latest (i.e., most current) version of the Application; provided, however, that NaphCare shall provide Maintenance and Support Services with respect to a prior version of an Application for at least three (3) months following delivery to Customer of an updated version of the Application. NaphCare shall extend support of a prior version of the Application beyond three (3) months if Customer, through its testing, is unable to accept the updated version of the Application.

1.3. Training. During the Term, NaphCare will provide ongoing, remote and on-site training for all Authorized Users in order to support the management of and ongoing use of the Claims and Billing System Module within TechCare v.5. Training will be provided via the following methods and following a formal request by Customer.

2.3.1. Remote Training via Online Meetings

1.8.2. Classroom Training

1.8.3. On the Job Training

1.4. Documentation. During the Term, NaphCare will update and maintain (i) an online User's Manual specific to the customizations made for Customer; (ii) a custom database Data Dictionary; and (iii) a Knowledge Base online repository. Online resources will be made available by an online Customer Portal.

2. Customer Obligations. Subject to terms and conditions of this Agreement and provided NaphCare is not in material breach of its obligations hereunder, Customer shall provide the following services during the Term:

2.7. Facilities and Access. Customer shall provide sufficient access and facilities and/or working space within a facility for NaphCare to complete its obligations pursuant to the terms of the Agreement.

2.8. Human Resources. Customer shall provide reasonable access to sufficient Subject Matter Experts (SMEs) whose knowledge will assist with NaphCare providing the Services described herein. Examples of such SMEs include, but are not limited to, health care clinical and technical roles directly related to the use of the System in Customer's environment.

2.9. Provider's National Provider Identifier (NPI): Each Customer, in-house provider, and contracted provider will be responsible for registering and providing current information regarding their respective National Provider Identifier.

2.10. Drug Enforcement Administration (DEA) Registration: All providers that wish to prescribe medications must provide their standard DEA registration number.

2.11. Clinic Registration: Each Customer must register with Medi-Cal as an Exempt from Licensure Clinic. For the Customer to register as an Exempt from Licensure Clinic, they must also register with DEA under the hospital/clinic registration using form 224. Customer is responsible for providing current registration information to NaphCare.

Exhibit K – Deliverables, Acceptance, Schedule and Fees

1. Implementation Fee Schedule.

Phase	Deliverables	Deliverable Type
1. Planning and Project Start	Project Kickoff Meeting	Non-Software
	Learning Management System Access	Non-Software
	Provision of Hosted Test Environment	Software
	Delivery of Project Plan	Written
2. Requirements and Design	Delivery of Software Requirements Document	Written
	Delivery of Hosting Design Document	Written
3. Development and System Delivery	Delivery of TechCare v5 EHR System	Software
	Completion of Acceptance Testing	Non-Software
	Delivery of Hosted Production Environment	Software
	Delivery of Training and Go-Live Plan	Written
4. Testing and Migration	Completion of Data Migration to Hosted Environment	Software
	Verification of Hosted Network Connectivity	Non-Software
	GoLive Readiness Acceptance	Non-Software
5. Training & Go Live	Pre and Go-Live Training and Support	Non-Software
6. Implementation Close-Out	Custom User's Manual and Knowledge Base online repository	Written
	Final System Acceptance	Written

- 1.1. Fee Schedule. As consideration for performance of the Implementation Fee Schedule described herein, NaphCare shall invoice and Customer shall pay Implementation Fees of \$500,000 as two (2) equal installments of \$250,000 payable on contract execution date and Go Live date.
- 1.2. MAXIMUM AGGREGATE AMOUNT. The Customer shall pay NaphCare for services performed, products provided and expenses incurred in accordance with the terms of this Exhibit K in amount not to exceed five million four hundred fifty three thousand seven hundred fifty dollars (\$5,453,750.00) including all expenses.

The Customer 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.

2. License, Maintenance, Hosting and Support Fee Schedule.

2.1. Software License Fees:

Phase (Date of Service/Invoice)	Deliverable	Cost
Year 1 (Contract Signing)	Support / Maintenance	\$500,000.00
	Hardware / Hosting	\$110,000.00
Year 2 (1 year post Contract Signing)	Support / Maintenance	\$500,000.00
	Hardware / Hosting	\$110,000.00
Year 3 (2 years post Contract Signing)	Support / Maintenance	\$500,000.00
	Hardware / Hosting	\$110,000.00
Year 4 (3 years post Contract Signing)	Support / Maintenance	\$500,000.00
	Hardware / Hosting	\$110,000.00
Year 5 (4 years post Contract Signing)	Support / Maintenance	\$500,000.00
	Hardware / Hosting	\$110,000.00
MAXIMUM AGGREGATE REIMBURSABLE AMOUNT		\$3,050,000

2.2 Fee Schedule. As consideration for the Licenses and the performance of the Services described herein, NaphCare shall invoice and Customer shall pay the above fees annually, in advance, payable on the first day of the new contract year.

3. Additional Services:

Component	Inclusions	1-Time Cost	Cost
SureScripts	<ul style="list-style-type: none"> Medication History for Reconciliation 	\$25,000.00	\$25,000.00 /yr.
Direct Secure Messaging (DSM)	<ul style="list-style-type: none"> Encrypted communication protocol to facilitate the secure exchange of electronic health information among healthcare professionals and organizations 		\$25,000 /yr.
eRX	<ul style="list-style-type: none"> Ability to submit Medication Orders electronically 		\$0 (included)
EPCS	<ul style="list-style-type: none"> Electronic Prescription of Controlled Substances 		\$1,750.00 /provider (for total 25 users)
Hourly Rate	<ul style="list-style-type: none"> Feature Development beyond Scope of Agreement 	\$360,000 (for initial pre-purchase of 2,000 hours)	\$200/hr. for hours purchased beyond the initial pre-purchase.

3.1 Schedule. As consideration for provision of the Services described above, NaphCare shall invoice and Customer shall pay fees annually, in advance based on the Go-Live date.

4. Medical Billing and Claims Management Fee Schedule.

Phase	Deliverables
1. Planning and Project Start	Project Kickoff Meeting Creation of Project Plan Delivery of Project Plan
2. Waiver 1115 Billing Requirements and Design	Completion of Review of Waiver 1115 Billing Methodologies Delivery of: Claims Submission Requirements Document Adjudication Requirements Document
3. Development and System Delivery	Delivery of Claims Submission System Delivery of Interfaces Delivery of Claims Review System

4.1 Fee Schedule: As consideration for performance of the Waiver 1115 Billing and Claims Management Fee Schedule described herein, NaphCare shall invoice and Customer shall pay a 1-time implementation fee of \$30,000 due at contract signing, and an annual recurring fee of \$204,000 billed annually in advance.

4.2 Pricing Adjustments. The pricing outlined in section 4.1 are agreed upon for a term of one (1) year. The annual recurring fees shall remain fixed for the first six (6) month term, in recognition of the potential fluctuations in the cost projection, both Parties agree to re-evaluate the annual recurring fees and may revise as appropriate by mutual agreement of the Parties.

5. Acceptance & Deficiency Procedure.

5.1 In the course providing of the Implementation and Training Services, NaphCare shall notify Customer when Deliverables defined in Exhibit G, Section 1 are available for Customer review. Upon notification, Customer shall perform a review as Customer deems necessary to verify that the Deliverable conforms to the applicable specifications and/or functional criteria. If the Application or other component of the System is the Deliverable, Customer shall perform System testing to verify that the Deliverable complies with the Documentation and applicable warranties. If System Acceptance is the Deliverable, Customer will verify, through use of the System in a Production (“live”) environment, that the System conforms to the warranties, the Documentation, and any other criteria set forth in the Agreement and Implementation Plan. Unless Customer rejects the Deliverable by providing written notification to NaphCare via a Problem Report within five (5) days, Customer will be deemed to have accepted the Deliverable. Customer shall not unreasonably withhold acceptance of a Deliverable.

- 5.2 In the event that Customer rejects the Deliverable as provided herein, Customer shall notify NaphCare via the Problem Report. NaphCare shall then deliver to Customer promptly, but no later than thirty (30) days following notification via the Problem Report, a correction of the Deliverable with notice of Deliverable completion for Customer review.
- 5.3 In the event NaphCare is notified of a rejection of the Deliverable as described in the preceding clause, Customer shall make available all information reasonably requested by NaphCare to assist NaphCare in identifying the issue. For Application Errors that are not replicable on NaphCare's equipment, the parties shall attempt to verify that the Application Error exists on Customer's System. NaphCare shall retain the duty to correct Application Errors that are verifiable but not replicable on NaphCare's equipment.
- 5.4 The procedure described herein shall be repeated with respect to revised versions of the Deliverable that NaphCare provides to Customer until (i) Customer notifies NaphCare of its acceptance of the Deliverable (or is deemed to have accepted the Deliverable pursuant to Section 5.1), (ii) Customer rejects the revised Deliverable after at least two prior rejections, though the Customer and NaphCare may agree to continue revisions until acceptance or until they can no longer agree on further revisions or (iii) NaphCare notifies Customer of its determination that correcting the issue within the Problem Report is not technically possible or is outside the scope of the defined responsibilities of NaphCare outlined in Exhibit E, Section 1 and Exhibit F, Section 1.
- 5.5 In the event Customer issues a final written rejection of the Deliverable pursuant to Section 5.4.ii above or NaphCare delivers to Customer the notice described in Section 5.4.iii above, then at Customer's option, within thirty (30) days thereafter, Customer may terminate this Agreement as set forth under the provisions of Exhibit A.
6. Invoices. Invoice payment terms are set forth in Exhibit A, Section 13.15. Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number (insert contract ID#); Customer's Purchase Order number; quantities; item or deliverable descriptions, unit prices, extensions; sales/use tax if applicable; and an invoice total.

7. Additional Implementation.

7.1 This Agreement covers the Licensed Sites specified herein. Should Customer request that additional Licensed Sites be added to this Agreement for access to and use of the System and Services, the parties will amend this Contract and NaphCare will incorporate new Licensed Sites at the then current rates for implementation and maintenance and support of the System and Services.

7.2 Schedule. The invoices shall be submitted on the first day of the first calendar quarter following Customer's Acceptance of the applicable Go-Live of the additional facility

and quarterly thereafter for the remainder of the Term. Each invoice shall reflect 25% of the annual fee.

7.1 For clarification and avoidance of doubt, other than the number of Licensed Sites, there are no other volume-based metrics (e.g., named users, concurrent users) which govern the fees for License, Implementation and Training Services, Maintenance and Support Services, or Hosting Services.

END OF DOCUMENT



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



ITEM

(ID #
26511)

MEETING DATE:

Tuesday, December 3, 2024

FROM : RUHS-MEDICAL CENTER:

SUBJECT: RIVERSIDE UNIVERSITY HEALTH SYSTEM – CORRECTIONAL HEALTH SERVICES: Approval of the Software License and Service Agreement with NaphCare, Inc., for the TechCare® EHR Software System and Service, effective January 01, 2025, through December 31, 2030; All Districts. [Total Aggregate Cost \$5,453,750; up to \$545,375 in Additional Compensation 67% State Grant Funds, 33% Correctional Health General Fund 10000] (4/5 Vote Required).

RECOMMENDED MOTION: That the Board of Supervisors:

1. Approve the Software License and Service Agreement with NaphCare, Inc., for the TechCare® EHR Software System and Service, effective January 01, 2025, through December 31, 2030, for an aggregate cost of \$5,453,750, and authorize the Chair of the Board to sign the Agreement on behalf of the County; and
2. Authorize the Purchasing Agent, in accordance with Ordinance No. 459, based on the availability of fiscal funding and as approved as to form by County Counsel: (a) issue Purchase Order for any goods and/or services rendered (b) sign amendments that make modifications to the scope of services that stay within the intent of the agreement, and (c) sign amendments to the compensation provisions that do not exceed the total sum of ten percent (10%) of the total cost of the agreement.
3. Approve and direct the Auditor Controller to make the budget adjustment as shown on the attached Schedule A.

ACTION:

MINUTES OF THE GOVERNING BOARD

ACTION: Policy

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

Jennifer Cruikshank
Jennifer Cruikshank, Chief Executive Officer – Health System 11/18/2024

{Review(Department Head Review)}

MINUTES OF THE GOVERNING BOARD

On motion of Supervisor , seconded by Supervisor and duly carried, IT WAS ORDERED that the above matter is ,

DATE: Tuesday, December 3, 2024

Kimberly A. Rector
Clerk of the Board
By: _____
Deputy

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

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 1,822,750	\$ 907,750	\$3,638,250	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$1,815,500	\$ 0
SOURCE OF FUNDS: 67% State Grant Funds, 33% Correctional Health General Fund 10000			Budget Adjustment: Yes	
			For Fiscal Year: 24/25 – 29/30	

C.E.O. RECOMMENDATION:

BACKGROUND:

Summary

The requested Board action will approve the Software License and Service Agreement with NaphCare, Inc., to provide the TechCare® EHR Software System for Riverside University Health System – Correctional Health Services. NaphCare’s software provides a comprehensive and specialized Electronic Health Record (EHR) system tailored specifically for correctional facilities. This technology offers a number of benefits that enhance the efficiency, effectiveness, and quality of healthcare provided to incarcerated populations. NaphCare also highlights the significance of proactive and preventive care by automating and standardizing healthcare processes. The software system helps ensure that inmates receive consistent and high-quality care. This proactive approach focuses on early intervention and prevention.

On January 9, 2024 (Item 3.38), the Board accepted grant funds from the California Department of Health Care Services (DHCS) for the Providing Access and Transforming Health (PATH). A portion of this funding is to improve infrastructure of the EHR. This funding will cover three years of cost including the initial upgrade to TechCare® and two subsequent years of the licensing cost, as the grant expires in Fiscal Year 26/27. The ongoing cost is \$907,750 annually, which is an increase to the existing annual licensing cost of \$500,000. Therefore, RUHS will request general fund support for the difference in cost upon grant funding expiration.

Impact on Citizens and Businesses

These services covered by this Agreement are a component of RUHS- Correctional Health Services system of care aimed at improving the health and safety of its patients and the community. By continuing this software service RUHS is focusing on early intervention and prevention and this can help to alleviate health emergencies and better overall patient outcomes.

Contract History and Price Reasonableness

On November 17, 2014, the Board of Supervisors (Board) approved Agenda Item #3.106, for the implementation of an Electronic Healthcare Medical Record System in the County Jails and

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

Juvenile Detention Facilities without obtaining competitive bids in the amount of \$5,000,000 over a 10-year period.

On May 24, 2016, the Board approved the Second Amendment Agenda Item #3-16, for a one-time payment not to exceed the amount of \$80,000 related to the Forensic Behavioral Health implementation of the Electronic Healthcare Medical Records System in the County Jails and juvenile detention facilities.

Subsequently 9 additional amendments were executed under the Purchasing Agents authority to extend the period of performance. The current agreement with Naphcare will be concluding on 12/31/2024. RUHS is currently requesting to enter into a new five-year agreement with NaphCare for Correctional Healthcare Software Services.

This Agreement requires Board approval as the annual compensation of the Agreement exceeds the Purchasing Agent's delegated authority for contracting with a single vendor for Healthcare Software Services per Resolution 2024-127.

ATTACHMENTS:

**Attachment A: SOFTWARE LICENSE AND SERVICE AGREEMENT WITH NAPHCARE
INC FOR TECHCARE® EHR SOFTWARE SYSTEM**

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

Schedule A

The requested budget adjustment will increase appropriation two within the Riverside University Health System Correctional Health Systems.

Recommended Motion: *That the Board of Supervisors approve and direct the Auditor-Controller to make budget adjustments increasing estimated revenue and appropriations for RUHS-CHS follows:*

Increase Appropriations:		
10000-4300300000-523220	Licenses and Permits	1,822,750
Increase Estimated Revenues:		
10000-4300300000-751680	CA-State Grant Revenue	1,822,750



Meghan Hahn, Director of Procurement 11/14/2024