



ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 November 5, 2013

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Los Angeles County
Board of Supervisors

November 05, 2013

Gloria Molina
First District

Mark Ridley-Thomas
Second District

Zev Yaroslavsky
Third District

Don Knabe
Fourth District

Michael D. Antonovich
Fifth District

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**APPROVAL OF AN AMENDMENT TO EXTEND AGREEMENT WITH
UNIVERSITY HEALTHSYSTEM CONSORTIUM FOR PATIENT SAFETY
NET SYSTEM
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

**CIO RECOMMENDATION: APPROVE (X) APPROVE WITH MODIFICATION
()
DISAPPROVE ()**

Mitchell H. Katz, M.D.
Director

Hal F. Yee, Jr., M.D., Ph.D.
Chief Medical Officer

Christina Ghaly, M.D.
Deputy Director, Strategic Planning

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www.dhs.lacounty.gov

*To ensure access to high-quality,
patient-centered, cost-effective health
care to Los Angeles County residents
through direct services at DHS facilities
and through collaboration with
community and university partners.*

SUBJECT

Request approval of an Amendment to an Agreement with the University HealthSystem Consortium to extend the term for six months and to increase the maximum contract obligation of Consortium for continued access to a web-based incident reporting system for the Department of Health Services and the Department of Public Health.

IT IS RECOMMENDED THAT THE BOARD:

Authorize the Director of Health Services, or his designee, to execute Amendment No. 2 to Agreement H-701781 with the University HealthSystem Consortium (UHC), effective upon Board approval, to extend the Agreement term for six months commencing on January 1, 2014 through June 30, 2014 for continued use of the Patient Safety Net (PSN) system and to increase the maximum County obligation by \$56,000 for the six month extended term.



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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the recommendation will authorize the Director to execute Amendment No. 2, substantially similar to Exhibit I, to the existing Agreement No. H-701781 (Agreement) with UHC to extend the term for six months, commencing on January 1, 2014. The current Agreement expires on December 31, 2013. The term extension is necessary in order to allow Department of Health Services (DHS) and Department of Public Health (DPH) to continue using the existing PSN system while providing sufficient time and resources to coordinate the successful implementation and adoption of Safety Intelligence (SI), the successor software platform. DHS anticipates returning to the Board in December 2013, to award the successor agreement with UHC for SI. The successor agreement will run parallel to the current Agreement for a period of time, while DHS and DPH implement the successor platform.

The PSN system is a hosted and secure web-based incident reporting system that documents safety events and monitors safety performance provides immediate notice of all reported adverse events and unsafe conditions to DHS and DPH management for review, follow-up and the implementation of corrective action. Continued access to PSN will provide ongoing identification and management of patient, visitor, and staff safety issues and will ensure DHS complies with the Joint Commission's National Patient Safety Goals. This platform will also provide DHS and DPH with the necessary tools to implement proactive risk management and mitigation strategies and offer appropriate remedies to unsafe events at County facilities. This platform includes a notification system of all reported adverse events and unsafe conditions for DHS' and DPH's management for review, investigation and implementation of appropriate corrective action.

The successor system, SI, is intended to be adopted by other County Departments that provide medical services, including DHS, DPH, Department of Mental Health, as well as the Sheriff's and Fire Departments. It is expected that these County departments will adopt SI which will entail configuration of a hosting infrastructure, application support and additional customizations for each department by UHC.

Implementation of Strategic Plan Goals

The recommended action supports Goal 1, Operational Effectiveness and Goal 3, Integrated Services Delivery, of the County's Strategic Plan.

FISCAL IMPACT/FINANCING

The Amendment increases the County's maximum County obligation by \$56,000 for the period between January 1, 2014 through June 30, 2014.

Funding is included in DHS' Fiscal Year 2013-14 Adopted Budget.

These costs will be 100% offset by Patron Equity Credits (PECs). DHS and DPH have accrued PECs, which are available to DHS to offset other charges, through the Departments' participation in UHC's group purchasing organization. These credits are awarded to DHS and DPH based on their purchase of commodities through UHC agreements and can be used to purchase services from Global Healthcare Exchange. Both DHS and DPH will utilize PECs to fund these services during the extension period.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On November 8, 2005, the Board approved Agreement No. H-701781 with UHC for DHS to access PSN services for a three year term effective January 1, 2006 through December 31, 2008. DHS partnered with UHC to provide services for a web-based electronic adverse event reporting system, PSN, which is a proprietary and real-time event reporting system that documents and registers all adverse incidents, "near misses" and unsafe conditions that involve patients and visitors at DHS facilities, including LAC+USC Medical Center, Olive View-UCLA Medical Center, Harbor-UCLA Medical Center, Rancho Los Amigos National Rehabilitation Center, Martin Luther King, Jr. Multi-Service Ambulatory Care Center, High Desert Multi-Service Ambulatory Care Center, the Comprehensive Health Centers and the Health Centers. All Public Health clinics also currently have access to the PSN system.

On December 9, 2008, the Board approved Amendment No. 1 to extend the Agreement term for an additional five years through December 31, 2013. This program was expanded on January 26, 2010, when the DHS designated UHC as the Department's Patient Safety Organization (PSO) for all of its medical centers and two multi-service ambulatory care centers in order to receive the benefits provided by the 2005 Patient Safety Act in February 2010. The Patient Safety Act authorized the creation of PSOs to improve the quality and safety of U.S. health care delivery. These organizations provide an avenue for clinicians and health care organizations to voluntarily report and share quality and patient safety information without fear of legal discovery.

DHS also has contracted services with UHC for the provision of mandatory quality data reporting to the Joint Commission and federal government, and also for supply chain group purchasing. As part of the supply chain contract, DHS and DPH receive purchasing credits that can be applied toward the purchase of SI services. Furthermore, because of the existing larger contracts with UHC for the abovementioned services, County enjoys a considerable discount on fees for SI services that would not be available from an outside vendor.

County Counsel has approved Amendment No. 2 (Exhibit I) as to form. The County's Chief Information Office concurs with the DHS' recommendation and the CIO Analysis is attached (Attachment A).

CONTRACTING PROCESS

The current Agreement was determined to be sole source because UHC is the owner of the proprietary software that constitutes the system and PSN is an application service provider model which will save DHS and DPH programming modification, database management, and support costs. UHC is uniquely qualified because of its existing business relationship with DHS and DPH as the sole provider of clinical performance and benchmarking system. In addition, a key benefit of the PSN is that it enables DHS and DPH to compare data with aggregated summaries from other UHC participating organizations for benchmarking and identifying areas of concern. In accessing this member-exclusive service, DHS and DPH will be able to maximize the relationship between clinical benchmarking and event reporting and maintain consistency with the existing benchmarking consortium.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The Honorable Board of Supervisors

11/5/2013

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Approval of the recommendations will enable DHS and DPH to continue reporting adverse events and unsafe conditions for the implementation of corrective action.

Respectfully submitted,



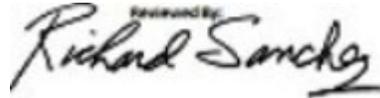
Mitchell H. Katz, M.D.

Director

MHK:jl

Enclosures

c: Chief Executive Office
County Counsel
Executive Office, Board of Supervisors
Department of Public Health



RICHARD SANCHEZ

Chief Information Officer



RICHARD SANCHEZ
CHIEF INFORMATION OFFICER

Office of the CIO
CIO Analysis

NUMBER: CA13-21	DATE: 10/17/2013
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SUBJECT:

APPROVAL OF AMENDMENT NO. 2 TO EXTEND AGREEMENT NO. H-701781 WITH UNIVERSITY HEALTHSYSTEM CONSORTIUM FOR PATIENT SAFETY NET SYSTEM

RECOMMENDATION:

Approve Approve with Modification Disapprove

CONTRACT TYPE:

New Contract Sole Source
 Amendment to Agreement #: H-701781 Other: Describe contract type.

CONTRACT COMPONENTS:

Software Hardware
 Telecommunications Professional Services

SUMMARY:

Department Executive Sponsor: **Mitchell H. Katz, M.D., Director of Health Services**

DESCRIPTION:

Authorize the Director of Health Services to execute Amendment No. 2 to Agreement No. H-701781 with the University HealthSystem Consortium (UHC), effective upon Board approval, to extend the Agreement term for six months commencing on January 1, 2014 through June 30, 2014 for continued use of the Patient Safety Net (PSN) system and to increase the maximum County obligation by \$56,000 for the six month extended term.

Contract Amount: **\$56,000**

Funding Source: **DHS FY 2013-14 Adopted Budget**

Legislative or Regulatory Mandate

Subvened/Grant Funded:

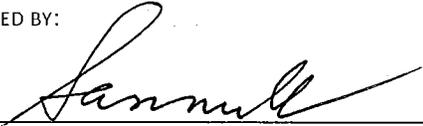
Strategic and Business Analysis

PROJECT GOALS AND OBJECTIVES:

PSN is a critical event-reporting system that allows front-line clinical staff to document and report adverse safety events and alerts Department of Health Services (DHS) and Department of Public Health (DPH) management of unsafe incidents so that proper corrective action can be taken. PSN assists the Departments with implementing proactive risk management and mitigation strategies. The other important project goal is to compare DHS data with industry standards.

	<p>BUSINESS DRIVERS:</p> <p>The key business drivers for the project are:</p> <ol style="list-style-type: none"> 1. Improvements in patient care. DHS and DPH management can proactively improve the quality of patient care by improving patient safety at County facilities, identifying opportunities to improve current practices, and taking corrective actions. 2. Compliance: PSN provides identification and management of patient, visitor, and staff safety issues and ensures that DHS complies with the Joint Commission’s National Patient Safety Goals.
	<p>PROJECT ORGANIZATION:</p> <p>The DHS Business Project Director is Elizabeth Augusta of the DHS Quality Improvement and Patient Safety (QIPS) program. Information Technology involvement is minimal as this system has already been implemented and currently runs on a Contractor-hosted web-based platform.</p>
	<p>PERFORMANCE METRICS:</p> <p>The PSN system can run multiple metrics. At a minimum, departmental staff can determine the number of events and near misses reported by each facility for any timeframe. Events can be further broken down by unit, harm score, type, etc. for more detailed analysis and trending. Currently, QIPS tracks event types by harm score and type. DHS Pharmacy tracks medication event types, and DHS Nursing tracks decubitus ulcer and fall-related data.</p>
	<p>STRATEGIC AND BUSINESS ALIGNMENT:</p> <p>The project supports Goal 1, Operational Effectiveness and Goal 3, Integrated Services Delivery of the County’s Strategic Plan.</p>
	<p>PROJECT APPROACH:</p> <p>The project has already been implemented and PSN has been operational since 2005. County intends to implement Safety Intelligence (SI), the successor system, within the six month extension period. Details of the project will be articulated in the relevant CIO Analysis.</p>
	<p>ALTERNATIVES ANALYZED:</p> <p>None. This is an extension of the current Agreement.</p>
<p>Technical Analysis</p>	<p>ANALYSIS OF PROPOSED IT SOLUTION:</p> <p><u>Functionality:</u> The PSN system is a hosted incident reporting system that documents safety events and monitors safety performance and provides immediate notice of all reported adverse events and unsafe conditions. This also provides the Departments with the necessary tools to implement proactive risk management and mitigation strategies and offer</p>

	<p>appropriate remedies to unsafe events at County facilities. PSN also aggregates inputted data and offers clinical benchmarking against other participating organizations in UHC to identify areas of concern.</p> <p><u>Application Architecture:</u> PSN is a proprietary web-based event reporting system based on a .Net platform, developed by UHC. Front-line users access the system via the web through standard DHS web access ports. Managers and Administrators are granted access to the UHC Manager’s page through secure password access to view, modify, and run data analysis on entered reports. PSN is being phased out by UHC, so a successor system, SI, will be implemented in 2014. PSN is utilized by staff throughout the DHS enterprise and at all Public Health clinics. The application uses Microsoft SQL server as the database and Application server is IIS 7.5.</p> <p><u>Infrastructure:</u> The PSN system is hosted by UHC at its facility in Oak Brook, Illinois. The uptime for the system is 99.5 percent including planned down time. The facility is at least Tier 3 and a full Disaster Recovery (DR) environment using VMware is being built out and completed by Nov, 2013.</p>
<p>Financial Analysis</p>	<p>BUDGET:</p> <p>Contract costs</p> <p>One-time costs:</p> <p> None (fully hosted solution with no upfront one-time costs)</p> <p>Ongoing annual costs:</p> <p> Services (6 months) \$56,000</p> <p>Sub-total Contract Costs: \$56,000</p> <p>Cost of Base Agreement (01/01/2006 – 12/31/2008) \$346,000</p> <p>Cost of Amendment 1 (01/01/2009 – 12/31/2013) \$580,000</p> <p>Cost of Amendment 2 (01/01/2014 – 6/30/2014) \$56,000</p> <p>Total Agreement Cost (maximum) \$982,000</p>

<p>Risk Analysis</p>	<p>RISK MITIGATION:</p> <ol style="list-style-type: none"> 1. No major risks foreseen as this is an extension of an existing Agreement. However the new system that will replace PSN needs to be negotiated and implemented on time to avoid any further extension of this Agreement. 2. The Chief Information Security Officer (CISO) reviewed the Agreement and did not identify any IT security- or privacy-related issues.
<p>CIO Approval</p>	<p>PREPARED BY:</p> <p style="text-align: center;">  _____ Sanmay Mukhopadhyay, Sr. Associate CIO </p> <p style="text-align: right;"> _____ 10/17/13 Date </p> <hr/> <p>APPROVED:</p> <p style="text-align: center;">  _____ Richard Sanchez, County CIO </p> <p style="text-align: right;"> _____ 10-22-13 Date </p>

Please contact the Office of the CIO (213.253.5600 or info@cio.lacounty.gov) for questions concerning this CIO Analysis. This document is also available online at <http://ciointranet.lacounty.gov/>

AMENDMENT NUMBER TWO TO AGREEMENT H-701781

FOR

PATIENT SAFETY NET SYSTEM



BY AND BETWEEN

THE COUNTY OF LOS ANGELES

AND

UNIVERSITY HEALTHSYSTEM CONSORTIUM

**AMENDMENT NUMBER TWO TO AGREEMENT H-701781
FOR PATIENT SAFETY NET SYSTEM**

This Amendment Number Two ("Amendment") to that certain Agreement Number H-701781 for the provision of UHC Patient Safety Net¹ ("PSN") Services dated November 8, 2005 (as amended hereby, hereinafter collectively "Agreement"), is entered into this ____ day of _____, 2013 by and between the County of Los Angeles (hereinafter "County" or "Participant") and University HealthSystem Consortium (hereinafter "Contractor" or "UHC").

WHEREAS, the term of the Agreement expires on December 31, 2013; and

WHEREAS, County desires to extend the term of the Agreement for the services which are currently provided by the Contractor under the Agreement; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained in this Amendment, County and Contractor agree as follows:

1. The term of the Agreement is hereby extended, commencing on January 1, 2014 through June 30, 2014.
2. Section 5 (Annual License Fees) of the body of the Agreement is amended in its entirety to read as follows:

"Section 5. Annual License Fees

For the period between January 1, 2009 through December 31, 2013, Participant agrees to pay the annual license fee for PSN within sixty (60) days of receipt of invoice. The current annual license fee information for PSN is attached hereto and incorporated herein as Exhibit B-1 (Pricing Schedule). UHC will deliver an invoice to Participant in January, which will be due and payable if Participant determines to continue PSN Services. In the event an annual license fee is unpaid by its due date and no notice of termination has been made to UHC, Participant's access to PSN and PSN Services may be suspended until payment is made. No refunds will be made for the time participation was suspended.

For the period between January 1, 2014 through June 30, 2014, Participant will pay a six-month license fee for PSN, payable within sixty (60) days of receipt of invoice. The license fee for PSN is attached hereto and incorporated herein as Exhibit B-1 (Pricing Schedule). UHC will deliver an invoice to Participant at the beginning of said period.

For the services performed under this Agreement, Contractor shall be paid according to the rates set forth in the Exhibit B-1 (Pricing Schedule).

For the entire term of the Agreement, including the extension/option year(s), the maximum County obligation shall not exceed \$982,000."

¹ UHC Patient Safety Net® is a registered trademark of University HealthSystem Consortium, Inc.

3. Section 7, Subsection 7.4 (Contractor's Obligation as a Business Associate under the Health Insurance Portability and Accountability Act of 1996) is deleted in its entirety and replaced as follows:

7.4 HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

The County is subject to the Administrative Simplification requirements and prohibitions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules"). Under this Agreement, the Contractor provides services to the County and the Contractor receives, has access to, and/or creates Protected Health Information as defined in Exhibit C in order to provide those services. The County and the Contractor therefore agree to the terms of Exhibit C, Business Associate Agreement Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA)."

4. Exhibit B (Pricing Schedule) is deleted in its entirety and replaced by Exhibit B-1 (Pricing Schedule), which is attached hereto as Attachment-1 and incorporated herein by reference. The pages of the revised Exhibit B-1 (Pricing Schedule) are each designated at the bottom as "Revised under Amendment Number Two of Agreement." All references to Exhibit B in the Agreement shall be replaced by Exhibit B-1.
5. Exhibit C (Business Associate Agreement under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA")) is added to the Agreement and is attached hereto as Attachment-2 and incorporated herein by reference. All references to Subsection 7.4 in the Agreement shall be replaced by Exhibit C.
6. Except as provided in this Amendment, all other terms and conditions of the Agreement remain unchanged in full force and effect.

IN WITNESS WHEREOF, County and Contractor by their authorized signatures have caused this Amendment to be effective the day, month and year first above written.

COUNTY OF LOS ANGELES

By _____

Mitchell H. Katz, M.D.
Director of Health Services

UNIVERSITY HEALTHSYSTEM
CONSORTIUM

By _____

Signature

Printed Name

Title

APPROVED AS TO FORM
BY THE OFFICE OF THE
COUNTY COUNSEL

By _____
Edward T. Yen, Deputy County Counsel

**AMENDMENT NUMBER TWO TO AGREEMENT H-701781
FOR PATIENT SAFETY NET SYSTEM**

Attachment - 1

EXHIBIT B-1

Pricing Schedule

October 2013

PRICING SCHEDULE

1. Schedule of Annual License Fees Effective January 2009 through December 2013

Annual License Fees are payable in part or in full through UHC Patronage Equity earned through County's participation in the UHC's Novation purchasing program. The subscription fee covers County's access to Contractor's PSN application web server for submitting and reviewing reports, access to the raw data for performing organization-specific data analyses, and access to the full functionality of the web-based report writing tools. Refer to Exhibit A (Statement of Work) for a detailed description of the services provided by UHC.

Location	Annual License Fee (January 1, 2009 – December 31, 2013)
Coastal Network	\$38,000.00
Northeast Network	\$38,000.00
Southwest Network	\$6,000.00
High Desert Health System	\$6,000.00
Rancho Los Amigos National Rehabilitation Center	\$12,000.00
Valley Care Network	\$12,000.00
TOTAL	\$112,000.00

Amendment One increased the maximum County obligation under this agreement by \$580,000, effective January 1, 2009 through December 31, 2013, including specialized programming and additional training of \$20,000 for a revised total maximum County obligation of \$926,000.

2. Schedule of Six Month License Fees Effective January 2014 through June 2014

Location	Six Month License Fee (January 1 – June 30, 2014)
Coastal Network	\$19,000.00
Northeast Network	\$19,000.00
Southwest Network	\$3,000.00
High Desert Health System	\$3,000.00
Rancho Los Amigos National Rehabilitation Center	\$6,000.00
Valley Care Network	\$6,000.00
TOTAL	\$56,000.00

3. Schedule of Specialized Programming Costs and Additional Training Costs Effective January 2009 through June 2014

Contractor shall provide onsite staff training at the defined fee schedule: Directors at \$225 per hour / \$1800 per day plus Travel expenses.

Specialized programming shall be provided by Contractor following an agreed upon not-to-exceed maximum price, not to exceed the defined fee schedule of \$150 per hour.

Location	Specialized Programming and Additional Training Costs
Coastal Network	\$7,000.00
Northeast Network	\$7,000.00
Southwest Network	\$1,000.00
High Desert Health System	\$1,000.00
Rancho Los Amigos National Rehabilitation Center	\$2,000.00
Valley Care Network	\$2,000.00
TOTAL	\$20,000.00

4. Annual Payments

County will pay annual payments; upon receipt of an approved invoice.

Payment Year	Payment Amount
2009	\$112,000.00
2010	\$112,000.00
2011	\$112,000.00
2012	\$112,000.00
2013	\$112,000.00
2014	\$56,000.00
Specialized programming and additional training	\$20,000.00

Upon execution of this Agreement, and approval by County's Project Director, in January of 2009 Contractor may submit an invoice for 2009.

Thereafter, subsequent invoices for Years 2010, 2011, 2012 and 2013, and 2014 respectively may be submitted by Contractor as appropriate.

**BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE
PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

1. DEFINITIONS

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "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. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 162.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.

- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
- 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.
- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.

5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

- 5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3. Notwithstanding the foregoing, the parties understand that pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks and any combination of the above shall not be considered a Security Incident, so long as no such incident results in the defeat or circumvention of any security control, or in the unauthorized access, use or disclosure of PHI provided by Covered Entity.
 - 5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

- 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
- 5.1.3 Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.
- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.
- 5.2.1 Business Associate shall make a prompt telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:
- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
 - (b) The number of Individuals whose Protected Health Information is involved;
 - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **Chief HIPAA Privacy Officer** at: **Chief HIPAA Privacy Officer, Kenneth Hahn Hall of Administration, 500 West Temple Street, Suite 525, Los Angeles, California 90012, HIPAA@auditor.lacounty.gov**, that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or 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) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;
- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

- 5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.
- 5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.
- 5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.
- 5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

- 6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.
- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, following notification by Subcontractor of a Breach of Unsecured PHI, Business Associate shall then notify Covered Entity as provided in this Agreement.

- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Within 30 day of a written request to Business Associate's duly authorized member committee, Performance Improvement Comparative Data Committee, Business Associate shall provide a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

7. ACCESS TO PROTECTED HEALTH INFORMATION

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.
- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

- 8.1 To the extent that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 9.1 To the extent that Business Associate makes a Disclosure of Protected Health Information for which an accounting of disclosure would be necessary, Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- 9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:
- (a) The date of the Disclosure;
 - (b) The name, and address if known, of the entity or person who received the Protected Health Information;
 - (c) A brief description of the Protected Health Information Disclosed; and
 - (d) A brief statement of the purpose of the Disclosure.
- 9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1, and shall maintain the information for six (6) years from the date of the Disclosure.
- 9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity,

information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

- 9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

- 10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).
- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.

11. AVAILABILITY OF RECORDS

- 11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.
- 11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary.

12. MITIGATION OF HARMFUL EFFECTS

- 12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

13. BREACH NOTIFICATION TO INDIVIDUALS

- 13.1 Business Associate shall, to the extent that Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information that were 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);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

14. INDEMNIFICATION

- 14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.
- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

15. OBLIGATIONS OF COVERED ENTITY

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

16. TERM

- 16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

- 17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work

Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.

18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.

18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities and shall return or destroy all other

Protected Health Information. Notwithstanding the foregoing, the parties understand and agree that return or destruction of information from Business Associate's aggregated databases is infeasible, but that on termination of this Agreement, i) any segregated, "raw" data of Covered Entity shall be returned to Covered Entity, and as to aggregated data ii) the protections of this Agreement will continue for so long as PHI resides in Business Associate's database, and ii) Protected Health information will only be available on a de-identified basis to other database participants, with no ability to benchmark against the Covered Entity individually.

18.4 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.

18.4.1 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.

18.5 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

19. INSPECTION, AND EXAMINATION

19.1 Within 30 days of Covered Entity's written request to Business Associate's duly authorized member committee, Performance Improvement Comparative Data Committee, Business Associate shall provide to Covered Entity copies of policies and procedures and documentation of HIPAA training of its workforce.

19.2 That Covered Entity inspects, fails to inspect, or has the right to request the documentation as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.

19.3 Covered Entity's failure to identify, its identification but failure to notify Business Associate, or its identification but failure to require remediation

by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 19.4 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

20. MISCELLANEOUS PROVISIONS

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.

20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.