



Los Angeles County  
Board of Supervisors

January 14, 2014

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

**ADOPTED**  
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

17 January 14, 2014

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

Dear Supervisors:

**APPROVAL OF SUCCESSOR AGREEMENT WITH THE UNIVERSITY  
HEALTHSYSTEM CONSORTIUM FOR A PATIENT SAFETY AND RISK  
MANAGEMENT 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

313 N. Figueroa Street, Suite 912  
Los Angeles, CA 90012

Tel: (213)240-8101  
Fax: (213) 481-0503

[www.dhs.lacounty.gov](http://www.dhs.lacounty.gov)

**SUBJECT**

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.

Request approval of a successor Agreement with the University HealthSystem Consortium for the provision of a Safety Intelligence System, a patient safety and risk management software platform at all Department of Health Services and Department of Public Health facilities, as well as Department of Mental Health, Fire Department, and Sheriff's Department facilities that provide medical services.

**IT IS RECOMMENDED THAT THE BOARD:**

1. Authorize the Director of Health Services (Director), or his designee, to execute a Sole Source successor Agreement with University HealthSystem Consortium (UHC), effective upon Board approval through December 31, 2018, for the provision of a Safety Intelligence (SI) System, a patient safety and risk management software platform, to use at Department of Health Services (DHS), Department of Public Health (DPH), Department of Mental



[www.dhs.lacounty.gov](http://www.dhs.lacounty.gov)

Health (DMH), Fire Department (Fire) and Sheriff's Department (LASD) facilities (collectively the "Departments") with a maximum obligation of \$1,367,600, with options to extend the Agreement term for two additional three-year periods through December 31, 2024.

2. Delegate authority to the Director, or his designee, to terminate for convenience, the current agreement H-701781, with UHC for the Patient Safety Net (PSN) system, in accordance with the termination provisions of said Agreement and subject to review and approval by County Counsel, upon successful implementation and transition to SI at DHS and DPH.

3. Delegate authority to the Director, or his designee, to amend the UHC Agreement for SI to: (A) increase the total maximum obligation by no more than 20 percent above the Fiscal Year (FY) 2014-15 annual maximum obligation for a potential annual increase of \$80,167 and a total potential increase through December 31, 2024 of \$881,837 for the purchase of additional modules by Departments, professional services, custom programming, and training as needed; (B) add or delete other Departments and/or modules as necessary; (C) perform administrative changes to the Agreement, including but not limited to the addition, modification, or removal of any relevant terms and conditions, to clarify terms and conditions and otherwise comply with changes in applicable law; and (D) exercise the option years at an estimated maximum obligation of no more than \$299,768 per year, subject to review and approval by County Counsel and the Chief Information Office (CIO).

### **PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION**

Approval of the first recommendation will allow the Director to execute an Agreement, substantially similar to Exhibit I, with UHC, to replace the current agreement for PSN used by DHS and DPH, which will expire June 30, 2014 and allow for implementation of a successor web-based software platform that will be hosted by the Internal Services Department (ISD). UHC is replacing PSN with SI for reporting patient safety events, handling complaints and managing claims. SI implementation will allow DHS to consolidate multiple instances of PSN at DHS facilities into a single instance of SI. This consolidation will create efficiencies for aggregating and analyzing data on an enterprise-wide basis and standardize the varying event reporting practices currently found throughout DHS facilities. Moreover, immediate adoption of the successor system will ensure that DHS and DPH have the necessary time and resources to implement the necessary hosting and application support infrastructure and train end users before the current Agreement expires. The recommended Agreement will also enable DMH, Fire, and LASD to obtain SI and satisfy a request from the Board-mandated Legal Exposure Reduction Committee that SI be used by all Departments that provide medical services.

Approval of the second recommendation will authorize the Director to terminate the current Agreement H-701781 with UHC for convenience, in whole or in part, in accordance with the termination provisions of the Agreement and subject to the review and approval of County Counsel. Termination for convenience will be exercised upon successful implementation of and transition to SI at both DHS and DPH, which will be the first of the Departments to implement the SI platform. The two Agreements will run concurrently until successful implementation at DHS and DPH, after which SI will absorb the current functions of the PSN system. PSN will subsequently be discontinued.

Approval of the third recommendation will authorize the Director to amend the Agreement to

increase the maximum obligation by up to \$80,167 per year, 20 percent above the FY 2014-15 annual maximum obligation, to add or delete other Departments, additional modules and/or professional services at pre-negotiated rates, and to perform any contractual administrative change to the Agreement to meet any changes as required by local, State, or Federal law. Such delegated authority will enable DHS to proactively address any ongoing areas of improvement, comply with any statutory and regulatory changes, and refine SI throughout the term of the Agreement. In accordance with Board Policy 5.120, DHS advised the Board on December 31, 2013 of its intent to request delegated authority to increase the Agreement by more than ten percent.

The recommended new Agreement will enable the Departments to adopt PSN's successor platform, SI, which will allow these Departments to effectively and efficiently document safety events and monitor safety performance by using a web-based event reporting module. DHS will also be adopting two additional modules: complaints handling and claims management, to handle safety complaints and manage legal claims. This platform will also provide the Departments 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 Departments' management for review, investigation, and implementation of appropriate corrective action.

### **Implementation of Strategic Plan Goals**

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

### **FISCAL IMPACT/FINANCING**

The maximum obligation for the period July 1, 2014 through December 31, 2018 is \$1,367,600, with an additional \$400,835 for optional specialized training and programming and the additional County departments and/or modules, for a total maximum obligation of \$1,768,435 for the initial term.

Throughout the term of the Agreement, costs for DHS and DPH will be offset by UHC's Patron Equity Credits (PECs), which have been earned through DHS' and DPH's participation in UHC's group purchasing program. The other Departments will reimburse DHS for their portion of the Agreement fees through Departmental Service Orders (DSO).

Funding will be requested in DHS' FY 2014-15 Recommended Budget and in future fiscal years, as needed.

### **FACTS AND PROVISIONS/LEGAL REQUIREMENTS**

On November 18, 1997, the Board authorized DHS to become a member of the UHC, a not-for-profit member alliance of 120 academic health centers and its group purchasing organization, Novation. DHS currently uses UHC's performance measurement system for benchmarking and makes purchases using Novation.

On November 8, 2005, the Board approved Agreement No. H-701781 with UHC for DHS to access PSN services. PSN 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 across all DHS facilities, as well as DPH clinics. On January 26, 2010, DHS designated UHC as the

Department's Patient Safety Organization (PSO) for all of its medical centers and two multi-service ambulatory care centers to receive the benefits provided by the 2005 Patient Safety Act and Quality Improvement Act (PSQIA).

UHC's new system, SI, will continue to be used by the County as an event reporting system and to provide access to aggregated member data and analyses. UHC then adds that data to the database of participating UHC institutions and permits the use of that data to generate analyses, reports, and comparison with other UHC members. SI immediately notifies the Departments' management for review, follow-up, and appropriate corrective action following adverse events and unsafe conditions. The successor system expands the scope of the aforementioned services by providing additional modules to handle complaints and legal claims. This platform complies with HIPAA requirements and state/federal regulations, as well as requirements of the Joint Commission's National Patient Safety Goals and the PSQIA. Presently, UHC provides hosting services for PSN. However, as UHC's business model has evolved, it no longer provides these services for the new platform. The Departments have mutually agreed that the ISD will provide hosting services and application support for this system.

DHS, through its UHC membership, will provide other Departments, including the LASD, Fire, DMH, and DPH with access to the SI platform.

There is no net County cost for FY 2013-14, since the Agreement includes provisions to ensure that County will not be invoiced for any fees until the beginning of FY 2014-15 (July 1, 2014). The prepaid fees from the current agreement with UHC for PSN will substitute for any incurred costs for SI through June 30, 2014. The Agreement contains a fixed price guarantee throughout the term. Negotiated annual price increases, if any, will not exceed a 2.5 percent cap as defined in the Agreement.

County Counsel has approved the Agreement (Exhibit I) as to form. The County's Chief Information Office recommends approval of this Agreement (Attachment A includes the Chief Information Officer's concurrence with DHS' recommendation).

## **CONTRACTING PROCESS**

The Department is entering into a successor Sole Source Agreement with UHC as the owner of a proprietary software and the only provider with access to the County's benchmarking data. In addition, UHC has the ability to link events to benchmarks, and maintains an outstanding performance record with the County. Furthermore, in utilizing this member-exclusive service, DHS will be able to maximize the relationship between clinical benchmarking and event reporting and maintain consistency within the existing benchmarking consortium of academic institutions. In addition, SI is a software as a service model which will save DHS programming modification, database management, and support costs.

UHC's successor agreement contains terms and conditions previously approved by the Board in Agreement H-70781, which included modifications that allow for a dispute resolution process and a time to cure in case a breach of the terms of the contract is alleged by the contractor. In addition, since UHC is located in Illinois, certain standard County provisions are inapplicable. The contract allows UHC to terminate for cause with 180 days prior written notice.

An approved Sole Source Checklist (Attachment B) is included in accordance with Board Policy

5.100 Sole Source Contracts.

**IMPACT ON CURRENT SERVICES (OR PROJECTS)**

Approval of the recommendations will enhance the Departments' quality of health care delivered to patients, mitigate potential safety risks to patients and visitors, enhance patient safety and decrease operational expenses by streamlining current departmental practices for the collection and management of data regarding patient safety risk factors, as well as proper management of complaints and legal claims.

Respectfully submitted,



Mitchell H. Katz, M.D.

Director



RICHARD SANCHEZ

Chief Information Officer

MHK:RS:jl

Enclosures

- c: Chief Executive Office
- County Counsel
- Executive Office, Board of Supervisors
- Chief Information Office
- Department of Public Health
- Department of Mental Health
- Fire Department
- Sheriff's Department



RICHARD SANCHEZ  
CHIEF INFORMATION OFFICER

Office of the CIO  
**CIO Analysis**

NUMBER: <b>CA 13-27</b>	DATE: 12/18/13
----------------------------	-------------------

<p>SUBJECT:</p> <p align="center"><b>APPROVAL OF SUCCESSOR AGREEMENT WITH THE UNIVERSITY HEALTHSYSTEM CONSORTIUM FOR A PATIENT SAFETY AND RISK MANAGEMENT SYSTEM</b></p>	
<p>RECOMMENDATION:</p> <p> <input checked="" type="checkbox"/> Approve         <input type="checkbox"/> Approve with Modification         <input type="checkbox"/> Disapprove       </p>	
<p>CONTRACT TYPE:</p> <p> <input checked="" type="checkbox"/> New Contract (Successor to H-701781)         <input type="checkbox"/> Sole Source  <input type="checkbox"/> Amendment to Contract #:         <input type="checkbox"/> Other: Describe contract type.       </p>	
<p>CONTRACT COMPONENTS:</p> <p> <input checked="" type="checkbox"/> Software         <input checked="" type="checkbox"/> Hardware  <input type="checkbox"/> Telecommunications         <input checked="" type="checkbox"/> Professional Services       </p>	
<p>SUMMARY:</p> <p>Department Executive Sponsor: <b>Mitchell H. Katz, M.D., Director of Health Services</b></p>	
<p>DESCRIPTION:</p> <ol style="list-style-type: none"> <li>1. Authorization to execute a Sole Source Agreement with University HealthSystem Consortium (UHC), through December 31, 2018, to adopt Safety Intelligence System (SIS), to use at Department of Health Services (DHS), Department of Public Health (DPH), Department of Mental Health (DMH), Fire Department (Fire) and Sheriff's Department (LASD) facilities with a maximum obligation of \$1,367,600, with option to extend for two additional three-year periods through December 31, 2024.</li> <li>2. Delegated authority to terminate for convenience, in whole or in part, the current Agreement H-701781 with UHC for the Patient Safety Net (PSN) system, upon successful implementation of the project goals.</li> <li>3. Delegated authority to amend the Agreement to: (A) increase the maximum obligation by no more than 20 percent above the Fiscal Year (FY) 2014-15 for a maximum annual increase of \$80,167 for additional, professional services, custom programming, and training as needed; (B) add or delete other Departments and/or modules as necessary; (C) perform administrative changes to the Agreement; and (D) exercise the options at an estimated annual maximum obligation of \$299,768, subject to review and approval of County Counsel and CIO.</li> </ol>	
<p>Contract Amount: <b>\$1,367,600</b></p> <p><input type="checkbox"/> Legislative or Regulatory Mandate</p>	<p>Funding Source: <b>DHS Fiscal Year 2014-15</b> <b>Recommended Budget/Patron</b> <b>Equity Credits (PEC) Credits</b></p> <p><input type="checkbox"/> Subvented/Grant Funded:</p>

<p><b>Strategic and Business Analysis</b></p>	<p><b>PROJECT GOALS AND OBJECTIVES:</b></p> <p>SIS is a critical patient safety and risk management system that allows front-line medical staff to document and report adverse safety events, and alerts departmental management of unsafe incidents so that proper corrective action can be taken. This assists the Departments with implementing proactive risk management and mitigation strategies. The other important project goal is to compare County data with industry standards. This project will transition the hardware hosting platform from UHC to County’s Internal Services Department (ISD), which will service DHS, DPH, DMH, Fire, and LASD.</p>
	<p><b>BUSINESS DRIVERS:</b></p> <p>The key business drivers for the project are:</p> <ol style="list-style-type: none"> <li>1. <b>Improvements in patient care:</b> County departmental 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 action.</li> <li>2. <b>Compliance:</b> SIS provides identification and management of patient, visitor, staff safety issues, and ensures that DHS complies with the Joint Commission’s National Patient Safety Goals.</li> </ol>
	<p><b>PROJECT ORGANIZATION:</b></p> <p>The DHS Business Project Director is Elizabeth Augusta of the DHS Quality Improvement and Patient Safety (QIPS) program. IT involvement is minimal as this system will be transitioned to ISD for hardware and application support.</p>
	<p><b>PERFORMANCE METRICS:</b></p> <p>SIS 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><b>STRATEGIC AND BUSINESS ALIGNMENT:</b></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>SIS is a Software as a Service (SaaS) software platform, that will be implemented via an application support and hosting services provided by ISD and will be implemented throughout 5 County Departments (DHS, DPH, DMH, LASD, and Fire) that provide medical services. DHS and DPH, which are currently using Patient Safety Net (PSN), will be the first Departments to implement SIS, before the PSN agreement expires on June 30, 2014. After successful implementation, Agreement H-701781, for PSN, the legacy system with UHC, will be terminated. The current goal of the Project team is to implement DHS and DPH on or before June 30, 2014. The remaining three departments will be implemented thereafter. The team is working on the detailed implementation plan for those.</p> <p>ALTERNATIVES ANALYZED:</p> <p>None. This is a Sole Source Agreement, as UHC is the only vendor that can provide large-scale access to comparative data from other academic institutions.</p>
<p><b>Technical Analysis</b></p>	<p>ANALYSIS OF PROPOSED IT SOLUTION:</p> <p><u>Functionality:</u> SIS is a self-hosted incident reporting system that documents safety events, monitors safety performance, provides immediate notice of all reported adverse events and unsafe conditions, and has the capability to manage complaints and claims.</p> <p>SIS provides the Departments with the necessary tools to implement proactive risk management and mitigation strategies and offer appropriate remedies to unsafe events at County facilities. SIS also aggregates inputted data and offers clinical benchmarking against other participating organizations in UHC to identify areas of concern and share best practices for risk reduction and improved patient safety.</p> <p><u>Application Architecture:</u> SIS is a proprietary web-based system on a .Net platform, jointly developed by UHC and Datix. 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. The application uses Microsoft SQL server as the database and Application server IIS 7.5.</p> <p><u>Infrastructure:</u> With this project, the hosting services will be moved into ISD. ISD hosts the County’s robust infrastructure and will have appropriate DR and VMware virtualized environment. The ISD hosting environment is comparable to the current UHC environment using W2K8 64-Gigabytes (GB) operating systems and a SQL 2K8 64-bit database. There will be both production and test/training environments to allow seamless transition to the new platform and test any future upgrades to the software. SSL certification will be provided for the web servers.</p>

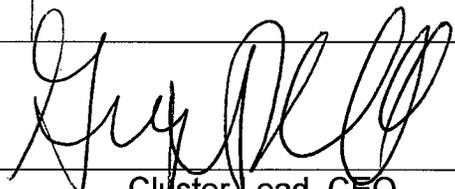
<b>Financial Analysis</b>	<b>BUDGET:</b>	
	<b>Agreement costs</b>	
	One-time costs:	
	Implementation Fees.....	\$ 25,000
	Ongoing annual costs:	
	FY 2014-15 .....	\$ 375,831
	FY 2015-16 .....	\$ 264,211
	FY 2016-17 .....	\$ 277,129
	FY 2017-18 .....	\$ 282,682
	FY 2018-19 .....	\$ 142,747
	Annual Subscription Fees (total) .....	\$1,342,600
	<b>Sub-total Agreement costs (5 years):</b>	<b>\$1,367,600++</b>
	Two 3-year options (maximum): .....	\$1,798,608+
	(\$299,768 per year for 6 years)	
	Optional contingency cost (20%)	\$ 881,826
(\$80,167 per year, includes \$400,835 for first 5-years)		
<b>Sub-total Agreement costs (11 years):</b>	<b>\$4,048,045++</b>	
<i>(DHS and DPH portions will be totally funded by PEC (credits) that constitutes an estimated \$2,527,138 of total Agreement costs, excluding contingency. The remainder will be paid by DHS but the 3 departments will transfer funds to DHS).</i>		
<b>Other County costs</b>		
Ongoing costs for the initial 5-year term:		
Hosting services (ISD)		
2014 .....	\$ 81,782	
2015 .....	\$ 63,832	
2016 .....	\$ 65,942	
2017 .....	\$ 63,832	
2018 .....	\$ 65,942	
<b>Total Hosting Services.....</b>	<b>\$ 341,330</b>	
Application support (ISD)		
2014 .....	\$ 104,160	
2015 .....	\$ 104,160	
2016 .....	\$ 104,160	
2017 .....	\$ 104,160	
2018 .....	\$ 104,160	
<b>Total Application Support.....</b>	<b>\$ 520,800</b>	
<b>Total ongoing costs: .....</b>	<b>\$ 862,130+++</b>	

<p><b>Financial Analysis (Cont'd)</b></p>	<p>+If the two additional 3-year options are exercised, the Agreement maximum obligation will increase by no more than \$299,768 per year.                  ++The total not-to-exceed cost of the 11-year Agreement, if all 6 option years are exercised and if the entire contingency is expended.                  +++ ISD costs are funded via DHS' FY 2014-15 Recommended Budget and other departments will reimburse DHS their respective portions. This will be about 39 percent of total costs.</p>
<p><b>Risk Analysis</b></p>	<p>RISK MITIGATION:</p> <ol style="list-style-type: none"> <li>1. The transition of hosting from UHC to ISD needs to be managed properly. CIO needs to oversee, especially since several of the County departments are involved. The system will replace PSN, needs to be negotiated and implemented on time to avoid any further extension of the existing Agreement. The application support SLAs needs to be carefully set so that there are limited issues between Application support and Infrastructure support.</li> <li>2. The Chief Information Security Officer (CISO) has reviewed the Agreement and did not identify any IT security or privacy related issues.</li> </ol>
<p><b>CIO Approval</b></p>	<p>PREPARED BY:</p> <p>                  _____                  Sanmay Mukhopadhyay, Sr. Associate CIO</p> <p style="text-align: right;">12/23/13                  _____                  Date</p> <hr/> <p>APPROVED:</p> <p> hRS                  _____                  Richard Sanchez, Chief Information Officer</p> <p style="text-align: right;">12/23/13                  _____                  Date</p>

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

## SOLE SOURCE CHECKLIST

Check	JUSTIFICATION FOR SOLE SOURCE CONTRACTS
(✓)	Identify applicable justification and provide documentation for each checked item.
✓	<p>➤ <b>Only one bona fide source for the service exists; performance and price competition are not available.</b></p> <p>Under a current agreement with University HealthSystem Consortium (UHC), the Department of Health Services (DHS) and Department of Public Health (DPH) have access to a UHC hosted Patient Safety Net (PSN) system that documents and reports safety incidents. The PSN is being phased out by UHC and proprietary software owned by UHC, Safety Intelligence (SI), is the successor system. DHS surveyed the marketplace for other replacement systems and determined that SI is the leading system available. It is also more extensive than PSN as it offers comprehensive modules for complaint handling and claims management.</p> <p>UHC is uniquely qualified because of its existing business relationship with DHS as the sole provider of DHS' clinical performance and benchmarking system. In addition, a key benefit of UHC SI is that it enables DHS to compare data with aggregated summaries from other UHC participating organizations for benchmarking and identifying areas of concern. Access to this member service will enable DHS to maximize the relationship between clinical benchmarking and event reporting and to maintain consistency with UHC's existing benchmarking consortium.</p>
	➤ Quick action is required (emergency situation).
	➤ Proposals have been solicited, but no satisfactory proposals were received.
	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
	➤ Maintenance service agreements exist on equipment which must be serviced by the authorized manufacturer's service representatives.

	<p>➤ It is most cost-effective to obtain services by exercising an option under an existing contract.</p>
✓	<p>➤ <b>It is in the best interest of the County e.g., administrative cost savings, excessive learning curve for a new service provider, etc.</b></p> <p>The County's Legal Exposure Reduction Committee (LERC) recommended that all County departments that provide medical services look at system-wide, evidence-based practices which have the potential to improve quality of care and reduce the opportunity for adverse events. LERC looked at the current PSN system used by DHS and DPH and determined that the system should be implemented at the three other departments that provide medical services - Department of Mental Health (DMH), Fire Department (Fire), and Sheriff's Department (SD). Since UHC is discontinuing PSN, LERC recommended that SI be purchased for implementation and usage at all five departments in an effort to ensure consistency and standardization across these departments.</p>
	<p>➤ Other reason. Please explain:</p>
	<p>          _____          Cluster Lead, CEO</p> <p style="text-align: right;">12/20/13          _____          Date</p>

## **University HealthSystem Consortium**

### **Safety Intelligence**

#### **County Enrollment and License Agreement**

This County Enrollment and License Agreement and all attached Exhibits ("Agreement") is made by and between the University HealthSystem Consortium ("UHC" or "Contractor"), a not-for-profit Illinois corporation, with its principal place of business at 155 N. Wacker Drive, Suite 4000, Chicago, IL, 60606, and the County of Los Angeles, ("Participant" or "COUNTY") with its principal place of business at the Los Angeles County Department of Health Services Administration, Director, Quality Improvement and Patient Safety Program, 313 N. Figueroa Street, Room 703, Los Angeles, CA, 90012. UHC and COUNTY are sometimes in this Agreement collectively referred to as the "Parties" and individually as "Party."

#### **RECITALS**

WHEREAS, UHC offers various products and services to its members;

WHEREAS, since 2002, UHC has offered a web-based, centrally hosted incident/event reporting program, originally known as Patient Safety Net ("PSN")®. The event reporting program, now part of a larger suite of services known as UHC Safety Intelligence™, is unique in its ability to provide peer group comparative patient safety data;

WHEREAS, the Parties entered into an agreement on November 8, 2005, identified as Agreement Number H- 701781, with UHC for access to PSN for three years, the Parties subsequently amended the agreement to extend it to June 30, 2014;

WHEREAS, UHC expanded its software offerings in 2012 that resulted in the UHC Safety Intelligence™, Powered by Datix ("SI software platform" or "Software Application"), which delivers to UHC Members, in close collaboration with Datix, a leading international provider of patient safety software;

WHEREAS, in contrast to the UHC PSN® platform, the UHC SI software platform is locally hosted at the member site, which permits for greater control by the members for performance and customization;

WHEREAS, the COUNTY is interested in accessing modules included in the SI software platform (the Events Reporting, Claims Management, and Complaint Handling modules) for use by multiple COUNTY departments to aid in improving quality, safety and satisfaction while also managing risk exposure;

WHEREAS, COUNTY desires to enter into an agreement with UHC, among other things, to purchase licenses from UHC for UHC's SI software platform, and to engage UHC to (A) configure and install the SI software platform, and access Enrolled Licensed Programs; (B) create certain interfaces between the SI software platform and other COUNTY systems; (C) train COUNTY staff on the use of the SI software platform and Enrolled Licensed Programs; and (D) maintain and support the SI software platform, in each case, subject to the terms and conditions of this Agreement (as defined below);

WHEREAS, this Agreement is authorized pursuant to California Government Code Sections 23004, 31000 and otherwise;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### **Section 1. Agreement.**

This base document along with the recitals, Exhibits A through F, all Attachments and Appendices hereto or thereto (all Exhibits, Attachments and Appendices being incorporated herein by this reference), and all executed Change Notices and Amendments hereto collectively constitute and throughout and hereinafter are referred to as the "Agreement." This Agreement shall constitute the complete and exclusive statement of understanding between COUNTY and Contractor and supersedes any and all prior or contemporaneous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement.

### **Section 2. Definitions.**

1. "Acceptance Date" shall mean the date of successful completion of the acceptance tests for each installation of the Enrolled Licensed Program by a COUNTY department.
2. "Additional Work" has the meaning set forth in Sub-paragraph 4.2d (Additional Work).
3. "Annual Fee" shall mean the recurring annual fee, including license and subscription fees for the Enrolled Licensed Programs.
4. "Applied Learning" shall mean those services provided to the COUNTY at no additional charge, as part of the UHC Safety Intelligence platform including but not limited to: reports of aggregated event reporting data, sharing of UHC member's success stories, in person and web-based continuing education, and networking and collaboration opportunities via councils and listservs.
5. "Approved Point of Contact(s)" or "APC" shall mean COUNTY employees designated by COUNTY to coordinate Support services. Contractor shall provide APCs, as listed in Exhibit A, Attachment A-1 (Designated Approved Points of Contact), with access to the UHC Service Desk.
6. "County's Project Director" shall mean the person designated by COUNTY, as identified in Exhibit C (County's Administration), with authority for COUNTY on contractual or administrative matters relating to this Agreement that cannot be resolved by the County's Project Manager.
7. "County's Project Manager" shall mean the Person designated by County's Project Director, as identified in Exhibit C (County's Administration), to manage the operations under this Agreement.
8. "Contractor Project Director" shall mean the individual designated by Contractor, as identified in Exhibit D (Contractor's Administration), with authority for Contractor on contractual or administrative matters relating to this Agreement that cannot be resolved by the Contractor's Project Manager.

9. "Contractor Project Manager" shall mean the individual designated by the Contractor, as identified in Exhibit D (Contractor's Administration), to administer the Agreement operations after the Agreement award.
10. "Confidential Information" shall mean the terms of this Agreement along with any and all information or materials in any form or medium (whether written, oral, visual or electronic) disclosed directly or indirectly by either Party or its employees or representatives to the other in connection with this Agreement which is identified as confidential or which the receiving Party knows or should know is confidential, including any financial and commercial information relating to the business of either Party (and, in the case of Contractor, any source code, the Licensed Programs, the Materials, Operating Instructions, manuals and any other procedures, systems, information or know-how arising out of or in connection with the Licensed Programs), patient health information (PHI), the SI software, network tools, CDB Data, Derivative Works and SI Services.
11. "Copyright Legislation" shall mean the Copyright Act of 1976 (US), Title 17 of the United States Code, as it may be amended from time to time.
12. "Data Aggregation" shall mean the Protected Health Information (PHI) created or received by CONTRACTOR in its capacity as the business associate of the COUNTY, the combining of such PHI by CONTRACTOR with the PHI received by CONTRACTOR in its capacity as a business associate of another covered entity (as defined under HIPAA) or other covered entities as permitted under the Privacy Standard, to permit data analyses that relate to the Health Care Operations of the respective covered entities.
13. "Datix" or "Datix (USA) Inc." is the entity with whom CONTRACTOR has a collaborative agreement and license, allowing CONTRACTOR to offer the Licensed Programs to COUNTY.
14. "DHS" is the County of Los Angeles Department of Health Services.
15. "DPH" is the County of Los Angeles Department of Public Health.
16. "Deliverable" shall mean a service, product or good to be provided by Contractor to County under this Agreement and identified in the Statement of Work or any executed Amendment.
17. "Derivative Works" includes Program Data (defined below) and other deliverables created by CONTRACTOR from Participant Data (defined below) and/or Program Data, and used by COUNTY or Contractor for data analyses that relate to a health care organization's quality improvement activities and healthcare operations.
18. "Designated Equipment" shall mean computers, servers and other equipment which meet or exceed the Minimum Configuration as shown on Exhibit F (Minimum Configuration) upon which the Licensed Programs are to be installed.
19. "Director," unless otherwise specified, shall mean the Director of Health Services.
20. "Documentation" shall mean any and all written and electronic materials provided or made available by Contractor under this Agreement, including, but not limited to, documentation relating to software specifications and functions, training course materials, specifications including system requirements, technical manuals, handbooks, flow charts, technical information, reference materials, user manuals, operating manuals, quick reference guides,

FAQs, and all other instructions and reference materials relating to the capabilities, operation, installation and use of the System Application and/or applicable components.

21. "Enrolled Licensed Programs" or "Enrolled Licensed Modules" or "Modules" shall mean the Licensed Programs, including the Materials that COUNTY has licensed.
22. "Error" shall mean a failure of the Licensed Programs to perform in accordance with the Operating Instructions which is present and is replicated in the generic copy of the Licensed Programs maintained by Contractor for the purpose of supporting a COUNTY but excludes any failure to perform which arises due to a failure by the COUNTY to follow the Operating Instructions.
23. "Existing IPRs" shall mean the IPRs (defined below) in existence and belonging to a Party prior to commencement of the Agreement, which for greater certainty include, as between COUNTY and Contractor, CONTRACTOR's ownership and/or license rights as to third party software of all IPRs in the Licensed Programs and Materials; and as to COUNTY, the Participant Data (defined below).
24. "Health Care Operations" shall have the meaning as defined under HIPAA and its implementing regulations.
25. "Holidays" shall mean U.S. holidays based on CONTRACTOR's holiday calendar.
26. "Hourly Labor Rate" shall mean the fully burdened hourly rate set forth in Exhibit B – Pricing and Schedule of Payments, for Professional Services and Additional Work, as applicable, that the Contractor may provide in the form of Additional Work requested by County.
27. "Intellectual Property Rights" or "IPRs" shall mean intellectual property rights and property rights of any nature whatsoever including without limitation patents, patent applications, copyright, know-how, technical and commercial information, design (whether registered or unregistered), design rights, internet domain names, database rights, trademarks, service marks or business names, applications to register any of the aforementioned rights and trade secrets and rights of confidence, in each case in any part of the world and whether or not registered or registerable.
28. "Interfaces" shall mean software mechanisms which allow the transfer of electronic data or software commands between computer systems, computer programs or computer program modules, including all components and Documentation. Interfaces include those which may be provided by Contractor in the form of Software Modifications upon County's request therefor pursuant to Sub-paragraph 4.2d, Additional Work. The Interfaces are and shall become components of the Software.
29. "Internal Operations" shall mean all business activities of COUNTY, current or in the future, for the processing of COUNTY's own data, but shall specifically exclude Processing or facilities management services for any third party.
30. "Licensed Programs Database Structure" shall mean the whole or part of any database structure or schema or file format used by the Licensed Programs to store or access data input into the Licensed Programs.
31. "Licensed Programs" shall mean the software programs in object code form, including any Update or other new software supplied from time to time as agreed in writing, and the Licensed Programs Database Structure associated therewith.

32. "Materials" shall mean any CONTRACTOR property offered pursuant to the terms of this Agreement that is derived from its aggregated databases, including its UHC Safety Intelligence database, formerly known as the Patient Safety Net® Database (the "UHC Safety Intelligence Database"), and the various reports generated thereunder; online reports accessed via CONTRACTOR's web site; programs, program listings, programming, Program Data as well as any literary works or other works of authorship and Derivative Works (defined above).
33. "Minimum Configuration" shall mean the minimum hardware and software configuration advised by CONTRACTOR to the COUNTY as shown in Exhibit F (Minimum Configuration).
34. "New Release" shall mean any new version of the Licensed Programs issued which incorporates functionality which, in the opinion of CONTRACTOR, materially improves upon, or is in addition to, the functionality of the then current version of the Licensed Programs.
35. "Operating Instructions" shall mean the whole or any part, or copy, of the instructions and procedures contained within the Licensed Programs.
36. "Out-of-Pocket Expenses" shall mean the CONTRACTOR's reasonable and necessary expenditures for CONTRACTOR's staff transportation, means, and lodging, but not-to-exceed the limits set forth in the then current Chapter 5.40 (Travel and Other Expenses) of the County Code.
37. "Participant" shall mean the County of Los Angeles, the entity designated as COUNTY in this Agreement, including but not limited to its participating County departments, the Department of Health Services, the Department of Public Health, the Department of Mental Health, the Sheriff's Department, and the Fire Department.
38. "Participant Data" shall mean the data that COUNTY provides to CONTRACTOR.
39. "Patient Safety Work Product" or "PSWP" shall mean any data reports, records, memoranda, analyses (such as Root Cause Analyses), or written or oral statements (or copies of any of this material) which could improve patient safety, health care quality, or health care outcomes that: 1) are assembled and developed by the County for reporting to the PSO and are reported to the PSO; or, 2) are developed by the PSO for the conduct of patient safety activities; or, 3) identifies or constitutes the deliberations or analysis of, or identify the fact of reporting pursuant to, a patient evaluation system. .
40. "Pool Dollars" shall mean the maximum amount allocated under this Agreement for the provision by Contractor of Additional Work, approved by County in accordance with the terms of this Agreement.
41. "Post-Implementation Work" refers to Additional Work to be provided by Contractor after the Acceptance Date in accordance with Section 4.2d (Additional Work).
42. "PSO" shall mean Patient Safety Organization, and for purposes of this Agreement shall mean the UHC Safety Intelligence™ PSO A PSO is an entity that is verified by Agency for Healthcare Research and Quality (AHRQ) to have met certain criteria established in the Patient Safety Rule, 42 C.F.R. Part 3 (73 FR 70732), whose primary activity is to conduct activities to improve patient safety and health care quality; and has expertise in analyzing patient safety events, such as the identification, analysis, prevention, and reduction or elimination of the risks and hazards associated with the delivery of patient care.

43. "Processing" in relation to data, shall mean obtaining, recording or holding that data or carrying out any operation or set of operations on such data.
44. "Professional Services" shall mean software design, development and implementation, custom programming, any associated training, consulting and other professional services, which may be provided by CONTRACTOR under this Agreement or upon COUNTY's request.
45. "Program Data" shall mean aggregated, de-identified data created using both Participant's Data (defined above) and the data of other UHC member's database.
46. "Software Modifications" shall mean additional customizations, including all components and Documentation, which may be provided by Contractor under this Agreement or upon County's request therefor pursuant to Sub-paragraph 4.2d (Additional Work).
47. "Support" shall mean (i) error correction in accordance with the Statement of Work; (ii) attendance by the COUNTY at Applied Learning opportunities and (iii) any other support as to which Contractor and the COUNTY shall agree in writing.
48. "Support Copy" shall mean a replica of the in-production Enrolled Licensed Programs which the COUNTY is licensed to use, which Support Copy is maintained by the COUNTY at the Site and which is only populated with anonymized or dummy data.
49. "System Requirements" shall mean business, operational, technical and/or functional requirements relating to the operation or utilization of the System, as specified in Exhibit F (Minimum Configuration).
50. "Task" shall mean one or more major areas of work to be performed under this Agreement and identified in the Statement of Work or any executed Amendment.
51. "UHC" is the University HealthSystem Consortium.
52. "UHC's Safety Intelligence™, Powered by Datix ("SI") software platform" or "SI software platform" or "Software Application" shall mean the locally hosted web-based tool for real-time event reporting, tracking and trending of patient safety events
53. "UHC Service Desk" shall mean CONTRACTOR-provided single point of contact to enable APCs to access technical help in the event that the COUNTY encounters any Errors in the Enrolled Licensed Programs which prevent the Enrolled Licensed Programs from running, including configurations and customizations made to the Enrolled Licensed Programs by CONTRACTOR under the terms of the Agreement.
54. "Update" shall mean a modification or addition by CONTRACTOR to the then current version of the Licensed Programs.

### **Section 3. License.**

- 3.1 County Grant of Right to Use Data.** COUNTY hereby grants CONTRACTOR the right to use Participant Data and create Derivative Works, subject in all events to the terms and conditions in this Agreement. As a condition of the grant of such right of use, in no event shall Derivative Works utilize COUNTY's Participant Data so that it is identifiable to

any person, except authorized COUNTY personnel, as that of COUNTY, its personnel or patients.

**3.2 Contractor License Grant.** Subject to Section 7 (Ownership of Data and Services), CONTRACTOR hereby grants COUNTY for the Term provided in Section 5 of this Agreement, a limited, non-exclusive and nontransferable license:

- a. To use, install, integrate with other software, operate and execute the Software Application on an unlimited number of computers, servers, local area networks and wide area networks for use by Los Angeles County Users
- b. To configure the configurable aspects of the Software Application;
- c. To use, modify, copy and display the Derivative Works or Materials, as necessary or appropriate for COUNTY to enjoy and exercise fully the rights granted under this Agreement and the License, provided COUNTY uses commercially reasonable efforts to not exclude or redact any existing copyright notices on said Derivative Works or Materials;
- d. To use solely for the purposes of the Internal Operations of COUNTY.

**3.3 License Restrictions.** Notwithstanding the terms of Section 3.2 (Contractor License Grant) above, COUNTY agrees that it may not use the Enrolled Licensed Programs or Materials for the purposes of processing data for or on behalf of any third party, including operation of a service bureau or time-share arrangement; assign, sub-license, transfer, sell, lease, rent, charge, or otherwise deal with, or encumber, the Enrolled Licensed Programs or Materials, nor use on behalf of, or make available the same to, any third party, nor use the same to provide services to any third party; or reverse engineer, disassemble and/or decompile the whole or any part of the Enrolled Licensed Programs or Materials from object code into source code or permit any software or other program to be written or developed based on or derived from the Enrolled Licensed Programs, the Materials or the Operating Instructions.

**3.4 Express Condition of License.** COUNTY acknowledges and understands that its use of the Licensed Programs and access to the Materials and Derivative Works is subject to the express condition that CONTRACTOR and COUNTY protect and secure the confidentiality of the Licensed Programs, Materials and Derivative Works and not disclose such protected information, and that CONTRACTOR and COUNTY shall use such protected information solely in accordance with the restrictions set forth in this Agreement.

**3.5 Data Aggregation Services.** CONTRACTOR will provide Data Aggregation services, aggregate all relevant Participant Data, apply any program specific, value-added processing, which may include, but is not limited to, application of risk and cost adjustment modifiers, and make Program Data and any Derivative Works available to COUNTY pursuant to CONTRACTOR's standards, processes, schedules, data security and internet security policies. COUNTY will provide data via an automated secure data feed to be uploaded to CONTRACTOR's servers, in accordance with CONTRACTOR's program guidelines.

**3.6 Contractor Right to Modify Licensed Programs and Materials.** CONTRACTOR reserves the right to sunset or discontinue any element of the Licensed Program or

Materials, as well as merge one or more elements of the Licensed Programs or Materials into another product upon reasonable notice to the COUNTY

#### **Section 4. Responsibilities of Parties.**

**4.1 County Responsibility.** COUNTY will submit Participant Data and any other information as required by CONTRACTOR to ensure proper utilization of the Software Application, as described in Exhibit A (Statement of Work).

#### **4.2 Contractor Responsibilities.**

a. **Scope of Work.** Pursuant to the terms of this Agreement, CONTRACTOR shall provide, complete and deliver all Work set forth in this Agreement, including in Exhibit A (Statement of Work) and/or in any executed Change Notice or Amendment, in each case, in accordance with this Agreement, and other specifications. Additionally, CONTRACTOR shall provide, complete and deliver such Work in accordance with the timeframes required by this Agreement, including the Project Plan in Exhibit A (Statement of Work) and/or any executed Change Notice or Amendment.

b. **Data Conversion and Implementation.** Data conversion and implementation of the Software Application shall only be provided by CONTRACTOR following receipt of a notice to proceed from the County Project Director. Such notice will not be provided until acceptance tests have been completed pursuant to Exhibit A, Paragraph 2.4 (Statement of Work); however, the County Project Director may waive this requirement.

c. **Maintenance and Support Services.** In exchange for COUNTY's payment of the applicable Maintenance and Support Fees in accordance with this Agreement, CONTRACTOR shall provide maintenance and support services for the Software Application, as described in, and in accordance with Exhibit A (Statement of Work), Exhibit B (Price and Schedule of Payments), Exhibit A, Attachment 2 (Support Response Times), and otherwise in this Agreement, including the provision of Updates and New Releases (collectively, "Maintenance and Support Services").

#### **d. Additional Work.**

(a) Upon written request of County Project Director and execution of a Change Notice or Amendment pursuant to Sections 14.3 (Change Notices) and 14.4 (Amendments), CONTRACTOR shall provide the applicable of the following to COUNTY as Additional Work (including Post-Implementation Work):

(i) Software Modifications creating new functionality or Interfaces outside of the scope of the Enrolled Licensed Programs, as they then exist, and not then-required to be provided by Contractor under this Agreement, or otherwise in the Statement of Work;

(ii) Software, tools and other products relating to the Software Application, outside of the scope of the Enrolled Licensed Programs, as they then exist, and not then-required to be provided by CONTRACTOR under this Agreement, including under Exhibit A (Statement of Work);

- (iii) Professional Services outside of the scope of services then-required to be provided by CONTRACTOR under this Agreement, including Exhibit A (Statement of Work);
- (b) Additional Work shall utilize and be capped by the available Pool Dollars. In no event shall COUNTY be obligated to pay in excess of the then-available Pool Dollars for Additional Work, nor shall CONTRACTOR be required to perform any Additional Work for which there are no Pool Dollars available to pay CONTRACTOR.
- (c) Additional Work shall be treated by the parties as a change requiring the execution of a Change Notice or Amendment pursuant to Sections 14.3 and 14.4 (Change Notices and Amendments).
- (d) Upon COUNTY's request for Additional Work, CONTRACTOR shall provide to COUNTY, within fourteen (14) calendar days of receipt of such request, a written quotation of a "not-to-exceed" amount for completion and delivery of the requested Work, identifying Contractor staff and estimated personnel hours recommended for completion of such Work, using the Hourly Labor Rate and setting forth Out of Pocket Expenses, if any. The COUNTY may grant to CONTRACTOR additional time in excess of fourteen (14) calendar days, as needed, to allow for a sufficient written quotation to be prepared. With respect to any request, the portion of the "not-to-exceed" amount allocated to (i) any Out-of-Pocket Expenses associated with such Professional Services, and (ii) any other Professional Services, shall not exceed the limits set forth in the then current Chapter 5.40 (Travel and Other Expenses) of the COUNTY Code, which may be adjusted by the County Auditor-Controller as provided in this County Code section.
- (e) If COUNTY finds the "not-to-exceed" amount acceptable, Contractor and COUNTY shall mutually and cooperatively draft the applicable of a Change Notice or Amendment under Sections 14.3 and 14.4 (Change Notices and Amendments), which includes all applicable of the following:
  - (i) A functional description of the Work to be performed under the Change Notice or Amendment and a statement, signed by Contractor Project Director, which explains and certifies that the Additional Work is outside the scope of Work then-required of Contractor under this Agreement;
  - (ii) For Software Modifications, additional system requirements and other specifications;
  - (iii) A description of all Tasks and Deliverables;
  - (iv) A completion schedule for all Tasks and Deliverables identifying a final delivery date for completed Work and any post-delivery acceptance period;
  - (v) A payment schedule for all Tasks and Deliverables;
  - (vi) A description of, and Contractor's cost of, any (i) applicable hardware, (ii) third party software, or (iii) other materials required to complete the requested Work; and

- (vii) If applicable, a revised Task and Deliverable completion schedule under the Statement of Work for the remaining Work (other than the Work requested under the Change Notice or Amendment).
- (f) Contractor's quotations under each proposed Change Notice and Amendment for Additional Work shall be valid for at least sixty (60) days from the date of submission to COUNTY, unless another period is agreed to by COUNTY and Contractor.
- (g) Upon completion and delivery by Contractor, and acceptance by COUNTY, of any Software Modifications, such Software Modifications, as the case may be, shall become part of and be included in the Software Application.

### **Section 5. Term and Termination.**

- 5.1 The term of this Agreement is effective upon execution by both Parties through December 31, 2018, unless earlier terminated in accordance with the terms of this Agreement.
- 5.2 COUNTY shall have the sole option to extend this Agreement term for up to two (2) additional three-year periods. Each such option and extension shall be exercised at the sole discretion of the County Project Director or his designee as authorized by the Board of Supervisors and effectuated through an Amendment in accordance with Section 14.4.
- 5.3 In the event either Party is declared insolvent or bankrupt, is the subject of any proceedings relating to its liquidation, insolvency or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or adjustment of all or substantially all of its obligations, then the other Party hereto may, by giving written notice thereof to such Party, terminate this Agreement as of the date specified in the notice of termination. All rights and licenses granted under or pursuant to this Agreement are, for purposes of Section 365(n) of the United States Bankruptcy Code (or any other sections of the United States Bankruptcy Code that addresses rights in executory contracts) 11 USC Section 101, et seq. (the "Bankruptcy Code"), licenses of rights to "intellectual property" as such term is defined under the Bankruptcy Code. The Parties agree that COUNTY shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code, and that COUNTY shall have the right to retain and enforce its rights under this Agreement.
- 5.4 COUNTY has the right to terminate this Agreement, or to terminate a particular Enrolled Licensed Program, for any reason, with 30 days written notice to Contractor.
- 5.5 Contractor has the right to terminate this Agreement for cause with one hundred eighty (180) days written notice to COUNTY. If Contractor terminates for cause, Contractor shall provide COUNTY an opportunity to cure within the 180 day period, with the termination to be effective at the end of the 180 day period unless COUNTY has cured the specified cause. Upon receipt of notice of Contractor's intent to terminate for cause, COUNTY would immediately cease such claimed unauthorized actions and the parties would initiate a non-binding dispute resolution process pursuant to Section 13.4. Disputes, so long as the County would continue to be provided services and access through this Agreement.

- 5.6 Upon any termination, expiration, non-renewal or rescission of this Agreement, CONTRACTOR (a) shall return or destroy Participant's Data, to the extent feasible, at COUNTY's direction and in accordance with HIPAA and its implementing regulations and any other governing confidentiality law or regulation and (b) in the event COUNTY terminates this Agreement for cause, then CONTRACTOR shall promptly refund to COUNTY, the pro-rated prepaid Annual Fee for the remainder of the then-current term of this Agreement. There shall be no refund of implementation fees upon termination.

## **Section 6. Prices and Fees.**

- 6.1 **General.** Attached to this Agreement as Exhibit B (Price and Schedule of Payments) is a schedule of all fees and rates that may be applicable to this Agreement as of the Effective Date, including (a) a payment schedule of fees for the Enrolled Licensed Programs, (b) Pool Dollars and Hourly Labor Rate(s) for Additional Work.
- 6.2 **Maximum Obligation of County.** For the initial term of the Agreement, the maximum obligation of the COUNTY shall not exceed \$1,367,600. If COUNTY decides to exercise the extension options, COUNTY will initiate price negotiations for the extension period(s) twelve (12) months prior to the expiration of the current term. COUNTY will require Board approval to implement the maximum obligation for the extension period(s), effectuated through an Amendment in accordance with Section 14.4.
- 6.3 **Initial and Implementation Fees.** COUNTY agrees to pay the Initial Fees and Implementation Fees within 30 days of the Acceptance Date for each County department pursuant to the Schedule A of Exhibit B (Price and Schedule of Payments). UHC shall send an initial invoice at the Acceptance Date by the COUNTY department.
- 6.4 **Annual Fees.** Except as provided below in Subsection 6.4.1, COUNTY agrees to pay Annual Fees, as provided in Exhibit B (Price and Schedule of Payments) by December 31 of each preceding year. The Annual Fees for subsequent years will be outlined in a CONTRACTOR invoice sent to COUNTY no later than December 1 of the preceding year
- 6.4.1 For the first year only, CONTRACTOR shall not invoice COUNTY after Acceptance Date by each COUNTY department for the period ending on June 30, 2014. Any unused prepaid Annual Fees for the period January 1, 2014 through June 30, 2014, as referenced in Amendment 2 to Agreement H-701781, shall substitute the entirety of the said period's Annual Fees, for all County departments. For the period July 1, 2014 through December 31, 2014, CONTRACTOR shall invoice the COUNTY the Annual Fees prorated monthly, for each County department.
- 6.4.2 In the event such fees are unpaid by their due date, at CONTRACTOR's option, CONTRACTOR may terminate this Agreement in accordance with Section 5.5. No refunds will be made for the time participation was suspended.
- 6.4.3 The Director, or his designee, may amend Exhibit B (Price and Schedule of Payments) on an annual basis to reflect the Annual Fee increase approved by the UHC Member Board of Directors, if any. Increases shall be capped at 2.5% of the preceding year's listed Annual Fees or the rate increase approved by the

UHC Board directors, whichever is less. Actual increases to the revised Annual Fees shall not exceed the preceding year's listed Annual Fees by more than 2.5%, the established price cap. CONTRACTOR shall submit a verification letter acceptable to the COUNTY listing the approved increase by the UHC Member Board of Directors with justification for the said increase. The amended Annual Fees will form the new baseline for subsequent maximum 2.5% increases.

- 6.5 **Pool Dollars.** Exhibit B (Pricing Schedule) includes the pool of dollars ("Pool Dollars") available under this Agreement for the acquisition of Additional Work and Post-Implementation Work, as contained in Exhibit A (Statement of Work) using a Change Notice or Amendment in accordance with Sections 14.3 and 14.4. The total amount of available Pool Dollars shall be decreased by each Change Notice or Amendment in accordance with Sections 14.3 and 14.4 and may only be increased by executing an Amendment in accordance with Section 14.4.
- 6.6 **Taxes.** License fees, and any implementation fees and any other charges assessed by CONTRACTOR from time to time do not include value added, service and/or sales taxes, which amounts shall be payable by the COUNTY in addition to the aforementioned fees and charges by the COUNTY in the manner and at the rate from time to time prescribed by law.

## **Section 7. Ownership of Data and Services.**

- 7.1 **Ownership Rights of Data.** Each Party shall retain ownership of its own Existing IPRs and its own Confidential Information. COUNTY will retain ownership of all its own institutional Participant Data. CONTRACTOR shall be entitled to the aggregated Participant Data, to all Derivative Works and to all Program Data, subject only to the license and limited right to use expressly granted to COUNTY herein.
- 7.2 **Intellectual Property Rights Warranty.** CONTRACTOR represents that it has the necessary licenses of third-party software, including licenses with Datix (USA) Inc., to provide the license under this Agreement to COUNTY. If the Software Application or Enrolled Licensed Programs, in whole or in part, is held to constitute such infringement and the use of any of it is enjoined, then, in addition to its indemnification obligations hereunder, CONTRACTOR, at its cost, shall promptly:
- a. procure for COUNTY and its affiliates the right to continue using the same;
  - b. replace the enjoined services or components with non-infringing services or components of at least equivalent functionality, or;
  - c. modify the Software Application or the Enrolled Licensed Programs so that it becomes non-infringing, and/or;
  - d. discontinue the affected Enrolled Licensed Programs and refund to COUNTY the prorated share of any fees paid in advance under this Agreement.
- 7.3 **Ownership of Software Application.** Subject to Section 7.1 above, as between CONTRACTOR and COUNTY, CONTRACTOR shall be entitled to all CONTRACTOR created property, copyright and

other IPRs arising out of or in connection with this Agreement and the Licensed Programs, Program Data and Derivative Works including any IPRs created by CONTRACTOR under recommendation of, or by suggestion from the COUNTY. Further, the COUNTY agrees that, CONTRACTOR shall be permitted to use any know-how, ideas, methods, process or techniques which relate to any developments arising out of the provision of or in connection with this Agreement for the purposes of CONTRACTOR's business from time to time provided that CONTRACTOR does not use any Confidential Information belonging to COUNTY for that purpose.

## **Section 8. Confidentiality and Nondisclosure.**

- 8.1 **Confidential Information.** By virtue of this Agreement, the Parties acknowledge they will have access to confidential, trade secret and proprietary information, including but not limited to Confidential Information. Each of the Parties agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its respective employees or agents in violation of the terms of this Agreement.
- 8.2 **Internal Use Only.** The Parties agree that neither shall make any attempt, nor permit any other person or entity, to identify any specific physician or patient (other than COUNTY's own physicians or patients as permitted by law and COUNTY's policies), as a result of manipulation or use of Program Data or Confidential Information. With respect to any Confidential Information that is wholly or partially identifiable, the Parties and any properly authorized user shall use such information "for internal use only" and shall not use any Program Data or Confidential Information in any form outside CONTRACTOR or COUNTY's institution, unless it meets all requirements in this Agreement and is masked, blinded or otherwise protected to preclude the identification of all institutions and patients.
- 8.3 **Express Condition of License.** CONTRACTOR and COUNTY acknowledge and understand that their use of Program Data and of Participant's Data is subject to the express condition that CONTRACTOR and COUNTY protect and secure the confidentiality of the Participant Data, Program Data, Derivative Works and Confidential Information, not disclose such protected information, and that CONTRACTOR and COUNTY shall use such protected information solely in accordance with the restrictions set forth in this Agreement.
- 8.4 **Third-Party Disclosure.** As part of this License to COUNTY, COUNTY may disclose the Program Data on a need-to-know basis with certain third-party financial, legal and operational advisors, including consultants, provided that such third-parties have executed an agreement that requires them to abide by all the terms and conditions of this Agreement, including but not limited to the confidentiality provisions. In the event COUNTY or CONTRACTOR is required by law, regulation, or order of any governmental authority to disclose Confidential Information, that party will first notify the other as soon as possible following demand and prior to disclosure and cooperate in any response to such required disclosure, including seeking a protective order or in-camera inspection.

## **Section 9. 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 E in order to provide those services. The COUNTY and the Contractor therefore agree to the terms of Exhibit E (Business Associate Under Health Insurance Portability and Accountability Act of 1996 (HIPAA)).

#### **Section 10. Access to Contractor's Records.**

- 10.1 To the extent that 42 U.S.C. 1395x(v)(1)(I) is applicable, any regulations implementing such Section or any successor statutory provision or regulations (collectively called the "Provisions"), until the expiration of five (5) years after the furnishing of any service pursuant to this Agreement, CONTRACTOR will make available at CONTRACTOR's cost, upon written request of the Secretary of the Department of Health and Human Services or their duly authorized representative, copies of the Agreement and any records of CONTRACTOR that are necessary to certify the nature and extent of costs incurred by COUNTY for such services.
- 10.2 If CONTRACTOR carries out any of its duties under this Section through a subcontract with a related organization involving a value or cost of \$10,000 or more over a twelve (12) month period, CONTRACTOR will get such subcontract approved by COUNTY and will cause such subcontract to contain a clause to the effect that, until the expiration of five (5) years after the furnishing of any service pursuant to said agreement, the related organization will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States, or any of their duly authorized representatives, copies of records of said related organization that are necessary to certify the nature and extent of cost incurred for such service.

#### **Section 11. Publication Rights.**

Use of Program Data within COUNTY's own institution for internal purposes outlined in Section 8.2 will not constitute publication, as referred to in this Section 11.

- 11.1 COUNTY may publish a review, conduct and publish research, or do written analyses (collectively called a "Manuscript"), based upon information from reports generated by the Licensed Programs or from the Program Data subject to the following restrictions:
- a. No individual patient, institution or group of institutions may be identified or identifiable in, or based upon, the Manuscript, including any footnotes, endnotes, graphs or charts;
  - b. No individual patient, institution or group of institution's Participant Data or Program Data may be linked to that institution or group of institutions in, or based upon, the Manuscript;
  - c. COUNTY may not compare its Participant Data or Program Data or performance to any other identifiable institution or identifiable group of institutions;

- d. COUNTY shall report the Program Data, in aggregate by combining the such Data of at least five (5) institutions and report that data in a manner that cannot lead to the identification of the particular Data or data source; and
- e. Any Manuscript that contains Program Data, relies on such data, or contains an analysis based upon data **must first be approved for publication** by the UHC Vice President, Performance Improvement, and **must** contain the following statement:

"The information contained in this article was based in part on the UHC Safety Intelligence database, formerly known as the UHC Patient Safety Net® database maintained by CONTRACTOR. Copyright [current year]. All rights reserved."

- f. CONTRACTOR represents and warrants to COUNTY that it will require at least the same limitations on use of Program Data from other licensees of the Software Applications, the intent being the preservation of the confidentiality and integrity of Participant Data.

11.2 COUNTY reserves the right to use Participant's Data for any purpose as desired without restrictions.

## **Section 12. Disclaimer and Limitation of Liability.**

12.1 **General Disclaimer.** The programs, products, services and data provided by CONTRACTOR under this agreement are provided "as is." CONTRACTOR will rely upon information provided to CONTRACTOR by COUNTY, and makes no warranties with regard to the accuracy of the information provided by COUNTY and will make no independent evaluation to assure the accuracy of the information provided. CONTRACTOR makes and COUNTY receives no warranty, express or implied, as to the validity of any data provided by Participant hereunder or its appropriateness for use in any manner. There are expressly excluded from this agreement all warranties of merchantability, fitness for a particular purpose, and any warranties arising by law, statute, usage of trade, or course of dealing. COUNTY acknowledges that the programs, products, services, and data provided hereunder are not a substitute for Participant's independent professional judgment and that the risk as to the use of the products and services provided hereunder is assumed by COUNTY.

12.2 **Limitation of Liability.** Except as to indemnification obligations under this agreement, neither party shall be liable for any punitive, special, indirect, incidental, or consequential damages, including lost profits, even if it has been advised of the possibility thereof. In any event, but except as to indemnification obligations under this Agreement, the Parties' liability to each other shall be limited to the amounts actually paid by COUNTY to CONTRACTOR during the term in which the damage alleged occurred.

## **Section 13. Indemnifications/Insurance**

13.1 **Indemnification by Public Entities.** If COUNTY is a public or governmental entity whose applicable governing law would prohibit it from agreeing to all or portions of this Section 13, such Sections or parties thereof will not be considered part of this Agreement and will not apply to COUNTY.

13.2 Intentionally omitted.

13.3 **Intellectual Property Indemnification.** CONTRACTOR will indemnify, defend and hold harmless COUNTY, its affiliates and their respective trustees, officers, employees and agents from any and all losses, claims, proceedings, liabilities, judgment, awards and costs (including, without limitation, reasonable attorneys' fees and costs) arising out of or related to any claim that COUNTY's access to or use of the Software Application or any Enrolled Licensed Programs or the license granted hereunder infringes or violates the patent, copyright, trade secret or other proprietary right of any third party. CONTRACTOR shall defend with counsel reasonably acceptable to COUNTY and settle at its cost all suits or proceedings related to the foregoing, provided that no settlement that prevents COUNTY from using the Software Application or Enrolled Licensed Programs will be made without COUNTY's express written consent. In all events, COUNTY and its affiliates shall have the fight, at their own cost, to - participate in the defense of any such suit or proceeding through counsel of their own choosing.

13.4 **Disputes.**

- a. A "Dispute" shall be defined as any dispute, controversy or claim arising out of, relating to, involving or having any connection with this Agreement or otherwise related to CONTRACTOR's services, including any question regarding the validity, interpretation, scope, performance, breach, or enforceability of this dispute resolution provision (a "Dispute").
- b. Dispute resolution procedures ("Dispute Resolution") shall be initiated as follows:
  - i. CONTRACTOR shall first provide written notification to the COUNTY pursuant to Section 15. Notices regarding a Dispute.
  - ii. The Parties intend that any Dispute between the Parties of any nature relating to this Agreement or arising from the transactions contemplated hereby will be first addressed between the County's Project Director or his/her designee and the Contractor's Project Director or his/her designee, for as long a duration and as promptly as the Parties deem necessary to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute. The County's and Contractor's Project Directors or their designees shall attempt to resolve the Dispute within 30 days of the CONTRACTOR's written notification of the Dispute.
  - iii. If after 30 days the County's and Contractor's Project Directors are unable to resolve the Dispute, the Dispute will be referred concurrently to each Parties' Director/CEO or their designees. The Director/CEO or their designees will use reasonable efforts to resolve such Dispute or, if appropriate, to negotiate a modification or amendment to this Agreement. The Director/CEO or their designees will meet as often, for as long a duration and as promptly as the Parties reasonably deem necessary to discuss the Dispute and negotiate in good faith in an effort to resolve the Dispute. The Director/CEO of their designees shall attempt to resolve the

Dispute within 30 days from the date the Dispute is referred to each Party's Director/CEO or their designees.

- iv. Legal proceedings in the form of a civil action for the resolution of a Dispute may not be commenced until the earlier of:
  - 1. the good faith determination by the Director/CEO of their designees that amicable resolution through continued negotiation of the matter does not appear likely; and
  - 2. 30 days following the date that the Dispute was first referred to the Director/CEO of their designees.
- v. In the event that legal proceedings are initiated for the resolution of a Dispute, the Parties hereby agree to enter into non-binding mediation to resolve any Dispute that arises in connection with this Agreement. If no resolution is reached within sixty (60) days after the first meeting of the Parties with the mediator(s), or within one hundred eighty (180) days from the initial notice of the Dispute, then CONTRACTOR may take the Dispute to any applicable court venued in Los Angeles County, and/or termination of the Agreement may be effective in accordance with Section 5.5. The provisions of this Section 13 shall not apply to any claim for injunctive relief.
- c. During the course of such discussions, all reasonable requests made by one Party to another for non-privileged information, reasonably related to the Dispute, will be honored in order that each of the Parties may be fully apprised of the other's position. The specific format for such discussions will be left to the discretion of the Parties, but may include the preparation of agreed-upon statements of fact or written statements of position.
- d. The Dispute Resolution set forth herein provides that either party may pursue injunctive relief as appropriate to address potential irreparable harm prior or contemporaneous to invoking the Dispute Resolution of Section 13.4 Disputes.
- e. Any escalation or mediation procedures for addressing disputes relating to breaches of a party's IPR or Confidential Information may be performed on an expedited basis upon agreement between the Parties.

**13.5 General Insurance Requirements.** Without limiting each Party's indemnification of the other and during the term of this Agreement, each Party shall provide and maintain the programs of insurance specified in this Agreement. Each Party's insurance shall be primary to and not contributing with any other insurance or self-insurance programs maintained by the other and such coverage shall be provided and maintained at each Party's own expense. The COUNTY, at its sole option, may elect to satisfy these requirements through a program of commercial insurance or self-insurance coverage, or any combination thereof. Commercial insurance is to be provided by an insurance company with an A.M. Best rating of not less than A: VII, unless otherwise agreed to by the Parties.

**13.5.1 Evidence of Insurance.** Each Party shall provide the other a Certificate of Insurance, or of Self-Insurance, upon execution of this Agreement. Such Certificate shall clearly evidence all coverages and limits required in this

Agreement, provide the express condition that each Party be given written notice by mail at least thirty (30) days in advance of cancellation for all policies evidenced on the certificate of insurance, and have attached a copy of the additional insured endorsement to the commercial general liability policy, to verify the other Party has been added as an insured for all activities arising from this agreement.

13.5.2 **Failure to Maintain Coverage.** In the event of failure by CONTRACTOR to maintain the required insurance, or to provide evidence of insurance coverage to COUNTY, COUNTY shall have the right to terminate or suspend this Agreement, effective immediately.

### 13.6 Insurance Coverage Requirements.

13.6.1 **General Liability Insurance** (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate:	\$2 million
Products/Completed Operations Aggregate:	\$1 million
Personal and Advertising Injury:	\$1 million
Each Occurrence:	\$1 million

13.6.2 **Additional Insurance.** Contractor shall maintain during the Term of this Agreement the following additional insurance: (1) Security and Privacy Liability insurance with minimum limits of Three Million Dollars (\$3,000,000) per occurrence and annual aggregate, with a Regulatory Action sublimit of liability being One Million Dollars per occurrence and annual aggregated (\$1,000,000), and (2) Cyber liability insurance in a minimum amount of One Million Dollars (\$1,000,000) per claim and in the aggregate

## Section 14. Additional Terms

14.1 **Survival.** The provisions of the following Sections shall survive termination or expiration of this Agreement.

- Section 3.3 - License Restrictions
- Section 4 - Responsibilities
- Section 6 - Prices and Fees
- Section 7 - Ownership of Data and Services
- Section 8 - Confidentiality and Non-Disclosure
- Section 10 - Access to Contractor Records
- Section 11 - Publication Rights
- Section 12 - Disclaimer and Limitation of Liability
- Section 13 - Indemnification/Insurance
- Section 14 - Additional Terms

14.2 **Entire Agreement.** This Agreement constitutes the entire understanding between the Parties as to the subject matter hereof, supersedes all prior agreements and negotiations thereto. The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties.

- 14.3 **Change Notices.** For any change which is clerical or administrative in nature (e.g., changes to Contractor or COUNTY contact information, or to correct or clarify any published statement, other clerical corrections, etc.) and/or does not affect the Statement of Work, period of performance, amount of payments, or any other term or condition of this Agreement, a Change Notice shall be executed by both the COUNTY's Project Director and Contractor Project Director.
- 14.4 **Amendment.** For any change which affects the Statement of Work, period of performance, amount of payments, or any other term or condition of this Agreement, an Amendment shall be authorized by the Board of Supervisors and executed by authorized representatives of COUNTY and CONTRACTOR. Notwithstanding the foregoing, the Director, or his designee, may execute Amendments on behalf of the COUNTY under this Section 14.4 which do any of the following, subject to the availability of funding:
- 14.4.1 Implement any Option Term provided for under Section 5 (Term and Termination). In connection therewith, such Amendment may also (a) elect to have CONTRACTOR to provide Maintenance and Support Services as is contemplated under Exhibit A (Statement of Work), for such Option Term, provided that (i) pricing for the Maintenance Fees or Hosting Fees, as the case may be, shall not exceed the pricing set forth in Exhibit B (Price and Schedule of Payments) for such Option Term, and (ii) such Amendment has written concurrence of the County Project Director and approval as to form by COUNTY Counsel, and (b) increase the Pool Dollars for such Option Term in an amount not to exceed ten percent (10%) of the aggregate Maintenance Fees for such Option Term.
- 14.4.2 Update the Exhibits and/or Attachments to this Agreement (a) to move Work, and/or (b) as is necessary to reflect approved Deliverables, provided that such Amendment has approval as to form by County Counsel.
- 14.4.3 Engage Contractor to provide Additional Work under Section 4.2.d (Additional Work) that requires a change to any term or condition of this Agreement, provided that any such Amendment (a) includes all applicable items described under Section 4.2.d (Additional Work), (b) has written concurrence of County Project Director or such person's designee, (c) if for Software Modifications, has written concurrence of County Project Director, and (d) has approval as to form by COUNTY Counsel.
- 14.4.4 The Board of Supervisors or COUNTY's Chief Executive Officer, or designee, may require the addition and/or change of certain terms and conditions in the Agreement during the Term. COUNTY reserves the right to add and/or change such provisions as may be required by COUNTY's Board of Supervisors or Chief Executive Officer. To implement such changes, an Amendment to the Agreement shall be prepared and executed by the Director and an authorized representative of Contractor.
- 14.5 **Captions; Severability.** Headings are provided for ease of reference only and shall not be used to construe any provision of this Agreement. If any portion of this Agreement is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity of the remainder of this Agreement, and the Parties will substitute for any

such invalid or unenforceable provision a valid provision that best approximates the effect and intent of the invalid or unenforceable provision.

- 14.6 **Waiver.** The Parties agree that the waiver by either party of a breach by the other party of a provision of this Agreement shall not operate as or be construed to be a waiver of any other breach or default and, further, that any waiver to be effective must be in writing signed by the party making the waiver.
- 14.7 **Counterparts.** Provided that **all** Parties execute a copy of this Agreement, this Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. Executed copies of this Agreement may be delivered by facsimile or electronic mail. This Agreement shall be deemed to be fully executed and entered into on the date of execution by the last signatory.
- 14.8 **Independent Contractor.** It is understood that in the performance of this Agreement, the Parties are acting solely as independent contractors and not as employees, agents, partners or joint venturers of the other.
- 14.9 **Use of Name.** The Parties agree that they will not use the name, symbols, trademarks, service marks or logos of the other party or any affiliate of the other party in any advertisement, promotion, brochure, solicitation or similar document or for any marketing, public relations, advertising, display or other business purpose, or any statement to the public without the express, prior, written consent of such party, which may be given, conditioned or withheld in such party's sole discretion. Additionally, prior to CONTRACTOR 's usage of COUNTY's name on its customer lists or customer directories, CONTRACTOR shall provide COUNTY a description of the appearance or a copy of the customer lists or customer directories prior to publication, and subject to the written consent of COUNTY.

## **Section 15. Notices.**

All notices required or permitted to be given hereunder shall be in writing and may be delivered by hand, by facsimile, by email, by nationally recognized private courier, or by United States mail. Notices delivered by mail shall be deemed given three (3) business days after being deposited in the United States mail, postage prepaid, registered or certified mail. Notices delivered by hand, by facsimile, or by nationally recognized private courier shall be deemed given on the first business day following receipt; provided, however, that a notice delivered by facsimile shall only be effective if such notice is also delivered by hand, or deposited in the United States mail, postage prepaid, registered or certified mail, on or before two (2) business days following its delivery by facsimile. All notices shall be addressed to the individuals listed in Exhibits C and D.

Either party may change its notification address by giving written notice to that effect to the other party in the manner provided above, in accordance with Section 14.3 (Change Notices).

## **Section 16. Assignment.**

This Agreement may not be assigned, in whole or in part, by either CONTRACTOR or COUNTY without the express, written consent of the other party.

## **Section 17. Compliance.**

CONTRACTOR shall obtain and maintain, without interruption, all licenses and permits required by law to perform its obligations under this Agreement.

## **Section 18. Contractor Responsibility and Debarment**

18.1 **Responsible Contractor.** A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the COUNTY's policy to conduct business only with responsible contractors.

18.2 **Chapter 2.202 of the COUNTY Code.** The CONTRACTOR is hereby notified that, in accordance with Chapter 2.202 of the COUNTY Code, if the COUNTY acquires information concerning the performance of the CONTRACTOR on this or other contracts which indicates that the Contractor is not responsible, the COUNTY may, in addition to other remedies provided in the contract, debar the CONTRACTOR from bidding or proposing on, or being awarded, and/or performing work on COUNTY contracts for a specified period of time not to exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing contracts the Contractor may have with the COUNTY.

18.3 **Non-responsible Contractor.** The COUNTY may debar the CONTRACTOR if the Board of Supervisors finds, in its discretion, that the CONTRACTOR has done any of the following: (1) violated a term of a contract with the COUNTY or a nonprofit corporation created by the COUNTY, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the COUNTY, any other public entity, or a nonprofit corporation created by the COUNTY, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the COUNTY or any other public entity.

### **18.4 Contractor Hearing Board.**

1. If there is evidence that the CONTRACTOR may be subject to debarment, the Department will notify the contractor in writing of the evidence which is the basis for the proposed debarment and will advise the CONTRACTOR of the scheduled date for a debarment hearing before the Contractor Hearing Board.
2. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The CONTRACTOR and/or the CONTRACTOR's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the contractor

should be debarred, and, if so, the appropriate length of time of the debarment. The CONTRACTOR and the COUNTY Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
4. If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The COUNTY may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following:(1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the COUNTY.
5. The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.
6. The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

18.5 **Subcontractors of Contractor.** These terms shall also apply to subcontractors of the CONTACTORS.

/

/

/

/

/



By signing below, COUNTY and CONTRACTOR represent that the respective undersigned is its duly authorized representative, and COUNTY and CONTRACTOR agree to be bound by the terms and, conditions of this Agreement.

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