

AGREEMENT

for

CORRECTIONAL HEALTH ELECTRONIC HEALTH RECORD (EHR) SYSTEM

between

COUNTY OF SAN BERNARDINO

and

NAPHCARE, INC.



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**CONTRACT BETWEEN SAN BERNARDINO COUNTY AND NAPHCARE, INC. FOR
THE IMPLEMENTATION OF A CORRECTIONAL ELECTRONIC HEALTH
RECORD (EHR) SYSTEM**

This Agreement, made and entered into this 16th day of DECEMBER, 2015 ("Effective Date") and between NaphCare, Inc, (herein referred to as "CONTRACTOR"), and the COUNTY OF SAN BERNARDINO on behalf of its Sheriff and Probation Departments, a political subdivision of the State of California (herein referred to as "COUNTY"). The parties agree as follows:

1. Description of Services

1.1 CONTRACTOR shall provide all services as outlined and specified in Exhibit A, Definitions, Exhibit B, Warranty and License Terms, Exhibit C, Statement of Work, Exhibit D, Payment Provisions. All these documents are attached to and incorporated into this Agreement; and CONTRACTOR shall comply with all of their terms.

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

1.3 CONTRACTOR affirms that it is fully apprised of all of the work to be performed under this Agreement; and the CONTRACTOR agrees it can properly perform this work at the prices stated in Exhibit D. CONTRACTOR is not to perform services or provide products beyond what is stated in the Agreement without prior written consent and agreement of COUNTY incorporating detailed business requirements and costs.

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

2. Period of Performance

2.1 This Agreement shall be effective upon the Effective Date and continue in effect through December 15, 2020, with the option of the COUNTY to renew for a total of five (5) additional years as described herein. Following the initial five year term, the first renewal may be for a term of three (3) years, followed by two, (1) one year renewal options.

CONTRACTOR shall commence performance upon the Effective Date and shall diligently and continuously perform thereafter. All renewals shall be by written amendment and only upon San Bernardino County Board of Supervisors approval.

3. Compensation

3.1 The COUNTY shall pay the CONTRACTOR for services performed, products provided and expenses incurred in accordance with the terms of Exhibit D, Payment Provisions. Maximum payments by COUNTY to CONTRACTOR shall not exceed \$600,000.00 annually including all expenses. The COUNTY is not responsible for any fees or costs incurred above or beyond the contracted amount and shall have no obligation to purchase any specified amount of services or products. Unless otherwise specifically stated in Exhibit D, COUNTY shall not be responsible for payment of any of CONTRACTOR's expenses related to this Agreement.

3.2 CONTRACTOR agrees to accept the specified compensation in Exhibit D as full payment for: the licensing of all Licensed Software; the performing of all services and furnishing of all staffing and materials and other expenses as set forth in this Agreement; any reasonably foreseeable difficulties which may arise or be encountered in the performance of this Agreement; and for proper performance by CONTRACTOR of all its duties and obligations.

3.3 CONTRACTOR shall be paid only in accordance with an invoice submitted to COUNTY; and COUNTY shall pay the invoice within sixty (60) working days from the date of receipt of the invoice. Payment shall be made to CONTRACTOR only after services have been rendered or delivery of materials or products, and acceptance has been made by COUNTY. "Working Days" for purposes of this Item are days the COUNTY is open for business (Monday to Friday, excluding Holidays). For this Agreement, send the original and duplicate copies of invoices to:

San Bernardino County Sheriff's Department

Attn: Health Services Division Director

9500 Etiwanda Avenue, Rancho Cucamonga, CA 91739

Each invoice shall contain a minimum of the following information: invoice number and date; remittance address; bill-to and ship-to addresses of ordering department/division; Agreement number; quantities; item descriptions, unit prices, extensions, sales/use tax if applicable, detailed description of services provided, and an invoice total.

3.4 CONTRACTOR shall accept all payments from COUNTY via electronic funds transfer (EFT) directly deposited into the CONTRACTOR's designated checking or other bank account. CONTRACTOR shall promptly comply with directions and accurately complete forms provided by COUNTY required to process EFT payments.

3.5 COUNTY is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on CONTRACTOR or on any taxes levied on employee wages. The COUNTY shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the COUNTY pursuant to the Contract. All deliveries related to this Agreement will be made electronically.

3.6 The COUNTY obligation for payment of this Agreement beyond the current fiscal year end is contingent upon and limited by the availability of COUNTY funding from which payment can be made. No legal liability on the part of the COUNTY shall arise for payment beyond June 30 of each calendar year unless funds are made available for such payment. In the event that such funds are not forthcoming for any reason, COUNTY shall immediately notify CONTRACTOR in writing; and this Agreement shall be deemed terminated and have no further force and effect.

4. Alteration or Changes to the Agreement

4.1 The Sheriff/Coroner/Public Administrator (Sheriff) or his/her written designee ultimately shall represent the County in all matters pertaining to the services to be rendered under this Agreement, and shall be the final authority in matters pertaining to the scope of services and work by the CONTRACTOR. The Sheriff may agree to certain changes in or alterations to Exhibit C, Statement of Work, so long as the changes are reduced to writing (and executed by the parties) and do not increase the COUNTY's costs or result in an extension of the period of performance. Any changes that would increase the COUNTY's costs or result in an extension of the overall period of performance of this Agreement must be approved by the Board of Supervisors. Any changes that would delete portions of the scope of services and work identified in Exhibit C, Statement of Work that would result in a material impact to the EHR system must be approved by the Board of Supervisors.

4.2 Any claim by the CONTRACTOR for additional payment under this Agreement shall be made in writing by the CONTRACTOR within 30 days of when the CONTRACTOR has or should have notice of any actual or claimed change in the work or services which results

in additional and unanticipated cost to the CONTRACTOR. If the Sheriff and/or Chief Probation Officer (with respect to items affecting only Probation) determines that the facts provide sufficient justification, he may submit a request for an amendment reflecting the additional compensation to the Board of Supervisors. Such an amendment would become effective only upon approval by the Board of Supervisors

5. Termination

Termination by COUNTY

5.1. The COUNTY may terminate this Agreement without cause upon 30 days written notice provided to CONTRACTOR stating the extent and effective date of the termination.

5.2 The COUNTY may terminate this Agreement for CONTRACTOR's failure to comply with any of the material articles, conditions, covenants or provisions contained herein (including any exhibits or attachments), which shall be a material breach of this Agreement. If a material breach occurs, COUNTY:

5.2.1 Will provide CONTRACTOR with written notice of the breach and 10 calendar days within which to cure the breach, unless the breach is related to an error in the Licensed Software, in which case CONTRACTOR will have a period of 60 days to cure the breach; and

5.2.2 May, in its sole discretion and in addition to any other remedies available at law, in equity or otherwise specified in this Agreement, discontinue payment to CONTRACTOR (but CONTRACTOR will continue to perform its other obligations under this Agreement) for and during the period in which CONTRACTOR is in breach; and

5.2.3 Offset against any monies billed by CONTRACTOR but yet unpaid by COUNTY, those monies disallowed pursuant to 5.2.2

5.3 If a material breach by CONTRACTOR occurs, in addition to the above and any other available remedies, COUNTY reserves the right to terminate this Agreement in accordance with this Section 5, with all of the foregoing subject to Section 11, Disputes.

5.4 If CONTRACTOR becomes insolvent or has availed itself of, or has been subjected to by any third party, a proceeding in bankruptcy, in which CONTRACTOR is named debtor and the proceeding has not been discharged or terminated within 60 days or

CONTRACTOR liquidates, dissolves or ceases doing business, the COUNTY may terminate this Agreement and the provisions of Section 11, Disputes, shall not apply.

5.5 If CONTRACTOR or its principals or subcontractors are debarred as described below, this Agreement may be terminated immediately by the COUNTY and the provisions of Section 11, Disputes, shall not apply. CONTRACTOR certifies that neither it nor its principals or subcontractors are presently debarred from the System for Award Management (SAM). If the Agreement is federally or State funded, CONTRACTOR must notify the COUNTY immediately of a debarment and CONTRACTOR shall monitor and conduct reviews of its principals and subcontractors, at a minimum at the following times: initial hire, contract award by COUNTY and at least annually thereafter. CONTRACTOR must refer to the following for information on debarment: System for Award Management (SAM) at: <https://www.sam.gov>; the Central Contractor Registry (CCR); Federal Agency Registration (Fedreg); Online Representations and Certifications Application, and Excluded Parties Listing System (EPLS) at: <https://www.epls.gov>); Executive Order 12549, 7 CFR Part 3017, 45 CFR Part 76, and 44 CFR Part 17.

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

Termination by CONTRACTOR

5.7 CONTRACTOR may terminate this Agreement for COUNTY's failure to comply with any of the material articles, conditions, covenants or provisions contained herein (including any exhibits or attachments), which shall be a material breach of this Agreement. If a material breach occurs CONTRACTOR:

5.7.1 Will provide COUNTY written notice of the breach and 10 calendar days within which to cure the breach; and

5.7.2 May, in its sole discretion and in addition to any other remedies available at law, or in equity or otherwise specified in this Agreement, discontinue services to the COUNTY for and during the period in which the COUNTY is in breach.

5.8 If COUNTY becomes insolvent or has availed itself, or has been subjected to by any third party, a proceeding in bankruptcy, in which COUNTY is named debtor and the

proceeding has not been discharged or terminated within 60 days, CONTRACTOR may terminate this Agreement and the provisions of Section 11, Disputes, shall not apply.

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

Orderly Termination:

5.10 After receipt of a notice of termination, CONTRACTOR shall:

5.10.1 Stop all work under this Agreement on the date specified in the notice of termination and follow any other specific direction provided by COUNTY; and

5.10.2 Return to COUNTY all funds on a pro-rata basis (if applicable), for which COUNTY will not receive services and payments made for the Licensed Software (depreciated on a five-year straight-line basis).

5.11 After receipt of a notice of termination, COUNTY shall:

5.11.1 Pay CONTRACTOR for all products and services delivered or performed prior to termination which meet the requirements of this Agreement, provided however, that such compensation shall not exceed the total compensation set forth in this Agreement, as the total compensation may be reduced by payments already made and as further reduced by work not terminated.

5.12 Upon termination or other expiration of this Agreement, each party shall within 30 days return to the other all papers, materials, and other property and Confidential Information of the other held by each for the purposes of the performance of this Agreement. In addition, each party will assist the other party in orderly termination of this Agreement and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party.

6. Ownership of Work Product

Title to all Work Product is and will remain the sole and exclusive property of CONTRACTOR. CONTRACTOR may use such Work Product for internal purposes as well as for other clients, so long as CONTRACTOR does not use any Confidential Information belonging to COUNTY. CONTRACTOR hereby grants to COUNTY a non-exclusive, non-

transferable license to use the Work Product supplied to COUNTY by CONTRACTOR for COUNTY's own internal purposes and for no other purpose during the term and any extensions of this Agreement.

7. Conduct of Contractor

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

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

8. Inspection of Service; Quality Control/Assurance

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

8.2 CONTRACTOR shall establish adequate procedures for self-monitoring and quality control and assurance to ensure proper performance under this Agreement; and shall permit a COUNTY representative or other regulatory official to monitor, assess, or evaluate CONTRACTOR's performance under this Agreement at any time, upon reasonable notice to the CONTRACTOR.

9. Independent Contractor/Employment Eligibility

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

9.2 CONTRACTOR warrants that it shall make its best effort to fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees performing work under this Agreement meet the citizenship or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, for the period prescribed by the law.

9.3 Ineligible Person shall be any individual or entity who:

Is currently excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs; or has been convicted of a criminal offense related to the

provision of health care items or services and has not been reinstated in the federal health care programs after a period of exclusion, suspension, debarment, or ineligibility.

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

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

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

10. Subcontract for Work or Services

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

11. Disputes

11.1 The parties shall work to resolve any disputes in accordance with the table below. If any dispute is not resolved at the end of the Second Level below, the decision of the Undersheriff or Chief Probation Officer shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous to imply bad faith. With respect to any dispute which results in a recommendation to terminate this Agreement, such a determination must be made by the Board of Supervisors. Any decision of the Board of Supervisors shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary or so grossly erroneous to imply bad faith. The CONTRACTOR shall proceed diligently with the performance of this Agreement pending the resolution of a dispute

DISPUTE RESOLUTION RESPONSIBILITY AND SCHEDULE TABLE				
LEVEL	CONTRACTOR	SHERIFF	PROBATION	CUMULATIVE ALLOTTED TIME
Primary	Project Manager	Project Manager	Health Services Manager, or designee	5 Business Days
First	Director of Information Systems	Captain, Technical Services Division	Business Application Manager, or designee	10 Business Days
Second	General Counsel	Undersheriff/ or Chief Probation Officer	Deputy Chief Probation Officer, or designee	15 Business Days

11.2 Prior to the filing of any legal action related to this Agreement, the parties shall be obligated to attend mediation within the County of San Bernardino before a neutral third party mediator agreed upon by the parties. A second mediation with the same mediator or a new neutral third party mediator shall be required if the first mediation does not lead to agreement between the parties. The parties shall share the cost of mediation

12. Licensing and Permits

CONTRACTOR shall comply with all State or other licensing requirements. All licensing requirements shall have been met at the time proposals were submitted to the COUNTY. CONTRACTOR warrants that it has all necessary permits, approvals, certificates, waivers and exemptions necessary for performance of this Agreement as required by the laws and regulations of the United States, the State of California, the County of San Bernardino and all other governmental agencies with jurisdiction, and shall maintain these throughout the term of this Agreement. Failure to do so may result in termination of this Agreement.

13. Non-Discrimination

CONTRACTOR shall not discriminate in the provision of services, allocation of benefits, accommodation in facilities, or employment of personnel on the basis of ethnic group identification, race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender identity, gender expression, sexual orientation, age, or military and veteran status in the performance of this Agreement; and, to the extent they shall be found to be applicable hereto, shall comply with the provisions of the Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VII of the Civil Rights Act of 1964; the California Fair Employment and Housing Act (Gov. Code 12900 et. seq), the Federal Civil Rights Act of 1964 (P.L. 88-352), the Americans with Disabilities Act of 1990 (42 U.S.C. §1210 et seq.) and all other applicable Federal, State, and County laws or regulations and policies related to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

14. Records and Documents

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

15. Confidentiality

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

15.2 The CONTRACTOR shall protect from unauthorized disclosure names and other identifying information concerning persons receiving services pursuant to this Agreement, except for general statistical information not identifying any person. The CONTRACTOR shall not use such information for any purpose other than carrying out the CONTRACTOR’s obligations under this Agreement. The CONTRACTOR shall promptly transmit to the COUNTY all third party requests for disclosure of such information. The CONTRACTOR shall not disclose, except as otherwise specifically permitted by this Agreement or authorized in advance in writing by the COUNTY, any such information to anyone other than the COUNTY. For purposes of this paragraph, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particulars assigned to the individual, such as finger or voice print or a photograph.

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

16. Administration/Contract Liaison

The COUNTY Sheriff, or his designee, shall administer this Agreement on behalf of the COUNTY.

17. Notices and Notice of Delays

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

COUNTY OF SAN BERNARDINO

Sheriff's Department
Attn.: Bureau of Administration, Contract's Unit
655 East Third Street
San Bernardino, CA 92415

CONTRACTOR

NaphCare, Inc.
2090 Columbiana Road, Suite 4000
Birmingham, AL 35216
Attn.: James S. McLane, CEO

17.2 Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Agreement, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

18. Force Majeure

Either party shall not be liable for failure to perform or for any damages under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of either party. Such causes may include, but are not limited to, acts of God, acts of the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, acts of the State or Federal government in their sovereign or contractual capacities, telecommunications disruptions, acts of third parties, including third party processors and unusually severe weather. Either party shall not be liable for any failure to act if it reasonably believed such action would have violated any law, rule or regulation. Such nonperformance shall not be deemed to be a breach of this Contract.

19. EDD Reporting Requirements

In order to comply with child support enforcement requirements of the State of California, the COUNTY may be required to submit a Report of Independent Contractor(s) form DE 542 to the Employment Development Department. The CONTRACTOR agrees to furnish the required data and certifications to the COUNTY within 10 days of notification of award of Agreement when required by the EDD. This data will be transmitted to governmental agencies charged with the establishment and enforcement of child support orders. Failure of the CONTRACTOR to timely submit the data and/or certificates required may result in the contract

being awarded to another contractor. In the event a contract has been issued, failure of the CONTRACTOR to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignments Orders and Notices of Assignment shall constitute a material breach of Agreement. If CONTRACTOR has any questions concerning this reporting requirement, please call (916) 657-0529. CONTRACTOR should also contact its local Employment Tax Customer Service Office listed in the telephone directory in the State Government section under "Employment Development Department" or access their Internet site at www.edd.ca.gov.

20. Hold Harmless/Indemnification

20.1 CONTRACTOR shall indemnify, defend (with Counsel reasonably approved by the COUNTY), and hold harmless the COUNTY, its Agencies, Districts, Special Districts and Departments, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees) from any liability, action, claim or damage whatsoever, based or asserted upon any services of CONTRACTOR, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Agreement, including but not limited to property damage, bodily injury, or death or any other element of any kind or nature. CONTRACTOR shall defend, at its sole expense, all costs, and fees including, but not limited, to attorney's fees, cost of investigation, defense and settlements or awards, the Indemnitees in any claim or action based upon such alleged acts or omissions. CONTRACTOR's indemnification obligation applies to COUNTY's "active" as well as "passive" negligence, but CONTRACTOR shall not be liable or responsible for the "sole negligence" or "willful misconduct" of COUNTY and/or its Indemnitees within the meaning of Civil Code Section 2782.

20.2 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has provided to COUNTY the appropriate form of dismissal relieving COUNTY from any liability for the action or claim involved.

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

20.4 CONTRACTOR warrants that it has authority to grant COUNTY licenses to use the Licensed Software described in this Agreement and that the Licensed Software does not infringe upon or violate any United States patent, copyright, trade secret, trademark or any other proprietary right of any third party. The foregoing notwithstanding, CONTRACTOR shall have no liability for: (i) the combination, operation, or use of any Licensed Materials with equipment, devices, or software not supplied by CONTRACTOR if such claim would not be valid but for such combination, operation, or use; (ii) modification of any Licensed Materials other than by or on behalf of CONTRACTOR; or (iii) COUNTY's use of the Licensed Materials after CONTRACTOR has informed COUNTY of modifications or changes in the Licensed Materials required to avoid such claims if such claim would have been avoided by implementation of CONTRACTOR's recommended modifications and CONTRACTOR has offered to pay COUNTY's out-of-pocket costs of implementing any such modifications.

21. Insurance

21.1 Without limiting or diminishing the CONTRACTOR'S obligation to indemnify or hold the COUNTY harmless, CONTRACTOR shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverages during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of San Bernardino, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents, or representatives as Additional Insureds.

A. Workers' Compensation:

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

B. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or

out of CONTRACTOR'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit with a \$2,000,000 annual aggregate.

C. Vehicle Liability:

If vehicles or mobile equipment is used in the performance of the obligations under this Agreement, then CONTRACTOR shall maintain liability insurance for all owned, non-owned, or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

D. Professional Liability:

CONTRACTOR shall maintain Professional Liability Insurance providing coverage for the Contractor's performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If Contractor's Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and CONTRACTOR shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that CONTRACTOR has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

E. General Insurance Provisions - All lines:

1) Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an AM BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk

Management waives a requirement for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

2) Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by County Risk Management. CONTRACTOR may be required to prove financial capacity to pay the deductible/retention.

3) CONTRACTOR shall cause CONTRACTOR'S insurance carrier(s) to furnish the County of San Bernardino with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by County Risk Management, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of San Bernardino prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of San Bernardino receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. CONTRACTOR shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier shall sign the original endorsements for each policy and the Certificate of Insurance.

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

CONTRACTOR agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude

coverage for suits between the CONTRACTOR and COUNTY or between the COUNTY and any other insured or additional insured under the policy.

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

CONTRACTOR shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the CONTRACTOR and CONTRACTOR'S employees or agents from waiving the right of subrogation prior to a loss or claim. CONTRACTOR hereby waives all rights of subrogation against the COUNTY.

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

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

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

Additional Rights and Remedies

22. Failure to Meet Milestones

22.1 The COUNTY shall have the right to withhold payment for any Phase identified in Exhibit D for failure to satisfactorily meet the performance requirements for that Phase.

22.2 If in the reasonable judgment of the COUNTY, a default by CONTRACTOR is not so substantial as to require termination, reasonable efforts to induce CONTRACTOR to cure the default are unavailing and the default is capable of being cured by COUNTY or another resource without unduly interfering with continued performance by CONTRACTOR, the COUNTY may provide or procure the services reasonably necessary to cure the default, in which event CONTRACTOR shall reimburse the COUNTY an amount equal to the difference

between CONTRACTOR's compensation for such services and the reasonable cost of the provision of such services by COUNTY or another contractor. In addition, CONTRACTOR must cooperate with the resources in allowing access to the software to provide the services

23. General

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

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

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

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

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

23.6 Nothing in this Agreement shall prohibit the COUNTY from acquiring the same type or equivalent equipment, products, materials or services from other sources, when deemed by the COUNTY to be in its best interest. The COUNTY reserves the right to purchase more or less than the quantities specified in this Agreement.

23.7 The COUNTY agrees to cooperate with the CONTRACTOR in the CONTRACTOR's performance under this Agreement, including, if stated in the Agreement,

providing the CONTRACTOR with reasonable facilities and timely access to COUNTY data, information, and personnel.

23.8 CONTRACTOR shall comply with all applicable Federal, State and local laws and regulations. CONTRACTOR will comply with all applicable COUNTY policies and procedures. In the event that there is a conflict between the various laws or regulations that may apply, the CONTRACTOR shall comply with the more restrictive law or regulation.

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

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

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

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

23.13 CONTRACTOR shall make any necessary improvements to their products or services required by a change in law or regulation not under the control of COUNTY. Any costs related to changes in products or services to meet any new regulations shall be the responsibility of the CONTRACTOR

23.14 During the term of this Agreement and for a period of one (1) year following its termination or extension thereof, CONTRACTOR shall not actively solicit for employment or contract with any COUNTY employee who has participated in the development and/or operation of the EHR system, or a component thereof.

24. Prevailing Wages Requirements

By its execution of this Agreement, CONTRACTOR certifies that it is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq. as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Section 1720 of the California Labor Code states in part: "For purposes of this paragraph, 'construction' includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work." If the Services/Scope of Work are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, CONTRACTOR agrees to fully comply with such Prevailing Wage Laws. CONTRACTOR shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services/Scope of Work available to interested parties upon request, and shall post copies at the CONTRACTOR's principal place of business and at the project site. CONTRACTOR will also adhere to any other applicable requirements, including but not limited to, those regarding the employment of apprentices, travel and subsistence pay, retention and inspection of payroll records, workers compensation and forfeiture of penalties prescribed in the Labor Code for violations. CONTRACTOR shall defend, indemnify and hold the COUNTY, its elected officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with Prevailing Wage Laws. See Attachment II for additional information regarding Prevailing Wage Laws.

25. Legality and Severability

25.1 The parties' actions under the Agreement shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. If a provision of the Agreement is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

26. Entire Agreement

26.1 This Agreement, including all Exhibits and other documents, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto.

26.2 Order of Precedence of Documents.

- A. This Agreement consist of:
 - 1) The body of this Agreement
 - 2) Exhibits A through E
 - 3) Attachments I and II

26.3 In the event of any inconsistency or conflict among the document elements of this Agreement, the inconsistency or conflict shall be resolved by giving precedence to the elements in the following order:

- A. First, the body of this Agreement (including any definitions included on Exhibit A)
- B. Second, Exhibits A through E, and Attachments I and II
- C. Third, all other written documentation and correspondence pertaining to this Agreement.

27. Counterpart Execution

27.1 This Agreement may be executed in counterparts. When executed, each counterpart shall be deemed an original irrespective of date of execution. Said counterparts shall together constitute one and the same Agreement.

28. Warranties

28.1 The parties provide the warranties identified in Exhibit B, Warranty and License Terms.

******* END OF SECTION *******

IN WITNESS WHEREOF, the County of San Bernardino and the Contractor, have each caused this Agreement to be executed by its respective duly authorized officers as of the day and year written below.

COUNTY OF SAN BERNARDINO

Signature: _____

Print Name: James Ramos

Title: Chairman of the Board of Supervisors

Date: _____

NAPHCARE, INC.

Signature: _____

Print Name: James S. McLane

Title: Chief Executive Officer

Date: _____

APPROVED AS TO LEGAL FORM

Signature: _____

Print Name: Michelle D. Blakemore

Title: Chief Assistant County Counsel

Date: _____

EXHIBIT A

DEFINITIONS

I. DEFINITIONS

For purposes of this Agreement, the following specific definitions shall apply:

A. Agreement shall mean this Agreement, the signature page, any amendments, Exhibits and Attachments.

B. Attachment shall mean any document so designated and affixed to and made part of this Agreement or any Exhibit to this Agreement.

C. CONTRACTOR shall mean NaphCare, Inc., an Alabama corporation, and its permitted successors and assigns.

D. Confidential Information shall mean all technical, business, financial and other information that is disclosed by either party to the other, whether orally or in writing, all individually-identifiable patient information, information relating to the status of installation or implementation of the System, any disputes or disagreements between the parties, the System, Work Product and all non-publicly available information related to CONTRACTOR products, services and/or methodologies, unless otherwise precluded by applicable law. "Confidential Information" will not include any information:

1. That is publicly available through no breach of this Agreement by COUNTY or CONTRACTOR,
2. That is independently developed or was previously known by COUNTY or CONTRACTOR,
3. That is rightfully acquired by COUNTY or CONTRACTOR from a third party who is not in breach of an agreement to keep such information confidential.

E. Content means the methodologies, knowledge-based healthcare assessments and clinical pathways, medical vocabularies, rules, alerts and insights provided by CONTRACTOR under this Agreement.

F. Correctional Health Care Services (San Bernardino County Corrections) and COUNTY shall each mean County of San Bernardino, a political subdivision of the State of California.

G. Data means all (a) data that is collected, stored, or generated through the use of the Licensed Software and (b) CONTRACTOR-requested data that is not collected, stored, nor generated through the use of the Licensed Software, in each case requested by CONTRACTOR and subsequently transmitted to, or retrieved by CONTRACTOR for storage.

H. Designated Facility shall mean the COUNTY location that will house the host data center and the Licensed Software.

I. Documentation shall mean the printed and on-line materials that assists the COUNTY in using the System and which is actually delivered to COUNTY by CONTRACTOR. The CONTRACTOR and its suppliers reserve the right to modify Documentation to reflect changes in Sublicensed Software and Licensed Software during the term of the Agreement, none of which shall adversely affect the operation or specifications for the System.

J. Effective Date shall mean the date stated on page 4 of this Agreement.

K. Equipment Operating System Sublicensed Software shall mean the operating system software.

L. First Productive Use shall mean with respect to a module of Licensed Software or the entire System, COUNTY's first use of such module or the System, as the case may be, to send patient, health plan or materials information for clinical, financial or operational use, excluding beta, testing or other non-operational use.

M. Implementation shall mean the process by which the Licensed Software and System are optimized for use in COUNTY's clinical, financial and administrative environment.

N. Licensed Software shall mean the current version (as of the Effective Date) of the Electronic Health Record (EHR) software application offered by CONTRACTOR known as "*TechCare®*," in object/executable (and/or encrypted source code) form only, and any associated database structures and queries, interfaces, tools, and the like, together with any and all revisions, modifications, and updates thereof, as may be supplied by CONTRACTOR to COUNTY pursuant to this Agreement.

O. Material Error shall mean either an error that adversely affects operation of the entire System or that creates a serious loss of functionality important in the daily operation of a single module and for which a work around is not available.

P. New Release shall mean the distinctly identified (e.g. Release XXX.XX.XX for CONTRACTOR products), comprehensive collection and packaging of an upgrade or modification to the Licensed Software and supporting Documentation components at a distinct point in time within a product's life cycle that CONTRACTOR makes generally commercially available.

Q. Permitted User or User shall mean authorized employees of COUNTY and its authorized third party contractors and providers which have access to the System and who will have a unique password and sign-on ID.

R. Product Descriptions shall mean the Software Product Descriptions (SPD) for the System.

S. Scope of Use shall mean the limitations on COUNTY's use of the System as set forth in the Agreement.

T. Sublicensed Software shall mean all Equipment Operating System Sublicensed Software and Third Party Application Sublicensed Software and/or third party content.

U. System or EHR System shall mean the Equipment, Sublicensed Software and Licensed Software which collectively constitute a discrete integrated health information system that has the functionality and conforms to the needs of the COUNTY as outlined in the Agreement.

V. Third Party Application Sublicensed Software shall mean any application software and database not proprietary to CONTRACTOR.

W. Work Product shall mean any customized or custom computer software programs, Documentation, techniques, methodologies, inventions, analysis, frameworks, software, or procedures developed, conceived or introduced by CONTRACTOR in the course of or as the result of CONTRACTOR performing professional services, installation services, Implementation services, issue resolution or other Support services, whether acting alone or in conjunction with COUNTY or its employees, affiliates or others.

X. Statement of Work (SOW) shall mean the detailed deliverable or performance required from the CONTRACTOR or the Licensed Software pursuant to this Agreement. This may also be referred as the Scope of Work.

Y. Electronic Health Records (EHR) is a systematic collection of electronic health information about an individual patient or population. It is a record in digital format that is

theoretically capable of being shared across different health care settings. Sharing shall occur by way of network-connected, enterprise-wide information systems and other information networks or exchanges. “EHR System” is the system purchased by COUNTY under this Agreement, which may also be referred to as “System”, “system” or “EHR project”.

Z. Acronyms Used:

SOAP - Subjective, Objective, Action, Plan (medical terminology).

JMS/OMS – Jail/Offender Management System

JIMS – Jail Information Management System

SQL – Sequel Query Language (technical terminology)

HL7 – Health Level 7 (technical terminology)

ANSI – American National Standards Institute

ODBC – Open DataBase Connectivity (technical terminology)

XML – Extensible Markup Language (technical terminology)

CORBA – Common Object Request Broker Architecture (technical terminology)

CCDA – Consolidated Clinical Document Architecture (EHR terminology)

CIPS – Correctional Institutional Pharmacy System

EXHIBIT B
WARRANTY AND LICENSE TERMS

I. WARRANTIES

A. Equipment, Software and System:

1. Pass-Through Provisions: CONTRACTOR shall assign and pass through to COUNTY any Equipment and Sublicensed Software end-user warranties that are transferrable set forth by the supplier of such Equipment and Sublicensed Software. CONTRACTOR shall interface directly with said supplier of any Equipment and or Sublicensed Software in the event of any breach of any such warranty as COUNTY may notify CONTRACTOR.

2. CONTRACTOR's Warranty: CONTRACTOR warrants that, beginning upon the date of First Productive Use and extending during such period as COUNTY is on Support, the Licensed Software will perform in all material respects the functions to which both parties have mutually agreed to in writing as reflected by this Agreement, when operated in accordance with the Documentation and in the environment for which CONTRACTOR designed the Licensed Software to operate. In the event of a breach of this warranty, CONTRACTOR will repair or replace the failing item of Licensed Software so that it does perform in accordance with such warranty. If, however, after repeated efforts (not to exceed three months from the date CONTRACTOR receives written notice from COUNTY concerning the warranty breach), CONTRACTOR is unable to repair or replace the failing item of Licensed Software so that it performs in accordance with such warranty and the failing item of Licensed Software is material to the operation of the entire System, COUNTY may, at CONTRACTOR's expense, return the failing item of Licensed Software and receive a refund of all license fees paid for the item of Licensed Software (fees shall be calculated based on the time period in which the Licensed Software failed) as well as the System Support fees paid for the item of Licensed Software since the failure was first reported to CONTRACTOR. COUNTY's rights under this paragraph constitute its sole and exclusive remedy and CONTRACTOR's sole and exclusive obligations with respect to any breach of this warranty.

3. CONTRACTOR Disclaimer of Responsibility for Medical Use:

COUNTY shall communicate to each authorized user of the software and system that the software/system is a support tool only and expressly is not to be relied upon as a sole source of

information in connection with medical advice or the provision of medical services. COUNTY acknowledges and understands that the Software is being used for an intended purpose and goal, specifically to facilitate the delivery and administration of healthcare services in COUNTY's correctional system; however, COUNTY further acknowledges and understands that CONTRACTOR cannot and does not guarantee that such intended purpose and goal will be met by the Software and that other methods and services currently in place or contemplated to be put into place must also work independently and in tandem to achieve success

4. CONTRACTOR Disclaimer of All Other Warranties:

The CONTRACTOR warranties contained in this Agreement and the Exhibits hereto extend to and are for the benefit of COUNTY and its permitted successors and assigns only. CONTRACTOR makes no representations or warranties concerning either the Equipment, the Sublicensed Software (or other programs supplied to COUNTY by CONTRACTOR and which are directly licensed to COUNTY by a third party, or which are supplied by a third party to COUNTY), the Licensed Software, the System, subscription services, Maintenance or Support, nor does CONTRACTOR undertake any further obligations whatsoever. The foregoing warranties are in lieu of, and CONTRACTOR hereby expressly disclaims, all other warranties, both express and implied, including but not limited to the implied warranties of merchantability and of fitness for a particular purpose and non-infringement with respect to any and all products or services or portions thereof provided hereunder. Each party represents and warrants that the person executing this Agreement on behalf of and for such party is an authorized agent who has actual authority to bind such party to each and every term, condition and obligation of this Agreement and that all requirements of such party have been fulfilled to provide such actual authority.

II. PATENT COPYRIGHT MATERIALS

Unless otherwise expressly provided in this Agreement, CONTRACTOR shall be solely responsible for clearing or securing the right to use any patented or copyrighted materials included in the Licensed Software supplied by or through CONTRACTOR in the performance of this Agreement. CONTRACTOR shall indemnify, defend (with counsel acceptable to the COUNTY) and hold harmless COUNTY in the event of a claim or action for patent, copyright infringement, or other proprietary right, is made against the COUNTY. CONTRACTOR shall

pay all liabilities, damages and costs (including reasonable attorney's fees) caused by or arising from such claim. CONTRACTOR shall, at its own expense and in the following priorities:

- i. procure for COUNTY the right to continue using the EHR system; or
- ii. modify the system to comply with the specifications and to not violate any intellectual property rights.

III. TITLE OF DATA

All materials, documents, data, source code for data structures, or information in each case obtained from COUNTY data files or any COUNTY medium furnished to CONTRACTOR in the performance of this Agreement will at all times remain the property of COUNTY. Such Data or information may not be used or copied for direct or indirect use by CONTRACTOR after completion or termination of this Agreement. All materials, documents, Data, or information, including copies, must be returned to COUNTY at the end of this Agreement. COUNTY shall have no ownership interests and rights to CONTRACTOR'S Software System as set forth further in Exhibit C Statement of Work to the Agreement.

IV. SOFTWARE

A. License Grant: Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable, fully paid, license to use the Licensed Software solely as specified in this Agreement. This license shall include all New Releases to the Licensed Software and hereby shall apply to the COUNTY, and all agencies thereof, and all Permitted Users and Users of the COUNTY or any agencies thereof.

B. Scope of Use:

1) SPD - *TechCare*® is an EHR system designed to track the health status of the incarcerated populations of our client facilities. This begins with the inmate's/youth's admission into the facility and continues until his/her release. *TechCare*® provides a consistent, standardized approach to correctional healthcare, based on the National Commission on Correctional Health Care (NCCHC) and the American Correctional Association (ACA) standards.

2) Permitted Users may use the Licensed Software solely in accordance with the

Scope of Use specifications defined in Exhibit C to the Agreement. COUNTY may subsequently expand its Scope of Use and number of Permitted Users by paying CONTRACTOR's fee as set forth in Exhibit D to the Agreement for expansion of COUNTY's Statement of Work pursuant to the procedures set forth in Exhibit C.

3) CONTRACTOR shall provide COUNTY with a copy of the Licensed Software. COUNTY shall have the right to make sufficient back-up and archival copies to support its permitted use of the Licensed Software, provided that the intellectual property contained in such copies shall remain the property of CONTRACTOR. No right to use, print, copy, modify, create derivative works of, adapt, translate, distribute, disclose, decompile or reverse engineer the Licensed Software is granted, except as expressly set forth in this Agreement. CONTRACTOR hereby reserves all rights not expressly granted hereunder.

4) The Licensed Software shall reside at the Designated Facility, or, upon written notice to CONTRACTOR, COUNTY's designated data processing location which shall become a Designated Facility upon such notice. COUNTY may, upon advance written notice to CONTRACTOR, permanently move the Licensed Software to a different data processing location under the control of COUNTY. COUNTY shall not outsource its operation of the Licensed Software to any third party without CONTRACTOR's prior written consent.

C. Sublicense Grant:

1) Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable sublicense to use the Sublicensed Software on the terms and conditions which are set forth for end-users in the underlying license granted to CONTRACTOR by the Sublicensed Software supplier.

2) If execution by COUNTY of a separate sublicense agreement is required by a Sublicensed Software supplier, CONTRACTOR shall so inform COUNTY. In such case, COUNTY shall either execute same or be denied access to that portion of the Sublicensed Software. If COUNTY declines to execute the supplier's sublicense agreement, CONTRACTOR shall assist COUNTY in negotiating changes to the standard terms.

3) CONTRACTOR shall have no responsibility for any impairment to Equipment, Sublicensed Software or Licensed Software functionality, reliability or

performance occasioned by the absence of such item of Sublicensed Software until such sublicense has been obtained and, if necessary, executed by COUNTY. Unless the CONTRACTOR has recommended the use of such Equipment and Sublicensed Software in connection with the System and represents that the Equipment and Sublicensed Software will operate properly within (i.e., be integrated to work with) the System. CONTRACTOR does not make any warranties or guarantees regarding functionality, reliability or performance of the Equipment and/or Sublicensed Software. In the event of any warranty, claim or support relating to any Equipment or Sublicensed Software, CONTRACTOR shall interface with the manufacturer of the Equipment or licensor of such Sublicensed Software to obtain all necessary support or remedies available pursuant to applicable warranties from the manufacturer or licensor or CONTRACTOR's support obligations hereunder.

D. CONTRACTOR is providing only TechCare EHR Software. COUNTY is fully responsible for all supporting infrastructure including but not limited to servers, virtualization, operating system software, database software, computers, network equipment, etc., including its configuration, maintenance, and upgrade. Specifically COUNTY is required to supply and maintain sole responsibility for the following, minimum infrastructure required to run the licensed software and any related Third-Party software:

SQL Server - Server Requirements

Memory: 32 GB
Processor: 4 vCPU
Virtual Hard Disk 1: Partition 1 with 80 GB
Virtual Hard Disk 2: Partition 2 with 500 GB
Virtual Hard Disk 2: Partition 2 with 250 GB
Operating System: Windows Server 2008 R2 64 bit or higher
Software Needed: SQL 2008 R2 or higher

Interface Server - Server Requirements

Memory: 8 GB
Processor: 2 vCPU
Virtual Hard Disk 1: Partition 1 with 150 GB
Virtual Hard Disk 2: Partition 2 with 300 GB
Operating System: Windows Server 2008 R2 64 bit or higher

File Server - Server Requirements

Memory: 8 GB
Processor: 2 vCPU
Virtual Hard Disk 1: Partition 1 with 150 GB

Virtual Hard Disk 2: Partition 2 with 750 GB
Thin Provisioning: Yes
Operating System: Windows Server 2008 R2 64 bit or higher

Test SQL - Server Requirements

Memory: 8 GB
Processor: 2 vCPU
Virtual Hard Disk 1: Partition 1 with 150 GB
Virtual Hard Disk 2: Partition 2 with 300 GB
Operating System: Windows Server 2008 R2 64 bit or higher

Workstation Requirements

Memory: 2 GB
Hard Disk 1: Partition 1 with 15 GB free space
Operating System: Windows 7, 32 OR 64 bit or higher
Software Needed: SQL 2008 R2

3rd Party Software Requirements

COUNTY will be responsible for all software licensing from third parties which shall include, but not be limited to, the following:

Microsoft SQL Server

Microsoft Windows Server

SQL Client Access Licenses

Windows Server Access Licenses

Other necessary licenses to be determined by CONTRACTOR and
COUNTY

Auxiliary Equipment

COUNTY shall be solely responsible for supplying, owning, operating, and maintaining the Hardware and other hardware and equipment, such as scanners and computers, at COUNTY's expense. COUNTY shall be responsible for the location and operation of the Hardware, including, without limitation, electrical power availability, backup, environmental controls (including humidity and temperature settings) and all other physical aspects in accordance with manufacturers' recommendations and industry standards.

Security and Backup Requirements

COUNTY shall be solely responsible for all aspects of server and data security, user names, passwords and all on-site medical records, whether stored electronically or otherwise, including privacy restrictions and regulations as well as the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, each as amended from time to time ("HIPAA"). COUNTY shall be solely responsible for the remote access of the server and electronic medical records by anyone on behalf of COUNTY or any other authorized or unauthorized user other than CONTRACTORS's

access thereof in the performance of its obligations under this Agreement. COUNTY shall be solely responsible for regular on-site backup.

V. SOFTWARE OWNERSHIP

A. Intellectual Property Rights:

COUNTY acknowledges that, the Licensed Software is Confidential Information of and proprietary to CONTRACTOR, and all rights and patents, copyrights, trade secrets and, trademarks existing in respect of the Licensed Software are retained by CONTRACTOR. In respect to the operation, maintenance and enhancement if any to the System, COUNTY will take all reasonable steps to maintain CONTRACTOR's rights in the Software, at least to the same extent COUNTY takes with respect to the protection of its own Confidential Information and proprietary software, which steps shall consist of those set forth below in this Paragraph. COUNTY also agrees that it will not sell, transfer, publish, display, dispose or make the Licensed Software (or any copies of the Licensed Software) available to third parties, except that:

- 1) Nothing contained herein limits, conditions or constrains in any respect the right and the ability of COUNTY to disseminate, publish, disclose, sell or otherwise make available to any party the Data collected by the System or reports of such Data generated by COUNTY using the Licensed Software, in whole or in part: and

- 2) COUNTY may disclose the Licensed Software to any consultant, independent contractor, provider or other third party retained by the COUNTY in connection with the use or operation of the Licensed Software provided, however, that in such event the COUNTY shall obtain the written agreement of the consultant, independent contractor, provider or other third party to whom such any such disclosure is made, not to disclose any such information to third parties, copy of any such information, or use any such information for any commercial purpose other than the satisfaction of contractual obligations of such parties to COUNTY, and the written agreement to take reasonable steps to protect the proprietary interest of CONTRACTOR in Licensed Software, consistent with the obligations of the COUNTY set forth herein. The obligations of COUNTY herein do not extend or

apply to any information or Data comprising all or part of the Licensed Software which is in the public domain, by reason of any acts, activities or failures to act which are not a direct result of action or inaction by COUNTY.

3) In connection therewith, COUNTY agrees that:

a. Prior to granting access and/or disclosure, COUNTY shall notify CONTRACTOR to the extent reasonably practicable if COUNTY determines that the law or an order of a court or other government agency requires a non-permitted disclosure or use of the Licensed Software;

b. COUNTY shall maintain written records of the number and location of all copies of the Licensed Software;

c. COUNTY shall reproduce (and refrain from removing or destroying) all copyright and proprietary rights notices that are placed upon or within the Licensed Software;

d. COUNTY shall erase or otherwise destroy, prior to disposing of media, all portions of the Licensed Software contained on such media; and

e. COUNTY shall notify CONTRACTOR within five (5) business days in writing upon learning of any unauthorized disclosure or use of the Licensed Software, and cooperate fully with CONTRACTOR, within five (5) business days, to cure any unauthorized disclosure or use of the Licensed Software.

B. Possession and Use of Source Code: Upon COUNTY's request, CONTRACTOR shall place the source code of the TechCare® System in an escrow account setup and maintained by the COUNTY and its selected 3rd Party Vendor. If Source Code is obtained by COUNTY through escrow, such Source Code shall remain subject to every license restriction, proprietary rights protection, and other COUNTY obligations specified in this Agreement. COUNTY may use Source Code for the sole purpose of supporting its use of the Licensed Software as expressly permitted under this Agreement, and for no other purpose whatsoever. When Source Code resides in a central processing unit, COUNTY shall limit access to its authorized employees who have a need to know in order to support the Licensed Software. COUNTY shall at all times implement strict access security

measures in order to prevent unauthorized disclosure, use, or removal of Source Code. Source code held in escrow may be tested for authenticity and reliability at designated times by COUNTY.

C. Software Ownership:

1) COUNTY will not decompile or disassemble any Licensed Software provided under this Agreement. COUNTY will make and maintain copies of the Licensed Software for archiving, disaster recovery, backup, fault tolerance and parallel processing procedures of the Licensed Software and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original.

2) If COUNTY's computers on which any item of Licensed Software is licensed become temporarily unavailable, use and license of such software may be temporarily transferred to an alternative COUNTY computer.

3) This Agreement does not transfer to COUNTY title to any intellectual property contained in any Licensed Software, Documentation or proprietary information.

4) Documentation licensed hereunder does not include any materials designed for or used in the Maintenance of Equipment. The COUNTY shall take all reasonable precautions to safeguard the Licensed Software, manuals, documents, and media and to use its commercially reasonable best efforts not to make available the Licensed Software in any form to any third party, except for COUNTY employees, consultants, independent contractors, providers or other third parties under contract with COUNTY directly concerned with COUNTY's licensed use of the System, subject to the conditions set forth in this Agreement.

5) Upon Termination of this Agreement, COUNTY's entitlement to the use and access of the Licensed Software shall cease and the License Software shall be returned to CONTRACTOR.

VI. STANDARDS OF SYSTEM PERFORMANCE

A. The System must perform at COUNTY acceptable performance levels from the period of First Productive Use. The System shall: perform in a manner

that will not impede or significantly impact the performance of routine and normal System-related operational tasks; perform critical processes that are executed at the server level; and function in a consistent and dependable manner, recognizing that the COUNTY operates in a demanding twenty four (24) hours a day, seven (7) days a week production environment in which high-availability is critical. The parties agree that System performance is a joint responsibility of COUNTY and CONTRACTOR to the extent under control by each party. CONTRACTOR agrees to provide Support and Maintenance services in accordance with the applicable terms set forth under during the entire term of the Agreement.

B. CONTRACTOR agrees that it will not knowingly commit to any new project in such a manner as it would materially interfere with the scheduling or delivery of the products or services to COUNTY as detailed and set forth herein.

C. Project Schedule:

1) Site Preparation. COUNTY will have its Designated Facility(s) prepared for the EHR project by the Effective Date of this Agreement. In the event the site(s) is/are not prepared by such date, COUNTY acknowledges that the project schedule may be delayed and that, if applicable, CONTRACTOR may make a change order application to COUNTY to adjust dates only.

2) Installation Responsibilities. CONTRACTOR and COUNTY will each perform the specific tasks identified in Exhibit C to the Agreement for the EHR project.

3) Project Team Environment. COUNTY shall provide CONTRACTOR personnel a designated work area, access to facilities, access to systems, and other items identified in the SOW, set forth herein as Exhibit C, as items reasonably necessary for CONTRACTOR's personnel to provide the Services set forth in this Agreement. CONTRACTOR employees will be subject to either Sheriff's or Probation's background checks to include fingerprints (Livescans) before being allowed IT systems access and if CONTRACTOR employees are removed from employment, CONTRACTOR will inform COUNTY within five (5) days.

4) COUNTY shall provide CONTRACTOR remote access to systems as

necessary for CONTRACTOR personnel to provide the services and support set forth in this agreement and as outlined below:

a) Support Tools:

CONTRACTOR shall install and maintain a support server that is located in NaphCare's cloud infrastructure. The server shall be dedicated to the support activities of the COUNTY and be completely isolated from all outside networks and domains. In instances where the COUNTY exercises the CONTRACTOR hosted disaster recovery service, this will also act as the support server.

b) CONTRACTOR shall install and maintain workstations located in NaphCare's corporate office which are used by NaphCare technical personnel for support purposes.

c) Connection Methods:

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

d) Traffic Access:

COUNTY shall insure CONTRACTOR's VPN remote access including dedicated high speed (T1 [1.544mb/s] or greater) bandwidth. Access to COUNTY servers must be interactive, including but not limited to Remote Desktop, SQL, and/or Virtual Network Computing (VNC). All access to COUNTY servers will be logged, and be available for audit, by CONTRACTOR including, but not limited to time, date, user and issue which prompted remote session to be initiated. Upon remote session, CONTRACTOR will send prior notification of issue and attempt to log into system.

e) Credentials:

COUNTY shall provide CONTRACTOR with a network/system account

that maintains local administrative privileges on server infrastructure that supports the application including but not limited to the database, file, and interface servers. COUNTY shall provide CONTRACTOR with a local SQL account for accessing the database.

Failure of the COUNTY to provide access methods or properly maintain those methods outlined above will result in CONTRACTOR being unable to provide support and maintenance activities as outlined in this contract.

5) The Services performed under this Agreement shall be done in accordance with Exhibit C to the Agreement, which may be revised at the option of COUNTY with CONTRACTOR's concurrence. Each party shall be responsible for schedule adherence as outlined in this Agreement.

D. Pre-Production Acceptance Period:

COUNTY agrees to use its commercially reasonable best efforts to identify for CONTRACTOR in writing those issues arising out of the required work performed as stated in the SOW, during the Pre-Production Acceptance Period in a non-production environment which, if not resolved to COUNTY's satisfaction, could cause COUNTY to delay Acceptance in the Production Acceptance Period. COUNTY and CONTRACTOR agree that First Productive Use with respect to the required work performed as stated in the SOW, shall not occur until such pre-production issues are either resolved to COUNTY's satisfaction or until COUNTY agrees in writing that such issues will not be used as a basis for COUNTY to withhold Acceptance in the Production Acceptance Period. Any acceptance by COUNTY shall not be unreasonably withheld.

E. Production Acceptance Period:

1) The Production Acceptance Period allows COUNTY to verify the functionality in a production environment, and to identify issues occurring during or after First Productive Use of the solutions delivered in the SOW, which could cause COUNTY to delay Acceptance. Should COUNTY become aware of any Material Errors with the delivery of the solutions set forth in the Exhibit C, COUNTY shall promptly send CONTRACTOR a Notice of Noncompliance which shall include a

written, reasonably detailed description of each known discrepancy or failure. CONTRACTOR shall then have the remainder of the Production Acceptance Period to resolve the discrepancies so identified and reported. COUNTY shall, upon CONTRACTOR's request, test any modifications during this period.

2) The Production Acceptance Period for the required work performed as stated in the Exhibit C shall begin upon First Productive Use and shall continue for a period of ninety (90) days, at which time the parties shall deem the Licensed Software accepted unless CONTRACTOR receives a written Notice of Noncompliance from COUNTY within five (5) days following the last day of the Production Acceptance Period. If CONTRACTOR receives a Notice of Noncompliance from COUNTY, the test process shall be extended on a day-to-day basis, until the earlier of the following:

a) The applicable module of Licensed Software delivered under the Exhibit C performs in accordance with the Product Descriptions and in compliance with the Exhibit C, without Material Error and for a period of thirty (30) continuous days, the functions with respect to the defects listed in the Notice of Noncompliance, or;

b) CONTRACTOR notifies COUNTY in writing that the maximum level of functionality (as defined in the Product Descriptions) has been achieved; and that said level of functionality does not result in any material revision or limitation to CONTRACTOR's commitments as specified in this Agreement, at which time COUNTY shall be deemed to have automatically accepted the Licensed Software as it exists at that time, unless COUNTY, as COUNTY's exclusive remedy, terminates this Agreement upon written notice to CONTRACTOR, as set forth in the Termination Paragraph of the Agreement, in writing within fifteen (15) business days after receipt of CONTRACTOR's notice of maximum functionality, or

c) In the event the System has failed to perform without Material Error for a period of at least ninety (90) days following the initial Notice of Noncompliance from COUNTY, COUNTY may terminate this Agreement upon notice to CONTRACTOR as set forth in the Termination Paragraph of the Agreement.

VII. HOURS POOL

A. COUNTY and CONTRACTOR agree that for the project implementation, testing, training and support, CONTRACTOR shall provide, as a part of the costs outlined in Exhibit D, a total of one thousand seven hundred fifty (1750) labor hours (hereinafter referred to as 'Hours Pool') over the course of the first five years of the Agreement. The Hours Pool shall be allocated as follows: one thousand (1,000) hours for Sheriff's Department, seven hundred and fifty (750) hours for Probation Department. It is agreed that said Hours Pool shall be subject to the terms, conditions and approval by COUNTY as set forth in the Agreement (Sections 1 through 26), until such time that the Hours Pool is exhausted. Upon the Hours Pool being exhausted, the rates set forth in this Agreement are available only for in-scope work. CONTRACTOR shall maintain the accounting of the Hours Pool outlining the services rendered as identified in this Agreement and shall provide a detailed report to COUNTY for review and approval on a monthly basis or other timeframe as agreed upon by both parties.

B. Both parties agree that the Hours Pool may be increased at any time during the course of the Agreement by either:

1. The COUNTY pre-purchasing additional hours in blocks of 100 hours at the negotiated rate of one hundred fifty (\$150.00) per hour, or
2. Credits received in favor of the COUNTY by CONTRACTOR for unused hours allocated to specific projects either already underway or future projects under separate agreement(s), or
3. Credits received in favor of the COUNTY by CONTRACTOR as may be identified by CONTRACTOR and agreed upon by COUNTY.

C. In the event the stated Hours Pool is not exhausted by COUNTY by the end this Agreement, including any renewals or terminations exercised one of the following will occur:

- 1) Should this Agreement be terminated by the CONTRACTOR, the CONTRACTOR agrees to reimburse at a rate of \$150 per hour to the COUNTY for all unused hours that have been pre-paid through the original Hours Pool within thirty (30) days as of the effective date of termination of the Agreement.
- 2) Should this Agreement be terminated by the COUNTY, no reimbursement will be provided for unused hours.

3) Should this Agreement end either by termination or non-renewal, CONTRACTOR agrees to reimburse at a rate of \$150 per hour to the COUNTY for all unused hours that have been pre-paid over and above the original Hours Pool within thirty (30) days as of the effective date of termination of the Agreement.

D. Items falling outside of support and maintenance requested by COUNTY and without a positive balance of hours in the Hours Pool will be billed on a quarterly basis as defined in Exhibit D – Payment Provisions. However, the parties agree that all existing features/functionality in the current version of EHR as well as future versions and any additional features/functionality developed over the course of the first five years of the agreement shall be provided to COUNTY at no cost and shall not be considered as outside of the support and maintenance requiring use of hours in the Hours Pool.

EXHIBIT C

STATEMENT OF WORK (SOW)

The commitment for the completion and go-live of the overall EHR project shall be determined by both parties. CONTRACTOR shall not be liable for any project delay(s) unless such delay(s) is (are) due to CONTRACTOR's fault as determined by COUNTY. COUNTY shall provide written confirmation to CONTRACTOR of go-live start date two (2) weeks in advance of agreed upon date. Should COUNTY change go-live date within two (2) weeks preceding start date, COUNTY shall be solely responsible for all non-refundable costs incurred by CONTRACTOR related to go-live activities. Such activities include but are not limited to: reasonable hotel accommodations, transportation costs, and personnel back-fill costs related to those individuals involved in the go-live training and implementation activities provided by CONTRACTOR. Go-live start date shall not occur within 7 days of a national holiday

The EHR system is necessary to allow COUNTY to provide the mandated "community standard" health care to the inmates in the San Bernardino County Jail facilities and the juveniles in the Juvenile Hall facilities.

Development work shall be performed on a test non-production domain, and at successful completion, CONTRACTOR will move the completed work from the non-production (Prod) domain to the Production domain within six months from the completion of COUNTY customization and support the successful go-live on the same date.

The EHR System shall be a fully integrated EHR running on Microsoft Windows Server 2012 or better over the COUNTY network. The application shall run on any hardware or virtualization technology supported by Microsoft Windows connecting to the COUNTY wide area network.

A. OVERVIEW OF MODULES

The EHR system shall be a client/server application that is modular in nature, with major modules as outlined below.

1. Demographics and Registration
2. Medical Services
3. Scheduling and Tracking
4. Pharmacy and Drugs
5. Dental
6. Correctional Mental Health

7. Juvenile Health
8. Clerical
9. Imaging and Document Management
10. Interfacing Management
11. Systems Administration
12. Chronic Care

It is expected that all existing features/functionality to include reports in the details of each module listed below shall be included in the current version of EHR provided to the COUNTY as well as future versions and any additional features/functionality developed over the course of the first five years.

1. Demographics and Registration Module

Information needed to properly identify and track an inmate or juvenile (use of “inmate” also includes juvenile) will be the responsibility of the Demographic and Registration Module. This module will be where information such as Name, Booking Number, Unique identifier and other demographic information reside. This module will contain past medical records and past bookings that are linked to the inmate. Here also will be identifiers which shall allow information about the inmate to be shared with other programs including JMS/OMS, pharmacy and labs. This module will also contain a mechanism for restricting the unauthorized release of information and auditing of accessed files; maintaining the confidentiality of all patients is paramount in this environment.

2. Medical Services Module

Information on all medical services provided to the inmate will be entered and edited in this module. This module will encompass such areas as physician orders, chart notes, nursing procedures, etc.

3. Scheduling and Tracking Module

The Scheduling and Tracking module will handle the scheduling and tracking of clinical appointments and medical encounters, both inside and outside the facility. Here also will be where alerts and flags to Scheduling and Tracking are handled.

4. Pharmacy and Drug Module

All of the medications prescribed to inmates will be handled through the Pharmacy and Drug module. Drug to drug interaction, warnings and patient information about medications, will be generated here. The module shall have the capability to exchange data with existing

Correctional Institutional Pharmacy System (CIPS).

5. Dental Module

A Dental Module will contain tools necessary to manage dental healthcare including forms, integration with dental PACS systems, and appointment management.

6. Correctional Mental Health Module

The mental health needs of inmates will be tracked and fulfilled using this module. Additional mental health functionality specific to juveniles will be available in the Juvenile Health module.

7. Juvenile Health Module

A full Juvenile Health Module will encompass the special needs for juveniles not already covered in other modules. This module will include eligibility checking, specific juvenile programs tracking such as immunizations, additional reporting and consent requirements specific to minors.

8. Clerical Module

The Clerical Module will deal with functions such as staff professional licensing, credentialing and continuing education.

9. Imaging and Document Management Module

This module will handle the images of scanned records and forms from past bookings.

10. Interface Management Module

This module will handle all of the execution and maintenance of interfaces to other systems.

11. Systems Administration Module

The Systems Administration Module will be where administrative functions such as access rights or creating ad hoc queries will be performed.

12. Chronic Care Module

A Chronic Care Module is provided to manage administration of drugs used to treat patients diagnosed with chronic care conditions.

B. EHR SYSTEM REQUIREMENTS

1. EHR System Architecture

The EHR system must provide the specific functionality needed to support the medical,

mental health and juvenile programs and must be compatible with the overall architecture required by the County Sheriff's Technical Services Division (COUNTY IT). System architecture shall include:

- a) A client/server, non-mainframe EHR system that maintains a centralized data repository and processes the data on a central application server.
- b) Desktop accesses over a local area network and/or a wide area network using a Microsoft Internet Explorer 9.0 or newer.
- c) Operating the EHR system on a network developed, maintained and supported by COUNTY IT. This network will include Local and Wide Area Networks (LANs/WANs).
- d) An EHR system with hardware, operating system, database management system and programming languages that use current commonly used IT standards.
- e) A Master Patient Index that uniquely identifies each San Bernardino County Corrections inmate using an unique identifier as designated by population.
- f) Use of healthcare industry standards for transaction formats, codes and protocols for data which must interface between San Bernardino County Corrections and other systems, such as HL7 and International Classifications of Diseases (ICD)-10 coding.
- g) An Interface Engine to convert and transfer data between different systems. Use of Health Insurance Portability and Accountability Act (HIPAA) standards for data elements and data formats for data which must interface between San Bernardino County Corrections and other systems.
- h) A Clinical Data Repository (CDR) which shall allow the storage of data captured by different "front end" transaction applications other than EHR system.
- i) Use of a data dictionary or similar technology which facilitates the maintenance of tables or metadata identifying sources, formats, codes, descriptions and other information about data in the CDR.
- j) Interface to a common data warehouse that can be populated by data from the CDR.
- k) Secure Sockets Layer (SSL) or Public Key Infrastructure (PKI) security for Web-based transactions.

2. Technology Requirements

The EHR system must be able to operate within the existing COUNTY environment including the Local Area Network, hardware, and software infrastructure. It must comply with internal COUNTY Information Technology (IT) standards, as listed in Exhibit E, so that the EHR system does not require its own separate technical environment. It must be capable of interoperation and interfacing with other COUNTY systems and with standard office automation products, as outlined below.

3. Conformity and Support

The EHR system must fully conform with and support the following COUNTY infrastructure and environment requirements:

- a) Microsoft Windows Server 2012 or higher operating system.
- b) Microsoft Windows 7 Professional PC workstation operating system with full Graphical User Interface (GUI).
- c) Microsoft Windows Intel or Intel-compatible PC workstations.
- d) ANSI SQL and ODBC-compliant relational or post-relational database management system (DBMS)
- e) 10/100/1000 Base-T switched Ethernet Local Area Network (LAN) topology and-TCP/IP protocol.
- f) Existing COUNTY IT broadband based Wide Area Network.
- g) Microsoft Internet Explorer 9 or newer.
- h) Use of either Visual Basic .NET, or C# as the applications language (although other ANSI standard languages shall be considered) and XML support for Web usage.
- i) Use of generally accepted IT industry methodologies for software design, especially for external data exchange interfaces, application programming interfaces (APIs) and interfaces to common infrastructure support services such as OLE 2.0, MAPI 1.0, TAPI 2.0, SAPI 1.0 and CCOW.
- j) Where appropriate, use of generally accepted healthcare industry data format and transactions standards including, but not restricted to, HL7, CORBA, and ANSI X.12.
- k) Full scalability for the application and any required hardware/software platform.

4. Compliance

The EHR system must comply with the healthcare industry transaction and reporting standards listed below:

- a) Joint Committee on the Accreditation of Healthcare Organizations (JCAHO), American Hospital Association, Title 15, Article 11, CPC, Institute for Medical Quality (IMQ), National Commission on Correctional Health Care (NCCHC), Office of the National Coordinator for Health Information Technology (ONC HIT) 2014, and HL7 messaging formats, and other national accreditation standards applicable to health care software systems.
- b) HIPAA standards including those relating to healthcare industry standard coding, identifiers, and transaction formats of which these must include support for:
 - i. CPT Service Coding
 - ii. Diagnostics Statistical Manual (DSM) IV and ICD-10 Diagnosis Coding
 - iii. National Drug Codes (NDC)
 - iv. Provide Identifier
 - v. Client Identifier
 - vi. Security and Confidentiality
- c) Other HIPAA standards as they become enacted. This might include issues such as privacy and tracking of request for information from a medical record.

5. Compatibility

The EHR system must be compatible with the following:

- a) Microsoft Windows 2012 server or newer network operating systems.
- b) Microsoft SQL Server 2014 or newer database management system.
- c) SQL Reporting Services and or online analytical processing (OLAP) tools.
- d) Microsoft Office 2013 suite or newer.
- e) Microsoft System Center Configuration Manager (SCCM) for automated software distribution across the network.
- f) Microsoft Forefront Endpoint Protection

6. General Capabilities and Features

The EHR system shall meet the following requirements for general, non-function specific requirements:

- a) Information shall be entered only once for all users and for all modules within the application.
- b) Support ad hoc reporting from an industry standard report generator, accessible from within the application. (The user should not have to exit the application in order to do ad hoc reporting.) This report generator is in addition to the ability to pre-define reports within the application.
- c) Provide a built in report generator that allows designated users to create new user reports which can then be attached to the application and simple queries which can be output to the printer.
- d) Contain predefined, standard reports selectable from within the application.
- e) Have enhanced end user reporting with the ability to extract and download data into COUNTY-approved desktop end user report tools such as those found in the Microsoft Office 2013 suite. (e.g. Word, Excel, PowerPoint, etc.).
- f) Provide for an open architecture for future software developments.
- g) Be scalable to allow for increases in the number of transactions or in the number of users on the new EHR System.
- h) Be upgradeable to the next generation of operating systems and user interfaces.
- i) Have a help system/user's manual for every screen and every module within the application.
- j) Have real time updates to master records tables in order to provide current information to all queries and reports.
- k) Provisions shall be made for updating from a manual fallback system of data collection forms that shall allow for the continued collection of data during a system outage. The data on these forms shall be entered and updated when the EHR System comes back online.
- l) Have the ability for the user to print documents to either a locally attached printer or to a choice of networked printers.
- m) Be based on a GUI with graphical screen objects such as radio buttons, drop down lists, tabs, etc. used to select and activate functions rather than entry into text based screens. Screens shall support flexible and direct screen navigation rather than hierarchical navigation through multiple levels. A browser-compatible GUI shall also be

acceptable.

- n) Be flexible and include the ability to significantly modify EHR System functionality and logic through the use of user-defined and maintained EHR System parameter tables, which are external to the software source code.
- o) Include the ability for the user to add new COUNTY business units, cost centers, providers, as well as the ability to accommodate significant future growth in overall patients, providers and staff.
- p) Include the ability to interface with other enterprise-wide application software which may be implemented or acquired by COUNTY and is compatible with its standards.
- q) Include the need to integrate clinical content into the EHR System functions including private and public sector information sources. (E.g. drug use protocols, nursing protocols).
- r) Include the ability to generate on-line alerts, emails or tickler reports to remind staff and supervisors of scheduled pending, overdue or potentially noteworthy activities or statuses (e.g., alerts for appointments, notification of allergies, request of test completed, abnormal test condition).
- s) Include the ability to perform comprehensive data validation checks and enforcement of data integrity across all EHR System transactions.
- t) Be compatible with fault tolerant, 24 X 7 infrastructure systems with a minimum of 99% up-time reliability using hardware and software fault tolerance methods.
- u) Include the need for a role-based model of security and confidentiality with easy to administer security capabilities. This model shall also incorporate the use of patient authorizations where applicable.
- v) Include the need for multiple levels of access only to those portions of the medical record that are relevant to the particular transaction that the person is authorized to perform.
- w) Maintain an extensive EHR System audit trail which records all EHR System transactions and which identifies the date and time of the change, the user making changes and the pre and post-change images of any affected data.
- x) Maintain multiple segments of history on values of key fields such as eligibility,

addresses, phone numbers and others where changes are likely and previous values shall be maintained. The CONTRACTOR shall work with COUNTY to identify the fields for which history shall be maintained.

y) Shall have data archive and restore capabilities.

z) Include the ability to archive data for near-line or off-line storage in accordance with the listed specifications by the Records Control (or Retention) Schedule of COUNTY for retention of "office" documents. The storage media shall be defined by COUNTY.

aa) Data Retention Requirements for San Bernardino County Corrections Medical/Mental Health Records:

i. Adult Medical/Mental Health Data — records shall be retained for ten (10) years after discharge.

ii. Juvenile's Medical/Mental Health Data —Juvenile records shall be retained for ten (10) years after discharge and/or until the juvenile reaches twenty-five (25) years of age. However, for a female juvenile who gives birth while incarcerated, the mother's medical record must be maintained on line until the mother reaches the age of eighteen (18) years. Then the record can be archived for storage until the child reaches the age of twenty-five (25) years.

iii. Include the capability to select the data to be archived using such criteria as Booking Number, Juvenile Number, age, name, program, record type, yet to be determined unique identifiers and combinations of those and other criteria.

iv. Shall support barcode symbology necessary for the identification of inmates via a handheld scanner. Identification of inmates, via a barcode scanner, shall be used to expedite the distribution of medications to inmates and subsequent updating of the Medical Administration Record (MAR) but, it shall not be limited to just this purpose.

7. San Bernardino County Corrections Functional Requirements

A) Demographics and Registration

Shall be managed through an interface with JIMS and accessed and displayed by

EHR.

B) Medical Services

- a) Intake Screening and Evaluation. Integrated Intake Screening Notes;
 - i. Shall be free form and searchable.
 - ii. Shall be displayed in SOAP format.
- b) Intake Screening and Evaluation, Medical History & Evaluation;
 - i. Structured check off form.
 - ii. Uses ICD-10 definitions.
- c) Intake Screening and Evaluation, Triage;
 - i. Shall be based on current standard Triage form in EHR.
 - ii. Shall use standard medical categories and definitions.
 - iii. Shall be customizable by the CONTRACTOR as needs change.
- d) Intake Screening and Evaluation, PPD Tracking;
 - i. Ties into scheduling module.
 - ii. Contains preset reports to choose from that currently available in the version provided to COUNTY and future versions over the course of the first five years of the agreement.
- e) Intake Screening and Evaluation, HIV Tracking;
Flagged for statistics reporting
- f) Medical Classification, User maintenance table;
Based on commercially available database.
- g) Medical Classification, Standard Medical Classification Database;
 - i. CPT
 - ii. ICD-10
 - iii. DSM-IV
 - iv. Other standard medical classification tables.
- h) Nursing Templates, Over-The-Counter (OTC) medication and legend drugs;
 - i. OTC medications and legend drugs ordered using templates based on the San Bernardino County Corrections Nursing

Standardized Procedures Manual (Current & Future versions).

- ii. Shall be displayed in SOAP format.
- i) Nursing Templates, Detox for alcohol and/or Opiates;
 - i. User defined standard orders and protocols
 - ii. Shall be displayed in SOAP format.
- j) Nursing Templates, Other Defined Templates;
 - i. User defined standard orders and protocols for other procedures, orders and protocols.
 - ii. Shall be displayed in SOAP format.
- k) Problem Oriented Care Plans, Integrated Care Plan Notes;
 - i. Free form and searchable.
 - ii. Shall be displayed in SOAP format.
 - iii. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- l) Problem Oriented Care Plans, Standard Treatment Protocols;
 - i. Chosen from attached standard treatment database.
 - ii. Standard treatments can be edited or notes attached.
 - iii. Shall be displayed in SOAP format.
- m) Problem Oriented Care Plans, Outcome Monitoring;
 - i. Outcomes based on standard results table.
 - ii. Attached, preset report shall show progress to date.
- n) "SOAP" Encounter Processing, Integrated "SOAP" notes;
 - i. Structured notes following "SOAP" format.
 - ii. Ability to add free form comments.
 - iii. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- o) "SOAP" Encounter Processing, Sick Call and Triage Processing;
Follows standardized editable forms and procedures.
- p) "SOAP" Encounter Processing, Clinic or Infirmary Processing;

Follows standardized editable forms and procedures.

- q) "SOAP" Encounter Processing, Exams, Vital Signs, Diagnosis;
Follows standardized editable forms and procedures.
- r) "SOAP" Encounter Processing, Referrals and Statistics;
 - i. Look up from Referrals table.
 - ii. Can choose to print predefined Statistics reports attached here.
- s) Physician Orders, Integrated Physician Notes;
 - i. Structured notes following standard Physicians notes formats using ICD-10 and DSM-IV codes.
 - ii. Ability to add free form comments.
 - iii. Shall be displayed in SOAP format.
 - iv. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- t) Physician Orders, Medication, Lab, Radiology, Dietary orders Tracking;
 - i. Medication orders based on ICD-10 and drug codes chosen from a pick list.
 - ii. Input from choices on a standard Lab, and Radiology form with comment fields.
 - iii. Dietary orders chosen from an editable pick list of available diets.
- u) Shall be displayed in SOAP format;
 - i. Physician Orders, Treatment and Therapy Tracking
 - ii. Choose from standard treatments and therapies list.
 - iii. The choices could be editable to allow for flexibility.
 - iv. Shall be displayed in SOAP format.
- v) Physician Orders, Housing, Work, Activity Restrictions tracking;
 - i. Housing locations determined by data imported from JIMS system. CONTRACTOR shall provide functionality in EHR to allow for the automated importing of this data.
 - ii. Work activities and restrictions based on pull down list of

standard activities.

- w) Geriatric & Special Needs Management, Integrated Geriatric Notes;
 - i. Free form and searchable.
 - ii. Linked by navigation to other modules within TechCare ®.
 - iii. Shall be displayed in SOAP format.
 - iv. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- x) Geriatric & Special Needs Management, Statistics Gathering;
 - i. Pre designed report attached here for choice to print statistics on Geriatrics information.
 - ii. Same report choice available from within other modules.
 - iii. Encounter Processing, Medical Nursing Encounter
 - iv. Data entered through standard Nursing encounter form.
 - v. Uses pull down pick lists of standard Nursing procedures, protocols and medications.
 - vi. Shall contain searchable free form comments.
 - vii. Shall be displayed in SOAP format.
 - viii. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- y) Encounter Processing, Medical Physician Encounter;
 - i. Data entered through standard Physician encounter form.
 - ii. Uses pull down pick lists of standard Physician procedures, protocols and meds.
 - iii. Shall contain searchable free form comments.
 - iv. Shall be displayed in SOAP format.
 - v. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- z) Encounter Processing, Medical Services Reporting;

- i. Generate currently available and future standard reports related to Medical Services information.
- ii. Medication List.
- iii. Medications list by facility and service for medications due at date and time range.
- iv. Labels attached to medications envelope carried by inmate or by Sheriff personnel.
- v. Renewable Medications.
- vi. List of medications requiring renewal within next seven (7) days.
- vii. Dietary List.
- viii. List by facility of all inmates who need a special diet.
- ix. PPD's (TB Test) to give.
- x. List by facility of inmates who need to have PPD given.
- xi. PPD's to Read.
- xii. List by facility of inmates who need to have PPD read
- xiii. PPD's Positive.
- xiv. List by facility of inmates who have positive PPD and no scheduled Chest X-ray to be scheduled for follow up.
- xv. Completed MAR.
- xvi. Print all of the completed MAR entries for date range.
- xvii. Link to Administration for Ad Hoc Reporting.

C) Scheduling & Tracking General Requirements:

The Tracking Module shall handle tracking of clinical appointments and medical encounters. Examples of the functions that the Scheduling Module shall handle are:

a) Scheduling and Tracking Functional Requirements:

- i. Tickler/Recall System
 1. Exams & Chronic Care Follow Ups
 2. Attach a follow up date flag for the results of exams.
 3. Attach a reoccurring follow up date flag for chronic or on-going care.
 4. Auto-populates and is auto-populated by scheduling module.

- ii. Medications Due to Expire
 - 1. Flag all Medication orders due to expire within a user defined date range.
 - 2. All medications due to expire shall be listed out when medical staff logs on.
 - 3. When certain individuals (i.e.' the ordering physician) logs on, a list of expiring medications for that physician shall pop up.
- iii. Other User Definable Ticklers
- iv. Attach a date flag for other user definable events.
- v. Tie into schedule module.
- vi. Lab Tests
 - 1. Date flag for reviewing lab tests results.
 - 2. Tie into schedule module
- vii. X-rays
 - 1. Date flag for reviewing X-ray results.
 - 2. Tie into schedule module
- viii. Scheduling System;
- ix. Integrated Scheduling Notes
 - x. Task oriented notes attached to schedules.
 - xi. Link to outside schedules.
- xii. Ability to schedule individual inmates as well as groups of inmates.
- xiii. Attendance & Status Reporting
 - 1. Ability to track attendance at scheduled events (i.e. Clinics).
 - 2. Report on status of attendance.
- xiv. Interface to Call-Outs
 - 1. Report back to or interface with JIMS concerning call outs for medical services.
- xv. Court Appearance
 - 2. Schedule court appearance
 - 3. Track inmate's court appearance schedule and coordinate with any scheduled medications.

- xvi. Sick Call
 - 1. Schedule sick calls
 - 2. Track results and recommendations.
 - 3. Tracking screen should be user definable.
- xvii. Off-Site Specialty Clinic Appointments
 - 1. Track scheduled appointments.
 - 2. Tracking screen should be user definable.
- xviii. Tracking;
- xix. Treatment Authorization Request (TARS)
 - 1. Track all TARS
 - 2. Ability to run pre-defined reports on TARS.
 - 3. Tracking screen should be user definable.
- xx. Other Outside Providers
- xxi. Track other outside providers and be able to report on them.
- xxii. Tracking screen should be user definable.
- xxiii. Passes for Inmate Movement
 - 1. Track Passes for Inmate Movement.
 - 2. Access pre-defined report listing inmates' movements.

D) Pharmacy and Drugs General Requirements:

All of the medications prescribed and administered shall be tracked and reported through the Pharmacy and Drug Module. The module shall exchange data with Correctional Institutional Pharmacy System (CIPS).

- a) Pharmacy and Drugs Processing Requirements:
 - i. Drug Processing
 - ii. Integrated Drug Processing Notes
- b) Drugs notes to follow standard Pharmacy coding.
 - i. Drug-Drug Compatibility Checking
- c) From a pull down list based on commercial drug compatibility application.
 - i. Drug Interactions Warnings
- d) From a pull down list based on commercial drug compatibility application.
- e) Unit Dosing

- f) Can calculate unit doses
- g) Titrated Medications
- h) Can properly deal with Titrated Medications
- i) Medication Administration Records
- j) Accurately track administration of medications
- k) Warns when prescription for medications differs from medications administered
- l) Pill Line Processing (Automated Drug Dispensing Machine)
- m) Generates medication lists that shall operate the Pill Line Processing Machine
- n) Drug Utilization Review
- o) Pre-defined reports that can be viewed and printed for review of the Drug Utilization.
- p) In Custody Billing Process
- q) Query data base for reimbursable drugs and or services
- r) Generate a report to be sent to responsible party
- s) Pharmacy Administration Requirements
- t) Prepare and monitor staffing assignments, their locations and availability
- u) Credentialing
- v) Monitor credentialing status of Pharmacy staff
- w) Statistics and Reports
- x) Pre designed reports for administrative review and for statistical reporting
- y) Drug Inventory Tracking Requirements
- z) Inventory and Ordering
- aa) Drug Inventory Control
- bb) Able to order, track usage and reorder of the full range of drugs on hand
- cc) Track the amount of drugs dispensed and automatically initiate a purchase order when drug inventory levels drop below presets
- dd) Link to Pharmacy Supply Automated Ordering Systems
- ee) Link to interface with the automated ordering system of Pharmacy supply houses

E) Dental

A full Dental module shall contain two sub modules: Dental Services and Dental Administration.

a) Integrated Dental Notes:

- i. Shall be forms based and use standard Dental nomenclature.
- ii. Shall have comments that are free form and searchable.
- iii. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.

b) On-line Tooth Chart & History:

Graphical based Tooth Chart that can be "checked off" and comments attached to the tooth or groups of teeth.

c) Intake Dental screening;

- i. Forms based using standard medical and dental classifications from pull down lists.

d) Dental Encounter;

- i. Forms based encounter using standard medical and dental codes and classification from pull down lists.

e) Choose standard dental protocols and procedures from pull down lists of standard dental codes.

f) Exam;

- i. Forms based using standard medical and dental classifications from pull down lists.

g) Treatment;

- i. Forms based treatments using standard medical and dental codes and classifications from pull down lists.
- ii. Choose standard dental protocols and procedures from pull down lists of standard dental codes.

h) Surgery;

- i. Forms based surgical procedures using standard medical and dental codes and classification from pull down lists.

- ii. Choose standard dental surgical protocols and procedures from pull down lists of standard dental codes.
 - i) Dental Administration Requirements:
 - i. Dental Staff Credentialing Monitor Credentialing status of Dental staff.
 - j) Statistics and Reports
 - i. Pre designed reports for administrative review and for statistical reporting.
- F) Mental Health General Requirements:
- a) All of the mental health needs of the inmates shall be tracked and fulfilled using this module.
 - b) Medical Restraints/Seclusion Monitoring, Flag and track those inmates needing Medical Restraints or Seclusion. Complete Five Axis DSM-IV Diagnosis Standardized diagnosis using DSM-IV codes.
 - c) Psychological Testing
 - i. Attached at this location shall be standardized Psychological testing applications, scoring and scoring results.
 - ii. Also attached here shall be the gathering of statistics over the entire inmate population and the reporting of those statistics.
 - d) Individual Treatment Plans
 - i. Standardization of treatment plans using DSM-IV and other industry standard codes.
 - ii. These treatment plans shall have the ability for the Physician to add free form notes or comments.
 - e) Outcome Monitoring
 - i. Pull down list of standard outcomes with the ability to modify and add comments.
 - ii. Shall be searchable.
 - f) Dual Diagnosis Mental Health Habilitation Plans, standardization of plans using industry standard codes.
 - g) Intake Mental Health Screening, forms based screening with check off boxes and pull down choices with the ability to add comments.

- h) Mental Health Nursing Encounter Tracking
 - i. Data entered through standard Mental Health Nursing encounter form.
 - ii. Uses pull down pick lists of standard Mental Health Nursing procedures, protocols and medications.
 - iii. Shall contain searchable free form comments.
- i) Mental Health Physician Encounter Tracking
 - i. Data entered through standard Mental Health Physician encounter form.
 - ii. Uses pull down pick lists of standard Mental Health Physician procedures, protocols and medications.
 - iii. Shall contain searchable free form comments.
- j) Prepare Standard Mental Health Management Reports
 - i. Pre designed reports shall be attached here for selection.
 - ii. Linked to Systems Administration module for creation of new, pre designed reports.
- k) Substance Abuse Component
 - i. Integrated Substance Abuse Notes
 - i. Shall be forms based and use standard medical nomenclature.
 - ii. National Institute on Drug Abuse (NIDA) Minimum and Optional Data bases
- l) Searchable and editable
 - i. Treatment Protocols and Treatment Plans.
 - ii. Choose from standard Treatment Protocols and Treatment Plans list.
 - iii. The choices shall be editable to allow for flexibility.
- n) Substance Abuse Outcome Monitoring
 - i. Pull down list of standard Substance Abuse outcomes with the ability to modify and add comments.
 - ii. Shall be searchable.
- o) Urinalysis Screening

- i. Input and report on the results of Urinalysis Screening.
- p) Interface to IRIS
 - i. Bi-directional data flow from EHR system to IRIS system.

G) Juvenile Health General Requirements

A full Juvenile Health Module shall encompass the all features of the aforementioned functional requirements of section 7 (as applicable, but not limited to), and including:

a) Juvenile Health Functional Requirements

- i. Case Management;
 - 1. Entry of demographic information.
 - 2. Assigning of Juvenile Health Number as provided by the COUNTY Juvenile Probation System.
 - 3. Tracking of housing assignments.
 - 4. Tracking of prior medical and mental health records as provided by the COUNTY Juvenile Probation System.
- ii. Testing and Assessment;
 - 1. Testing and assessment using standardized assessment instruments.
 - 2. Recording and evaluating the results of testing and assessments.
 - 3. Reports on results of testing and assessments.
- iii. Objective Classification
 - 1. Based on industry standard classification chosen from pull down lists.
 - 2. Classifications shall be editable or be able to add comments.
- iv. Identifying Risks and Needs
 - 1. Risk and Needs assessments based on industry standards;
 - 2. Reports on results of assessments.
- v. Evaluating Security Level via Housing Assignments;
 - 1. Risk and Needs assessments based on industry standards.
 - 2. Classifications shall be editable or be able to add comments.
 - 3. Evaluates severity risk and makes housing assignments based on those risks.

- vi. Collecting Medical Information: Allergies, Conditions, Medications, Vaccinations, Behavioral/Substance Abuse Problems;
 - 1. Data entered through standard encounter form.
 - 2. Uses pull down pick lists of standard procedures, protocols, allergies, conditions, medications, vaccinations, behavioral/ substance abuse problems.
 - 3. Shall contain searchable free form comments.
- vii. Treatment Plans with Outcomes;
 - 1. Chosen from attached standard treatment database.
 - 2. Standard treatments can be edited or notes attached.
- viii. Integrated Juvenile Health Progress Notes;
 - 1. Shall be forms based and use standard Juvenile Health nomenclature.
 - 2. Shall have comments that are free form and searchable.
 - 3. Any free form notes or comments shall have spell checking, recognize standard medical abbreviations and automatically convert those abbreviations to actual phrases.
- ix. Identification of Youth with Suicidal Tendencies or “Run Away” History;
 - 1. Ability to flag certain types of issues with minors as provided by the COUNTY Juvenile Probation System.
 - 2. Track and report on incidents of “issues”.
- x. Continuum-of-Supervision;
 - 1. Track the supervision of a minor as he/she moves through programs.
- xi. Tracking of Movements, Transfers;
 - 1. Track and report out movements and transfers of individual minor
 - 2. Coordinate movement with medical exposures
- xii. Matching Youths to available Facilities, Programs and Services;
 - 1. Coordination of minor, facilities, programs and services.
 - 2. Report on minor’s movement through facilities, programs, and services.

- xiii. Tracking Services, Programs Attended, Referrals, and Community Placements;
 - 1. Extension of Above.
- xiv. Disciplinary/infractions/grievances/appeal Tracking;
 - 1. Tracking of disciplinary procedures for individual minor.
- xv. Extensive Quality Assurance and Risk Management Controls;
 - 1. Track quality assurance and risk management.
 - 2. Report on results of the tracking.
- xvi. Security for items that fall under the California Child Confidentiality Controls;
 - 1. Assign security restrictions on confidential information.
 - 2. Link to security issues in Admin Module.

H) Clerical General Requirements

A full Clerical Module that shall encompass the following:

- a) Clerical Functional Requirements;
 - i. Medical Record Chart Tracking and Deficiency Monitoring
 - ii. Monitor information into chart and flag deficiencies for action.
- b) Records Consolidation;
 - i. Consolidate data in old record not currently on system with present record.
 - ii. Staff Licensing Credentialing Track and report on the Staff Licensing and Credentialing.
 - iii. Link to Scheduling module for scheduling.
- c) Discharge Summary;
 - i. Need to be user definable.
 - ii. Pre-defined summaries accessible here.
 - iii. Link to Ad Hoc query for more detailed summaries.

I) Documentation and Reference

- a) Online Access to Documentation;
 - i. San Bernardino County Corrections standardized procedures
 - ii. Nursing operational procedures

- iii. Infection control manuals
- iv. Pharmacy formulary
- v. Nursing 99
- vi. Physician's desk reference
- vii. Other Reference tools

b) Online Patient Information and Instructions;

- i. Routine Pre-op instructions
- ii. Instructions for various labs and x-ray procedures
- iii. Patient education handouts for prescribed medications
- iv. Shall be user definable
- v. Linked to Dental, Pharmacy and San Bernardino County Corrections Mental Health modules

c) Attached Image as a Note;

- i. Attach image as a viewable note to EHR system.
- ii. Use a graphics viewer to be able to read the image.

J) Systems Administration and Security

A) Systems Administration General Requirements:

- a) In the Systems Administration Module the daily operations of administration and security are performed.
- b) Systems Administration Functional Requirements:
 - i. Assign Rights And Privileges;
 - ii. Assign Group Rights and Passwords
 - iii. Create group with specific viewing, editing and access rights.
 - iv. Assign and maintain passwords.
- c) Lock Out Groups from Certain Data Down to the Field Level
 - i. Prevent certain groups from being able to access or even see certain data, down to the field level.
- d) Add and Remove Group Members
 - i. Add, delete and edit Group members' information and rights.
- e) Create Audit Trails for Data Changes
 - i. Audit trails allow for tracking changes in data.

- f) Manage Audit Logs
- g) View, edit and report on audit logs.
- h) Update The System;
- i) Maintain Data Transfer from interfaces
- j) Execute data transfer scripts, macros, or applications.
- k) Create, maintain, trouble shoot, and edit data transfer scripts.
- l) Create & Update Lookup or Validity Tables
- m) Create or modify lookup and validity check tables.
- n) Install or update commercially available lookup tables.
- o) Edit or customize commercially available lookup tables.
- p) Test Proposed Changes to Modules
 - i. Test all changes to modules using the backup server.
- q) Work with COUNTY to customize Module
 - i. Working with COUNTY, make changes to application that shall streamline it for San Bernardino County Corrections' use.
- r) Time Delayed Data Entry
 - i. System must allow authorized user to enter time delayed data and append it to the EHR.
 - ii. Data must be "verified" (time stamped and referenced to the actual date/time of the orders) and "signed off" by medical staff issuing orders.
 - iii. Must become part of audit trail.

B) Systems Administration

- a) Trouble Shoot the EHR System
 - i. Use system utilities to trouble shoot problems.
- b) Point of Contact to COUNTY for Problem Solving
 - i. Provide first point of contact of CONTRACTOR for support when problem solving.
 - ii. Coordinate activities of other COUNTY groups with CONTRACTOR for trouble shooting.
- c) Manage Maintenance Scheduling

- i. Setup and manage schedule for normal maintenance tasks.
- d) Run Statistics on System Operations and Performance
 - i. Run system performance statistics on a scheduled basis.
 - ii. Manage Request for Ad Hoc Queries.
 - iii. Coordinate and act as first point of contact for all Ad Hoc Query requests.
- e) Ad Hoc Query and Batch Processing;
 - i. Create Ad Hoc Queries
 - ii. Create new or edit existing Ad Hoc Query.
 - iii. When necessary, change Ad Hoc Query to standard query and attach to appropriate module of application.
- f) Process Ad Hoc Queries and Print Reports
 - i. Process Ad Hoc Queries and output to printed reports, to print file, or to other standard file formats.
- g) Manage any Batch Processes and Batch Printing
 - i. Run batch process Systems Administration
- h) Trouble Shoot the EHR System
 - i. Use system utilities to trouble shoot problems.

8. Interfacing Management General Requirements

A full Interfacing Management Module that shall encompass the following interfaces. Capability of defined integration is based on functionality of each respective system being interfaced and cannot be guaranteed.

Interfacing Management Functional Requirements

- a) Jail Information Management System – JIMS (for Sheriff)
 - i. Real-time bi-directional data transfer using web services.
 - ii. From JIMS to EHR system Data transfer to EHR must be facilitated by a call to the JIMS web service from EHR.
 - iii. From EHR system back to JIMS. Data transfer to JIMS must be facilitated by a call to the EHR web service from JIMS.
- b) Lab Diagnostics - Provider at time of go-live (for Sheriff and Probation);
 - i. Bi-directional data transfer using industry standard format (HL7 or

- similar)
 - ii. From Labs systems to EHR system.
- c) Medication Packaging System - Talyst; (for Sheriff)
 - i. Unidirectional data transfer from EHR system to pill packaging (Talyst) machine application.
- d) Document Management - IMRI; Inmate Medical Records Imaging System
 - i. Through integration using links/references within TechCare EHR will reference documents stored with IMRI based on a unique identifier
 - ii. EHR system will open IMRI application to specific location for the corresponding patients information.
 - iii. Transfer of actual documents between systems is not a part of integration
- e) Hospital EHR – Arrowhead Regional Medical Center - EHR system at time of go-live (for Sheriff) as well as allow for future integration with a replacement system;
 - i. Bi-directional data transfer utilizing ONC Certified CCDA Record Transfer
 - ii. From Hospital EHR to EHR system,
 - iii. From EHR system to Hospital EHR system.
- f) Biometric Identification System – IRIS (for Sheriff);
 - i. Unidirectional data transfer.
 - ii. From IRIS to EHR system,
 - iii. From EHR system to IRIS system.
- g) Probation Management System - Automon Caseload Explorer System; (for Probation)
 - i. Bi-directional data transfer
 - ii. From EHR system to Automon Caseload Explorer System.
 - iii. From Automon Caseload Explorer System to EHR system.
- h) Pharmacy - CIPS; (for Sheriff and Probation)
 - i. Bi-directional data transfer
 - ii. From EHR to CIPS
 - iii. From CIPS to EHR

- i) PACS/Radiology – Provider at time of go-live (for Sheriff);
 - i. Through integration using links within TechCare EHR that reference images which are opened by native PACS application
- j) PACS/Dental – Provider at time of go-live (for Sheriff);
 - i. Through integration using links within TechCare EHR that reference images which are opened by native Dental PACS application
- k) CDCR - California Department of Corrections
 - i. Bi-directional data transfer utilizing ONC Certified CCDA Record Transfer
 - ii. From CDCR to EHR system,
 - iii. From EHR system to CDCR system.
- l) DJJ - Department of Juvenile Justice
 - i. Bi-directional data transfer utilizing ONC Certified CCDA Record Transfer
 - ii. From DJJ to EHR system,
 - iii. From EHR system to DJJ system.

C. DATA REQUIREMENTS

1. The data that has been identified to support the functional requirements of the EHR system are minimal. CONTRACTOR may not have all of the specific data elements identified for the EHR but CONTRACTOR must be able to capture and process all data elements that are required for EHR's functionality. It is necessary that the EHR system incorporate the following general principles for identifying the data needed to support the EHR system defined functional requirements:

a) Data Common to All Modules.

Data that is common to all modules such as inmate or juvenile demographics (e.g. Booking Number, Juvenile Number, RCN; Name, sex, etc.) shall be captured and maintained once in a table accessible to all of the modules.

b) Data Associated with Specific Modules

Data that is common to a specific module such as dental (e.g. Dental notes, Dental diagnosis, etc.) shall be captured and maintained in a table accessible to that particular module.

c) Generalized Data Elements With a Type Code.

The use of a generalized data element along with a "type" code that is used to differentiate between different values, (e.g. a type code used to differentiate between an adult inmate and a juvenile offender, etc.) shall serve to clearly segregate the juveniles' information from that of the adults.

2. The data groups currently defined for the EHR system corresponds to the modular structure described earlier. The specific data model used to define these modules is largely normalized to eliminate redundancy of data except for primary and foreign key fields, which are needed to link data across tables. The data groups defined as modules are:

a) Demographics and Registration

Includes inmate or juvenile specific data tables associating the inmate or juvenile with his/her demographic information.

b) Medical Services

Linked tables containing the data generated on the medical services provided to individual inmates or juveniles.

c) Scheduling and Tracking

Data tables used in scheduling and tracking the inmates and juveniles, the staff, the tests and procedures, appointments and movements within the facilities.

d) Pharmacy and Drugs

Tables used to track all drugs prescribed, their interactions and warnings, their packaging and distribution within the facilities.

e) Dental

This includes tables containing data of the dental services provided to the inmates and juveniles.

f) Mental Health

Tables containing the data relating the mental health services provided to inmates and to juveniles. Because of confidentiality issues, much of the data captured must be kept

segregated within the database structure. However, rights to view this information within the EHR application will be role based and provide a full view of an inmate's care to those who have been granted ability to see both medical and mental health information.

g) Juvenile Health

Contains linked tables with data unique to juveniles; there is need to safe guard the confidentiality of the services provided to juveniles. Part of this is accomplished by keeping some data in separate tables and then only linking the tables based on the access rights of the user and provider.

h) Clerical

Tables are kept containing data relating to the clerical function. This may include data that is not actually part of a medical record but is necessary to the functioning of San Bernardino County Corrections.

i) Documentation and Reference

This module allows the ability to access outside resources like document imaging and patient education materials.

j) Systems Administration and Security

Contained in these tables shall be the defined access rights of the users allowed to access the system. These tables shall define down to the field level, which modules and which functions each user is authorized for access.

D. DATA RETENTION REQUIREMENTS

Because the San Bernardino County Corrections records contain medical records, data retention requirements are more stringent than would be for standard office files.

1. Retention of Adult Records:

San Bernardino County Corrections Mental/Medical health records shall be retained for ten (10) years after discharge.

2. Retention of San Bernardino County Corrections Juvenile Records:

Juvenile records shall also be retained for ten (10) years after discharge and/or until the juvenile reaches twenty-five (25) years of age. However, for a female juvenile who gives birth while incarcerated, the mother's medical record must be maintained on line until the mother

reaches the age of 18 years. Then the record can be archived for storage until the child reaches the age of twenty-five (25) years.

3. Archival process shall be automated, but configurable by a designated COUNTY administrator of the system.
4. Archival records data shall be recoverable through a searchable archive system.

E. PERFORMANCE REQUIREMENTS

1. Location Requirements

The EHR system shall be multi-user at multiple sites at multiple facilities. Each facility shall be connected to the servers over the COUNTY wide area network using various types of communications lines.

2. Hours of Operation

The EHR system shall be operational twenty four (24) hours a day, seven (7) days a week. This shall include all weekends and holidays.

3. Peak Times

The San Bernardino County Jail system is operational twenty four (24) hours a day, every day, and three hundred sixty five days a year. Because inmates are booked into the system at all times of the day and night, there will be no peak time where the load on the system will be highest. There may be seasonal increases due to holiday arrests; the load to the system will be proportionally greater throughout the entire day during such seasons.

4. On-line Response Time

Data entry functions shall experience no more than a two (2)–three (3) second response time during a screen change. Most reports shall be run against a data warehouse; updated ad hoc report queries shall pose no noticeable interruption to normal data entry by another user.

F. SYSTEM CONSTRAINTS

1. Legal or Policy Restrictions

The EHR system shall be used within the confines of the adult jail and the juvenile correctional facilities. Legal and policy restrictions of the San Bernardino County Sheriff's Department, the Probation Department and the Department of Social Services apply to the collection, use and distribution of data within the system.

2. Exceptional Security Measures Required

The entire EHR system shall be housed within a correctional institute or a secured computer room and as such, that constitutes Exceptional Security Measures. What is considered "usual and "customary" in this situation may not be "usual and customary" for any correctional institute. All equipment must be secured in such a way that none of the inmates has access to any of the equipment.

3. Auditing Requirements

The EHR system shall be required to have the ability to record audit trails for all transactions, permissions and requests. These audit trails shall be recorded in a log that cannot be altered. Changes in a submitted transaction must be made by retaining the old transaction, making the changes including a time/date/user stamp and a reason for that change. This information will be recorded in the audit trail and/or transactions log.

G. OPERATIONAL REQUIREMENTS

1. San Bernardino County Corrections Staff Training Needs

a) General Windows Training:

Since the system shall be a Windows based application and many of the staff at San Bernardino County Corrections is accustomed to a Windows based environment, it is expected that the training requirements for Windows will be minimal.

b) Ad Hoc Report Training:

The EHR system shall have the ability to do ad hoc reporting on the data in a data warehouse. Many of the reports that the staff may need shall be incorporated into the application and made available simply by clicking on them. Since the EHR will have a built in report generator, only certain staff members will have access to use the ad hoc reporting tools. For these users, it will be necessary to provide training in the use of the ad hoc report generator.

c) "Super User" Training:

The implementation of the EHR system calls for certain personnel to become more deeply informed about the unique aspects of the application, problem solving, and diagnosis and problem resolution. There should be one such "Super User" per shift per major facility. This shall establish a chain of command allocating problem solving. This shall also provide a focal

point to be able to see the larger picture and be able to spot problems that effect more than one user.

To accomplish this, a sufficient number of “Super Users” shall be trained. The training for these “Super Users” shall encompass the training that a regular user gets, plus problem solving and resolution.

d) User Application Role Based Training:

With the implementation of the EHR system, it becomes necessary for all potential users to be trained on the use of that application. Their level of training shall correspond to the access rights granted to the group that the user is part of. In addition to the training requirements identified in this Agreement, it is expected that the CONTRACTOR shall provide training for all the functionality provided by the EHR system, including third party contractors.

2. Documentation Requirements

a) Interface Documentation:

The COUNTY’S IT System Administrator shall be provided with documentation detailing the use and function of the interfaces used by the EHR system. Documentation shall cover all interfaces used by the EHR system.

b) Application/Server Documentation:

The COUNTY’S IT System Administrator shall be provided with the following Application/Server documentation:

- i. How to report and trouble shoot server related hang-ups and problems.
- ii. How to check to see if the user has lost a connection to the server/application.
- iii. How to add and delete user ID's.
- iv. How to assign rights and privileges.
- v. How to set up, clear and trouble shoot print queues.
- vi. How to assign and clear a user password.
- vii. How to set-up and clear a standard desktop.
- viii. How to report an application specific problem.
- ix. How to maintain all interfaces.

c) Application User Documentation:

Super Users will need the following application documentation;

- i. How to enter data into the application, find data already entered, and to generate reports appropriate to their group rights.
- ii. How to check to see if he/she has lost a connection to the application.
- iii. How to check print queues.
- iv. How to change his/her own password.

d) In addition to the documentation requirements identified in this Agreement, CONTRACTOR shall provide documentation for all the functionality provided by the EHR system, including third party applications.

H. INTERFACE REQUIREMENTS

1. The EHR system is required to interface with several existing COUNTY, external and internal systems. Specific EHR interfaces have been identified in support of the staff within the correctional facilities, within other programs and between internal processes. These interfaces are described in Section B, Item 10 and are generalized below along with expected interaction for a subset of defined interfaces. Full details of interface interaction and functionality will become a part of the Requirements Document in Phase II of this project.

a) General Interface Requirements:

The EHR system must be capable of transmitting information within COUNTY through email, web services, network transfer protocols, commercially available workflow software, or through extraction and down load to common data formats. The interfaces must support MAPI and other common email standards.

b) Internal San Bernardino County Corrections and COUNTY Interfaces:

The EHR system must be able to support internal reporting and connectivity systems. Such systems shall include:

a. JIMS – Sheriff Data System

- i. The JIMS provides the EHR system with certain demographic, inmate

identification, cell assignment and other booking information. This transmission shall occur via web services. JIMS will provide the initial identification information in order for the COUNTY Healthcare Staff to complete the intake medical screen. All records provided thereafter must be captured by the EHR system and appended to and reconciled with the data already entered on the inmate. For security reasons, the inmate is often moved from cell location to cell location. The next transfer will reflect this change in the cell location of the inmate and must be noted and tracked by the EHR system.

- ii. Data elements to be transferred - the data elements will be determined during Phase II, Interfaces-Requirements Gathering.
- iii. Workflow- JIMS to EHR:
 - 1. Sheriff's Healthcare User shall conduct a single finger IBIS scan to properly identify the inmate. If there is a hit on the biometric, IBIS will return a set of demographics.
 - 2. User shall enter the demographic data into JIMS. JIMS will issue a temporary ID number to the inmate and call the EHR web service to provide the initial identification number. This process to be further automated upon completion of the JIMS/IBIS Interface.
 - 3. User shall retrieve the inmate information in EHR already provided by JIMS and enter the medical information required by EHR.
 - 4. Booking process shall proceed whereby the Sheriff's Booking User shall input the rest of the necessary information.
 - 5. All updates in JIMS to the inmate record where any one of the fields later identified during Phase II, Interfaces-Gathering Requirements, JIMS will provide all updated information to EHR when the EHR system calls the JIMS Web Service.
- iv. Workflow – EHR to JIMS
 - 1. All fields in EHR are available for transfer to JIMS. COUNTY

shall determine what fields it wants transferred to JIMS from EHR and advise CONTRACTOR.

2. Defined workflows defined here may change based on county's intake process and availability of information during the intake process from JIMS and IBIS System

b. Pill Line Processing System (Talyst):

The Pill Line Processing System is driven by the creation and transmittal of a medications list. This list is created by the EHR system and is transmitted over the network to the Pill Line Processing Machine. The list is reviewed by the Pharmacists and then executed. The Pill Line machine packages the drugs in individual packages, labels them and sorts them according to their destination. The Pharmacy reviews the packaging run, approves it, and then executes a command, which reports to the EHR application. The EHR application will then notify the medical staff that the medications are ready for distribution to the inmates.

c. Document Management - IMRI; Inmate Medical Records Imaging System

d. Biometric Identification System – IRIS

e. Probation Management System - Automon Caseload Explorer System

CONTRACTOR shall provide an interface to the San Bernardino County Probation Department's juvenile offender's information system. This system contains the juvenile equivalent of a booking number, demographic information and housing location information. The EHR system shall be able to acquire this information via electronic interface from the Probation Department's system. The specific requirements of the interface shall be developed in consultation with the Probation Department.

f. PACS/Radiology

g. PACS/Dental

c) External and other County Systems Interfaces:

The proposed approach to external interfaces can consist of an Interface Engine, a point to point custom interface, Application Programming Interface (API), some other methods or some combination of those methods.

a. Lab Diagnostics

CONTRACTOR shall provide an interface to COUNTY'S Laboratory provider.

This interface shall allow the EHR to electronically specify laboratory tests to a laboratory system and to electronically receive the results of those tests from laboratory information systems.

b. Hospital EHR – Arrowhead Regional Medical Center

c. Pharmacy – CIPS

d. CDCR - California Department of Corrections

e. DJJ - Department of Juvenile Justice

I. REPORTING REQUIREMENTS

The EHR shall have three (3) levels of reporting:

a) The first level shall be predefined standard medical reports (for example, a medical history form);

b) The second level shall allow the user to generate regularly used reports using an internal report generator. The internal report generator shall have the ability to save the report format and add it to a list of accessible stored reports as well as allow the user the ability to edit and rename the report as needed. CONTRACTOR or other third parties may supply standard templates that the user could save and edit using the internal report generator;

c) The third level shall provide the user the ability to create Ad Hoc reports using Microsoft SQL Server Reporting Services. These reports shall be those that are not used on a regular basis, are for a very narrow or specific data or for reports that cannot be generated by the internal report generator. This level of reporting shall require a higher level of user training and experience.

J. SECURITY AND CONFIDENTIALITY REQUIREMENTS

1. Security and Confidentiality requirements must comply completely with:

a) All federal and state regulations.

- b) Current and future HIPAA regulations.
- c) Security and privacy regulations imposed by the San Bernardino County Sheriff's Department and contracted agencies (e.g. Marshal, Federal).
- d) Security and privacy regulations imposed by the Probation Department.
- e) Security and privacy regulations imposed by the Department of Social Services.
- f) Procedures and regulations specific to Juveniles.
- g) Background checks conducted by the San Bernardino County Sheriff's Department.

K. EXTRACT TO DATA WAREHOUSE

Some of the data contained in the new EHR system will have value for statistical and other managerial analysis. The EHR system shall have the ability to extract data, minus the identifier information, and deposit that data in an enterprise wide data warehouse. Once there, the information will be available for statistical analysis by members of the enterprise network. CONTRACTOR will provide a data repository for patient information produced during COUNTY's use of the EHR for the purposes of disaster recovery at no additional cost to the COUNTY upon written request by COUNTY.

L. SUPPORT REQUIREMENTS

1. The CONTRACTOR shall be responsible for maintaining and supporting application software beginning after full acceptance of the EHR system and under ongoing software license renewals with accompanying payments.

2. The cost of such support will be borne by the CONTRACTOR unless the problems can be shown to be attributable to the hardware, network, operating system or other system components whose operation and maintenance is the responsibility of COUNTY.

3. COUNTY will be the initial line of contact for system users through a "Super Users" program at each correctional facility. COUNTY Service Desk will then diagnose and resolve problems which clearly relate to COUNTY areas of responsibility. Problems which cannot be resolved by COUNTY will be referred to CONTRACTOR. Support for the EHR system will be structured in four (4) tiers. COUNTY is responsible for Tier zero (0), one (1) and

two (2); the CONTRACTOR is responsible for Tier three (3) support and services. Definitions of these support tiers are provided in the table below.

Tier	Responsibilities
COUNTY Super Users Tier 0	• At each San Bernardino County Corrections location, a “Super User” will be selected with good overall working knowledge of computers and the EHR application. These persons will assist local EHR users with general computer and application problems and will be able to generally distinguish between hardware, operating system, network and application errors. If Tier zero (0) is unable to resolve the problem, it will be referred to the Tier one (1) Service Desk.
COUNTY Service Desk Tier 1	• Functioning as secondary line of support during normal working hours; resolving service tickets involving system access problems, passwords, system downtime and errors • Provide user assistance in use of the EHR system and any related third party software • Refer as needed any clearly identified problems to COUNTY IT (Tier 2) or the CONTRACTOR (Tier 3) • COUNTY after hours support or a designee shall facilitate communications between CONTRACTOR and San Bernardino County Corrections in the event an issue arises after hours.
COUNTY Software Support Tier 2	• Troubleshoot all hardware and network problems • Troubleshoot all database integrity and performance problems • Responsible for restore from backup, routine maintenance, software updates and enhancement loads • Resolve operational problems such as scheduling and production • Maintain all required third party software licenses • Coordinate problem resolution between all third party vendors - not related to the EHR application • Refer as needed any identified problems to CONTRACTOR (Tier 3)

Tier	Responsibilities
CONTRACTOR Support Tier 3	• Provide "24 X 7" support to diagnose and resolve application errors • Resolve problems with the EHR system applications software including all core functionality, interfaces and other middleware provided by or through the CONTRACTOR • Resolve problems with any third party software which has been imbedded or integrated with the EHR system.

4. The CONTRACTOR shall be responsible for establishing the operations and maintenance procedures for the EHR system. The CONTRACTOR shall provide the necessary documentation and procedures to support COUNTY's operations of the EHR system on a twenty four (24) hours a day, seven (7) days a week basis.

5. The CONTRACTOR shall perform the following:

- a) Maintain the EHR program code to provide the functionality defined in project analysis and design documents.
- b) Distribute any software upgrades or version replacements to which COUNTY is entitled under the software license along with updated user and operational documentation and assist in its installation in the test environment and migration to production.
- c) Maintain compatibility and integration with any third party outcome reporting tools which have been implemented as part of this Agreement. Should any of these packages be upgraded, COUNTY will notify the CONTRACTOR in advance, so that analysis and code changes can be implemented as quickly as possible.
- d) Maintain comprehensive change control procedures to control software versions and releases. All changes to be implemented at COUNTY are at the discretion of the COUNTY. Develop procedures for software distribution to COUNTY and its business partners who may be users of the system including any application server software and any client software (if needed).
- e) Correct any errors in functionality which is reported by COUNTY or other

CONTRACTOR clients, or which is identified by the CONTRACTOR within a reasonable period, depending upon the severity of the error.

- f) Utilize a Severity Index for categorizing and prioritizing application errors. The severity of errors will be based on the following criteria:
- g) Severity 1 - Application errors that cause problems which:
 - i. Problems in completing 10% or more of business transactions
 - ii. Problems having an immediate adverse impact to business
 - iii. Disruption in service to ten (10) or more clients due to software failure
- h) Severity 2 - Application errors that cause problems which:
 - i. Have major operational impact, even if workarounds or bypasses are available
 - ii. Problems in completing 3-10% or more of business transactions
 - iii. Problems having an adverse impact to business within 24 hours
 - iv. Disruption in service to five (5) – nine (9) clients due to software failure
- i) For a Severity 1 problem, the CONTRACTOR must acknowledge receipt of the problem report within one (1) hour, must be working on the problem within four (4) hours of initial report, and must fix the problem on a best effort basis. Periodic status reports are required during this period.
- j) For a Severity 2 problem, the CONTRACTOR must acknowledge receipt of the problem report within one (1) hour, must be working on the problem by the next working day, and must fix the problem on a best effort basis. Periodic status reports are required during this period.
- k) Establish and maintain a source code escrow so that COUNTY will have access to program source code in the event of bankruptcy, dissolution, merger or other situation which may impact the CONTRACTOR's ability or willingness to support the EHR system software.
- l) Provide a means for COUNTY IT to report EHR problems via email, telephone, or online submission.
- m) Ensure that responses are made to COUNTY IT, within specified time

periods, acknowledging receipt of the problem report and identifying when direct contact can be made with the CONTRACTOR-assigned support staff person.

- n) Establish policies and procedures for prioritizing and responding to COUNTY requests for support including:
 - i. Criteria for diagnosing reported problems and determining root cause(s) of the problem,
 - ii. Use of Severity Index criteria for assessing the impact of reported problems,
 - iii. Procedures determining responsibility for problem resolution,
 - iv. Defining response time for various categories of problems,
 - v. Documenting the response and subsequent actions,
 - vi. Procedures for escalating disagreements with COUNTY regarding cause of the problem and responsible party,
 - vii. Procedures for working cooperatively with COUNTY staff to promptly resolve problems,
 - viii. Tracking all problem reports.
- o) Correct any application software errors through remote or on-site service by CONTRACTOR personnel or otherwise qualified subcontractors according to the response times identified in this Agreement.
- p) Update and distribute user and operational documentation to reflect any software corrections.
- q) Ensure compliance with all HIPAA regulations.

M. SYSTEMS INTERRUPTION CONTINGENCY PROCEDURE

1. When the EHR system is implemented, San Bernardino County Corrections will become dependent upon the EHR system to be able to provide the medical services for the inmates at the jail and the minors at Juvenile Hall. This means that when the system goes down for an hour or more, the medical staff will need a process for delivering the mandated services, collecting the data and ability to enter the collected data into the EHR system when it comes back up.

2. This process shall consist of a series of paper forms on which medical data is entered, time stamped and signed by the medical staff providing the service. This will not be a return to a full paper based charting system, but a temporary measure until the EHR system is back up and running.

3. When the system does come back up, these paper forms are routed to the San Bernardino County Corrections clerical staff to enter the data into the appropriate portion of the electronic medical record. For this to work, the EHR Application will need to have the ability to enter time-delayed data with appropriate validation from the physician, nurse practitioner or medical staff providing the medical service. This will be necessary to provide an audit trail necessary for medical records.

4. The process shall be activated upon notification from COUNTY Software Support to the San Bernardino County Corrections Staff that the network or servers were going to be down in excess of one (1) hour. When the system is back up and functional again, COUNTY Service Desk will notify San Bernardino County Corrections Staff who will notify the medical providers and instruct them to return to using the EHR application. The paper forms will then be collected and routed to San Bernardino County Corrections office support staff for scheduling the input of the data gathered.

5. After the data is input by the administrative staff, it must be "verified" by the medical staff member who provided the service or other authorized persons before the data is appended to the medical record. The CONTRACTOR shall provide a method for this appending and verification of time delayed data.

6. The CONTRACTOR shall provide a disaster recovery server solution where application data is replicated to an off-site facility maintained by CONTRACTOR. Connection to the off-site data center will be provided by VPN via the Internet where CONTRACTOR is responsible for Internet connectivity at off-site data center and COUNTY is responsible for Internet connectivity at COUNTY facilities. CONTRACTOR will make reasonable efforts to meet or exceed COUNTY'S security requirements of off-site data storage including data encryption.

N. TRAINING REQUIREMENTS

1. CONTRACTOR shall train all clinical and administrative staff on the use of the EHR system.

2. The training shall be broken down into four (4) major groups: End User, Super User, Service Desk, Administrator and Software Support - see the responsibility matrix above for training requirements for Super User, Service Desk and Software Support groups. Specifics of the End User training are as follows:

- a) End Users are the largest group in need of training. They are further broken down into more specific groups of end users based upon their job function, logon group, and access rights. The users in this group will need to be trained in the basics of using the EHR application (i.e. how to login to the application, exit the application, etc.).
- b) The functions of the application that applies to their group: For example, nurses shall learn how to enter the data into all of the functions that are part of their job as a nurse; the doctors and nurse practitioners shall learn how to operate the functions related to them and the dentists shall be taught how to enter data related to dentistry.
- c) In addition to the training requirements identified in this Agreement, it is expected that the selected CONTRACTOR shall provide training for all the functionality provided by the EHR system, including third party vendors.

O. IMPLEMENTATION TASKS

1. The following describes each of the Implementation tasks:

a) Project Management:

i. The CONTRACTOR and COUNTY shall be responsible for establishing an organization to manage and deliver the services defined in this Statement of Work. After execution of this Agreement and in consultation with COUNTY, the CONTRACTOR shall provide a project organization chart describing the project charter which will be in place for the duration of this Agreement.

ii. The CONTRACTOR shall designate a CONTRACTOR Project Manager who will have the authority to commit the CONTRACTOR resources necessary to satisfy all contractual requirements.

iii. The CONTRACTOR shall develop semi-monthly written project status reports summarizing key activities, reviewing the work plan for adherence and deviation from schedule, and identifying any issues and issue resolutions for the preceding reporting period. The semi-monthly project status reports shall be presented by the CONTRACTOR's Project Manager to the County's Project Manager at the semi-monthly project management meetings. This report will be the basis for advising COUNTY on project progress and to identify issues which COUNTY must be aware of to work with the CONTRACTOR to resolve.

iv. A proactive approach to risk assessment and management is essential to maximize the probability of success. The CONTRACTOR shall utilize a comprehensive methodology for ongoing project risk management which addresses such issues as technical risk, resource issues, scheduling problems, COUNTY readiness, etc. The CONTRACTOR shall define escalation procedures to address extended and unresolved problems to the County Project Manager. Notification and emergency procedures shall be established in the event of system failure. The escalation procedures shall require approval of the County Project Manager. The escalation procedures shall include, but not be limited to the following:

- 1) Conditions warranting additional resources in resolving a problem;
- 2) Time durations between escalating to next level of support;
- 3) A diagram depicting the various levels of response;
- 4) The names or titles, telephone numbers, and pager numbers of the CONTRACTOR personnel responsible for response at the various levels of support.

v. The following COUNTY Project Management duties center on communication between COUNTY and CONTRACTOR. This includes, but is not limited to the following duties organized by implementation phase.

1. Pre-implementation

- a. Coordinate COUNTY staff for meetings.
- b. Gather contacts necessary for interfaces with 3rd party software.

- c. Facilitate relationships between CONTRACTOR and any parties necessary for development and implementation of software.

2. Implementation

- a. Assists with organization of all training activities.
- b. Assist with staff training prioritization.
- c. Coordinate COUNTY customization and testing activities

3. Go-live/Post Go-live

- a. Ensure that all documentation from CONTRACTOR is communicated to the appropriate COUNTY staff.
- b. Communicate any noted deficiencies as described below

vi. The CONTRACTOR Project Manager is the primary point of contact for all items outlined in the phased implementation plan of the EHR and serves as a liaison between COUNTY stakeholders and all other individuals and teams working on the project at CONTRACTOR. The Project Manager coordinates all scheduling items, prepares documentation and conducts follow-up for tasks at every phase of the development and implementation life-cycle, communicate any noted deficiencies

b) Develop Joint CONTRACTOR and COUNTY Design & Implementation Work Plan:

i. The development of a consolidated project plan (Project Plan) which identifies all CONTRACTOR and COUNTY tasks and responsibilities. The approved Project Plan will be the basis for all project activities. It can be amended with COUNTY approval as needs may dictate.

ii. The CONTRACTOR shall provide, for COUNTY's approval, the Project Plan prior to initiating any tasks. The CONTRACTOR shall maintain an up-to-date version of the work plan using Microsoft Project or other software as approved by COUNTY. All changes to deliverable time frames, which will impact the major milestones, must be approved at least two (2) weeks prior to the milestone, in writing, by the COUNTY. All approved changes shall be reflected

in the work plan and the CONTRACTOR shall highlight and explain any major changes to an earlier approved version.

iii. The CONTRACTOR shall identify all relevant assumptions which were made in the development of the Project Plan. All assumptions upon which the estimates have been calculated must be clearly documented, including assumptions made for development software tools, use of any third party software, COUNTY resources providing assistance, etc.

c) Conduct Joint Application Designs to Confirm Requirements:

CONTRACTOR shall lead and conduct Joint Application Design (JAD) or similar facilitated requirements and analysis design sessions with COUNTY and San Bernardino County Corrections staff and other stakeholders which may be identified by COUNTY. The purpose of these JADs is to confine and update COUNTY's view of COUNTY functional requirements, features and capabilities, technology requirements and interface requirements, and to provide the CONTRACTOR an opportunity to perfect its understanding of COUNTY's environment and programs. The JADs shall also document high level workflow within COUNTY to identify potential changes in EHR system workflow design or in COUNTY workflow, policies and procedures.

d) Update EHR Requirements Model:

The CONTRACTOR shall document the updated EHR system, interface and other requirements. The CONTRACTOR shall document the results of its JAD sessions using a structured analysis and design methodology as approved by COUNTY IT. The resulting document will be presented in a walkthrough and must be approved by COUNTY.

e) COUNTY Acquisition of Hardware and Software:

The CONTRACTOR shall identify all servers, workstations, operating systems, other software, database management systems, and data network lines and other hardware required to develop, test and operate the EHR system. COUNTY requires separate environments for development, testing and training. The CONTRACTOR shall also identify required quantities of required hardware, software and equipment and estimate costs for these items. COUNTY will be responsible for purchasing, acquiring

and installing all components other than the EHR applications software within a time period mutually agreed upon with the CONTRACTOR.

f) COUNTY Installation of Hardware and Software:

Once received, COUNTY IT will configure, install and test all ordered hardware and software at its data center. Once all hardware and software has been successfully installed, the CONTRACTOR will be notified.

g) Development, Testing & Training Environments:

The CONTRACTOR shall develop separate development, testing and training environments for the EHR development for use by the CONTRACTOR. COUNTY staff should also have access to these environments for monitoring CONTRACTOR work, validating test results, and other reasons as needed.

h) Develop Required Document:

Upon execution of this Agreement, COUNTY agrees to establish, with CONTRACTOR, a requirements document (Requirements Document) that outlines all customizations to be performed to the system from its out-of-the-box functional state. The resulting Requirements Document, which includes provisions of this scope of work, becomes the final say in what will be completed for the system prior to Go-Live. Any change requests outside of the Requirements Document will be considered additional functionality, and will be billed separately per the provisions of this contract as additional costs to the COUNTY.

i) Customize & Configure Core Software:

The CONTRACTOR shall modify all core program code for COUNTY-requested enhancements and customizations and configure the core software to reflect COUNTY customizations via external tables or other methods inherent to the CONTRACTOR's software short of changes to actual program code. This must be in conformance with the Requirements Document.

j) Interface Development:

The CONTRACTOR shall fully develop and test any defined interfaces between the EHR and any internal and external systems which are included in the approved system Requirements Document.

k) Unit Testing:

The CONTRACTOR shall perform iterative unit testing as program code is developed to ensure that the code works as required. System folders shall be maintained with source code, input data, and output data so that COUNTY can independently validate successful testing.

l) Unit Test Code Corrections:

The CONTRACTOR shall make corrections to code based on unit test results. System folders shall be maintained containing data required to validate proper program changes and successful re-test.

m) Install Application on COUNTY Hardware and Software:

The successfully unit-tested programs will be installed at COUNTY by the COUNTY within a test region.

n) Integration & Regression Testing:

Successfully unit tested programs will be tested in a "string" or module to test extended "end to end" functionality (Integration Testing). Any re-testing will be regression tested to ensure that no additional errors have been introduced. All test program, data and results will be maintained by the CONTRACTOR for COUNTY review.

o) Integration Test Code Corrections:

The CONTRACTOR shall make corrections to program code based on the results of the Integration Testing. All test programs, data and results will be maintained by the vendor for COUNTY review.

p) Data Conversion:

The COUNTY currently maintains both paper and electronic document storage of all medical records. CONTRACTOR is responsible for integration of the electronic document storage system based on the capabilities of the Inmate Medical Records Imaging (IMRI) system. COUNTY is fully responsible for the scanning paper records into the EHR system.

q) Network Test:

With COUNTY assistance, the CONTRACTOR shall test the integrity and responsiveness of the COUNTY network and their capacity to support the EHR system. The test must include application response time testing, application feature testing,

regression testing, throughput, configuration sizing, network reliability and bottleneck identification. Any network-related problems identified must be discussed and resolved in conjunction with COUNTY IT.

r) Stress Test:

The CONTRACTOR shall conduct an EHR stress test using realistic production volumes and exceptional values involving batch and on-line transactions across the LAN and WAN and for Web-based users. The CONTRACTOR shall be responsible for correcting all problems.

s) User Acceptance Testing:

The CONTRACTOR shall support a User Acceptance Test to ensure that COUNTY users are able to successfully use the EHR system and that all modified workflows, policies and procedures are consistent with the EHR. The CONTRACTOR shall develop test scripts and data for this test which is based strictly on modified workflows defined in the requirements document. COUNTY users will assist in the actual test and will be responsible for final approval of user acceptance test recommendations.

t) User Acceptance Test Code Corrections:

The CONTRACTOR shall make any code corrections based on the results of the User Acceptance Test.

u) System Tuning:

With the assistance of COUNTY IT, the CONTRACTOR shall tune the applications software, database and network to optimize system efficiency and response times to required response times and cycles.

P. APPLICATION UPDATE TASKS

CONTRACTOR shall make available updates/patches/versions of the TechCare application throughout the contract term based on a deployment schedule mutually agreed upon between COUNTY and CONTRACTOR. The maximum frequency by which CONTRACTOR will provide updates to the application is every twenty (20) business days.

Exceptions to this frequency are only by discovery of software "bug(s)" that have a direct impact to patient care at which point a patch will be provided as soon as possible, on a best effort basis.

CONTRACTOR shall provide all application update files through the secure TechCare File Portal. Application update files will be appropriately named with version and date identifiers along with appropriate technical documentation. COUNTY will be responsible for the retrieval and execution of application and database updates for the test and production application environments based on the files and documentation provided.

COUNTY will provide written notification to CONTRACTOR when installing versions of the application to the test and production environments.

EXHIBIT D

PAYMENT PROVISIONS

1. TOTAL FEES:

Period 1 - Implementation	
Task Name	Duration
Phase I - Project Start	30 days
Project Kickoff Meeting	2 days
Schedule weekly progress update meetings	0 days
Conduct onsite facility tours	5 days
Review development, user acceptance and production environments	30 days
Deploy Standard <i>TechCare®</i> Installation	7 days
Provide <i>TechCare®</i> Manual	1 day
Walkthrough of <i>TechCare®</i> , Provide joint project management plan/schedule	2 days
Phase I Conclusion Meeting	1 day
Phase 1 Invoice Amount	\$200,000.00
Phase II - Customization and Interfaces	90 days
Critical Interfaces - Requirements Gathering	15 days
Jail Management System	2 days
Labs	2 days
Pharmacy	2 days
Workflow and Form Customizations - Requirements Gathering	30 days
Intake and Receiving Process	3 days
Medication Administration	3 days
Patient Encounters - Sick Call	3 days
Patient Encounters - Chronic Care	3 days
Off-site Scheduling / Follow-up	2 days
Reports	2 days
Misc. Modules (Dental, OB et al)	2 days
Scanning/Attaching documents	2 days
Deliver Requirements Document for Signoff	5 days
Interfaces - Development and Test	30 days
Jail Management System	5 days
Labs	5 days
Pharmacy	5 days
Additionally defined interfaces as vendor is available	5 days
Workflow and Form Customizations - Development and Test	15 days
Intake and Receiving Process	2 days
Medication Administration	2 days
Patient Encounters - Sick Call	2 days
Patient Encounters - Chronic Care	2 days
Off-site Scheduling / Follow-up	2 days
Reports	2 days

Misc. Modules (Dental, OB et al)	2 days
Scanning/Attaching documents	1 day
Phase II Conclusion Meeting	1 day
Deliver Application for User Acceptance, Signoff and Training	1 day
Phase II Invoice Amount	\$200,000.00
Phase III - Implementation and Formal Training	45 days
Configure production environment	5 days
Define training and education schedules	3 days
Provide San Bernardino specific <i>TechCare®</i> manuals	5 days
Identify and train San Bernardino super user staff	10 days
Onsite role-based training 2 weeks prior to production deployment	10 days
Onsite user support 1-2 weeks after production deployment	10 days
Phase III Invoice Amount	\$200,000.00
Year 1 Total Costs	\$600,000.00
Period 2-5 - Maintenance	
Year 2 Total Costs	\$600,000.00
Year 3 Total Costs	\$600,000.00
Year 4 Total Costs	\$600,000.00
Year 5 Total Costs	\$600,000.00
Grand Total over 5 years	\$3,000,000.00

2. CONTRACTOR agrees for contract years 2 through 5, the following services shall be included in the annual cost as part of the software license and maintenance and support fees as stated above.

- a) Unlimited User Site License (continues after years 2 through 5 as part of annual license and maintenance renewal)
- b) 24/7 Online Self-help to include *TechCare®* manuals and tutorials
- c) 24/7 Helpdesk support via voice, email and remote access
- d) 24/7 Software support
- e) Dedicated offsite backup to NaphCare's Disaster Recovery Facility
- f) Application monitoring and performance tuning
- g) Updates, definitions, and application exclusions (continues after years 2 through 5 as part of annual license and maintenance renewal)
- h) Compatibility with any future Jail Management Systems
- i) Federal/State Regulatory Compliance, Accreditation and Renewals
- j) Interface Maintenance and Support
- k) Unlimited Training as requested by COUNTY, including those listed in section D,2,l.

l) Addition of correctional facilities within COUNTY and associated users of software

3. CONTRACTOR shall not be held responsible and payment shall not be withheld for the noncooperation, nonperformance or noncompliance of the COUNTY. In the event CONTRACTOR discovers noncooperation, nonperformance or noncompliance by COUNTY, CONTRACTOR shall inform COUNTY in writing and COUNTY shall have thirty (30) days from the date notification is received to cure the stated issues raised by CONTRACTOR.

4. CONTRACTOR shall not be held responsible and payment shall not be withheld for the inability, noncooperation, nonperformance or noncompliance of interface vendors or third party vendors. In the event CONTRACTOR discovers inability, noncooperation, nonperformance or noncompliance by interface vendors or third party vendors it shall inform COUNTY in writing and COUNTY shall have thirty (30) days from the date notification is received to cure the stated issues raised by CONTRACTOR.

5. COUNTY, should they choose to do so, shall be financially responsible for all escrow fees and services from the third-party vendor mutually selected by both parties. The parties will work diligently to complete the escrow agreement and all other documents required by the selected vendor after the Effective Date of this Agreement. In addition to any other terms stated in this Agreement, the parties agree the following shall be included in the escrow agreement:

- a) COUNTY and CONTRACTOR agree the occurrence of any of the following conditions will trigger a release of the source code to the COUNTY from escrow:
 - i. A trustee or receiver is appointed for CONTRACTOR or of any substantial part of CONTRACTOR's assets; or CONTRACTOR becomes bankrupt.
 - ii. CONTRACTOR ceases operations; or CONTRACTOR is materially unable to support or materially fails to support the Licensed Software.
 - iii. CONTRACTOR discontinues support and maintenance of the Licensed Software.
- b) In the event any of the above events occur and COUNTY obtains the source code, COUNTY may at no additional cost modify, correct, or enhance the Licensed Software, the source code, modifications, corrections, enhancements,

any related materials and documentation, in any manner COUNTY determines is appropriate.

- c) CONTRACTOR shall update the escrow deposit materials within 30 days of each release of a new version or update of the Licensed Software. Such updates shall be added to the existing escrow deposit. All new escrow deposits shall be listed on a schedule provided by Iron Mountain and signed by CONTRACTOR and COUNTY.

6. CONTRACTOR shall invoice COUNTY for each phase of Period 1, as stated in this Exhibit D, based on completion of that phase. Payments shall not be made by COUNTY until acceptance of each milestone or system functionality related to that payment, as stated in this Exhibit D or related provisions of the Agreement, has been confirmed as accepted by COUNTY. Such acceptance shall not be unreasonably withheld and shall be based on performance of CONTRACTOR and following Exhibit D, Item 3 and 4 above.

7. CONTRACTOR shall invoice COUNTY for each annual payment for Periods 2-5 as stated in this Exhibit D, beginning 1 year from contract execution and continuing annually thereafter.

8. CONTRACTOR shall invoice COUNTY on a quarterly basis for any work performed outside of the defined scope of this agreement and following the exhaustion Hours Pool defined in Exhibit B, Item VII at a rate of \$200 per hour.

9. Period 1 - Implementation schedule and associated invoices are with respect to implementation and go-live within the COUNTY adult facilities only.

EXHIBIT E

COUNTY INFORMATION TECHNOLOGY STANDARDS

A. GENERAL TECHNOLOGY IN PLACE AT THE SHERIFF DEPARTMENT

1. User Desktops and Laptops

- a) Desktops: Lenovo M Series
- b) Laptops: Dell Latitude Series
- c) Tablets: Dell Venue, Microsoft Surface, Apple iPad
- d) Printers: Hewlett Packard HP Series, multi-function full duplex
- e) Operating Systems: Microsoft Windows 7 32bit and 64 bit, Windows 8 64bit, Windows 8 RT 64bit
- f) Internet Browser: Microsoft Internet Explorer 9.0 and above
- g) JAVA: Version 8 and above
- h) Internet Security: Must adhere to Microsoft and/or NIST Internet Explorer 9 and 10 security baseline configurations.

2. Servers

- a) Server OS: Windows 2012 R2
- b) Web Server: IIS
- c) GroupWare: SharePoint 2013
- d) Virtualization: Hyper-V or KVM
- e) Development: Microsoft .NET suite
- f) Document Management: SharePoint
- g) Image Storage: Windows file structure

3. Database Server Software

- a) Microsoft SQL Server 2014 or latest version

4. Email Related

- a) Exchange Server 2013/migrating to Exchange On-Line
- b) Outlook 2007, migrating to Office 365 exclusively

Attachment I

HIPAA Business Associate Agreement

Addendum to Contract

Between the County of San Bernardino and NaphCare Inc.

This HIPAA Business Associate Agreement (the “Addendum”) supplements, and is made part of the Correctional Health Electronic Health Record System Services (the “Underlying Agreement”) between the County of San Bernardino (“County”) and NaphCare, Inc. (“Contractor”) and shall be effective as of the date the Underlying Agreement is approved by both Parties (the “Effective Date”).

RECITALS

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

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

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

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

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

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

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

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

1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in HITECH, HIPAA, Security Rule and/or Privacy Rule, as may be amended from time to time.

A. "Breach" when used in connection with PHI means the acquisition, access, use or disclosure of PHI in a manner not permitted under subpart E of the Privacy Rule which compromises the security or privacy of the PHI, and shall have the meaning given such term in 45 CFR §164.402.

(1) Except as provided below in Paragraph (2) of this definition, acquisition, access, use, or disclosure of PHI in a manner not permitted by subpart E of the Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following four factors:

(a) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

(b) The unauthorized person who used the PHI or to whom the disclosure was made;

(c) Whether the PHI was actually acquired or viewed; and

(d) The extent to which the risk to the PHI has been mitigated.

(2) Breach excludes:

(a) Any unintentional acquisition, access or use of PHI by a workforce member or person acting under the authority of a covered entity or business associate, if such acquisition, access or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under subpart E of the Privacy Rule.

- (b) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or business associate to another person authorized to access PHI at the same covered entity, business associate, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted by subpart E of the Privacy Rule.
- (c) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.
- B. “Business associate” has the meaning given such term in 45 CFR §164.501, including but not limited to a subcontractor that creates, receives, maintains, transmits or accesses PHI on behalf of the business associate.
- C. “Data aggregation” has the meaning given such term in 45 CFR §164.501.
- D. “Designated record set” as defined in 45 CFR §164.501 means a group of records maintained by or for a covered entity that may include: the medical records and billing records about individuals maintained by or for a covered health care provider; the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or, used, in whole or in part, by or for the covered entity to make decisions about individuals.
- E. “Electronic protected health information” (“ePHI”) as defined in 45 CFR §160.103 means protected health information transmitted by or maintained in electronic media.
- F. “Electronic health record” means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff, and shall have the meaning given such term in 42 USC §17921(5).
- G. “Health care operations” has the meaning given such term in 45 CFR §164.501.
- H. “Individual” as defined in 45 CFR §160.103 means the person who is the subject of protected health information.
- I. “Person” as defined in 45 CFR §160.103 means a natural person, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private.
- J. “Privacy Rule” means the HIPAA regulations codified at 45 CFR Parts 160 and 164, Subparts A and E.
- K. “Protected health information” (“PHI”) has the meaning given such term in 45 CFR §160.103, which includes ePHI.

- L. "Required by law" has the meaning given such term in 45 CFR §164.103.
- M. "Secretary" means the Secretary of the U.S. Department of Health and Human Services ("HHS").
- N. "Security incident" as defined in 45 CFR §164.304 means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- O. "Security Rule" means the HIPAA Regulations codified at 45 CFR Parts 160 and 164, Subparts A and C.
- P. "Subcontractor" as defined in 45 CFR §160.103 means a person to whom a business associate delegates a function, activity, or service, other than in the capacity of a member of the workforce of such business associate.
- Q. "Unsecured protected health information" and "unsecured PHI" as defined in 45 CFR §164.402 means PHI not rendered unusable, unreadable, or indecipherable to unauthorized persons through use of a technology or methodology specified by the Secretary in the guidance issued under 42 USC §17932(h)(2).

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

- A. Except as otherwise provided in this Addendum, Contractor may use, disclose, or access PHI and/or ePHI as necessary to perform any and all obligations of Contractor under the Underlying Agreement or to perform functions, activities or services for, or on behalf of, County as specified in this Addendum, if such use or disclosure does not violate HIPAA, HITECH, the Privacy Rule and/or Security Rule.
- B. Unless otherwise limited herein, in addition to any other uses and/or disclosures permitted or authorized by this Addendum or required by law, in accordance with 45 CFR §164.504(e)(2), Contractor may:
 - 1) Use PHI and/or ePHI if necessary for Contractor's proper management and administration and to carry out its legal responsibilities; and,
 - 2) Disclose PHI and/or ePHI for the purpose of Contractor's proper management and administration or to carry out its legal responsibilities, only if:
 - a) The disclosure is required by law; or,
 - b) Contractor obtains reasonable assurances, in writing, from the person to whom Contractor will disclose such PHI and/or ePHI that the person will:

- i. Hold such PHI and/or ePHI in confidence and use or further disclose it only for the purpose for which Contractor disclosed it to the person, or as required by law; and,
 - ii. Notify Contractor of any instances of which it becomes aware in which the confidentiality of the information has been breached; and,
- 3) Use PHI to provide data aggregation services relating to the health care operations of County pursuant to the Underlying Agreement or as requested by County; and,
- 4) De-identify all PHI and/or ePHI of County received by Contractor under this Addendum provided that the de-identification conforms to the requirements of the Privacy Rule and/or Security Rule and does not preclude timely payment and/or claims processing and receipt.
- C. Notwithstanding the foregoing, in any instance where applicable state and/or federal laws and/or regulations are more stringent in their requirements than the provisions of HIPAA, including, but not limited to, prohibiting disclosure of mental health and/or substance abuse records, the applicable state and/or federal laws and/or regulations shall control the disclosure of records.

3. Prohibited Uses and Disclosures.

- A. Contractor may neither use, disclose, nor access PHI and/or ePHI in a manner not authorized by the Underlying Agreement or this Addendum without patient authorization or de-identification of the PHI and/or ePHI and as authorized in writing from County.
- B. Contractor may neither use, disclose, nor access PHI and/or ePHI it receives from County or from another business associate of County, except as permitted or required by this Addendum, or as required by law.
- C. Contractor agrees not to make any disclosure of PHI and/or ePHI that County would be prohibited from making.
- D. Contractor shall not use or disclose PHI for any purpose prohibited by the Privacy Rule, Security Rule, HIPAA and/or HITECH, including, but not limited to 42 USC §17935 and §17936. Contractor agrees:
 - 1) Not to use or disclose PHI for fundraising , unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.514(f) or 45 CFR §164.508;

- 2) Not to use or disclose PHI for marketing, as defined in 45 CFR §164.501, unless pursuant to the Underlying Agreement and only if permitted by and in compliance with the requirements of 45 CFR §164.508(a)(3);
- 3) Not to disclose PHI, except as otherwise required by law, to a health plan for purposes of carrying out payment or health care operations, if the individual has requested this restriction pursuant to 42 USC §17935(a) and 45 CFR §164.522, and has paid out of pocket in full for the health care item or service to which the PHI solely relates; and,
- 4) Not to receive, directly or indirectly, remuneration in exchange for PHI, or engage in any act that would constitute a sale of PHI, as defined in 45 CFR §164.502(a)(5)(ii), unless permitted by the Underlying Agreement and in compliance with the requirements of a valid authorization under 45 CFR §164.508(a)(4). This prohibition shall not apply to payment by County to Contractor for services provided pursuant to the Underlying Agreement.

4. **Obligations of County.**

- A. County agrees to make its best efforts to notify Contractor promptly in writing of any restrictions on the use or disclosure of PHI and/or ePHI agreed to by County that may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- B. County agrees to make its best efforts to promptly notify Contractor in writing of any changes in, or revocation of, permission by any individual to use or disclose PHI and/or ePHI, if such changes or revocation may affect Contractor's ability to perform its obligations under the Underlying Agreement, or this Addendum.
- C. County agrees to make its best efforts to promptly notify Contractor in writing of any known limitation(s) in its notice of privacy practices to the extent that such limitation may affect Contractor's use or disclosure of PHI and/or ePHI.
- D. County agrees not to request Contractor to use or disclose PHI and/or ePHI in any manner that would not be permissible under HITECH, HIPAA, the Privacy Rule, and/or Security Rule.
- E. County agrees to obtain any authorizations necessary for the use or disclosure of PHI and/or ePHI, so that Contractor can perform its obligations under this Addendum and/or Underlying Agreement.

5. **Obligations of Contractor.** In connection with the use or disclosure of PHI and/or ePHI, Contractor agrees to:

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

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

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

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

- 2) Within fifteen (15) days of receiving a written request from County, provide to County or any individual as directed by County information collected in accordance with this section to permit County to respond to a request by an individual for an accounting of disclosures of PHI and/or electronic health record.
 - 3) Make available for County information required by this Section 6.C for six (6) years preceding the individual's request for accounting of disclosures of PHI, and for three (3) years preceding the individual's request for accounting of disclosures of electronic health record.
7. **Security of ePHI.** In the event County discloses ePHI to Contractor or Contractor needs to create, receive, maintain, transmit or have access to County ePHI, in accordance with 42 USC §17931 and 45 CFR §164.314(a)(2)(i), and §164.306, Contractor shall:
1. Comply with the applicable requirements of the Security Rule, and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of ePHI that Contractor creates, receives, maintains, or transmits on behalf of County in accordance with 45 CFR §164.308, §164.310, and §164.312;
 2. Comply with each of the requirements of 45 CFR §164.316 relating to the implementation of policies, procedures and documentation requirements with respect to ePHI;
 3. Protect against any reasonably anticipated threats or hazards to the security or integrity of ePHI;
 4. Protect against any reasonably anticipated uses or disclosures of ePHI that are not permitted or required under the Privacy Rule;
 5. Ensure compliance with the Security Rule by Contractor's workforce;
 6. In accordance with 45 CFR §164.308(b)(2), require that any subcontractors that create, receive, maintain, transmit, or access ePHI on behalf of Contractor agree through contract to the same restrictions and requirements contained in this Addendum and comply with the applicable requirements of the Security Rule;
 7. Report to County any security incident of which Contractor becomes aware, including breaches of unsecured PHI as required by 45 CFR §164.410; and,
 8. Comply with any additional security requirements that are applicable to covered entities in Title 42 (Public Health and Welfare) of the United States Code, as may be amended from time to time, including but not limited to HITECH.

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

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

1) **Breaches treated as discovered.** A breach is treated as discovered by Contractor as of the first day on which such breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor, which includes any person, other than the person committing the breach, who is an employee, officer, or other agent of Contractor (determined in accordance with the federal common law of agency).

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

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

B. **Cooperation.** With respect to any breach of unsecured PHI reported by Contractor, Contractor shall cooperate with County and shall provide County with any information requested by County

to enable County to fulfill in a timely manner its own reporting and notification obligations, including but not limited to providing notice to individuals, prominent media outlets and the Secretary in accordance with 42 USC §17932 and 45 CFR §164.404, §164.406 and §164.408.

- C. **Breach log.** To the extent breach of unsecured PHI involves less than 500 individuals, Contractor shall maintain a log or other documentation of such breaches and provide such log or other documentation on an annual basis to County not later than fifteen (15) days after the end of each calendar year for submission to the Secretary.
- D. **Delay of notification authorized by law enforcement.** If Contractor delays notification of breach of unsecured PHI pursuant to a law enforcement official's statement that required notification, notice or posting would impede a criminal investigation or cause damage to national security, Contractor shall maintain documentation sufficient to demonstrate its compliance with the requirements of 45 CFR §164.412.
- E. **Payment of costs.** With respect to any breach of unsecured PHI caused solely by the Contractor's failure to comply with one or more of its obligations under this Addendum and/or the provisions of HITECH, HIPAA, the Privacy Rule or the Security Rule, Contractor agrees to pay any and all costs associated with providing all legally required notifications to individuals, media outlets, and the Secretary. This provision shall not be construed to limit or diminish Contractor's obligations to indemnify, defend and hold harmless County under Section 9 of this Addendum.
- F. **Documentation.** Pursuant to 45 CFR §164.414(b), in the event Contractor's use or disclosure of PHI and/or ePHI violates the Privacy Rule, Contractor shall maintain documentation sufficient to demonstrate that all notifications were made by Contractor as required by 45 CFR Part 164, Subpart D, or that such use or disclosure did not constitute a breach, including Contractor's completed risk assessment and investigation documentation.
- G. **Additional State Reporting Requirements.** The parties agree that this Section 8.G applies only if and/or when County, in its capacity as a licensed clinic, health facility, home health agency, or hospice, is required to report unlawful or unauthorized access, use, or disclosure of medical information under the more stringent requirements of California Health & Safety Code §1280.15. For purposes of this Section 8.G, "unauthorized" has the meaning given such term in California Health & Safety Code §1280.15(j)(2).
 - 1) Contractor agrees to assist County to fulfill its reporting obligations to affected patients and to the California Department of Public Health ("CDPH") in a timely manner under the California Health & Safety Code §1280.15.

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

9. **Hold Harmless/Indemnification.**

- A. Contractor agrees to indemnify and hold harmless County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives from any liability whatsoever, based or asserted upon any services of Contractor, its officers, employees, subcontractors, agents or representatives arising out of or in any way relating to this Addendum, including but not limited to property damage, bodily injury, death, or any other element of any kind or nature whatsoever arising from the performance of Contractor, its officers, agents, employees, subcontractors, agents or representatives from this Addendum. Contractor shall defend, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, defense and settlements or awards, of County, all Agencies, Districts, Special Districts and Departments of County, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents or representatives in any claim or action based upon such alleged acts or omissions.
- B. With respect to any action or claim subject to indemnification herein by Contractor, Contractor shall, at their sole cost, have the right to use counsel of their choice, subject to the approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes Contractor's indemnification to County as set forth herein. Contractor's obligation to defend, indemnify and hold harmless County shall be subject to County having given Contractor written notice within a reasonable period of time of the claim or of the commencement of the related action, as the case may be, and information and reasonable assistance, at Contractor's expense, for the defense or settlement thereof. Contractor's obligation hereunder shall be satisfied when Contractor has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.
- C. The specified insurance limits required in the Underlying Agreement of this Addendum shall in no way limit or circumscribe Contractor's obligations to indemnify and hold harmless County herein from third party claims arising from issues of this Addendum.

D. In the event there is conflict between this clause and California Civil Code §2782, this clause shall be interpreted to comply with Civil Code §2782. Such interpretation shall not relieve the Contractor from indemnifying County to the fullest extent allowed by law.

E. In the event there is a conflict between this indemnification clause and an indemnification clause contained in the Underlying Agreement of this Addendum, this indemnification shall only apply to the subject issues included within this Addendum.

10. **Term.** This Addendum shall commence upon the Effective Date and shall terminate when all PHI and/or ePHI provided by County to Contractor, or created or received by Contractor on behalf of County, is destroyed or returned to County, or, if it is infeasible to return or destroy PHI and/ePHI, protections are extended to such information, in accordance with section 11.B of this Addendum.

11. **Termination.**

A. **Termination for Breach of Contract.** A breach of any provision of this Addendum by either party shall constitute a material breach of the Underlying Agreement and will provide grounds for terminating this Addendum and the Underlying Agreement with or without an opportunity to cure the breach, notwithstanding any provision in the Underlying Agreement to the contrary. Either party, upon written notice to the other party describing the breach, may take any of the following actions:

- 1) Terminate the Underlying Agreement and this Addendum, effective immediately, if the other party breaches a material provision of this Addendum.
- 2) Provide the other party with an opportunity to cure the alleged material breach and in the event the other party fails to cure the breach to the satisfaction of the non-breaching party in a timely manner, the non-breaching party has the right to immediately terminate the Underlying Agreement and this Addendum.
- 3) If termination of the Underlying Agreement is not feasible, the breaching party, upon the request of the non-breaching party, shall implement, at its own expense, a plan to cure the breach and report regularly on its compliance with such plan to the non-breaching party.

B. **Effect of Termination.**

- 1) Upon termination of this Addendum, for any reason, Contractor shall return or, if agreed to in writing by County, destroy all PHI and/or ePHI received from County, or created or received by the Contractor on behalf of County, and, in the event of destruction, Contractor shall certify such destruction, in writing, to County. This provision shall apply to all PHI and/or ePHI which are in the possession of subcontractors or agents of Contractor. Contractor shall retain no copies of PHI and/or ePHI, except as provided below in paragraph (2) of this section.

- 2) In the event that Contractor determines that returning or destroying the PHI and/or ePHI is not feasible, Contractor shall provide written notification to County of the conditions that make such return or destruction not feasible. Upon determination by Contractor that return or destruction of PHI and/or ePHI is not feasible, Contractor shall extend the protections of this Addendum to such PHI and/or ePHI and limit further uses and disclosures of such PHI and/or ePHI to those purposes which make the return or destruction not feasible, for so long as Contractor maintains such PHI and/or ePHI.

12. General Provisions.

- A. **Retention Period.** Whenever Contractor is required to document or maintain documentation pursuant to the terms of this Addendum, Contractor shall retain such documentation for 6 years from the date of its creation or as otherwise prescribed by law, whichever is later.
- B. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary for County to comply with HITECH, the Privacy Rule, Security Rule, and HIPAA generally.
- C. **Survival.** The obligations of Contractor under Sections 3, 5, 6, 7, 8, 9, 11.B and 12.A of this Addendum shall survive the termination or expiration of this Addendum.
- D. **Regulatory and Statutory References.** A reference in this Addendum to a section in HITECH, HIPAA, the Privacy Rule and/or Security Rule means the section(s) as in effect or as amended.
- E. **Conflicts.** The provisions of this Addendum shall prevail over any provisions in the Underlying Agreement that conflict or appear inconsistent with any provision in this Addendum.
- F. **Interpretation of Addendum.**
 - 1) This Addendum shall be construed to be part of the Underlying Agreement as one document. The purpose is to supplement the Underlying Agreement to include the requirements of the Privacy Rule, Security Rule, HIPAA and HITECH.
 - 2) Any ambiguity between this Addendum and the Underlying Agreement shall be resolved to permit County to comply with the Privacy Rule, Security Rule, HIPAA and HITECH generally.
- G. **Notices to County.** All notifications required to be given by Contractor to County pursuant to the terms of this Addendum shall be made in writing and delivered to the County both by fax and to both of the addresses listed below by either registered or certified mail return receipt requested or guaranteed overnight mail with tracing capability, or at such other address as County may hereafter designate. All notices to County provided by Contractor pursuant to this Section shall be deemed given or made when received by County.

County HIPAA Privacy Officer: Yvonne Johnson, HIPAA Privacy Manager
County HIPAA Privacy Officer Address: 157 West Fifth Street
San Bernardino, CA 92415-0400
County HIPAA Privacy Officer Fax Number: (909) 387-8950

— — — — — **TO BE COMPLETED BY COUNTY PERSONNEL ONLY** — — — — —

County Departmental Officer: HIPAA Privacy Manager
County Departmental Officer Title: HIPAA Compliance Manager
County HIPAA Privacy Officer Address: _____
County HIPAA Privacy Officer Fax Number: _____

ATTACHMENT II

PREVAILING WAGE REQUIREMENTS

A. All or a portion of the Scope of Work in the Contract requires the payment of prevailing wages and compliance with the following requirements.

1. Determination of Prevailing Rates:

Pursuant to Labor Code sections 1770, et seq., the County has obtained from the Director of the Department of Industrial Relations (DIR) pursuant to the California Labor Code, the general prevailing rates of per diem wages and the prevailing rates for holiday and overtime work in the locality in which the Scope of Work is to be performed. Copies of said rates are on file with the County, will be made available for inspection during regular business hours, may be included elsewhere in the specifications for the Scope of Work, and are also available online at www.dir.ca.gov. The wage rate for any classification not listed, but which may be required to execute the Scope of Work, shall be commensurate and in accord with specified rates for similar or comparable classifications for those performing similar or comparable duties. In accordance with Labor Code section 1773.2, the Contractor shall post, at appropriate and conspicuous locations on the jobsite, a schedule showing all applicable prevailing wage rates and shall comply with the requirements of Labor Code sections 1773, et seq.

2. Payment of Prevailing Rates

Each worker of the Contractor, or any subcontractor, engaged in the Scope of Work, shall be paid not less than the general prevailing wage rate, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor, and such worker.

3. Prevailing Rate Penalty

The Contractor shall, as a penalty, forfeit two hundred dollars (\$200.00) to the County for each calendar day or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of the DIR for such work or craft in which such worker is employed by the Contractor or by any subcontractor in connection with the Scope of Work. Pursuant to California Labor Code section 1775, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

4. Ineligible Contractors:

Pursuant to the provisions of Labor Code section 1777.1, the Labor Commissioner publishes and distributes a list of contractors ineligible to perform work as a contractor or subcontractor on a public works project. This list of debarred contractors is available from the DIR website at <http://www.dir.ca.gov/Public-Works/PublicWorks.html>. Any contract entered into between a contractor and a debarred subcontractor is void as a

matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract, and any public money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the County. The Contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Scope of Work.

5. Payroll Records:

Pursuant to California Labor Code section 1776, the Contractor and each subcontractor, shall keep accurate certified payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Scope of Work. The payroll records enumerated herein shall be verified by a written declaration made under penalty of perjury that the information contained in the payroll record is true and correct and that the Contractor or subcontractor has complied with the requirements of the California Labor Code sections 1771, 1811, and 1815 for any Scope of Work performed by his or her employees. The payroll records shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- (1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his/her authorized representative on request;
- (2) A certified copy of all payroll records shall be made available for inspection or furnished upon request to the County, the Division of Labor Standards Enforcement of the DIR;
- (3) A certified copy of payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County or the Division of Labor Standards Enforcement. If the requested payroll records have not been previously provided to the County or the Division of Labor Standards Enforcement, the requesting party shall, prior to being provided the records, reimburse the cost of preparation by the Contractor, subcontractor and the entity through which the request was made; the public shall not be given access to such records at the principal office of the Contractor;
- (4) The Contractor shall file a certified copy of the payroll records with the entity that requested such records within ten (10) days after receipt of a written request; and
- (5) Copies provided to the public, by the County or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address and social security number. The name and address of the Contractor or any subcontractor, performing a part of the Scope of Work shall not be marked or obliterated.

The Contractor shall inform the County of the location of payroll records, including the street address, city and county and shall, within five (5) working days, provide a notice of a change of location and address.

The Contractor shall have ten (10) days from receipt of the written notice specifying in what respects the Contractor must comply with the above requirements. In the event Contractor does not comply with the requirements of this section within the ten (10) day period, the Contractor shall, as a penalty to the County, forfeit one-hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, such penalty shall be withheld from any portion of the payments then due or to become due to the Contractor.

6. Limits on Hours of Work:

Pursuant to California Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work. Pursuant to California Labor Code section 1811, the time of service of any worker employed at any time by the Contractor or by a subcontractor, upon the Scope of Work or upon any part of the Scope of Work, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as provided for under Labor Code section 1815. Notwithstanding the foregoing provisions, work performed by employees of Contractor or any subcontractor, in excess of eight (8) hours per day and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1½) times the basic rate of pay.

7. Penalty for Excess Hours:

The Contractor shall pay to the County a penalty of twenty-five dollars (\$25.00) for each worker employed on the Scope of Work by the Contractor or any subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week, in violation of the provisions of the California Labor Code, unless compensation to the worker so employed by the Contractor

is not less than one and one-half (1½) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

8. Senate Bill 854 (Chapter 28, Statutes of 2014) Requirements:

(1) Contractor shall comply with Senate Bill 854 (signed into law on June 20, 2014).

The requirements include, but are not limited to, the following:

- a. No contractor or subcontractor may be listed on a bid proposal (submitted on or after March 1, 2015) for a public works project unless registered with the DIR pursuant to Labor Code section 1725.5, with limited exceptions from this requirements for bid purposes only as allowed under Labor Code section 1771.1(a).

- b. No contractor or subcontractor may be awarded a contract for public work or perform work on a public works project (awarded on or after April 1, 2015) unless registered with the DIR pursuant to Labor Code section 1725.5.
- c. This project is subject to compliance monitoring and enforcement by the DIR.
- d. As required by the DIR, Contractor is required to post job site notices, as prescribed by regulation, regarding compliance monitoring and enforcement by the DIR.
- e. Contractors and all subcontractors must submit certified payroll records online to the Labor Commissioner for all new public works projects issued on or after April 1, 2015, and for all public works projects, new or ongoing, on or after January 1, 2016.
 - a. The certified payroll must be submitted at least monthly to the Labor Commissioner.
 - b. The County reserves the right to require Contractor and all subcontractors to submit certified payroll records more frequently than monthly to the Labor Commissioner
 - c. The certified payroll records must be in a format prescribed by the Labor Commissioner.

(2) As required by Labor Code 1771.1(a) “A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.”

B. STATE PUBLIC WORKS APPRENTICESHIP REQUIREMENTS

1. State Public Works Apprenticeship Requirements:

The Contractor is responsible for compliance with Labor Code section 1777.5 and the California Code of Regulations, title 8, sections 230 – 230.2 for all apprenticeable occupations (denoted with “#” symbol next to craft name in DIR Prevailing Wage Determination), whether employed by the Contractor, subcontractor, vendor or consultant. Included in these requirements is (1) the Contractor’s requirement to provide notification (i.e. DAS-140) to the appropriate apprenticeship committees; (2) pay training fund contributions for each apprenticeable hour employed on the Contract; and (3) utilize apprentices in a minimum ratio of not less than one apprentice hour for each five

journeyman hours by completion of Contract work (unless an exception is granted in accordance with Labor Code section 1777.5) or request for the dispatch of apprentices.

Any apprentices employed to perform any of the Scope of Work shall be paid the standard wage to apprentices under the regulations of the craft or trade for which such apprentice is employed, and such individual shall be employed only for the work of the craft or trade to which such individual is registered. Only apprentices, as defined in California Labor Code section 3077, who are in training under apprenticeship standards and written apprenticeship agreements under California Labor Code sections 3070 et seq. are eligible to be employed for the Scope of Work. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which such apprentice is training.

2. Compliance with California Labor Code section 1777.5 requires all public works contractors to:

(1) Submit Contract Award Information (DAS-140)

- a. Although there are a few exemptions (identified below), all Contractors, regardless of union affiliation, must submit contract award information when performing on a California public works project.
- b. The DAS-140 is a notification “announcement” of the Contractor’s participation on a public works project—*it is not a request for the dispatch of an apprentice*.
- c. Contractors shall submit the contract award information (you may use form DAS 140) within 10 days of the execution of the prime contract or subcontract, but in no event later than the first day in which the Contractor has workers employed on the public work.
- d. Contractors who are already approved to train apprentices (i.e. check “Box 1” on the DAS-140) shall only be required to submit the form to their approved program.
- e. Contractors who are NOT approved to train apprentices (i.e. those that check either “Box 2” or “Box 3” on the DAS-140) shall submit the DAS-140 TO EACH of the apprenticeship program sponsors in the area of your public works project. For a listing of apprenticeship programs see <http://www.dir.ca.gov/Databases/das/pwaddrstart.asp>.

(2) Employ Registered Apprentices

- a. Labor Code section 1777.5 requires that a contractor performing work in an “apprenticeable” craft must employ one (1) hour of apprentice work for every five (5) hours performed by a journeyman. This ratio shall be met prior to the Contractor’s completion of work on the project. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- b. All Contractors who do not fall within an exemption category (see below) must request for dispatch of an apprentice from an apprenticeship program (for each

apprenticeable craft or trade) by giving the program actual notice of at least 72 hours (business days only) before the date on which apprentices are required.

- c. Contractors may use the “DAS-142” form for making a request for the dispatch of an apprentice.
- d. Contractors who are participating in an approved apprenticeship training program and who did not receive sufficient number of apprentices from their initial request must request dispatch of apprentices from ALL OTHER apprenticeship committees in the project area in order to fulfill this requirement.
- e. Contractor should maintain and submit proof (when requested) of its DAS-142 submittal to the apprenticeship committees (e.g. fax transmittal confirmation). A Contractor has met its requirement to employ apprentices only after it has successfully made a dispatch request to all apprenticeship programs in the project area.
- f. Only “registered” apprentices may be paid the prevailing apprentice rates and must, at all times work under the supervision of a Journeyman (Cal. Code Regs., tit 8, § 230.1).

(3) Make Training Fund Contributions

- a. Contractors performing in apprenticeable crafts on public works projects, must make training fund contributions in the amount established in the prevailing wage rate publication for journeymen and apprentices.
- b. Contractors may use the “CAC-2” form for submittal of their training fund contributions.
- c. Contractors who do not submit their training fund contributions to an approved apprenticeship training program must submit their contributions to the California Apprenticeship Council (CAC), PO Box 420603, San Francisco, CA 94142-0603.
- d. Training fund contributions to the CAC are due and payable on the 15th day of the month for work performed during the preceding month.
- e. The “training” contribution amount identified on the prevailing wage determination shall not be paid to the worker, unless the worker falls within one of the exemption categories listed below.

3. Exemptions to Apprenticeship Requirements:

The following are exempt from having to comply with California apprenticeship requirements. These types of contractors do not need to submit a DAS-140, DAS-142, make training fund contributions, or utilize apprentices.

- a. When the Contractor holds a sole proprietor license (“Owner-Operator”) and no workers were employed by the Contractor. In other words, the contractor performed the entire work from start to finish and worked alone.
- b. Contractors performing in non-apprenticeable crafts. “Apprenticeable” crafts are denoted with a pound symbol “#” in front of the craft name on the prevailing wage determination.
- c. When the Contractor has a direct contract with the Public Agency that is under \$30,000.

- d. When the project is 100% federally-funded and the funding of the project does not contain any city, county, and/or state monies (unless the project is administered by a state agency in which case the apprenticeship requirements apply).
- e. When the project is a private project not covered by the definition of public works as found in Labor Code section 1720.

4. Exemption from Apprenticeship Ratios:

The Joint Apprenticeship Committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the Contractor from the 1-to-5 ratio set forth in this Section when it finds that any one of the following conditions are met:

- a. Unemployment for the previous three-month period in such area exceeds an average of fifteen percent (15%); or
- b. The number of apprentices in training in such area exceeds a ratio of 1-to-5 in relation to journeymen; or
- c. The Apprenticeable Craft or Trade is replacing at least one-thirtieth (1/30) of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis; or
- d. If assignment of an apprentice to any work performed under the Contract Documents would create a condition which would jeopardize such apprentice's life or the life, safety or property of fellow employees or the public at large, or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When such exemptions from the 1-to-5 ratio between apprentices and journeymen are granted to an organization which represents contractors in a specific trade on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local Joint Apprenticeship Committees, provided they are already covered by the local apprenticeship standards.

5. Contractor's Compliance:

The responsibility of compliance with this Section for all Apprenticeable Trades or Crafts is solely and exclusively that of the Contractor. All decisions of the Joint Apprenticeship Committee(s) under this Section are subject to the provisions of California Labor Code section 3081 and penalties are pursuant to Labor Code section 1777.7 and the determination of the Labor Commissioner.