

Pharmacy Management Software Agreement

between

County of Santa Barbara

and

Cerner Healthcare Solutions, Inc.

Effective June 07, 2011

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AGREEMENT

BC-12-013

between

COUNTY OF SANTA BARBARA

and

CERNER HEALTHCARE SOLUTIONS, INC.

for

SYSTEM LICENSE, MAINTENANCE, AND PROFESSIONAL SERVICES

for the period

JUNE 07, 2011 THROUGH JUNE 30, 2016

This **SYSTEM LICENSE, MAINTENANCE, AND PROFESSIONAL SERVICES AGREEMENT** (the "Agreement"), is made by and between **Santa Barbara County** (hereinafter COUNTY), a political subdivision of the State of California and **Cerner Healthcare Solutions, Inc.**, having its principal place of business at 2800 Rockcreek Parkway, Kansas City, MO 64117, with an office at 7861 Garden Grove Blvd, Garden Grove, California (hereinafter CONTRACTOR).

RECITALS

WHEREAS, CONTRACTOR owns, installs and services the software program known by the trademark "ETREBY PHARMACY MANAGEMENT SYSTEM"; and

WHEREAS, the COUNTY evaluated CONTRACTOR's proposal and COUNTY identified CONTRACTOR as the selected contractor for its pharmacy management system; and

WHEREAS, CONTRACTOR and COUNTY desire to enter into an Agreement to meet the needs of COUNTY for the System; and

WHEREAS, COUNTY and CONTRACTOR have agreed that the terms and conditions of this Agreement shall govern CONTRACTOR's furnishing to COUNTY the System.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual promises and covenants as set forth below, the parties agree as follows:

1. DEFINITIONS.

1.1. "Authorized Representative" means the representative of COUNTY, who will be the exclusive point of contact with CONTRACTOR with respect to technical support of the Licensed Software.

1.2. "Confidential Information" means 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, any disputes or disagreements between the parties, and all the terms and conditions of this Agreement (and the substance of the negotiations leading to it), all CONTRACTOR pricing information, and all non-publicly available information related to CONTRACTOR products (including without limitation, the Pharmacy

Management System), services and/or methodologies. COUNTY acknowledges and agrees that all Licensed Software and related documentation created hereunder, including without limitation, the designs, source code and object code of such software, but excluding COUNTY's proprietary procedures or data incorporated into such software, is the Confidential Information of CONTRACTOR, regardless of whether it is marked as such.

1.3. "Conversion Plan" means the plan for services to be performed by CONTRACTOR to convert historical data of COUNTY's existing pharmacy system and migrating the data into the CONTRACTOR's Pharmacy Management System.

1.4. "County Equipment" means office space, and equipment provided by COUNTY to CONTRACTOR as required for CONTRACTOR to provide the Services and Deliverables.

1.5. "County Site" means the location(s) of the pharmacies, health care centers, administration, and information technology areas under COUNTY control where services are delivered.

1.6. "Critical Error" means any Error causing the complete failure of the Licensed Software.

1.7. "Deliverable(s)" means CONTRACTOR's products that result from the Services and that are prepared for COUNTY (either independently or in concert with COUNTY or third parties) during the course of CONTRACTOR's performance under this Agreement, including, without limitation, deliverables which are described in Exhibit A, Exhibit B, Exhibit D, and Exhibit F, in Change Orders and Reports, as well as all designs, structures, and models developed in the course of rendering the Services and incorporated into such products.

1.8. "Documentation" means the end user manuals provided to COUNTY along with the Licensed Software, or made available to COUNTY on CONTRACTOR'S website.

1.9. "Effective Date" means the date of execution of the Agreement by CONTRACTOR and COUNTY (as evidenced by the COUNTY'S Board of Supervisor's approval of the Agreement).

1.10. "Error" means any verifiable and reproducible failure of the Licensed Software to substantially conform to the Documentation. "Error" shall not include any failure that is caused by: (a) the use or operation of the Licensed Software with any other software or programming languages or in an environment other than that intended or recommended by CONTRACTOR, (b) modifications to the Licensed Software not made by CONTRACTOR, or (c) any bug, defect or error in other software used with the Licensed Software or any other failure of such software to conform to its published specifications.

1.11. "Error Correction" means either a modification, addition to, or deletion from the Licensed Software that enables the Licensed Software to conform to the Documentation, or a procedure or routine that, when observed in the regular operation of the Licensed Software, eliminates the material adverse effect of an Error or Critical Error.

1.12. "Event Activity Report" means the form provided by CONTRACTOR and signed by COUNTY upon achievement of certain milestones set forth in the Project Plan.

1.13. "Executable Code" means the fully compiled binary version of a software program that can be executed by a computer and used by an end user without further compilation.

1.14. “Functional Specifications” means the requirements’ description of activities and services the System must provide, as set forth in Exhibit D or the Documentation.

1.15. “Go Live” means COUNTY’s use of the System in production to process prescriptions for immediate dispensing to patients.

1.16. “High Availability” means the state in which the system or component is continuously operational for a desirably long length of time.

1.17. “Intellectual Property Rights” means all copyrights, trade secrets, patents, patent applications, moral rights, contract rights, and other proprietary rights, but specifically excluding any trademarks or service marks.

1.18. “Interface Integration” means integrating the external components which are dependent upon the ability to communicate with the System via industry standard specifications.

1.19. “Key Staff” means those CONTRACTOR and COUNTY positions necessary to implement the System. A partial listing of these staff members is provided in Exhibit C. Any modification to this listing must be by mutual agreement between CONTRACTOR and COUNTY.

1.20. “Kickoff Meeting” means the initial meeting following the Effective Date, between CONTRACTOR and COUNTY to develop and finalize the Project Plan.

1.21. “Licensed Software” means the software program or programs described in this Agreement, including the user interfaces, and any modified, updated, or enhanced versions of such programs that CONTRACTOR may provide to COUNTY pursuant to this Agreement. As part of CONTRACTOR’s business model, and for the purposes of continually providing the highest quality of products and services to its customers, CONTRACTOR will not be liable to COUNTY or to any third party for any modification or discontinuance of any Licensed Software feature or functionality.

1.22. “License Fees” means the license fees payable by COUNTY for use of the Licensed Software, as further described in Exhibit A.

1.23. “Maintenance Fees” means the Support and Maintenance fees payable by COUNTY to receive Support and Maintenance from CONTRACTOR, as further described in Exhibit A.

1.24. “Maximum Amount” means the maximum amount payable by COUNTY to CONTRACTOR under this Agreement, which shall be an amount not to exceed \$423,121 as set forth in Exhibit A.

1.25. “Operations” means the onsite and remote activities carried out by COUNTY staff to provide pharmacy services to Public Health Department patients. The System, once successfully implemented by the COUNTY and CONTRACTOR, becomes a component of pharmacy operations.

1.26. “Pharmacy Management System” or “System” means the specific pharmacy software system chosen for this project and shall be the current version 5.0 or higher.

1.27. “Product Description” means the description of the CONTRACTOR’s products that result from the Services and that are prepared for COUNTY.

1.28. “Project” means the planned undertakings regarding the activities during the Agreement.

1.29. "Project Plan" means the overall description of the activities, tasks, deliverables and scheduling deadlines to implement the CONTRACTOR System within the COUNTY health care delivery system. An initial project plan is provided in Exhibit F.

1.30. "Reports" means the software system data compiled, formatted and extracted from the System either through standardized or customized commands. Reports provide information on pharmacy Operations, inventory, quality control, ordering, billing, etc.

1.31. "Service" means the task and service(s) to be performed by CONTRACTOR on the Project, as more fully described in the Agreement or the Statement of Work, including without limitation, and as applicable, Project management, testing, production and delivery of the Deliverables, Conversion, Implementation, Training, Operations, Support, and Maintenance.

1.32. "Source Code" means the human-readable version of a software program that can be compiled into Executable Code.

1.33. "Support and Maintenance" means the technical and customer support Services which are performed following Go Live at each pharmacy site and are described in Exhibit E of the Agreement.

1.34. "Technical Specifications" means the technical and other written specifications that define the requirements for the System, as set forth in the Documentation.

1.35. "Training" means the training Services to be provided by CONTRACTOR to COUNTY, as described in the Training Plan and any Training Deliverable.

1.36. "Version" means a subsequent release of the Licensed Software that comprises changes to existing functionality and/or Error Corrections.

1.37. "Work Around" means a technically feasible change in the operating procedure of the Licensed Software that reduces the effects of the Error or Critical Error on the normal operation of the Licensed Software.

2. STATEMENT OF WORK.

Refer to Statement of Work attached hereto as Exhibit D.

3. AUTHORIZED REPRESENTATIVES.

Daniel Reid at phone number (805) 681-5173 is the representative of COUNTY and will administer this Agreement for and on behalf of COUNTY. Mo Zayed at phone number 714-889-2414 is the authorized representative for CONTRACTOR. Changes in authorized representatives shall be made only after advance written notice to the other party

4. PROFESSIONAL SERVICES.

4.1. Statement of Work

CONTRACTOR and COUNTY have developed and agreed upon a Statement of Work attached hereto as Exhibit D and incorporated herein by reference, and may during the term of this Agreement develop and agree upon additional statements of work (each, a "Statement of Work") describing the services to be provided by CONTRACTOR to COUNTY hereunder (each, a "Service").

CONTRACTOR shall use commercially reasonable and diligent efforts to provide the Services and the deliverables described in each Statement of Work (the "Deliverables").

4.2. Manner of Performance

The Statement of Work shall set forth the method, and provide the details and means for CONTRACTOR to perform the Services and provide the Deliverables to COUNTY pursuant to this Agreement.

4.3. Schedule

CONTRACTOR shall use commercially reasonable and diligent efforts to meet the time schedule set forth in the Project Plan for performance of the Services and delivery of the Deliverables as set forth in the Statement of Work. Additionally, COUNTY shall use commercially reasonable and diligent efforts to meet any COUNTY obligations needed to meet the time schedule set forth in the Project Plan for performance of the Services and delivery of the Deliverables as set forth in the Statement of Work. CONTRACTOR shall not be liable for any delays to the Project Plan caused by COUNTY.

4.4. Change Request Procedures

Changes to a Statement of Work shall be made only in accordance with the following procedure:

4.4.1. The party requesting a change to the Statement of Work or to the pricing, terms of payment, or acceptance criteria shall submit a written change request (a Change Request) to the other party in accordance with the provisions of this Section 4.4 (Change Request Procedures).

4.4.2. If COUNTY is the requesting party, then CONTRACTOR will use commercially reasonable efforts to respond by written notice to COUNTY within five (5) business days (and in no event longer than ten (10) calendar days, unless a different timeframe is agreed to between the parties) following receipt of the Change Request, outlining all impacts of the requested change on the Services, Deliverables, Project Plan, and pricing, and any other conditions upon which CONTRACTOR's willingness to accept the Change Request may depend (collectively, the "Change Request Response"). If CONTRACTOR is the requesting party, then the Change Request will identify such impacts and conditions as proposed by CONTRACTOR.

4.4.3. COUNTY shall accept, reject or propose modifications to each such Change Request or Change Request Response given by CONTRACTOR within five (5) business days following receipt thereof by COUNTY. Additional modifications proposed by COUNTY as part of such response will be handled in accordance with the provisions of Section 4.4.1 above.

4.4.4. If the parties agree to the terms of the Change Request, within the period of five calendar days the Authorized Representative of each party will initiate steps necessary to have the terms of the Change Request approved. The parties must sign each acceptance of a Change Request or Change Request Response before such Change Request or Change Request Response becomes effective as a modification to the Statement of Work or any other part of this Agreement.

5. COUNTY'S DUTIES AND RESPONSIBILITIES.

5.1. Data and Information

COUNTY shall, in a timely manner and at no charge to CONTRACTOR, give CONTRACTOR access to all technical data, computer facilities, programs, files, documentation, test data, sample output, or other information and resources that are, in CONTRACTOR and COUNTY's reasonable opinion, required by CONTRACTOR for the performance of the Services and, if applicable, the delivery of the Deliverables. COUNTY will be responsible for, and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all such data, materials, and information supplied by COUNTY.

5.2. Equipment

When Services are performed on-site at COUNTY's facility, COUNTY shall provide, at no charge to CONTRACTOR County Equipment, including two PC computers, and access to a printer, photocopiers, and fax machine, as required by CONTRACTOR to provide the Services and Deliverables. COUNTY shall also purchase and make available to CONTRACTOR the two servers required to implement the Project, as specified in Exhibit D (Statement of Work), and will provide two additional PC computers to serve as test units for the Project software during implementation and acceptance testing. CONTRACTOR's use of County Equipment shall be subject to COUNTY's security, administrative and other requirements of which CONTRACTOR will be advised in advance and in writing.

5.3. Maintenance of Qualified Individuals

COUNTY hereby represents and warrants it possesses the experience, skills and resources required to perform its obligations under this Agreement. COUNTY shall, at its expense, retain adequate numbers of qualified individuals who will (i) provide adequate support services; (ii) perform any upgrades and /or updates to the Licensed Software as may become necessary once such Licensed Software has come within COUNTY's possession, custody or control; and (iii) act as liaison for all technical communications.

5.4. Training

Within sixty (60) days of the Effective Date of this Agreement, COUNTY shall have an appropriate number and type of its employees complete CONTRACTOR's training in the use of the Software. CONTRACTOR will provide, and COUNTY will attend, such training at such time and location, and under such assumption of expense as mutually agreed upon by the parties.

5.5. Other

CONTRACTOR shall not be responsible for COUNTY's delay or failure to fulfill any of COUNTY's obligations pursuant to this Section 5 (COUNTY's Duties and Responsibilities), and the Project Plan will be adjusted accordingly.

6. CONTRACTOR'S DUTIES AND RESPONSIBILITIES.

6.1. Delivery of Licensed Software

CONTRACTOR will deliver the Licensed Software to COUNTY following execution of this Agreement. The Licensed Software will be made available via electronic distribution through a secured FTP location, and will be deemed irrevocably accepted upon COUNTY's access to the secured FTP location.

6.2. Performance of Services

Upon delivery of Licensed Software to COUNTY, CONTRACTOR shall begin to perform the Services in accordance with the Project Plan.

6.3. Support and Maintenance

CONTRACTOR shall provide Support and Maintenance services to COUNTY with respect to the Licensed Software as described in Exhibit E.

6.4. Necessary Resources

CONTRACTOR shall provide the personnel and all other materials and resources necessary for the performance of the Services not provided by COUNTY pursuant to Section 5 above and as set forth in the Project Plan.

6.5. Training

CONTRACTOR shall make training available to COUNTY as set forth in Exhibit D (Statement of Work) in the installation, use, operation and support of the Software in accordance with CONTRACTOR's then-current training program.

6.6. Damage to Property

CONTRACTOR shall protect and be responsible for any loss, destruction, or damage to County Equipment or other COUNTY property that results from or is caused by CONTRACTOR's willful misconduct or negligent acts or omissions. CONTRACTOR shall ensure that any County Equipment provided to CONTRACTOR is returned to COUNTY in like condition to that in which it was furnished to CONTRACTOR, reasonable wear and tear excepted. CONTRACTOR shall repair or replace (or engage a third party to do so) any such damage, destruction or loss at any County Site, and shall do so without requesting contribution from COUNTY or assistance from COUNTY officers or employees.

6.7. Notice of Damage

Upon CONTRACTOR's discovery of the loss of, destruction of, or damage to any County Equipment or other tangible personal property, CONTRACTOR shall notify the COUNTY Project Manager thereof and shall take all reasonable steps to protect that County Equipment or property from further damage.

7. INTERFACE TESTING.

7.1. Interface Implementation Process/Hold-Back

As part of the initial implementation, CONTRACTOR shall provide COUNTY with certain interfaces, as more fully set forth in Exhibit D and the Project Plan (the "Interfaces"). CONTRACTOR shall provide the Interfaces in accordance with Exhibit D and the Project Plan. In order to ensure that the Interfaces integrate into the System, CONTRACTOR shall hold-back ten percent (10%) of the Licensed Software System Purchase Price, as set forth in Exhibit B (the "Hold-Back Amount"). The Hold-Back Amount shall be paid by COUNTY to CONTRACTOR upon the earlier of: (1) the date that COUNTY provides CONTRACTOR with a signed Event Activity Report stating that the Interfaces comply with the obligations set forth in Exhibit D and the Project Plan; or 2) 320 days after the Effective Date.

7.2. Inability to Implement System

If CONTRACTOR is unable to implement the System or a System module as specified in Exhibit D, including achieving the level of Functional Specifications required by Section 3 of Exhibit D, within the time period set forth in the Project Plan, as it may be revised from time to time, COUNTY may, at its option: (1) terminate the Agreement for material breach as described in Section 14.2.2 (however, solely applicable to this Section 7.1.3, the cure period shall be extended to sixty (60) days to cure the alleged breach after COUNTY provides written notice of such to CONTRACTOR), which termination shall be deemed to be due to CONTRACTOR's default, without penalty to COUNTY and, at COUNTY's option, require CONTRACTOR to remove the System from the County Equipment; (2) request CONTRACTOR to repair or replace the System or System module for further System Integration Tests; or (3) continue performing System Integration Tests on the System or System module and require CONTRACTOR to continue to attempt to cure any deficiencies until the System or System module achieves the level of Functional Specification required in Exhibit D. In the event COUNTY terminates the Agreement as provided above in this Section, CONTRACTOR shall return to COUNTY all Licensed Software fees paid by COUNTY to CONTRACTOR to the extent the Licensed Software is returned by COUNTY. COUNTY's option to terminate this Agreement pursuant to this Section 7.1.3 shall remain in effect until the Go-Live date.

8. PROJECT MANAGEMENT.

8.1. Reports and Meetings

8.1.1. CONTRACTOR shall produce weekly reports regarding the status of the Project (the "Project Status Reports") and the parties shall participate in the meetings described below in person, via telephone conference call, videoconference, and/or web conference, as agreed to by the parties. All Project Status Reports shall be produced in mutually-agreeable formats and delivered in accordance with the Project Plan and the terms of this Agreement.

8.1.2. The CONTRACTOR Engagement Leader and other CONTRACTOR staff assigned to the Project (hereinafter "Key Staff") shall participate in weekly status meetings with the COUNTY Project Manager and other members of COUNTY's Project team during the Project. These weekly status meetings shall follow a preset agenda jointly prepared by the CONTRACTOR Engagement Leader and COUNTY Project Manager, but will also allow both CONTRACTOR and COUNTY to discuss other issues that may concern either party.

8.1.3. As reasonably requested by COUNTY, the CONTRACTOR Engagement Leader shall assist the COUNTY Project Manager in preparing, and shall prepare, special Project Status Reports and presentations related to the Project management. The CONTRACTOR Engagement Leader shall also provide or produce such Project Status Reports or information as are reasonably requested by the COUNTY Project Manager regarding the Project.

8.2. Contractor Engagement Leader

8.2.1. CONTRACTOR shall assign to the Project a CONTRACTOR Engagement Leader of a management level sufficient to assure timely responses from all CONTRACTOR personnel and whose resume and qualifications will be reviewed by and discussed with COUNTY prior to his or her appointment as CONTRACTOR Engagement Leader. The process may include an interview by the COUNTY Project Manager or designee with the proposed CONTRACTOR Engagement Leader. The CONTRACTOR Engagement Leader shall be responsible for acting as a liaison with the COUNTY Project Manager.

8.2.2. CONTRACTOR agrees and represents that the CONTRACTOR Engagement Leader shall be fully qualified to perform the tasks required of that position under this Agreement. The CONTRACTOR Engagement Leader shall function as CONTRACTOR's Authorized Representative for all management and administrative matters not inconsistent with the provisions contained herein.

8.2.3. The CONTRACTOR Engagement Leader shall not be changed from the person proposed in this Agreement, except as provided in Section 8.3.2. If the CONTRACTOR Engagement Leader is removed or replaced, CONTRACTOR will promptly provide Notice to COUNTY and submit a resume of the proposed replacement Engagement Leader to COUNTY. COUNTY may request the opportunity to interview the proposed Engagement Leader before a final decision is made by CONTRACTOR on the replacement.

8.2.4. Any written commitment by the CONTRACTOR Engagement Leader and persons designated by him or her in writing for this purpose, within the scope of this Agreement, shall be binding upon CONTRACTOR.

8.3. Contractor Staff

8.3.1. CONTRACTOR's Key Staff, including names and positions, for the Project during the Implementation Period and until the last Go-Live event shall be provided to COUNTY prior to the Kickoff Meeting, and to the extent they are known as of the Effective Date are set forth in Exhibit C.

8.3.2. Except in the case of a legally required leave of absence, sickness, death, termination of employment or unpaid leave of absence, Key Staff shall not be changed during the Project and until the last Go-Live event without the prior written notification to and consultation with COUNTY. During the term of the Agreement, COUNTY reserves the right to propose changes in Key Staff.

8.3.3. CONTRACTOR shall use commercially reasonable efforts to ensure that all staff provided by CONTRACTOR as replacements for other staff shall have comparable or greater skills for performing the activities as performed by the staff being replaced.

8.3.4. CONTRACTOR assumes responsibility for its acts and the acts of its personnel. CONTRACTOR understands and agrees that COUNTY does not assume liability for the actions of CONTRACTOR's subcontractors or agents, except to the extent that CONTRACTOR's subcontractors or agents are acting in accordance with COUNTY's instructions, including but not limited to as required under Section 5.2 (Equipment), relating to the requirement of compliance with COUNTY's security, administrative and other requirements of which CONTRACTOR will be advised in advance and in writing.

8.3.5. CONTRACTOR agrees that any claim on behalf of any third party arising out of employment or alleged employment by CONTRACTOR (including, but not limited to, claims of discrimination against CONTRACTOR, its officers, or its agents) are the sole responsibility of CONTRACTOR and are not the responsibility of COUNTY. Any third party who alleges a claim arising out of employment or alleged employment by CONTRACTOR will not be entitled to any compensation, rights, or benefits from COUNTY (including, but not limited to, tenure rights, medical and hospital care, sick and annual/vacation leave, severance pay, or retirement benefits). For this Section 8.3.5 only, the term "third party" will include employees of CONTRACTOR.

8.4. County Project Manager

The CONTRACTOR Engagement Leader's primary point of contact in matters of Project management shall be the COUNTY Project Manager. The COUNTY Project Manager or his or her

designee or successor will manage this Agreement on behalf of COUNTY and will be the principal point of contact for the CONTRACTOR concerning CONTRACTOR's performance under this Agreement.

9. FEES AND PAYMENT.

9.1. Fees

COUNTY shall pay CONTRACTOR the License Fees, Maintenance and Support Fees, and Transaction Fees set forth in Exhibit A within thirty (30) days of receipt of CONTRACTOR's invoice prepared in accordance with Section 9.3, below. If COUNTY has a dispute with CONTRACTOR's invoice as presented, COUNTY shall have 15 calendar days from receipt of the invoice to provide Notice to CONTRACTOR of its objections. COUNTY shall pay CONTRACTOR the Services Fees set forth in Exhibit A according to the payment schedule set forth in Exhibit B. For each payment milestone itemized in the payment schedule, CONTRACTOR shall prepare an invoice in accordance with Section 9.3 below, and COUNTY shall pay such invoice within thirty (30) days of its receipt, unless COUNTY provides Notice of dispute. Fees for any future purchases from CONTRACTOR will be set forth on a new Statement of Work. COUNTY shall pay all invoices for any additional purchases within thirty (30) days following their receipt by COUNTY, unless a different timeframe is set forth in the applicable Statement of Work. Charges for Professional Services Contingency Fees are subject to pre-authorization from COUNTY's Authorized Representative and shall be invoiced separately.

9.2. Expenses

The total cost of the project, as set forth in Exhibit A and Exhibit B, shall not exceed the Maximum Amount of \$423,121 as set forth in Exhibit A as of the Effective Date and includes expenses such as CONTRACTOR staff's travel, transportation, food and lodging costs. Except in the event of a Change Request approved by both parties pursuant to the procedure set forth in Section 4.4 of this Agreement, COUNTY shall not be responsible for paying any amount above the Maximum Amount specified in Exhibit A. For the avoidance of doubt, the parties acknowledge that they may, from time to time, enter into additional Statements of Work, and that additional fees may be payable thereunder.

9.3. Invoices

CONTRACTOR shall submit invoices to the COUNTY Project Manager for all charges, purchase prices and other amounts to be paid by COUNTY hereunder as provided in Section 9.2 above. All invoices submitted must meet with the approval of the COUNTY Project Manager or designee prior to payment, which approval shall be provided so long as the conditions in this Section 9.3 are fully met by CONTRACTOR, and such approval shall not be unreasonably withheld or delayed. CONTRACTOR shall submit invoices only as permitted by this Section 9.3 of the Agreement. Invoices not submitted in accordance with this Section 9.3 may be returned by COUNTY to CONTRACTOR for correction and reissue. The Agreement contract number shown on Page 1 that begins with "BC" must appear on all invoices, bills of lading, packages, and correspondence relating to this Agreement. Invoices must reference this Agreement and provide the following detailed information:

9.3.1. CONTRACTOR's name, address, telephone number and federal tax identification number;

9.3.2. An itemization of the Licensed Software, Service or Deliverable;

9.3.3. Applicable fees and charges;

9.3.4. Date of delivery and/or date of installation, as applicable;

- 9.3.5. Any other Project costs with a detailed, itemization of such costs, if applicable;
- 9.3.6. Sales or use taxes, if applicable;
- 9.3.7. Credits, if any; and
- 9.3.8. Total amount due.

Any portion of the fees that is not paid when due will accrue interest at one percent (1%) per month or the maximum rate permitted by applicable law, whichever is less, from the due date until paid.

10. PROPRIETARY RIGHTS; LICENSE GRANTS.

10.1. Scope of Use.

COUNTY may use the Licensed Software only at the pharmacy location(s) set forth in Exhibit D, Section 12. COUNTY agrees to notify CONTRACTOR promptly in writing of any change in place of business, and thereafter CONTRACTOR will modify the Licensed Software to accommodate changes to the status file and will charge a reasonable transfer and programming fee. COUNTY may add other pharmacy locations (that are owned by COUNTY) within the United States or U.S. Territories upon written notice to CONTRACTOR and payment of additional Licensed Software and support fees.

10.2. Total Switch Contract (TSC).

Electronic claims transmitted through the CONTRACTOR switch shall be subject to the terms of the Total Switch Contract, set forth in Exhibit J.

10.3. Inventions

Any and all software (including, but not limited to, Licensed Software), specifications, designs, processes, techniques, concepts, improvements, discoveries, ideas, and inventions, whether or not patentable, used, made or arising in connection with the Services or the Deliverables, as well as any and all modifications, improvements, enhancements, and/or derivative works thereto (collectively, the "Inventions") and all patents, copyrights, trade secrets and other intellectual property rights therein or related thereto, will be the sole and exclusive property of CONTRACTOR. Nothing contained in this Agreement shall be construed as conferring by implication, estoppel or otherwise upon COUNTY any license or other right, title, or interest in or to the Inventions and/or the intellectual property therein or related thereto except to the extent that an Invention is a Deliverable, in which case it shall be licensed solely as provided in Section 10.5 ("Limited License") below.

10.4. Similar Works

CONTRACTOR may, in its sole discretion, develop, use, market and license any software or data processing material that is similar or related to that developed by CONTRACTOR for COUNTY. CONTRACTOR shall not be permitted to disclose information concerning any developments determined to be COUNTY Confidential Information.

10.5. Limited License

Subject to the terms and conditions of this Agreement (including COUNTY's obligation to pay to CONTRACTOR the fees and expenses hereunder), CONTRACTOR hereby grants to COUNTY a non-exclusive and non-transferable, and irrevocable (unless terminated under Section 7.2 or 14.2.1) license to use the Licensed Software specified on Exhibit A solely in Executable Code form, solely for

COUNTY's business purposes and solely in accordance with the Documentation and limitations in Exhibit D, Section 12 and to make up to one (1) copy of the Licensed Software solely for backup or archival purposes. COUNTY will not remove, alter, or obscure any proprietary notices (including copyright notices) of CONTRACTOR or its suppliers on the Licensed Software. The Licensed Software constitutes valuable trade secrets of CONTRACTOR and its suppliers. COUNTY may not: (a) modify, translate, or create derivative works from the Licensed Software; (b) sublicense, lease, rent, loan, or otherwise transfer the Licensed Software to any third party, (c) reverse engineer, decompile, or otherwise attempt to derive the source code for the Licensed Software; or (d) otherwise use or copy the Licensed Software except as expressly permitted by this Section 10.5. Any actual or threatened breach of this Section 10.5 will constitute immediate, irreparable harm to CONTRACTOR for which monetary relief would be inadequate and for which CONTRACTOR may obtain injunctive relief.

10.6. Versions

Unless otherwise mutually agreed to in writing, CONTRACTOR shall, during the term of this Agreement, support the Licensed Software and any and all third-party software products at their most current version and one version back from the most current version with no additional charge. Prior to implementing a new version, COUNTY and CONTRACTOR shall discuss whether to implement such new version and any implications such version may have on the functionality of the System. CONTRACTOR may, at any time, add, delete, or change the specifications with respect to the Licensed Software (but in no case will such change reduce the overall functionality of same), and COUNTY will not have any claim against CONTRACTOR with respect to such modification. Notwithstanding the foregoing sentence, any changes made by CONTRACTOR to the Licensed Software will not impact CONTRACTOR's obligation to comply with the Software Warranty set forth in Section 11.1.3.

10.7. Ownership

COUNTY recognizes and agrees that the Licensed Software and all Documentation, user's manuals, training aids and other written material or information are the property of and subject to the proprietary rights of CONTRACTOR; and, their use and disclosure must be controlled, monitored and secured as hereinafter provided in order to protect said proprietary rights from misappropriation or misuse by unauthorized persons or entities. CONTRACTOR recognizes and agrees that the COUNTY may modify, revise, customize or further use these materials (which do not include Licensed Software) to train or re-train staff and/or improve overall COUNTY Operations. Notwithstanding any terms to the contrary herein, COUNTY further agrees that CONTRACTOR shall own, and COUNTY hereby grants to CONTRACTOR, any and all right, title and interest in and to any suggested modifications, design changes or improvements of the Licensed Software without the payment of any additional consideration to COUNTY, its employees, its agents, or to any other entity or person.

11. REPRESENTATIONS AND WARRANTIES.

11.1. Operability of Pharmacy Management System

11.1.1. Transition to Support Period

For the period beginning upon the initial Go-Live event at the 1st County facility and concluding 90 days after the Go-Live event at the 3rd and final County facility, CONTRACTOR will assign a CONTRACTOR Senior Support Analyst to COUNTY. CONTRACTOR's Senior Support Analyst will provide a direct contact for COUNTY in order to assist COUNTY to ensure that any issues brought to CONTRACTOR's attention by COUNTY are being addressed in a timely manner. CONTRACTOR's Senior Support Analysts duties shall include, but not be limited to, acting as a point of escalation for any

COUNTY issues, and monitoring such issues (and providing ongoing updates to COUNTY) to ensure that they are resolved in a timely manner.

11.1.2. Licensed Software

CONTRACTOR represents and warrants that the Licensed Software, when used as permitted under this Agreement and in accordance with the instructions in the Documentation, shall materially conform to the Functional Specifications as provided in Exhibit D after Go-Live and thereafter.

11.1.3. Software Warranty

CONTRACTOR represents and warrants that during the term of this Agreement, CONTRACTOR shall use commercially reasonable efforts to repair or replace each of the Deliverables that does not materially conform to the Functional Specifications as set forth in Exhibit D. CONTRACTOR shall use commercially reasonable efforts to promptly repair any reproducible Error in, or replace, each of the modules within the Licensed Software that is reported in writing by COUNTY during the term of the Agreement, as not meeting this standard. If after a 30 day period to cure the Error has passed, and CONTRACTOR is unable to repair any reproducible Error in, or replace any of the modules within, the Licensed Software to achieve material conformity to the Functional Specifications, COUNTY shall be entitled to the following discounts from its monthly Support and Maintenance Fees: 25% credit for the first 30 days past the cure period; and 40% credit for the 31st day past the cure period and thereafter.

11.1.4. Performance Standards

If the System fails to meet Performance Standards set forth in Exhibit H during the term of this Agreement, CONTRACTOR shall either: 1) modify, reconfigure, upgrade or replace the Licensed Software at no additional cost to COUNTY in order to provide a System solution that complies with such Performance Standards; or 2) for those Performance Standards set forth in Section 6.5 of Exhibit H, provide COUNTY a credit for Support and Maintenance fees as provided in Section 6.5 of Exhibit H.

11.2. Representations and Warranties of Contractor

CONTRACTOR represents and warrants that:

11.2.1. It shall perform all Services and provide all Deliverables required pursuant to this Agreement in a professional manner, with high quality;

11.2.2. It shall give high priority to the performance of the Services;

11.2.3. It is a corporation duly incorporated, validly existing and in good standing under the laws of its state of incorporation and has all requisite power and authority to execute, deliver and perform its obligations under this Agreement;

11.2.4. It has the full power and authority to grant to COUNTY the rights described in this Agreement free of any liens or encumbrances, other than liens or encumbrances entered into in the ordinary course of business such as for financing purposes, and there is currently no actual or threatened suit by any such third party based on an alleged violation of such rights by CONTRACTOR which would have a material impact on CONTRACTOR's ability to perform its obligations pursuant to the Agreement;

11.2.5. The execution, delivery and performance of this Agreement has been duly authorized by CONTRACTOR and no approval, authorization or consent of any governmental or regulatory agency is required to be obtained in order for CONTRACTOR to enter into this Agreement and perform its obligations under this Agreement;

11.2.6. The person executing this Agreement for CONTRACTOR has actual authority to bind CONTRACTOR to each and every term, condition and obligation to this Agreement, and that all requirements of CONTRACTOR have been fulfilled to provide such actual authority;

11.2.7. CONTRACTOR is duly authorized to conduct business in and is in good standing in each jurisdiction in which CONTRACTOR will conduct business in connection with this Agreement;

11.2.8. CONTRACTOR has obtained all licenses, certifications, permits, and authorizations necessary to perform the Services under this Agreement and currently is in good standing with all regulatory agencies that regulate any or all aspects of CONTRACTOR's performance of the Services;

11.2.9. CONTRACTOR shall comply with all applicable local, State, and federal licensing, accreditation and registration requirements necessary in the performance of the Services; and CONTRACTOR will maintain all required certifications, licenses, permits, and authorizations during the term of this Agreement at its own expense;

11.2.10. CONTRACTOR has the financial stability to carry out at least six months of Services, including Operations, Support and Maintenance during any period of this Agreement without reimbursement for the Services or expenses by COUNTY;

11.2.11. CONTRACTOR's methods of accounting are consistent with generally accepted accounting principles and are capable of segregating costs by implementation stage, segment, or cost objective in order to support Change Order accounting;

11.2.12. CONTRACTOR shall maintain original books, records, documents and other evidence that sufficiently and properly reflects the accuracy of amounts billed to COUNTY during the performance of this Agreement and shall retain all such records for a minimum of three (3) years after the close of the fiscal year of their creation. Records involving matters in litigation related to this Agreement shall be kept for a minimum of one (1) year following the termination of litigation, including all appeals;

11.2.13. CONTRACTOR shall allow an independent third party auditor selected by the COUNTY Project Manager or other COUNTY officials and reasonably acceptable to CONTRACTOR, to access such records as described in Section 11.2.12, during CONTRACTOR's regular business hours and upon reasonable prior Notice (which shall be at least 2 weeks) to examination for inspection or audit. Access to these items shall be provided at CONTRACTOR's business offices, unless the parties agree that they can be provided in another manner. If possible, CONTRACTOR would prefer to provide such information to the auditor without the need for the auditor to come on to CONTRACTOR's premises, as an onsite audit has more potential for business disruption to CONTRACTOR. Unless required by law or governmental agency, any such audit may only be performed one time in any calendar year. CONTRACTOR shall be responsible for any disallowed costs based upon CONTRACTOR's failure to comply with its obligations set forth in this Agreement.

11.3. Representations and Warranties of County

COUNTY represents and warrants that:

11.3.1. It has full right, power, and authority to enter into and perform its obligations under this Agreement;

11.3.2. The person signing this Agreement on COUNTY's behalf has been duly authorized and empowered to enter into this Agreement;

11.3.3. This Agreement constitutes a valid and legally binding obligation of COUNTY, enforceable against COUNTY in accordance with its terms;

11.3.4. It shall maintain accurate and complete records of its activities under this Agreement and provide information as reasonably requested by CONTRACTOR to ensure compliance by COUNTY with the terms of this Agreement. CONTRACTOR or its representatives may, upon reasonable notice to COUNTY and during normal working hours, inspect those business records of COUNTY necessary to verify COUNTY's compliance with this Agreement.

12. CONTRACTOR'S INSURANCE COVERAGE.

12.1. Liability and Auto Insurance

CONTRACTOR shall, at its sole cost and expense, obtain, and, during the term of this Agreement, maintain, in full force and effect, the insurance coverage described in this Section. CONTRACTOR shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the State of California and that have a Best's rating of no less than A: VII, or that are approved by the COUNTY. CONTRACTOR shall include COUNTY, its boards, agencies, contractors, offices, employees, agents and volunteers as an additional insured party in CONTRACTOR's insurance policy obtained hereunder.

If CONTRACTOR fails to buy and maintain the insurance coverage described in this Section 12, COUNTY may terminate this Agreement pursuant to the terms set forth in Section 14.2.2 (Termination for CONTRACTOR's Material Breach). The minimum acceptable limits shall be as indicated below with no deductible except as indicated below. In the event that CONTRACTOR is unable to comply with the COUNTY's insurance requirements, COUNTY may, at its sole discretion and at the CONTRACTOR's expense, provide compliant coverage.

The insurance requirements set forth below are subject to periodic review by the COUNTY. The COUNTY's Risk Manager is authorized to propose changes to the above insurance requirements, with the concurrence of COUNTY Counsel, to propose additional types of insurance coverage or higher coverage limits, provided that such change is reasonable based on changed risk of loss or in light of past claims against COUNTY or inflation. This option may be exercised during any amendment to this Agreement that results in an increase in the nature of COUNTY's risk and such changes of provision will be in effect for the term of the amended Agreement. Such change pertaining to types of insurance coverage or higher coverage limits must be made by written amendment to this Agreement. CONTRACTOR agrees to execute any such amendment within thirty (30) days of CONTRACTOR'S acceptance of the amendment or modification.

12.1.1. Commercial General Liability Insurance: shall include bodily injury, property damage and personal injury liability coverage, shall afford coverage for all premises, operations, products and completed operations of CONTRACTOR and shall include contractual liability coverage sufficiently broad so as to include the insurable liability assumed by the Contract in Section 16

(Confidentiality) and Section 15.2 (CONTRACTOR's Indemnification of COUNTY) of this Agreement with a limit of not less than \$1 million per occurrence/\$2 million general aggregate; and

12.1.2. Automobile Liability Insurance: The automobile liability insurance shall cover all owned, non-owned and hired motor vehicles that are operated on behalf of CONTRACTOR pursuant to CONTRACTOR's activities hereunder. The limit of liability of said policy or policies shall not be less than \$1 million per occurrence/\$2 million general aggregate.

12.1.3. Employers Liability Insurance: covering the risks of CONTRACTOR's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease.

12.2. Extended Coverage

If the policy providing liability coverage is on a "claims made" form, CONTRACTOR is required to maintain such coverage for a minimum of three years following expiration or termination of this Agreement, naming COUNTY as an additional insured and providing COUNTY with certificates of insurance on an annual basis. COUNTY shall be given written notice in accordance with policy terms prior to cancellation or expiration of the policy or reduction in coverage.

12.3. Workers' Compensation Coverage

Statutory Workers' Compensation and Employers' Liability Insurance shall cover all CONTRACTOR's staff while performing any work under this Agreement. In the event CONTRACTOR is self-insured, it shall furnish a copy of a Certificate of Consent to Self-Insure issued by the Department of Industrial Relations for the State of California. This provision does not apply if CONTRACTOR has no employees as defined in Labor Code Section 3350 *et. seq.* during the entire period of this Agreement and CONTRACTOR submits a written statement to the COUNTY stating that fact.

12.4. Premiums and Notice to County

CONTRACTOR shall pay premiums on all CONTRACTOR insurance policies. Such insurance policies provided for COUNTY pursuant to this Section 12 shall expressly provide therein that COUNTY be named as additional insured, and that it shall not be revoked by the insurer until Notice of intended revocation thereof shall have first been given to COUNTY by such insurer in accordance with policy terms. If revoked, a copy of the endorsement evidencing that the policy has been changed to reflect the Additional Insured status must be attached to the certificate of insurance provided to COUNTY.

12.5. Cancellation

CONTRACTOR's insurance policies shall not be canceled or non-renewed in scope of coverage without provision for equivalent substitute insurance and CONTRACTOR has replacement insurance policy(ies) in place that satisfy the requirements set forth in this Section 12. CONTRACTOR shall provide COUNTY with Notice (attention Project Manager) of any replacement insurance policies to CONTRACTOR's insurance policies shall not be reduced below contractual requirements without COUNTY's prior written consent, not to be unreasonably withheld or delayed.

12.6. Insurance Documents

CONTRACTOR shall submit to the office of the COUNTY Project Manager certificate(s) of insurance documenting the required insurance as specified in this Section 12 prior to the Effective Date, and copies of renewal certificates of all required insurance within 30 days after the renewal date. These

certificates of insurance must provide compliance with each and every insurance requirement specified in this Section 12. COUNTY shall maintain current certificate(s) of insurance at all times in the office of the COUNTY Project Manager. Approval of insurance by COUNTY or acceptance of the certificate of insurance by COUNTY shall not relieve or decrease the extent to which CONTRACTOR may be held responsible for payment of damages resulting from CONTRACTOR's Services pursuant to the Agreement, nor shall it be deemed a waiver of COUNTY's right to insurance coverage hereunder.

12.7. Subrogation

CONTRACTOR agrees to waive all rights of subrogation against COUNTY, its boards, agencies, departments, officers, employees, agents, and volunteers for losses arising from services performed by CONTRACTOR under this Agreement.

12.8. Cross-Liability

All insurance provided by CONTRACTOR shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the COUNTY and the certificate of insurance shall include a severability of interests or cross-liability provision in the following form:

"Such insurance as is afforded by this policy shall be primary and if the COUNTY has other valid and collectible insurance, that other insurance shall be excess and non-contributory."

13. DISPUTE RESOLUTION.

13.1. Problem Resolution for Licensed Software

COUNTY and CONTRACTOR will keep each other informed on a regular basis of any problems encountered with the Licensed Software that could impact COUNTY's use of the System and the associated resolutions. COUNTY will communicate promptly to CONTRACTOR any and all suggestions for modifications, design changes or improvements to the Software.

13.2. Good Faith Efforts

Except for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order or other provisional remedy to preserve the status quo or prevent irreparable harm, the parties agree to attempt in good faith to promptly resolve any dispute, controversy or claim arising out of or relating to this Agreement, including but not limited to payment disputes, through negotiations between senior management of the parties and their designees. If the dispute cannot be resolved within 15 calendar days of initiating such negotiations or such other time period mutually agreed to by the parties in writing, either party may pursue its available legal and equitable remedies.

13.3. Continued Performance

CONTRACTOR and COUNTY agree that, the existence of a good faith dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Agreement, including that COUNTY shall continue to pay for invoiced fees that are not related to an issue that is the subject of a good-faith dispute.

14. TERM AND TERMINATION.

14.1. Term

The term shall begin on the Effective Date and shall continue for a period of five (5) years, unless earlier terminated as provided herein. COUNTY shall have the right to renew the term for up to three (3), three-year periods. The parties shall enter into an amendment to this Agreement for any renewal terms.

14.2. Termination

14.2.1. By Contractor

CONTRACTOR may terminate this Agreement upon written notice to COUNTY if COUNTY: (i) breaches the license grant or restriction provisions set forth herein and fails to cure the breach or substantially cure such breach (to CONTRACTOR's satisfaction) within ten (10) days after CONTRACTOR gives written notice of such breach; (ii) fails to pay any amount due to CONTRACTOR within thirty (30) days after CONTRACTOR gives written notice of such non-payment unless there exists a good faith basis for non-payment by COUNTY; or (iii) materially breaches any other term or condition of this Agreement and fails to cure such breach within thirty (30) days following such written notice.

14.2.2. By County

COUNTY may terminate this Agreement upon written notice to CONTRACTOR if CONTRACTOR materially breaches any term or condition of this Agreement and fails to cure such breach within thirty (30) days (or longer term as agreed to by the parties) after such written notice. Failure to meet a Project Plan timeline shall not be deemed a material breach of this Agreement, if such failure is due, in part or in whole, to COUNTY's delay or failure in providing any requested data, information, equipment or other assistance to CONTRACTOR pursuant to Section 5 (COUNTY's Duties and Responsibilities), or payment of any amount owed to CONTRACTOR pursuant to Section 9 (Fees and Payment) hereunder.

14.3. Effect of Termination

Upon the expiration or early termination of this Agreement for any reason: (i) COUNTY will make all payments due to CONTRACTOR hereunder in accordance with the payment terms of this Agreement, including professional services fees incurred up to the date of termination; (ii) all licenses granted hereunder will immediately terminate; (iii) COUNTY will immediately cease all use of the Deliverables (including the Licensed Software, if any); (iv) the parties will cooperate to effect an orderly wind-down of their activities hereunder; and (v) each party will return or destroy any and all copies of Confidential Information belonging to the other party, and certify in writing (signed by a duly authorized officer) as to such return or destruction.

15. LIMITATION OF LIABILITY AND INDEMNIFICATION.

15.1. The Parties' Limitation of Liability

EXCEPT IN THE EVENT OF A BREACH BY A PARTY OF THE LICENSE GRANT, LICENSE RESTRICTION, OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS, OR CONFIDENTIALITY PROVISIONS SET FORTH IN THIS AGREEMENT (THE "EXCLUDED CLAIMS"), IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, OR INDIRECT, SPECIAL, INCIDENTAL, OR

CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, PERFORMANCE, OR USE OF THE SERVICES, LICENSED SOFTWARE, RELATED DOCUMENTATION, OR OTHER DELIVERABLES OR MATERIALS FURNISHED OR PROVIDED TO COUNTY, WHETHER ALLEGED AS A BREACH OF CONTRACT, OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, OR OTHERWISE, EVEN IF OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ADDITION, NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY OR FURNISHING ANY OF THE FOREGOING. EXCEPT FOR THE EXCLUDED CLAIMS, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNT OF THE FEES PAID OR PAYABLE BY ONE PARTY TO THE OTHER PARTY HEREUNDER DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING A CLAIM. THIS LIMITATION OF LIABILITY IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES IN CONNECTION WITH THIS AGREEMENT BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT. Both parties acknowledge that the economic terms set forth in this Agreement reflect the allocation of risk set forth in this Agreement and that neither party would enter into this Agreement without these limitations on its liability. Both parties agree that the other party's suppliers will have no liability of any kind under or as a result of this Agreement. The foregoing limitations of liability are independent of any exclusive remedies for breach of warranty set forth in this Agreement.

15.2. Contractor's Indemnification of County

During the term of this Agreement, CONTRACTOR shall, at its expense, indemnify, defend, and hold harmless COUNTY, its employees, officers, directors, contractors and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any third party claim or action for tangible personal property damage, bodily injury or death, to the extent caused by or arising from the negligent acts or omissions or willful misconduct of CONTRACTOR, its officers, employees, agents, or Subcontractors while performing Services hereunder. Additionally, CONTRACTOR will indemnify and hold COUNTY harmless from any and all third party claims (including those brought by employees of CONTRACTOR) asserted against COUNTY to the extent such claim alleges that COUNTY is liable for any costs owed to an employee of CONTRACTOR. As a condition to the foregoing indemnity, COUNTY shall promptly give CONTRACTOR notice of such claim, permit CONTRACTOR to control the defense thereof and any related settlement negotiations, and assist in the defense thereof.

15.3. County Indemnity

Final responsibility for dispensing prescription drugs rests with COUNTY. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees, agents, representatives and assignees, harmless from any and all claims for personal injuries or damages made by, or on behalf of a patient or user of a prescribed drug, including but not limited to claims brought by any agent, beneficiary, relative or representative of any such patient. Additionally, during the Term, COUNTY shall, at its expense, indemnify, defend, and hold harmless CONTRACTOR, its employees, officers, directors, contractors and agents from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any third party claim or action for tangible personal property damage, bodily injury or death, to the extent caused by or arising from the negligent acts or omissions or willful misconduct of COUNTY, its officers, employees, or agents, while performing its obligations hereunder. As a condition to the foregoing indemnities, CONTRACTOR shall promptly give COUNTY notice of such claim, permit COUNTY to control the defense thereof and any related settlement negotiations, and assist in the defense thereof.

15.4. Intellectual Property Indemnification

CONTRACTOR agrees to indemnify, defend and hold COUNTY harmless from third party claims of infringement of any United States patent, copyright or trademark rights or other intellectual property rights of third parties which result from COUNTY'S use of the Licensed Software. The foregoing indemnification is COUNTY's sole and exclusive remedy for any claims of infringement. CONTRACTOR's obligations under this Section are contingent upon (a) COUNTY giving prompt written notice to CONTRACTOR of any such claim; (b) COUNTY allowing CONTRACTOR to control the defense and any related settlement of any such claim; and (c) COUNTY furnishing CONTRACTOR with reasonable assistance in the defense of any such claim.

CONTRACTOR shall have no obligation under this Agreement for any claim of infringement or misappropriation to the extent that it results from (a) combination or use of the Licensed Software with equipment, products, or processes not furnished or approved by CONTRACTOR; (b) modifications to the Licensed Software made other than by CONTRACTOR; (c) failure of COUNTY to use updated or modified Licensed Software provided by CONTRACTOR to avoid a claim of infringement or misappropriation; (d) compliance by CONTRACTOR with designs, plans or specifications furnished by or on behalf of COUNTY; or (e) any tampering with Licensed Software by non-CONTRACTOR personnel.

16. CONFIDENTIALITY.

16.1. Obligation

Each party shall treat as confidential all Confidential Information received from the other party, shall not use such Confidential Information except as expressly permitted under this Agreement, and shall not disclose such Confidential Information to any third party without the other party's prior written consent. Without limiting the foregoing, each party shall use at least the same degree of care which it uses to prevent the disclosure of its own Confidential Information of like importance, but in no event with less than reasonable care, to prevent the disclosure of Confidential Information disclosed to it by the other party under this Agreement. Upon execution of this Agreement and subject to the terms and conditions of the Cerner.com Restricted Access Agreement set forth in Exhibit K, CONTRACTOR agrees to grant to COUNTY licensed access to restricted portions of Cerner.com. Cerner.com contains certain copyrighted and proprietary and Confidential Information.

16.2. Exceptions

Notwithstanding the above, the restrictions of this Section 16 (Confidentiality) shall not apply to information that: (a) was independently developed by employees, contractors or other agents of the receiving party without any use of the Confidential Information of the other party; (b) becomes known to the receiving party, without restriction, from a source other than the other party hereto without breach of this Agreement and otherwise not in violation of the other party's rights; (c) was in the public domain at the time it was disclosed or has come into the public domain through no act or omission of the receiving party, its employees, contractors, agents or representatives; or (d) was known to the receiving party, without restriction, at the time of disclosure. Further, it shall not be a violation of the obligations of confidentiality set forth in this Section 16 to make a disclosure of Confidential Information pursuant to the order or requirement of a court, administrative agency, other governmental body, or as legally required pursuant to a Public Records Act request; provided, however, that the receiving party shall provide prompt notice (in any event at least ten (10) days prior to such party making such required disclosure) thereof to the other party and shall use its reasonable efforts to obtain confidential treatment or limit the scope of the disclosure of such Confidential Information.

16.3. Notification

Each party agrees to notify the other promptly in the event of any breach of its security pursuant to which disclosure or misappropriation of the other party's Confidential Information is reasonably likely to occur. Each party shall, upon request of the other, take all other reasonable steps necessary to recover and prevent the misuse or further disclosure of any misappropriated or disclosed Confidential Information disclosed to or placed in the possession of each party by virtue of this Agreement.

16.4. Remedies

Unauthorized use by a party of the other party's Confidential Information will diminish the value of such information. Therefore, if a party breaches any of its obligations with respect to confidentiality or unauthorized use of Confidential Information hereunder, the other party shall be entitled to seek equitable relief to protect its interest therein, including but not limited to injunctive relief, as well as money damages.

17. BUSINESS ASSOCIATE AGREEMENT

The COUNTY is considered to be a "Hybrid Entity" under the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d et seq. and its implementing regulations including but not limited to 45 Code of Federal Regulations parts 142, 160, 162, and 164, ("Privacy and Security Rule"). The CONTRACTOR is considered to be a "Business Associate" under the Privacy Rule. CONTRACTOR must also comply with the Security Rule as a Business Associate if under this Agreement it receives, maintains or transmits any health information in electronic form in connection with a transaction covered by part 162 of title 45 of the Code of Federal Regulations.

The COUNTY and CONTRACTOR acknowledge that HIPAA mandates them to enter into a business associate agreement in order to safeguard protected health information that may be accessed during the performance of this Agreement. The parties agree to the terms and conditions set forth in Exhibit L - HIPAA Business Associate Agreement

18. DISCLAIMERS

18.1. County Acknowledgement

COUNTY accepts and acknowledges that the performance of the Licensed Software depends upon the validity, accuracy, and thoroughness of the information being entered into the computer.

18.2. Information Management Tool

COUNTY accepts and acknowledges that the drug interaction information built into the System as a part of the drug file is compiled from several textbooks on the subject and is included **for guidance only** and in no way should be considered as a comprehensive reference. The pharmacist using the program is required to use his professional judgment as to the validity or significance of a particular interaction message or lack thereof as it applies to a particular patient. COUNTY accepts and understands that, when the interaction function is triggered by the user, the message that may appear is merely the product of a hypothetical equation of two drugs taken together based on previous studies or observations with respect to other patients. Thus, the unique conditions of the individual patient, differences in disease, doses of drugs, routes and duration of administration, renal and hepatic status,

etc. must always be considered when evaluating the significance of a drug interaction message or lack thereof.

19. GENERAL.

19.1. Anti-Trust Violations

CONTRACTOR and COUNTY recognize that overcharges resulting from antitrust violations are in actual economic practice usually borne by COUNTY. Therefore, CONTRACTOR hereby assigns to COUNTY any and all claims for such overcharges as to goods and services purchased by or on behalf of COUNTY in connection with this Agreement, except as to overcharges not passed on to COUNTY resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the purchase prices under this Agreement.

19.2. Assignment

Neither party may assign or transfer this Agreement or any of its rights hereunder, or delegate any of its duties hereunder, without the prior written consent of the other party, provided that any permitted assignment shall not operate to relieve the assigning party of any of its duties and obligations arising prior to such assignment, nor shall such assignment affect any remedies available to the non-assigning party that may arise from any breach of the provisions of this Agreement or warranties made herein arising prior to such assignment. COUNTY may assign this Agreement to any public agency, commission, board, or the like, within the political boundaries of the COUNTY without the consent of CONTRACTOR. CONTRACTOR may, without COUNTY's consent, assign this Agreement in the context of a merger, acquisition, or sale of all or substantially all of CONTRACTOR's business or assets. Any attempted assignment, transfer or delegation in contravention of this Section of the Agreement shall be null and void. This Agreement shall inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

19.3. Authority

Neither party shall have authority to bind, obligate or commit the other party by any representation or promise without the prior written approval of the other party.

19.4. Binding Effect

Each party agrees that the Agreement binds it and each of its employees, agents, independent contractors, and representatives.

19.5. Claims

CONTRACTOR must submit claims against COUNTY for monies owed within the earlier of one (1) year of the date upon which CONTRACTOR knew of the existence of the claim or one (1) year from expiration or termination of the Agreement. No claims shall be allowed unless Notice of such claim has been given within the above-described time period. CONTRACTOR must submit claims against COUNTY to the COUNTY Project Manager or his or her designee in the form and with the certification prescribed by the COUNTY Project Manager or his or her designee. Upon failure of CONTRACTOR to submit its claim within the time allowed, all rights to seek amounts due on account of such claims shall be waived and forever barred. Notwithstanding the foregoing, if CONTRACTOR sends COUNTY an invoice, such invoice shall be deemed as Notice to COUNTY of a claim by CONTRACTOR for the amount of the applicable invoice.

19.6. Compliance With Civil Rights Laws

19.6.1. No individual shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program provided by this Agreement because of race, color, creed, marital status, religion, sex, sexual orientation, national origin, Vietnam era or disabled veteran's status, age, the presence of any sensory, mental or physical disability, or political affiliation or belief.

19.6.2. During the performance of this Agreement, CONTRACTOR shall comply with all applicable federal and State nondiscrimination laws, including but not limited to:

Title VII of the Civil Rights Act, 42 U.S.C. § 12101, et seq.; the Americans with Disabilities Act (ADA); and the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.) and the applicable regulations promulgated thereunder in the California Code of Regulations (Title 2, Section 7285.0, et seq.). In the event of CONTRACTOR's noncompliance or refusal to comply with any applicable nondiscrimination law, regulation or policy, this Agreement may be rescinded, canceled or terminated in whole or in part pursuant to the terms set forth in Section 14.2.2 (Termination by COUNTY), and CONTRACTOR may be declared ineligible for further contracts with COUNTY. CONTRACTOR shall be given a reasonable time in which to cure noncompliance. In addition to the cancellation of this Agreement, CONTRACTOR may be subject to penalties under federal and state law.

19.6.3. In connection with providing Services pursuant to the terms of this Agreement, CONTRACTOR shall promptly notify the Equal Opportunity Office of COUNTY of any administrative enforcement actions or lawsuits filed against it alleging discrimination on the ground of race, color, religion, sex, national origin, age, disability, political affiliation or belief. The Equal Opportunity Office will notify the Director, Directorate of Civil Rights, Office of the Assistant Secretary for Administration and Management, U.S. Department of Labor.

19.7. Conflicts Between Documents; Order of Precedence

In the event that there is a conflict between the documents comprising the Agreement, the following order of precedence shall apply:

- 19.7.1.** Applicable federal and State laws, regulations and policies;
- 19.7.2.** The terms and conditions in the body of this Agreement;
- 19.7.3.** Exhibit A (Price Quote);
- 19.7.4.** Exhibit B (Payment Schedule);
- 19.7.5.** Exhibit C (Project Team);
- 19.7.6.** Changes to the Statement of Work (as a result of Change Requests);
- 19.7.7.** Exhibit D (Statement of Work);
- 19.7.8.** Exhibit E (Maintenance and Support);
- 19.7.9.** Exhibit F (Initial Project Plan);

- 19.7.10. Exhibit G (Hardware Certification);
- 19.7.11. Exhibit H (Performance Standards);
- 19.7.12. Exhibit I (Transition to Support Services);
- 19.7.13. Exhibit J (Total Switch Contract);
- 19.7.14. Exhibit K (Cerner.com Restricted Access Agreement);
- 19.7.15. Exhibit L (HIPAA Business Associate Agreement).

19.8. Counterparts

This Agreement may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Agreement signed by each party for all purposes.

19.9. Covenant Against Contingent Fees

19.9.1. CONTRACTOR warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon any contract or understanding for a commission, percentage, brokerage, or contingent fee, *except* bona fide employees or a bona fide brokerage, established commercial or selling agency of CONTRACTOR.

19.9.2. In the event of breach of this Section by CONTRACTOR, COUNTY shall have the right to either annul this Agreement without liability to COUNTY, or, in COUNTY's discretion, deduct from payments due to CONTRACTOR, or otherwise recover from CONTRACTOR, the full amount of such commission, percentage, brokerage, or contingent fee.

19.10. Cooperation of Parties

The parties agree to fully cooperate with each other in connection with the performance of their respective obligations and covenants under this Agreement.

19.11. Debarment and Suspension

CONTRACTOR certifies to COUNTY that it and its principals are not debarred, suspended, or otherwise excluded from or ineligible for, participation in federal, State or county government contracts. CONTRACTOR certifies that it shall not knowingly contract with a subcontractor that is so debarred or suspended.

19.12. Entire Agreement; Acknowledgement of Understanding

COUNTY and CONTRACTOR acknowledge that they have read the Agreement and the attached Exhibits which are incorporated herein by this reference, understand them and agree to be bound by their terms and conditions. Further, COUNTY and CONTRACTOR agree that the Agreement and the Exhibits are the complete and exclusive statement of the Agreement between the parties relating to the subject matter of the Agreement and supersede all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Agreement. The terms of any purchase order or similar document submitted by COUNTY to CONTRACTOR will have no effect.

19.13. Force Majeure

Neither CONTRACTOR nor COUNTY shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control of such party and without fault or negligence of such party. Such events shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism, or other disasters, whether or not similar to the foregoing.

19.14. Governing Law

This Agreement shall be governed in all respects by the law and statutes of the State of California, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the State of California, said statute will not govern any aspect of this Agreement or any license granted hereunder, and instead the law as it existed prior to such enactment will govern.

19.15. Headings

The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement. As used herein, the term, "including" means "including but not limited to".

19.16. Independent Status of Contractor

The parties hereto, in the performance of this Agreement, will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Agreement. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. CONTRACTOR shall not make any claim of right, privilege or benefit that would accrue as if CONTRACTOR were deemed to be an employee of COUNTY under applicable California law.

19.17. Lobbying Activities

CONTRACTOR shall comply with all applicable certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352) and any implementing regulations.

19.18. Modifications and Amendments

19.18.1. No modification, amendment, alteration, addition or waiver of any Section or condition of this Agreement shall be effective or binding unless it is in writing and signed by an authorized representative of COUNTY and a duly-authorized officer of CONTRACTOR having the rank of vice president or higher.

19.18.2. Only the Board of Supervisors shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement on behalf of COUNTY. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding until made in writing and signed by the Chairperson of the Board of Supervisors.

19.18.3. CONTRACTOR shall notify COUNTY of the names of individuals who have authority to bind CONTRACTOR to modifications to the Agreement and of the limits of such authority.

19.19. Nonwaiver

Except as otherwise specifically provided herein, any failure or delay by either party to exercise or partially exercise any right, power or privilege under the Agreement shall not be deemed a waiver of any such right, power, or privilege under the Agreement. Any waivers granted by either party for breaches hereof shall not indicate a course of dealing of excusing other or subsequent breaches. Each party agrees that the other party's pursuit nor non-pursuit of a remedy under this Agreement for such party's breach of its obligations will neither constitute a waiver of any such remedies or any other remedy that the other party may have at law or equity for any other occurrence of the same or similar breach, nor estop the other party from pursuing such remedy.

19.20. Notice of Delay

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 five working days, give notice thereof, including all relevant information with respect thereto, to the other party.

19.21. Notices

19.21.1. Any notice or demand or other communication required or permitted to be given under this Agreement or applicable law shall be effective if and only if it is in writing, properly addressed, and either delivered in person, or by a recognized courier service, or deposited with the United States Postal Service as first-class certified mail, postage prepaid, certified mail, return receipt requested, via facsimile or by electronic mail, for COUNTY, to the Authorized Representative at the address and fax number, and email address set forth in Section 3 of the Agreement, and for CONTRACTOR, to the Chief Financial Officer of CONTRACTOR, as follows:

To COUNTY: Daniel Reid, Assistant Deputy Director
Public Health Department
Primary Care and Family Health Division
300 North San Antonio Road
Santa Barbara, CA 93110

To CONTRACTOR: Mo Zayed
Cerner Healthcare Solutions, Inc.
7861 Garden Grove Blvd.
Garden Grove, CA 92841

19.21.2. Notices shall be effective upon receipt or four business days after mailing, whichever is earlier. The Notice address as provided herein may be changed by Notice given as provided above.

19.22. Publicity

Neither party may use the other's name or any of its logos, trademarks, servicemarks, tradenames or similar items in connection with any advertising, press releases or otherwise, without the affected party's prior written consent in each instance, which consent may be withheld at the party's sole discretion. Notwithstanding the foregoing, COUNTY agrees that CONTRACTOR will be permitted to use COUNTY's name and/or logo in the following manner: on a customer list on CONTRACTOR's website and in sales and marketing presentations (e.g., PowerPoint presentations) to prospective customers of CONTRACTOR products and services, and on other customer lists, provided that such use does not constitute endorsement.

19.23. Remedies

Unless a remedy is specifically designated as exclusive, no remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies. Without limiting the foregoing, Section 15.1 (The Parties' Limitation of Liability) will remain in effect notwithstanding the unenforceability of any provision in Section 11 (Representations and Warranties).

19.24. Severability

If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Agreement are declared severable.

19.25. Sovereign Immunity

The parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver by COUNTY of any immunities from suit or from liability that COUNTY may have by operation of law.

19.26. Subcontractors

19.26.1. CONTRACTOR may, with prior written notification to the COUNTY Project Manager, enter into subcontracts with third parties for its performance of any part of CONTRACTOR's duties and obligations. Subject to the other provisions of this Section 19.26, COUNTY expressly consents to CONTRACTOR's use of the Subcontractor Two-Point Conversions for the provision of Data Conversion Services specified in the Statement of Work.

19.26.2. CONTRACTOR is responsible and liable for the proper performance of and the quality of any work performed by any and all Subcontractors. In no event shall the existence of a subcontract operate to release or reduce the liability of CONTRACTOR to COUNTY for any breach in the performance of CONTRACTOR's duties. In addition, CONTRACTOR's use of any Subcontractor shall not cause the loss of any warranty from CONTRACTOR. All subcontracts will be made in writing. COUNTY has the right to refuse reimbursement for obligations incurred under any subcontract that does not comply with the terms and conditions of this Agreement.

19.26.3. For any Subcontractor, CONTRACTOR shall:

19.26.3.1. Be responsible for Subcontractor compliance with the Agreement and the subcontract terms and conditions; and

19.26.3.2. Ensure that the Subcontractor follows COUNTY's reporting formats and procedures as specified by COUNTY; and

19.26.3.3. Include in the Subcontractor's subcontract terms that are at least as restrictive as those required of CONTRACTOR in Section 12 (Insurance Coverage); Section 16 (Confidentiality); Section 17 (Business Associate Agreement); and Section 19.6 (Compliance with Civil Rights Laws, to the extent that CONTRACTOR will provide a copy of Santa Barbara's Unlawful Discrimination Ordinance to subcontractors) of this Agreement.

19.26.4. Upon expiration or termination of this Agreement for any reason, COUNTY will have the right to enter into direct agreements with any of the Subcontractors. CONTRACTOR agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct agreements with COUNTY.

19.27. Subpoena

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Deliverables or Services provided pursuant to this Agreement is served upon CONTRACTOR or COUNTY, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. CONTRACTOR and COUNTY further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by CONTRACTOR for COUNTY.

19.28. Survival

The terms, conditions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Agreement shall so survive, as follows the terms of Section 10 (Proprietary Rights) (except for the licenses granted thereunder), Section 11.2.13 (Right to Audit), Section 12.2 (Extended Coverage), Section 14.3 (Effect of Termination), Section 15 (Limitation of Liability and Indemnification), Section 16 (Confidentiality), and Sections 19.1, 19.5, 19.19, 19.22, 19.25 (General) shall survive the termination of this Agreement.

19.29. UCC Applicability

Except to the extent the sections of this Agreement are clearly inconsistent, the Uniform Commercial Code shall govern this Agreement. To the extent this Agreement entails delivery or performance of services, such services shall be deemed "goods" within the meaning of the Uniform Commercial Code, except when to do so would result in an absurdity. In the event of any clear inconsistency or contradiction between this Agreement and the Uniform Commercial Code, the terms and conditions of this Agreement shall take precedence and shall prevail unless otherwise provided by law.

19.30. Waiver

Waiver of any breach of any term or condition of this Agreement shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written instrument signed by the parties hereto.

19.31. Compliance with Laws


COUNTY acknowledges that the laws and regulations of the United States restrict the export and re-export of commodities and technical data of United States origin, including the Licensed Software. COUNTY agrees that it will not export or re-export the Licensed Software in violation of US or foreign export or import laws. Additionally, COUNTY shall be responsible for complying with all laws and regulations applicable in the territory in which COUNTY engages in business in performing COUNTY'S responsibilities hereunder as well as those applicable to the licensing and sale of Licensed Software and services.

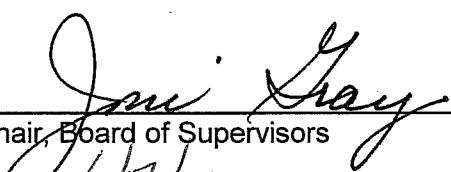
A-20

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on June 7, 2011.

COUNTY OF SANTA BARBARA

ATTEST:
CHANDRA L. WALLAR
CLERK OF THE BOARD

By: 
Deputy


Chair, Board of Supervisors
Date: 6/7/11

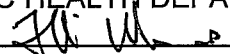
APPROVED AS TO FORM:
DENNIS MARSHALL
COUNTY COUNSEL

By: 
Deputy County Counsel

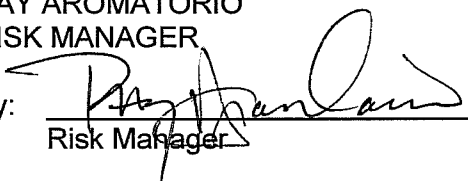
APPROVED AS TO ACCOUNTING FORM:
ROBERT W. GEIS, CPA
AUDITOR-CONTROLLER

By: 
Deputy

APPROVED
TAKASHI WADA, MD, MPH
DIRECTOR / HEALTH OFFICER
PUBLIC HEALTH DEPARTMENT

By: 
Director

APPROVED AS TO FORM:
RAY AROMATORIO
RISK MANAGER

By: 
Risk Manager

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on June 7, 2011.

CONTRACTOR



John Landis
Sr. Vice President
Cerner Healthcare Solutions, INC.

5/26/2011

Date

EXHIBIT A

PURCHASE PRICE/CERNER QUOTATION

Cerner Etreby Pharmacy Software System Agreement Cost Elements

June 7, 2011 to June 30, 2016

Description	Year 1 One- Time Costs	Year 2 Ongoing Costs	Year 3 Ongoing Costs	Year 4 Ongoing Costs	Year 5 Ongoing Costs	Total
Pharmacy Software	\$75,478					\$75,478
Professional Services	\$79,500					\$79,500
Professional Services Contingency (20%)	\$13,800					\$13,800
Transaction Fees						
Switch* (\$0.04/transaction)	\$1,562	\$3,124	\$3,124	\$3,124	\$3,124	\$14,057
SureScripts* (\$0.21/transaction)	\$17,519	\$35,037	\$35,037	\$35,037	\$35,037	\$157,667
Software Maintenance	\$9,180	\$18,360	\$18,360	\$18,360	\$18,360	\$82,620
Maximum Amount	\$197,038	\$56,521	\$56,521	\$56,521	\$56,521	\$423,121

* Year 1 is calculated at 6 months of services (transactions)

Transaction Fees may fluctuate based upon usage. Switch and SureScript transactions are based upon most recent calendar year services (and was estimated based upon 78,100 Switch transactions/full calendar year and 166,842 Surescripts transactions/full calendar year). Increased expenditures for any transactions in excess of the numbers estimated in the prior sentence as a result of increasing client service levels during the term of the agreement may require an agreement amendment as they are not covered by the Transactions Fes set forth herein.

Table 1 Summary of Costs

	System Purchase Price	Monthly Support Fees
Licensed Software (Table 2)	\$ 75,478	
Transaction Services- Switch (Table 3)	\$14,057	
Transaction Services- ePrescribing (Table 3)	\$157,667	
Professional Services (Table 4)	\$69,500	
Professional Services Fixed Fee (Table 4)	\$10,500	
Professional Services Contingency- 20% (Table 4)	\$13,800	
Software Maintenance	\$82,620	\$1530
Maximum Amount	\$423,121	

Table 2 Licensed Software Detail

Solution Code	Description	Scope	Purchase Price
ET-20100	Etreby Pharmacy Solutions	Facilities	\$11,985
ET-20205	Etreby Chain Host System with WAN	Each	\$25,000
ET-221107	eSignature	Each	\$1,500
ET-22111	e-Prescribing for Chains	Each	\$5,000
ET-22121	EDI x 12 Wholesaler Interface- Amerisource	Each	\$1,500
ET-22125	Etreby Inventory Control	Facilities	\$4,500
ET-22141	Custom Interface	Each	\$5,000
ET-22150	Etreby Apothecare	Facilities	\$5,993
ET-22214	Auto Dispensing Machine Interface for Chain- Scriptpro	Each	\$5,000
ET-22215	Auto Dispensing Machine Interface for Chain- Parata	Each	\$5,000
ET-22230	IVR Interface for Chain- Other	Each	\$5,000
	Subtotal		\$81,470
	Less Allowance		\$5,993
	Total		\$75,478

Table 3 Transaction Services Detail

Solution Code	Description	Overage Fees
ET-20100-BILL	Pharmacy Claims Bill Transactions - Each	\$0.04
ET-20100-TRANS	Pharmacy Claims Transactions	
ET-22110- BILL	e-Prescribing Bill Transactions - Each	\$0.21
ET-22110- TRANS	e-Prescribing Transactions - Each	

Table 4 Professional Services Detail

Project Bill Type	Solution	Rate	Metric	Qty	Purchase Price
Etreby-FFS*	Etreby Implementation Services-Delivery	\$150	Hour	262	\$39,300
	Etreby Implementation Services-Engagement Leader	\$150	Hour	55	\$8,250
	Etreby Implementation Services-Learning Consultant	\$150	Hour	25	\$3,750
	Etreby Implementation Services-Solution Architect	\$150	Hour	210	\$31,500
	Etreby Implementation Services-Professional Services Contingency Fees	\$150	Hour	92	\$13,800
	Subtotals				\$82,800
Etreby Training-FF**	Data Conversion- RX History				\$10,500
	Professional Services Totals				\$93,300

*FFS = Fee For Service

**FF = Fixed Fee

EXHIBIT B

PAYMENT SCHEDULE

1. MILESTONE AND DELIVERABLES

1.1. PAYMENTS for the Software License fees shall be payable upon the Effective Date of this Agreement and completion of the following activities:

1.1.1. Initial Payment: Twenty-five percent (25%) upon Etreby Pharmacy Software download to County system.

1.1.2. Second Payment: Twenty-five percent (25%) upon the earlier of (1) Software installation and network-accessibility on COUNTY Hardware servers in a test environment, or (2) 320 days after the Effective Date.

1.1.3. Third Payment: Forty percent (40%) upon the earlier of:

1.1.4. (1) Production deployment of Pharmacy Management System which shall include the following:

- System integration testing including design, development, testing, and validation for the demographic and schedule interfaces from the McKesson PM to the Pharmacy Management System, Robots, IVR, & SureScripts; and
- Production deployment of Pharmacy Management System for use in all Santa Barbara County Pharmacy locations. This includes production migration plans, production migration, spot testing, and COUNTY user integration testing and data validation and formal signoff of the conversion readiness assessment

Or

(2) 320 days after the Effective Date.

1.1.5. Fourth Payment: Ten percent (10%) upon earlier of: (1) completion of 90-Day Interface Implementation Process/Hold-Back (described in 7.1 of the Agreement) and successful demonstration of Pharmacy Management System performance as measured by application timers and further described in Exhibit H, Section 6.5, End-User Response Time Commitment, or (2) 320 days after Effective Date. Interface Implementation Process/Hold-Back will also include enhanced Transition to Support Services. In addition to standard support services, Cerner Etreby will assign a Client Advocate to help facilitate a smooth transition to production support. Client Advocate Transition to Support Services are described in Exhibit J and will begin upon the initial Go-Live event at the 1st County pharmacy location and continue for 90 days following Go-Live at the 3rd and final County pharmacy location.

Milestone / Deliverable		Payment Schedule
1	✓ Software downloaded and installation on County system.	25%
2	Earlier of: ✓ Software network-accessibility on COUNTY hardware servers in a test environment; ✓ Or 320 days after the Effective Date.	25%
3	Earlier of: ✓ System integration including design, development, testing, validation, and user signoff for the demographic and schedule interfaces from the McKesson PM Pharmacy Management System, Robots, IVR, & SureScripts; and, ✓ Production deployment of Pharmacy Management System for use in all Santa Barbara County Pharmacy locations (Santa Barbara, Lompoc and Santa Maria) including production migration plans, production migration, spot testing, and COUNTY user integration testing and data validation and formal signoff of the conversion readiness assessment; ✓ Or 320 days after the Effective Date.	40%
4	Earlier of: ✓ Completion of 90 Day Interface Implementation Process/Hold-Back (as described in 7.1 of the Agreement); ✓ Or 320 days after execution of this agreement.	10%

2. ONGOING SUPPORT AND MAINTENANCE FEES

2.1. SUPPORT FEES: The total amount of the Monthly Support Fees, as set forth in Exhibit A, shall be payable monthly following successful completion of the 90 day Interface Implementation Process/Hold-Back, or 320 days after the execution of this agreement.

2.2. PROFESSIONAL SERVICES FEES (FIXED FEE): Professional Services Fees (Fixed Fees), as set forth in Exhibit A, are for three (3) years worth of data conversion for each pharmacy location. Upon successful completion of the data conversion project for a pharmacy CONTRACTOR may invoice up to \$3,500 for Professional Services Fees (Fixed Fee) for said pharmacy. Any reduction in Professional Services Fees (Fixed Fee) shall be prepared as a Change Order and mutually agreed upon by each party.

2.3. PROFESSIONAL SERVICES FEES (FEE FOR SERVICE): The Professional Services Fees (Fee for Service), as set forth in Exhibit A, shall be billed on a time and material basis. Professional Services Fees (Fee for Service) shall be tracked by actual hours worked, and paid at the hourly rates set forth in Exhibit A, Cerner Professional Services Price Detail (1-4170391121-R-2). CONTRACTOR will submit monthly summaries of time and materials to COUNTY at the end of each month in which said

professional services are rendered. Any changes to the Cerner Professional Services Price Detail (1-4170391121-R-2) presented in Exhibit A will require a Change Order for the Project as mutually agreed upon by both parties.

2.4. PROFESSIONAL SERVICES CONTINGENCY FEES Total Professional Services Fees (Fee for Service) including travel costs will not exceed \$79,500 unless mutually agreed upon by all parties to access Professional Services Contingency Fees up to a maximum not to exceed \$93,300.

EXHIBIT C

PROJECT TEAM

COUNTY Roles and Responsibilities:

COUNTY PROJECT TEAM		
Role	Name	Title
Sponsor	Dan Reid	PHD Primary Care & Family Health, Asst Deputy Director
Pharmacy Software Project Manager	Barbara Guarnieri	IT Systems Analyst
Pharmacy Software Manager	Carol Millage	COUNTY Pharmacy Director
Information Technology	Darrin Eisenbarth Janine Neal Barbara Guarnieri	COUNTY IT Manager Sr. Technology Analyst IT Systems Analyst
Trainer / Training Coordinator	Rachel Trujillo	Pharmacy Technician
Interface Specialists	Kim Loyst Janine Neal Linda Littlejohn	IT Systems Analyst Sr. Technical Analyst IT Systems Analyst

CONTRACTOR Roles and Responsibilities:

CERNER-ETREBY PROJECT TEAM		
Role	Name	Title
Delivery Consultant		
Solution Architect		
Learning Consultant		
Engagement Leader	Mo Zayed	

EXHIBIT D

STATEMENT OF WORK

1. PRODUCT DESCRIPTION

Pharmacy Management System is an electronic pharmacy system that enables pharmacists, pharmacy technicians and pharmacy staff to document patient prescriptions, pharmaceutical inventories, pharmacy billing, quality assurance and quality control and to streamline pharmacy workflows and securely exchange pharmaceutical data with other providers, patients and information systems.

2. PROJECT DESCRIPTION

This project assumes the design, build, and conversion of three (3) COUNTY pharmacy facilities utilizing a centralized database environment and a single "Go-Live" event per phase, converting all solutions in that phase concurrently.

3. FUNCTIONAL SPECIFICATIONS

3.1. General Functionality includes:

- 3.1.1. The ability to support a single database pharmacy solution, using a single patient record model. This will include Central Host management and reporting, while maintaining operational independence at each distinct location.
- 3.1.2. State and federal compliance.
- 3.1.3. HIPAA regulation compliance.
- 3.1.4. HIPAA Privacy and Security standards.
- 3.1.5. Adherence to National Council for Prescription Drug Program (NCPDP) Transaction Set standards.
- 3.1.6. The ability to configure and integrate with other capable systems using standard HL7 Interface standards.
- 3.1.7. Total Switch Contract (TSC) to secure access to all third party plans. The ability to submit claims and COUNTY to be paid in full by the Pharmacy Benefits Managers. System aggregates and bills COUNTY at end of every month for all claims submitted electronically in one invoice regardless of the number of payers involved. TSC should be able to determine type of insurance coverage via the TROOP (TRue Out Of Pocket) for identifying Medicare Part D Plans.

3.2. Functionality Expectations Include:

Module	Expectation:
Base System Module and Work-flow	<ul style="list-style-type: none">1. Intake: The ability to electronically receive prescriptions from SureScripts (e-prescribing)/scan prescription2. Processing: Technician/RX (pharmacy) Staff can perform data entry and electronic billing while viewing electronic RX (from scan or SureScripts)

Module	Expectation:
	<ul style="list-style-type: none"> a. Bar code scan stock bottle for drug propagation (optional for remote processing) b. Successful transmission of prescription for billing/payment c. When processing of a prescription is complete, the Pharmacy Management System automatically prints a label for adhering to prescription bottle, an electronic prescription is printed to paper for filing, and FDA Medication Guide is automatically generated and printed as required by FDA. The list of drugs requiring a FDA Medguide is on the FDA website and is updated with new medications frequently. Pharmacy Management System is required to ensure new FDA drug Medguides are implemented into their software in a timely manner. (http://www.fda.gov/Drugs/DrugSafety/UCM085729) <p>3. Filling: Tech/RPH (Registered Pharmacist) Staff can perform prescription filling utilizing Pharmacy Management System.</p> <p>4. Barcode scan stock bottle and label to ensure NDC (National Drug Code) accuracy for counting</p> <p>5. *DUR (Drug Utilization Review) Check/Verification:</p> <ul style="list-style-type: none"> a. RPH scan label to access DUR, pill image, Third Party payment source, and patient profile. b. RPH to scan stock bottle and label to do NDC check, enter identification for DUR review documentation c. Pharmacy Management System propagates a "check list" format for pharmacist to compare original RX (in an electronic format for viewing on the computer screen) against printed label to ensure accuracy of data entry. Each button on software corresponds to a field checked for data entry (e.g. patient name, date of birth, drug name, drug strength, drug quantity, drug refills, directions for use, provider's name. <p>6. Dispensing: Technician in will-call scans vial label and the Patient order propagates in dispensing/e-signature capture.</p> <p>7. Signature capture required for:</p> <ul style="list-style-type: none"> a. HIPAA b. Acceptance of medications c. Documentation of consultation acceptance or refusal. <p>*For remote processing (workload balancing) want to be able to "disable" NDC verification, and move DUR check/verification to occur before filling module</p>
Report Writing Module and Data Extraction requirements:	<p>Base (canned) reports that come with the Pharmacy Management System, as well as reports necessary for go-live, including:</p> <ul style="list-style-type: none"> 1. Share of the Care utilization submissions for SFTP upload (secure file transfer protocol)

Module	Expectation:
	<ol style="list-style-type: none"> 2. AZ &Me utilization submissions for SFTP 3. CURES (Controlled Substance Utilization Review and Evaluation System) submission to DEA (Drug Enforcement Agency). CURES is a "real-time" (2 week delay) access Prescription Drug Monitoring Program via SFTP upload 4. Utilization by patient review (for fiscal billing clinic programs for drug purchases) 5. Fiscal reports (except for those reports that generated by the COUNTY'S Practice Management System) 6. Medical Billing: Medi-Cal Form 30-1 7. Label Modification <p>The client shall submit the requirements for each report in writing at least 60 days ahead of the target implementation date. The requirements shall include the required data fields provided that they exist in the pharmacy management system database, the report layout and the criteria for generating the reports. Cerner Etreby reserves the right to recommend alternate data fields and layouts to improve the report performance as long as it satisfies the essential report requirements.</p>
Billing features shall include:	<ol style="list-style-type: none"> 1. Reconciliation 2. EFT (Electronic Fund Transfer) 3. Electronic EOB (Electronic Explanation of Benefits) 4. The Pharmacy Management System must have ability to change dates for back billing or retro-billing third party entities up to 10 years.
MTM	<p>Medication Therapy Management shall include:</p> <ol style="list-style-type: none"> 1. Documentation of Consultation 2. Billing of MTM
Inventory	<p>Multiple inventories; each with the ability to have accurate on-hand quantities, maintained manually for PIP medications and through X12 files from wholesaler:</p> <ol style="list-style-type: none"> 1. Purchased inventory 2. Purchased 340B* Inventory (340 B discount program for FQHC – Federally Qualified Health Centers) <p>OR</p> <ol style="list-style-type: none"> 3. PIP (Patient Indigent Programs) <ol style="list-style-type: none"> a. AZ&Me: Astra Zeneca's PIP program b. STC: Pfizer Share of the Care Plans

Module	Expectation:
	c. DRI: (Direct Relief International) d. PIP Individual Applications * Ability to have perpetual inventories with non-340B and 340B costs associated to the appropriate inventories -Inventory prices updated weekly.
Ordering	Pharmacy Management System has ability to upload and receive x12 files through a SFTP to/from wholesaler X12 files received from wholesaler will be used to update on hand quantities

4. SECURITY

Security shall be provided via a role based system. The system allows only authorized personnel to enter data, fill prescriptions, and dispense medications based on their security rights and privileges set by the system administrator. The system tracks all steps of prescription processing with date, time, and person who performed each step. The system tracks drug inventory movements via transactions. It also tracks each movement, (e.g. dispensing, return, ordering, transfer and adjustment) with the event that produced the movement, including the date, time and person who produced the movement.

Users will have access to only those functions specified in the role assigned and shall be restricted from all other specified system functions, e.g. patient's confidential data and protected health information (PHI) as defined under HIPAA.

5. INTERFACE INTEGRATION

Interfaces are dependent upon the ability of both systems to communicate via industry standard specifications. CONTRACTOR will provide standard interface specifications.

The CONTRACTOR Engagement Leader and CONTRACTOR Integration Engineer will lead the effort in identifying and implementing data imports and exports within the pharmacy system. They will ensure effective and efficient system integration; include test plans, testing and validation and production deployment. Table identifies the systems and the required interfaces.

The following interfaces are included in the scope of this engagement and are required at time of deployment:

From System	To System	Interfaces
Pharmacy System	McKesson Horizon Practice Plus (PM)	Electronic transfer of charge data from Pharmacy to Horizon Practice Plus using HL7. Only data for patients with specific financial classes (Self-Pay, Special Accounts and MIA) is transferred. Transfer is executed in batch-mode on a regular schedule. Cerner will work with McKesson and PHD staff to have interface development and testing completed by pharmacy system deployment date.

From System	To System	Interfaces
McKesson Horizon Practice Plus (PM)	Pharmacy System	Electronic transfer of demographic data from Horizon Practice Plus to Pharmacy using HL7. Data on every patient as they are added or updated in Horizon Practice is transferred in real-time. Cerner will work with McKesson and PHD staff to have interface development and testing completed by pharmacy system deployment date.
Pharmacy System	IVR	Interface to IVR (Interactive Voice Response) system for patients to request refills by telephone. Interface to IVR for automated telephone notification of patients when refills are ready.
Pharmacy System	Parata Robot ScriptPro Robot	Interface to Parata and ScriptPro Robots for automated drug dispensing.
Pharmacy	SureScripts	Interface with SureScripts for E-Prescribing. -Incoming RX -Outgoing refill request to provider -Incoming Refill authorization
Signature Pad	Pharmacy	Interface to signature pad for electronic signature capture for HIPAA compliance, acceptance of medications and documentation of consultation acceptance or refusal.

6. **TECHNICAL SPECIFICATIONS**

The technical specification for the Pharmacy Management System will be configured as a standard wide area network where each site is equipped with the necessary number of workstations and peripherals that shall be used to perform the pharmacy management functions. The data will be centrally located on a central database to which all sites are connected. The connection speed between sites and the central host will be a full T1 connection or better with a backup communication line in case the main communication line is interrupted. The system will be built utilizing High Availability. A test server will initially be built for the implementation and will be kept and utilized for testing new program releases and for training. COUNTY will provide, and CONTRACTOR will support, the following computing platforms.

6.1. **Technology Approach**

6.1.1. The hosting platform for this project is Client Hosted.

6.1.2. The Cerner Solutions will be hosted from the Client site.

6.2. **Virtualization Platform**

6.2.1. VMWare vSphere 4.1 or higher

6.3. **Server Platform**

6.3.1. Windows Server 2008 64bit or higher

6.4. Database Platform

6.4.1. MS SQL Server 2005 or higher

6.5. Storage Platform

6.5.1. HP P4000 VSA or higher

7. COUNTY TECHNICAL RESPONSIBILITIES

7.1. Go Live Support

Command Center Support for Go-Live Event. Cerner will provide onsite application/technical support and troubleshooting for issues logged to the help desk or command center during the Go-Live event. Cerner's standard coverage provides two (2) days of twelve (12) hour support. The Cerner team will reside in the command center along with the Client application team and help troubleshoot issues as they are reported. After go-live, Cerner will provide remote application support until turnover to SolutionWorks which occurs thirty (30) days after go live. After turnover, all issues will be reported to CONTRACTOR Support Team.

COUNTY shall procure the following hardware and services which CONTRACTOR has certified to be complete and appropriate per Exhibit G (Hardware Certification):

7.2. Purchase and installation of servers, including OS and virtualization platform..

7.3. Preparation of technical infrastructure (electrical capacity, cooling requirements, phone/fax line requirements, network lines, licensing, etc.) for the project

7.4. Purchase and installation of servers, workstations, printers, and other peripherals as detailed in Exhibit G.

7.5. Purchase and maintenance of warranty for all hardware

7.6. Daily backup of databases

8. CONTRACTOR TECHNICAL RESPONSIBILITIES

CONTRACTOR is responsible for providing the following services:

8.1. Remote installation and configuration of pharmacy system software and database.

8.2. Assistance in providing an Active Directory deployable client package.

8.3. Load balancing and system performance testing.

8.4. Continued support of the system on a virtualized platform.

8.5. Continued Support and Maintenance of database

8.6. Continued Support and Maintenance of Cerner Pharmacy System, including all COUNTY future software patches and updates.

9. IMPLEMENTATION APPROACH

The design and deployment of the pharmacy system will occur during a three to six month timeline for the COUNTY. CONTRACTOR implementation services described in this Exhibit D, Statement of Work include ongoing facilitation and support to ensure that the agreed upon rollout plan meets the strategic goals of COUNTY.

Based on preliminary conversations to date, COUNTY plans to implement a single database pharmacy solution, using a single patient record model. This model will enable pharmacists and other pharmacy personnel (as determined and managed through pharmacy application security settings and user permissions) to view, access, and update a patient's consolidated medication information in one record, allowing for up-to-date information sharing, collaboration, and ultimately leading to improved patient care.

9.1. Rollout Strategy

COUNTY will deploy pharmacy system to all three (3) current pharmacy locations using a phased approach. The scope of Pharmacy Management System implementation engagement with COUNTY includes a CONTRACTOR-led kickoff meeting, assistance in the design and implementation of the specified pharmacy content (e.g. automated workflows, customized records, medication alerts, and patient documentation), assistance in development of data pre-load processes, assistance in the design, configuration, and integration to Third Party products used by COUNTY in conjunction with the Third Party vendors, Super User and End User training, data conversion, comprehensive end-to-end and system integration testing and implementation assistance for the rollout of Pharmacy Management System at all three (3) pharmacy locations.

9.2. Implementation Planning

Successful project implementation requires effective planning. During the kickoff meeting, the CONTRACTOR Engagement Leader and the COUNTY Project Team will conduct high-level discussions about the goals, objectives and the timeline of the pharmacy system implementation project.

Key components include:

- 9.2.1.** Assistance with Pharmacy Content (Workflows, Forms, Alerts, Referrals, and Documentation)
- 9.2.2.** Key Decisions walk-through
- 9.2.3.** Workflow Re-Engineering
- 9.2.4.** Pharmacy Content Consulting
- 9.2.5.** Comprehensive end-to-end integration testing including the development of test cases, testing check lists and comprehensive end-to-end and system integration testing in the test environment.

Key components also include Go-Live preparation and Support. Some specific deliverables include:

- 9.2.6.** Pharmacy Management System configuration and setup based on Key Decisions Workshop led by CONTRACTOR.
- 9.2.7.** Pharmacy content selection and setup
- 9.2.8.** Workflow design, testing, and implementation

The Cerner-Etreby Project Manager will lead the implementation activities after the kick-off meeting with appropriate COUNTY pharmacy system Project Team members. The goal of the final project plan is to determine very specific pharmacy system Key Decisions related to setup, pharmacy content, workflows, data conversion and training plans for the department. Implementation and reporting meetings are conducted either at the COUNTY site or via computer or telephone meetings.

9.2.9. Specific Deliverables that will be completed after completion of the kick-off meeting include:

9.2.9.1. Develop the Implementation Plan

9.2.9.2. Refine and further define project milestones

9.2.9.3. CONTRACTOR-led workshops to conduct scoping sessions and a discussion about workflows to ensure the COUNTY Pharmacy System Project Team is prepared to document all current workflows and required pharmacy content.

9.2.9.4. Establish performance measures and system benchmarks.

10. DATA CONVERSION

The migration from the current system to the new Pharmacy Management System will be facilitated by the CONTRACTOR Engagement Leader. The data conversion is based on pre-determined best practices as specified by CONTRACTOR through their experience with other customers utilizing similar systems. The specifications as outlined in this document and the project plan will be utilized to develop detailed data conversion plans.

The initial data transfer from current system PDX to Pharmacy Management System will include all COUNTY patients who have had a visit within the previous three years (this is the definition of active COUNTY patient for this action and the exact start date will be specified) thus creating individual records for all such patients.

10.1. Major Conversion Steps

10.1.1. Data conversion requirements analysis and planning

10.1.2. Convert minimum period of three years

10.1.3. Test plans, test approaches, validation, and production deployment

10.1.4. Data conversion tests at 100% accuracy

10.1.5. Validation and correction

11. INTEGRATION TEST PLAN

The Integration Test Plan developed during the Implementation Planning represents all aspects of the Pharmacy Management System. The Integration Test Plan will include testing scenarios for view, access, and update of a patient's medication information. Testing scenarios for interfaces and reports will be developed.

11.1. The objectives of the testing effort are as follows:

11.1.1. Successfully test all pre-defined pharmacy business processes

11.1.2. Ensure all modules of the new system work to provide agreed upon functionality

11.1.3. Complete system testing on time to meet the planned rollout date

11.1.4. Ensure a smooth rollout

11.1.5. Receive full sign off from the Public Health Department after completion of the Interface Implementation Process/Hold-back period.

12. SCOPE OF USE SPECIFICATIONS

12.1. Designated facility where Software shall reside:

Santa Barbara County Health Care Services 300 N San Antonio Rd Santa Barbara, CA 93110-1316

12.2. For use and access by the following permitted facilities:

Santa Barbara County Health Care Services 300 N San Antonio Rd Santa Barbara, CA 93110-1316	Public Health Pharmacy-Lompoc 301 N R St Lompoc, CA 93436-5226
Public Health Pharmacy-Santa Maria 2115 S Centerpointe Pkwy Santa Maria, CA 93455-1334	

12.3. Scope of use limits:

Solution Description	Scope of Use Metric	Scope of Use Limit	Metric Definition
e-Commerce for Chains	Each	1	Every one considered separately.
Etreby Chain Host System with WAN	Each	1	Every one considered separately.
e-Prescribing for Chains	Each	1	Every one considered separately.
IVR Interface for Chain - Other	Each	1	Every one considered separately.
Auto Dispensing Machine Interface for Chain - Parata	Each	1	Every one considered separately.
Auto Dispensing Machine Interface for Chain - Scriptpro	Each	1	Every one considered separately.
Custom Interface	Each	1	Every one considered separately.
eSignature	Each	3	Every one considered separately.
Remote Backup Service	Each	3	Every one considered separately.
Etreby Pharmacy Solutions	Facilities	3	Total number of sites to use a specific application.
Etreby Apothecare	Facilities	3	Total number of sites to use a specific application.

12.3.1. The Software shall be used by Client solely (i) for the purposes of processing data resulting from or related to pharmacy operations performed at Permitted Facilities

(Pharmacy Locations) and (ii) in accordance with the Solution Descriptions for the solutions.

- 12.3.2.** In the event any scope of use limit is exceeded, Client may purchase licenses to extend the use of the Software and extend the monthly Support at then-current rates.
- 12.3.3.** Client's scope of use will be measured periodically by Cerner Etreby's system tools, or for metrics that cannot be measured within the System, Client will provide the relevant information to Cerner Etreby at least once per year. In cases where Client-provided information is being used to measure scope of use, Cerner Etreby reserves the right to inspect the applicable Client records if such information is not publicly available. Client agrees that if an event occurs that will affect Client's scope of use (such as acquisition of a new hospital or other new facility), Client will promptly notify Cerner Etreby in writing of such event (no later than thirty (30) days following the effective date of such event) so that Client's scope of use can be reviewed. Any additional license fees due under this Paragraph 6 shall be payable within thirty (30) days following Client's receipt of an invoice for such fees, and additional quarterly Support fee payments shall begin as of the date the scope of use was exceeded (and will be pro-rated for any partial quarter).
- 12.3.4.** If Client operates more than one data center environment, Cerner Etreby reserves the right to charge additional Support fees if Client's call volume and other Support services requests are increased as a result of the use of multiple data centers.

13. WARRANTIES

CONTRACTOR represents and warrants that each Deliverable, including without limitation, the Pharmacy Management System, shall materially conform to its Specifications as provided herein during the Interface Implementation Process/Hold-Back Period and thereafter. During the Interface Implementation Process/Hold-Back Period, CONTRACTOR shall use commercially reasonable efforts to immediately repair or replace each of the Deliverables that does not materially conform to its Specifications as provided herein, subject to CONTRACTOR's obligations as set forth herein.

14. TRAINING

COUNTY plans to follow a "Train-the-Trainer" implementation model for COUNTY pharmacy system "Super Users" (The Train the Trainer's group-designated as the billing tech, the PIP Coordinator and the Pharmacy Director as well as the PHD IT Administrative Analyst Support Staff). Super Users will participate in all CONTRACTOR recommended online and classroom training so they are ready to assist with the design and implementation of the Pharmacy system product. COUNTY Super-Users will receive in depth training prior to the first site Go-Live date and receive additional training during the first site Go-Live process, at the Santa Barbara Healthcare Center Pharmacy. COUNTY Super Users will take responsibility for the Go Live process at the other Go-Live sites. The Cerner-Etreby team will support the COUNTY Super Users who will assume the primary role of on-site trainers. The Cerner-Etreby support team will be readily accessible at the support center as a primary priority during the first 3 days implementation at the Lompoc and Santa Maria sites. Readily accessible means that there will be direct phone line access to Cerner training/support staff with a response rate of an average of 5 minutes response time. The COUNTY super users will take complete responsibility for the rollout of the Pharmacy system in all future locations independently (i.e. without onsite assistance from CONTRACTOR) per the Implementation Plan. CONTRACTOR assistance with future locations is available; however, it is not

considered part of the existing scope of work. If assistance with additional locations is needed, CONTRACTOR shall provide assistance and additional service hours shall be quoted.

14.1. Super Users' Roles

Role	Name	Title
Pharmacy Director	Carol Millage	Pharmacy Director
Billing Technician	Rachel Trujillo	Pharmacy Technician, Billing Tech
PIP Coordinator	Veronica Pulido	Pharmacy Technician, PIP Coordinator
PHD IT Admin Support - Software Administrator	Barbara Guarnieri	IT Systems Analyst
PHD IT Admin Support - Hardware Administrator	Janine Neal	Sr. Technology Analyst

14.2. Contractor Provided Training

CONTRACTOR will provide training to Administrative IT Analyst Support Staff, the Train-the-Trainer group, Workflow Team {pharmacists (3-6; 3 being EXH-trained for 4-8 hours on pharmacist workflow only) and technicians (9)}.

- 14.2.1. Functionality training, conducted during the CONTRACTOR-led sessions, to make key clinical and setup decisions.
- 14.2.2. Computer Based Training for initial introduction to software for all staff and for maintenance of knowledge until go live training (CBT) (Access to all CBTs is included in the form of CD's initially).
- 14.2.3. Online Conference discussions that occur after CBT training to clarify points and answer questions.
- 14.2.4. Pharmacy Software System Setup Training.
- 14.2.5. Classroom training at CONTRACTOR is recommended pre-implementation.
- 14.2.6. Pharmacy System Workflow Training at Cerner for the Train-the Trainer group and Administrative IT Analyst Support Staff.
 - 14.2.6.1. After the Super Users have exposure to CBT CD's on the Pharmacy Management System It is expected that CONTRACTOR will transfer knowledge to the COUNTY Super Users and/or Work Flow Team and IT Support Staff in all modules being purchased, such as report writing, workflow, billing, reconciliation, administrative roles, software and hardware implementation, etc.

14.3. Training Documentation

CONTRACTOR will provide training:

- 14.3.1. Step-by-step training manuals based on development of the Workflows for the system, which are in formats that can be further modified by COUNTY staff for end user training to add PHD specific/ unique issues related to PHD policy necessary for comprehensive training .
- 14.3.2. CD CBT Trainings

- 14.3.3. Follow up Webinars if requested by the Train the Trainers, following completion of classroom training (up to 4 hours)
- 14.3.4. Report writing training manuals are in formats that can be further modified by COUNTY staff for end user training to add PHD specific/ unique issues
- 14.3.5. Administrative training manuals (i.e. Security roles) that are in formats that can be further modified by COUNTY staff for end user training to add PHD specific/ unique issues

14.4. COUNTY Training Responsibilities

14.4.1. Basic Computer Training

COUNTY is responsible to assess basic computer skills and Windows skills of their end users and provide required training. CONTRACTOR will provide greater detail in the basic skills that are required for using Pharmacy Management System.

14.4.2. Super User Training

- 14.4.2.1. Schedule training sessions in a properly equipped training facility
- 14.4.2.2. Attend all recommended CONTRACTOR training
- 14.4.2.3. Modify training materials to fit the SBCPHD setting.

14.5. End User Training

- 14.5.1. Training Materials will be completed during the design and development of the required Pharmacy workflows and will be provided to end users.
- 14.5.2. Webinars will be provided by PHD Super Users to End Users based off of CONTRACTOR manuals.
- 14.5.3. COUNTY has full authority and responsibility to evolve the training materials that are used to train end users.
- 14.5.4. Identify training audiences
- 14.5.5. Prepare training materials from CONTRACTOR training manuals for each audience
- 14.5.6. Arrange for adequate training facilities that are properly equipped with computers as required for the classes
- 14.5.7. Schedule training
- 14.5.8. Conduct training

Type of Training	User/Timeframe
CBT	Super User: 2-3 months prior to go live Work Flow User: 1-2 months prior. 15 minutes daily for memorization and repetition
Cerner Training Center	SU: 1-2 month prior
Go live training	Onsite go live

EXHIBIT E

SUPPORT AND MAINTENANCE

1. SUPPORT

Due to the critical nature of the functions performed by the Pharmacy Management System, Cerner will provide 24/7 support to minimize failures in the software and all the components that make up the pharmacy system. Cerner will also maintain the software in such a way that it stays in compliance with State and Federal laws. Cerner reserves the right to charge for new features that are added to the System.

Upgrades and maintenance of Interfaces are included in the Support and Maintenance fees. Cerner generates major production releases primarily in response to or in order to introduce architectural changes and technical upgrades required for all applications.

2. IMPLEMENTATION

Cerner will provide onsite application/technical support and troubleshooting for issues logged to the help desk or command center during the Go-Live event. Cerner's standard coverage provides two (2) days of twelve (12) hour support. The Cerner team will reside in the command center along with the Client application team and help troubleshoot issues as they are reported.

3. ISSUE RESOLUTION

The Support Analyst is available to address application or technology infrastructure issues covered by the Agreement. Support Analysts exist in each solution and technical area that are trained to assess any reported issue and to provide a complete resolution or alternative for the reported issue. Issues may range from user-created errors to issues requiring software modification.

If the Support Analyst cannot resolve the issue, or if it involves software modification, the appropriate Cerner application developer or supplier will be involved for further evaluation. Critical Cerner software modifications (patient care, operational hardship, or financial hardship issues) will be reviewed and prioritized by Solution Management for immediate development. Solution Management will also review and prioritize all non-critical issues, enhancements, and design modifications for development in order to benefit the majority of the solution's client base.

3.1. Service Tracking

Service and change requests are documented and tracked. Each service and change request has a unique number and is assigned to the associate troubleshooting the issue.

3.2. Severities

Clients are asked to prioritize their service requests. The service request's severity should accurately indicate the nature and severity of the issue to assist the Support Analysts with timely issue resolutions. Priority definitions are based on the ITIL (Information Technology Infrastructure Library) framework and are described below:

3.2.1. Immediate Impact (Severity 1) - Complete loss of system functionality, or critical data recovery, where application availability and functionality are significantly impacted. A major portion of end users are not able to process transactions or access data critical to conducting daily business leading to patient care impact or financial concern.

The Support Analyst will work towards resolution of each Immediate Impact service request immediately. Service requests with an Immediate Impact severity will take precedence over all other severities, and issues related to patient safety or significant financial loss will be investigated before non-critical issues.

3.2.2. High Impact (Severity 2) - Significant loss of system functionality, or non-critical data recovery, where application availability and functionality are partially impacted. A significant portion of end users are not able to process transactions or access data critical to conducting daily business leading to patient care impact or financial concern.

3.2.3. Moderate Impact (Severity 3) - Moderate loss of system functionality, or non-critical data recovery, where application availability and functionality are moderately impacted. End users have a significantly limited ability to process transactions or access data critical to conducting daily business that may lead to patient care impact or financial concern.

3.2.4. Minor Impact (Severity 4) - Procedural or system issues that do not affect patient care and for which an alternative solution is not available. Includes issues related to non-implemented features, issues of a prolonged or complex nature, and all other solution-related service requests.

Note: This is the default severity if a client does not specify one when the service request is logged.

3.2.5. Question (Severity 5) - Any question that does not require an associate to engage in an investigation, access your system(s) via modem, or require more than 15 minutes to answer.

3.2.6. Non-Impact (Severity 6) – System-generated request to record information. Typically used by service desk of CernerWorks. Majority are Cerner generated.

3.3. Response Time

3.3.1. Severity 1 Incident – During normal office hours (Mon-Fri from 6:00am - 6:00 pm PST) Cerner support analyst will contact PHD and begin problem resolution within 15 minutes of PHD making contact with Cerner Support Center. After hours, the response time will be extended to one hour.

3.3.2. Severity 2 Incident – During normal office hours (Mon-Fri from 6:00am - 6:00 pm PST) Cerner support analyst will contact PHD and begin problem resolution within 30 minutes of PHD making contact with Cerner Support Center. After hours, the response time will be extended to one hour.

3.3.3. Severity 3 through 6 – During normal office hours (Mon-Fri from 6:00am - 6:00 pm PST) Cerner support analyst will contact PHD and begin addressing service request within 4 hours of PHD making contact with Cerner Support Center. No after-hour support is provided.

4. GENERAL

If, in CONTRACTOR's reasonable discretion, it is determined that a problem reported by COUNTY may not be due to an error in the Software, CONTRACTOR will so notify COUNTY. At that time, COUNTY may, at its option, instruct CONTRACTOR to proceed with problem determination at the possible expense of COUNTY.

The following table describes the Support and Maintenance CONTRACTOR will provide.

Type	Description
1) Immediate Response Center ("IRC")	<p>Cerner's support center that is available 24/7 for the purpose of addressing and resolving client mission-critical issues.</p> <p>The center is staffed Monday through Friday 6:00 AM to 6:00 PM PST and Saturday 6:00 AM to 3:00 PM PST, excluding major holidays.</p> <p>Support service staff is on call all other times.</p>
2) Immediate Answer Center ("IAC" or "Service Center")	<p>Cerner's support center that is available for non-mission critical problem determination, resolution, or identification of alternatives through consultative assistance on solution functionality.</p> <p>The center is staffed Monday through Friday 6:00 AM to 6:00 PM PST and Saturday 6:00 AM to 3:00 PM PST, excluding major holidays.</p>
3) Client Care Team	Cerner's support center that is available for training, Cerner events, financial and quote information.
4) Revisions, Releases and Upgrades	Software revisions, releases and updates that deliver increased functionality over time and allow software to remain current with various technologies.
5) Knowledge transfer during service events	Education provided to Client's personnel during problem resolution leading to greater client self-sufficiency.
6) Service Escalation Process	Defined process for any client to escalate an issue (whenever the client feels a service or support issue is not being addressed) to receive executive management focus.
7) Complete Service Record	Complete client service record identifying service issues, history, trends, and patterns.
8) On-Line Demographic Profile (Solution/technical attributes)	Knowledge of client technical environment, supporting an efficient and effective problem resolution process (assumes hardware and Sublicensed Software Maintenance through Cerner).
9) Catalog of Services	On-line access via Cerner.com to Cerner's Catalog of Services referencing and describing all of Cerner's services.
10) Telephone, e-mail, internet	For the convenience of Client, Cerner offers multiple avenues of communication for support requests and for support services.
11) Cerner.com	Internet access to solution documentation, communities of interest, announcements, on-line service request entry and the ability to review service activity.
12) Proactive Solution and Service Flashes	Advance information concerning new solutions, upcoming corrections, patches, add-ons, etc.

Type		Description
13)	Access To Cerner Direct	Access to a direct channel for ordering technology with 24-hour turnaround with discounted and/or competitive pricing through Cerner.com or the Cerner Direct Order Desk.
14)	Access to Cerner Virtual University	Information about Cerner product and technology education via Cerner's Virtual University.
15)	Regulatory Affairs Services	Consultative service on regulatory affairs.
16)	Client Satisfaction Surveys	Client satisfaction survey process providing a feedback mechanism.

EXHIBIT F

INITIAL PROJECT PLAN

Exhibit F shall serve as an estimated timeline and overview of scope. The Final Project Plan shall be developed during the kick off Project Plan which shall occur after execution of agreement.

1. ESTIMATED TIMELINE

The Estimated Timeline will be updated after the CONTRACTOR-led Scheduling meeting to more accurately reflect key deliverables and their durations.

1.1. ESTIMATED PROJECT PLAN

Task Name	Start	Finish	Duration	Lead
Contract Approval	6-7-2011	6-7-2011	1d	SBCPHD
Project Kickoff Meeting	6-22-2011	6-22-2011	1d	TEAM
Implementation Planning & Setup Decisions	6-8-2011	9-5-2011	90cd	CERNER
Plan & Develop McKesson Interface	6-8-2011	8-26-2011	80d	CERNER
Hardware Acquisition	6-8-2011	7-8-2011	31d	SB IT
Install and Configure Hardware	7-11-2011	8-9-2011	30d	SB IT
Install & Configure Software in Testing	8-10-2011	8-26-2011	17d	CERNER
Install & Test Interface (McKesson & devices)	8-29-2011	9-30-2011	33d	CERNER
Super User Training	8-15-2011	8-19-2011	flexible	CERNER
Data Conversion Plan Development	6-23-2011	8-19-2011	58d	CERNER
Conversion	8-22-2011	10-7-2011	47d	CERNER
End User Training -Webinars	9-1-2011	9-20-2011	14d	SBCPHD
Comprehensive System and Integration Testing	8-31-2011	10-7-2011	38d	CERNER
Conversion Readiness Assessment Sign-off	10-10-2011	10-10-2011	1d	SBCPHD
Production Deployment (Go Live) in Santa Barbara	10-11-2011	10-18-2011	8d	CERNER
Production Deployment (Go Live) in Lompoc	10-19-2011	10-25-2011	7d	CERNER
Production Deployment (Go Live) in Santa Maria	10-26-2011	11-1-2011	7d	CERNER
Production Transition to Support Period	11-2-2011	1-30-2012	90cd	
Sign-off	1-31-2012	1-31-2012	1 d	SB

cd=calendar days

2. **STANDARD CERNER ETREBY PROJECT SCOPE**

Overview	
This worksheet defines Cerner Etreby's standard professional services implementation methodology and role assignments.	
Major Areas/Related Services	Service Lead
<p>Planning</p> <ul style="list-style-type: none"> ➤ Pre-Project Planning and kickoff ➤ Identify project team and initiate other third party contacts ➤ Review hardware requirements with IS Team ➤ Assess Hardware Readiness and identify any required upgrades ➤ Determine Third Party Interface Requirements: <ul style="list-style-type: none"> ○ IVR ○ Robotics ○ Wholesaler ○ Accounting ○ Hospital ○ Other ➤ Identify any custom label, form and/or report requirements ➤ Develop Project Plan and timelines ➤ Ongoing meetings to monitor implementation progress 	Engagement Leader
<p>Training</p> <ul style="list-style-type: none"> ➤ Train the Trainer Certification Sessions on the following solutions: <ul style="list-style-type: none"> ○ Pharmacy Management System: <ul style="list-style-type: none"> ✓ Accounts Receivable ✓ Inventory Control ✓ e-Commerce ✓ e-Prescribing ✓ eSignature ✓ Scriptflow ✓ RxInfoScan ○ Central Host Functionality: <ul style="list-style-type: none"> ✓ Third Party Reconciliation ✓ Centralized Reporting ✓ System Configuration ➤ Frequently asked questions, troubleshooting techniques 	Learning Consultant
<p>Data Conversion (joint tasks performed by Cerner/Client/Vendor) Coordinate meetings with client and data conversion vendor</p> <ul style="list-style-type: none"> ➤ Conversion vendor will extract pre-converted data ➤ Cerner will run conversion utility and upload data files into pharmacy application ➤ Client and Cerner will perform testing routines and data validation 	Delivery Consultant
<ul style="list-style-type: none"> ➤ Review and document discrepancies ➤ Report gaps to data vendor ➤ Continue pre-conversion process as required to obtain clean data prior to actual live conversion ➤ Convert allergies ➤ Scenario Testing 	

Overview	
This worksheet defines Cerner Etreby's standard professional services implementation methodology and role assignments.	
Major Areas/Related Services	Service Lead
<p>Implementation (joint tasks performed by Cerner/Client)</p> <ul style="list-style-type: none"> ➤ Remote software installation and setup: <ul style="list-style-type: none"> ○ Support client in setting up test server ○ Support client in setting up Production server ○ Support client in setting up workstations ➤ Setup security permissions <ul style="list-style-type: none"> ○ Client to determine security levels ➤ Configure backup tasks and print final reports: <ul style="list-style-type: none"> ○ Daily dispensing ○ Controlled and dispensing ○ Plan sales picked up ➤ Support Client to install and test peripherals: <ul style="list-style-type: none"> ○ Image scanners ○ Touch screens ○ Barcode readers ○ Biometric readers ○ IVR card ○ Modems ○ Signature capture devices ○ Citrix client ○ Printers (thermal, laser, other) ○ Robotics ○ Other devices ➤ Support client in the setup OS as backup for modem dialing ➤ Cerner will setup inventory control and workflow settings ➤ Cerner will add pricing to drug file ➤ Cerner will apply SQL statements to plan database ➤ Cerner will work with client to load wholesaler initial price file and setup for FTP ordering: <ul style="list-style-type: none"> ○ Assist client in coordinating with wholesaler, install interface and test ➤ Cerner will run final conversion utility assist in the data validation process 	<p>Delivery Consultant</p>

** Standard implementation includes hours set aside for additional services including reasonable third party interface requests as well as label and report customization which do not require significant modification. Cerner Etreby has a standard report catalogue of approximately 250 reports available through the current application. Any unplanned interface or customization requests which require significant modifications or are not accounted for during the pre-planning phase may be considered out of scope and require the Client to contract for additional billable services.*

	Cerner	Client
Develop Project Plan	X	X
Analyze Stakeholders Priorities	X	X
Interface and Customization Review	X	X
Certify Hardware Readiness	X	
Hardware Installation (including peripherals)		X
Develop Hardware/Network Plan		X
Develop IT Tech Support Plans		X
Software Installation	X	X
Develop and Execute Test Plans	X	
Build Test Server	X	
Download Test Data	X	X
Training (Train-the-Trainer Certification)	X	
Finalize End User Training Materials	X	X
Conduct End User Training		X
Load Initial Wholesaler File(s)	X	X
Application Configuration Review and Training	X	X
Review Pharmacy Workflow Processes	X	X
Pharmacy Management Applications Testing		X
Develop and Execute First Line Support Help Desk		X
Evaluate Go-Live Readiness	X	
MILESTONE: Acceptance of interfaces and software functionality		X
Solution in Production Use (Cutover Plan Executed)	X	X

EXHIBIT G

HARDWARE CERTIFICATION

The Hardware Certification List is based upon currently available products. Part numbers and other specifics may change at time of purchase. Changes to Hardware Certification List shall be approved by CONTRACTOR prior to COUNTY purchase.

Laptops

			HP Elitebook with 4GB RAM, docking station						
	1	3	Windows XP Pro SP3 32-bit			NU486AV			

Workstations

			HP Elite 8200 series Ultra Slim PC with 4GB RAM						
	1	9	Windows XP Pro SP3 32-bit			no part number yet			

Laser Printers

	1	6	Lexmark T650dtn			30G0107-BN			
	2	6	Duplexer with media tray			30G0806			
	3	6	Media Drawer and 550 sheet tray			30G0802			

Signature Pads

	1	6	Hypercom L4150 USB			L4150			
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Desktop Scanners

	1	3	Fujitsu fi-6130			fi-6130			
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Barcode Scanners

	1	3	Symbol LS2208			LS2208			
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IVR's with Bin Management

	1	3	ATEB 4-port Pharmacy Line Appliance Solution			ATBLIC-1001 ATBKT-2003			
	2	3	Spanish Call Flow License			ATBALG-1000			
	3	3	Bin Management Solution			ATBBMT-1002			
	4	1	1 year Bin Management Support						

Servers:

Server configuration will be 2 VMware vSphere ESXi 4.1 hosts with High Availability and a LeftHand P4000 VSA. East guest will have a minimum of 2 vCPU's, 16GB RAM, and 300GB storage allocated.

1	1	VMware Entry Rack HA Smart Bundle(Includes line items 2 through 10) HP ProLiant DL180 G6	590639-001-VRSB
2	2	Server - rack-mountable - 2U - 2-way - 1 x Xeon E5620 / 2.4 GHz - RAM 8 GB - SAS - hot-swap 3.5" - no HDD - Gigabit Ethernet - Monitor : none	590639-001
3	2	Processor Upgrade Intel Xeon E5620	590609-B21
4	24	Memory – 4GB – DDR3 – 1333 MHz ECC	500658-S21
5	12	HP Dual Port Enterprise Hard Drive – 300GB 15000rpm	516814-B21
6	2	HP NC360T PCI Express Dual Port Gigabit Server Adapter	412648-B21
7	2	HP Common Slot High Efficiency Power Supply	512327-B21
8	1	HP Virtual SAN Appliance Software for VMware ESX server	TA688SB
9	1	VMWare vSphere Essentials Plus	TC450A
10	1	HP ProCurve Switch HP CarePack Software Technical Support for LeftHand Virtual SAN Appliance for VMware 3 years – 9x5	J9145A#ABA
11	1	HP NC364T PCI Express Quad Port Gigabit Server Adapter	UW576E
12	2	MSSQL Server 2008 1 processor	435508-B21
13	2	Windows Server 2008 R2	
14	2	Windows Server 2008 R2	
15	50	Cals	

EXHIBIT H

PERFORMANCE STANDARDS

Performance Standards will be jointly defined by the CERNER Project Manager, CONTRACTOR Consultants, and COUNTY Public Health Department (SBCPHD) Project Manager and Project Team, for the following Pharmacy Management System Project Processes:

1. **PROJECT INITIATION & PLANNING**

- 1.1. Establish project milestones.
- 1.2. Conduct CONTRACTOR-Led Planning Workshop to conduct scoping sessions and a key decisions' walkthrough about the setup and use of the system. High-level discussion about workflows will also occur to ensure the SBCPHD project team is prepared to document all current workflows.
- 1.3. Establish performance measures and system performance benchmarks.

2. **PROJECT EXECUTION**

- 2.1. Pharmacy Management System configuration and setup based on key decisions workshop led by CONTRACTOR.
- 2.2. Pharmacy content selection and setup.
- 2.3. Workflow design and implementation.
- 2.4. Interface scoping, detail design specifications, configuration, implementation, and unit testing as specified in Exhibit D Statement of Work, Interface Integration.
- 2.5. Data conversion consulting, including data analysis, specifications, design, conversion processes, migration, test plan and approach, testing, and data validation, error tracking, and resolution procedure
- 2.6. ePrescribing pre-installation tasks.
- 2.7. Development and execution of complete written specifications, test criteria, test plans, test cases, test scenarios and completion of testing, in conjunction with the SBCPHD Project Team and Third-Party vendors, for:
 - 2.7.1. Hardware server installation, configuration, and network access as specified in Exhibit D Statement of Work, Contractor Technical Responsibilities
 - 2.7.2. Pharmacy Management System software installation and network access;
 - 2.7.3. Hardware and Pharmacy Management System stress (load) testing based on benchmarks established during the initiation phase;

- 2.7.4. Pharmacy Management System software configuration including requirements and documentation of system setup, workflows, forms, and other components to support pharmacy needs.
- 2.7.5. General and specific application functionality unit tests as specified in Exhibit D Statement of Work Functional Specifications including application security and security roles.
- 2.7.6. Reporting specifications, design, implementation and testing
- 2.7.7. Interface design, development, testing, and implementation
 - 2.7.7.1. Connectivity to related computer systems & ancillary pharmacy equipment
 - 2.7.7.2. Interfaces development, including specifications, design, implementation, test plans, testing and validation that related data meets specification and is validated for format and content.
- 2.7.8. Training for Super Users, development and execution of training as specified in Exhibit D Statement of Work, Training
 - 2.7.8.1. Pharmacy Management System Setup Training
 - 2.7.8.2. Functionality and Workflow Training
 - 2.7.8.3. Reports Training
- 2.7.9. Pharmacy Management System workflow simulation (End-to-End Testing) and User Integration Testing
- 2.8. Development of the Implementation Plan
- 2.9. End User System Integration Testing and Signoff

3. PROJECT MONITORING AND CONTROL

- 3.1. Weekly Performance Reporting: CONTRACTOR Project Manager will participate in weekly core project team meetings and report progress verbally and in writing using the following guidelines:
 - 3.1.1. Objectives accomplished since last team meeting
 - 3.1.2. Discussion of any situations impacting the project and/or the entire team
 - 3.1.3. Acknowledgement of major accomplishments
 - 3.1.4. Overall project status – On target, specific deficiencies, general delays, critical barriers
 - 3.1.5. Pending risks, issues, and upcoming activities
 - 3.1.6. Objectives in queue before the next meeting
- 3.2. Periodic Performance Reporting: The CONTRACTOR Project Manager will periodically submit a written report to include a comparison between the baseline project schedule and current schedule to ensure the project is on schedule, comparison of the baseline requirements (including approved Change Orders for the project) to actual requirements'

completion, and comparison of the budget baseline to actual costs to ensure the project. Major accomplishments as well as identification of issues, potential risks, and problems since the last report will also be included.

- 3.3. Measurement of System Performance against the performance measurement baseline as described below in Section 7.
- 3.4. Measurement of System Performance against other metrics determined by the SBCPHD project team

4. PRODUCTION CUTOVER

- 4.1. CONTRACTOR-Led Implementation Planning Workshop
- 4.2. Development of Implementation checklist
- 4.3. Production Implementation (Implementation assistance at the first pharmacy location identified in conjunction with the PHD Project Team).
- 4.4. Sample testing after production cutover and prior to production use to ensure system and data integrity

5. PERFORMANCE MEASURES FOR THE SYSTEM TO BE ACHIEVED PRIOR TO PRODUCTION DEPLOYMENT

The following performance measures are repeatedly demonstrated in the test environment

- 5.1. Functional (See Exhibit D Statement of Work, Functional Specifications)
- 5.2. Uptime
 - 5.2.1. Pharmacy Management System software works reliably and efficiently and will be available during normal hours of operations at the Santa Barbara Pharmacy facilities (e.g. Monday through Friday 6:00 AM to 6:00 PM PST and Saturday 6:00 AM to 3:00 PM PST, excluding major holidays.).
 - 5.2.2. Any problems during Pharmacy Operations will be reported to CONTRACTOR using the Support and Maintenance Agreement. (See Support and Maintenance Agreement, Exhibit E).
- 5.3. Privacy & Security (See Exhibit L, Business Associates Agreement),
 - 5.3.1. HIPAA: System supports HIPAA privacy and security standards

6. POST-PRODUCTION DEPLOYMENT (AFTER THREE MONTHS) PERFORMANCE MEASURES.

- 6.1. All interface transfers of data are functional (See Exhibit D Statement of Work, Interface Integration)
 - 6.1.1. Transmissions of demographics from McKesson Horizon Practice Plus to Pharmacy Management System are at 100%.

- 6.1.2. Transmissions of charge data from Pharmacy Management System to McKesson Horizon Practice Plus are at 100%.
- 6.1.3. Interface integration of Parata and ScriptPro Robots
- 6.1.4. Interface integration of IVR (Interactive Voice Response) system
- 6.1.5. Interface with SureScripts for ePrescribing
- 6.1.6. Interface to Signature Pad for electronic signature capture for HIPAA compliance.
- 6.2. All pharmacy locations are using Pharmacy Management System for processing/billing prescriptions and inventory control including ordering.
- 6.3. Queries and reports for performance measures developed during the planning phase for which specific data elements/fields were listed or created run as defined.
- 6.4. Reports for operations developed during the planning phase for which specific data elements/fields and functions were listed.
- 6.5. End-User Response time Commitment

The Software will deliver 90% of the below-referenced transactions to the end users in accordance with the Response Time Commitment (as referenced below). If the monthly End User Response Time (as measured in the timer file during steady-state operations) for the below-referenced transactions falls below 90% and so long as Client is current in paying all Software Support fees and operating within Scope of Use Limits, Cerner Etreby will provide a credit toward Client's next monthly Software Support fees to account for this (pursuant to the table below. NOTE: In order to ensure optimal end user performance, network connection and bandwidth of the Client network (defined as the network connections between Client's workstations and the Client's Cerner Etreby application and database servers should be 100Mbps or better. If Client network connectivity and bandwidth falls below this 100Mbps threshold, this End-User Response Time Commitment will NOT be applicable. Additionally, the End User Response Time Commitment will only apply to performance timings recorded during steady-state operations. For clarity, response time measured during non-steady-state operations (for instance, during system downtime situations, system upgrades, network outages, etc..) would not be included in the calculation.

DB Performance			
Timer	Response Time Commitment - 90% Within (Seconds)	Meaning	Comments
Pharmacy Application Startup	30	Time needed to initialize Pharmacy system and load all initial DB values	Application is typically started at beginning of day and left running all day – users can logon/logoff without restarting the application.

Patient History	3	<p>Displaying Patient Prescription History.</p> <p>Timer starts after the request to retrieve the patient history is issued, and ends once the patient history data has been retrieved by the workstation from the server.</p>	
Rx Save	3	<p>Save Rx Data being edited/modified.</p> <p>Timer starts when the user clicks on the Save button on the RxForm and ends after the prescription data has been saved to the database.</p>	
Rx Post Saving	3	<p>Updating Rx related status in auxiliary interfaces/modules.</p> <p>Timer starts right after the "Rx Save" timer has ended, and measures the time to update the auxiliary tables and modules with the changes that were made to the prescription, and ends right after these changes have been saved.</p>	Based on active interfaces
Inventory Transactions	2	Time needed for system to track discrete changes in inventory values.	

End User Response Time %	% of Monthly Software Support Fees Credited
Less than 90% and greater than or equal to 88%	10%
Less than 88% and greater than or equal to 87%	15%
Less than 87% and greater than or equal to 85%	20%
Less than 85%	25%

EXHIBIT I

TRANSITION TO SUPPORT SERVICES

As described previously in this Agreement, Cerner Etreby will assign a Client Advocate to provide Transition to Support Services to Santa Barbara County beginning upon the initial Go-Live event at the 1st County facility and concluding 90 days after the Go-Live event at the 3rd and final County facility. The role of Client Advocate is staffed by senior members of Cerner Etreby's Client Care/Support Organization and their responsibilities include:

1. Work to resolve issues that have broad impact across all locations within a pharmacy chain.
2. Serve as point of escalation as needed for any issues logged to the General Support Team through the standard support process.
3. Periodic Responsibilities may include:
 - a. Schedule Software downloads to your Test Environment for testing.
 - b. Schedule Software Upgrades to your Production Environments.
 - c. Manage and coordinate with Client team on overall issues list management and tracking.

EXHIBIT J

TOTAL SWITCH CONTRACT

Third-party claims travel through a network of computers and telephone lines for adjudication by Pharmacy Benefits Managers ("PBMs"). The cost encumbered with submitting the claims are deducted from COUNTY's payment by the third-party payers. Currently, the majority of PBMs do not want to be involved with the accounting functions and require pharmacies to be associated with a total switch contractor.

For its clients' convenience, CONTRACTOR is providing this Total Switch Contract ("TSC") in order to secure access to all third-party plans. The service enables COUNTY to submit claims and COUNTY is paid in full by the PBM. At the end of every month, CONTRACTOR aggregates and bills COUNTY for all the claims submitted electronically in one convenient invoice regardless of the number of payers involved.

For clients who are using CONTRACTOR's ePrescribing service, physician prescriptions submitted electronically will be captured and invoiced to COUNTY on a monthly basis. COUNTY understands that it will be billed for electronic claims transmitted through the CONTRACTOR switch at the prevailing rate set forth on Exhibit A of this Agreement. ePrescriptions will be billed at the current rate set forth on Exhibit A. All rates are subject to change based on economic conditions.

COUNTY provides the following information as it relates to this Total Switch Contract:

Pharmacy Name:

Contact:

NABP #:

Submitter #:

Provider #:

Phone #:

EXHIBIT K

CERNER.COM RESTRICTED ACCESS AGREEMENT

1. COUNTY agrees to protect and to keep in the strictest confidence all information and materials to which COUNTY is granted access through Cerner.com "COUNTY-only" access (the "**Confidential Information**"), except for information which is clearly sales, marketing, or other information available without restriction to the general public. COUNTY shall use the Confidential Information only for the purpose of supporting or otherwise facilitating its permitted use of the Software identified in the Agreement, and for no other purpose whatsoever.
2. COUNTY shall designate and identify to CONTRACTOR those employees, agents, or other such representatives of COUNTY, which COUNTY desires to have access to the Confidential Information. COUNTY agrees to limit access to Confidential Information to such individuals as have a need to know or have need to access the information in order to increase their understanding or efficient use of CONTRACTOR products and services identified in the Agreement. All such persons shall be under a confidentiality agreement with COUNTY that is sufficient to protect the proprietary and confidentiality interests of CONTRACTOR, its vendors and its clients. No copies of the Confidential Information shall be made, except as necessary to facilitate COUNTY's use of the Confidential Information as described above.
3. COUNTY agrees to have in place, or implement if needed, appropriate policies, procedures, education, controls and internal audits necessary to assure COUNTY's compliance with this agreement. COUNTY understands that all persons who are granted access to the Confidential Information will be advised by CONTRACTOR of their obligation of confidentiality with respect to the Confidential Information. Nonetheless, COUNTY agrees that it shall be responsible for any breach of this Confidentiality Agreement by any person who is given access to the Confidential Information to facilitate COUNTY's use of the Software. COUNTY further understands and agrees that its responsibility shall not be reduced or affected in any way by the advisement given to each person accessing such Confidential Information. CONTRACTOR reserves the right to terminate COUNTY's and/or any of its personnel's access to Cerner.com at any time for any reason.
4. COUNTY agrees to notify CONTRACTOR and COUNTY's primary information services executive immediately upon learning of any loss of control, improper disclosure, or other misuse of any Confidential Information or other materials made available through Cerner.com, or of any password, logon procedure, or other method limiting access to Cerner.com. Further, COUNTY agrees to take whatever steps are reasonably required to halt and otherwise remedy, if possible, any such breach of security, and to take all appropriate steps to regain control of the Confidential Information or such other information improperly disclosed or misused, and to prevent, as necessary, further disclosures or misuses.
5. COUNTY shall not be liable to CONTRACTOR for disclosure of Confidential Information if: (a) the Confidential Information is or becomes public without the fault of COUNTY, or (b) the Confidential Information was in COUNTY's possession or was known by COUNTY prior to COUNTY's receipt of the Confidential Information from CONTRACTOR, or (c) the Confidential Information is or becomes available to COUNTY from a source already in legitimate possession of said Confidential Information, said source being other than CONTRACTOR, or (d) the Confidential Information is developed independently by COUNTY, or (e) the Confidential Information is disclosed for unrestricted release

with the written approval of CONTRACTOR to whom it relates, or (f) COUNTY is obligated to disclose the Confidential Information by order or regulation of any court or other governmental entity.

6. All personal passwords, logon procedures, or other methods having the effect to limit access that CONTRACTOR discloses to COUNTY are designed to be of limited scope and are highly confidential in nature. COUNTY agrees to exercise all necessary control over such information so as to avoid the possibility of its disclosure or other misuse. Further, COUNTY agrees that no such information shall be shared with any other individual or organization unless COUNTY is otherwise authorized to do so, in writing, by CONTRACTOR.
7. Information accessed through Cerner.com shall not be further transmitted, reproduced, or otherwise copied, in whole or in part, through or under any medium, for the benefit or use of any person, not otherwise permitted to receive or use such information, without first obtaining CONTRACTOR's written consent.
8. COUNTY may, however, disclose the information to any person within COUNTY's organization if necessary to facilitate COUNTY's use of Software (or other CONTRACTOR products and services provided under agreement) to which the information relates so long as the party disclosing the information notifies the receiving party of the confidentiality of the information and of their obligation to comply with these confidentiality terms.
9. Due to the nature of CONTRACTOR's business and the value of CONTRACTOR's proprietary information, COUNTY agrees that a breach of any of the provisions hereof may inflict serious harm on CONTRACTOR, and that termination of COUNTY's license, if reasonable under the circumstances, and money damages may be inadequate relief. Accordingly, CONTRACTOR shall be entitled to injunctive relief to prevent or prohibit any threatened or continuing breach of any of the terms and provisions hereof and, in addition thereto, shall be entitled to any and all other remedies available at law or in equity.

EXHIBIT L

HIPAA BUSINESS ASSOCIATE AGREEMENT (June 7, 2011)

1. Use and Disclosure of Protected Health Information

Except as otherwise provided in this Exhibit, the CONTRACTOR may use or disclose Protected Health Information ("PHI")¹ to perform functions, activities or services for or on behalf of the COUNTY, as specified in the underlying agreement, provided that such use or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), the California Confidential Medical Information Act (CMIA), or other applicable state or federal laws. The uses and disclosures of PHI may not exceed the limitations applicable to the COUNTY under the regulations except as authorized for management, administrative or legal responsibilities of the CONTRACTOR or for data aggregation services. PHI includes without limitation "Electronic Protected Health Information" ("EPHI")².

2. Business Associates Held to the Same Standards as Covered Entities

The Business Associate/CONTRACTOR understands that HIPAA and CMIA hold the Business Associate to the same standards of responsibility and liability for the protection of confidential medical information as those required of the Covered Entity.

3. Applicable Laws

Laws which will apply to the Business Associate, include, but are not limited to applicable portions of the following: the Health Insurance Portability and Accountability Act (HIPAA), a federal law; the California Confidential Medical Information Act (CMIA), a state law; other federal and state laws pertaining to the protection of patient/client privacy and the security of confidential medical information.

4. Requirement to Train Own Employees and Workforce

The CONTRACTOR has a responsibility to provide effective training for all members of its workforce (including its own employees, management, staff, and volunteers) who will or who are likely to have any access to or exposure to PHI or EPHI. Members of the CONTRACTOR's workforce, who use, disclose, handle, view, process, distribute, access, audit, create, receive or have any exposure to PHI or EPHI must receive training on both the HIPAA Privacy Rule and the HIPAA Security Rule. Security Rule Training shall meet the requirements of 45 Code of Federal Regulations Section 164.308 (a)(5).

5. Further Disclosure of PHI

The CONTRACTOR shall not use or further disclose PHI other than as permitted or required by the underlying Agreement, this Exhibit, or as required by law.

¹ "Protected Health Information" means individually identifiable health information including, without limitation, all information, data, documentation and materials, including without limitation, demographic, medical and financial information, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

² "Electronic Protected Health Information" means Protected Health Information, which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

6. Safeguarding PHI

The CONTRACTOR shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the underlying Agreement. CONTRACTOR shall 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. The actions taken by the CONTRACTOR to safeguard EPHI shall include, but may not be limited to:

- a. Encrypting EPHI that it transmits;
- b. Implementing strong access controls, including physical locks, firewalls, and strong passwords;
- c. Using antivirus/antispyware software that is upgraded regularly;
- d. Adopting contingency planning policies and procedures, including data backup and disaster recovery plans; and
- e. Conducting privacy and security training.

7. Unauthorized Use or Disclosure of PHI

The CONTRACTOR shall report to the COUNTY any use or disclosure of the PHI not provided for by the underlying Agreement or otherwise in violation of the HIPAA Privacy Rule, the HIPAA Security Rule, or CMIA. CONTRACTOR shall report to COUNTY any privacy or security incidents within 2 days after becoming aware of and verifying such incidents. For purposes of this paragraph, "security incident" shall mean the successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. The Business Associate shall also be compliant with all applicable HIPAA and CMIA reporting requirements (to federal or state authorities) pertaining to any privacy or security breaches of confidential medical information.

8. Agents and Subcontractors of the Business Associate

The CONTRACTOR shall ensure that any agent, including a subcontractor, to which the CONTRACTOR provides PHI received from, or created or received by the CONTRACTOR on behalf of the COUNTY, shall comply with the same restrictions and conditions that apply to the CONTRACTOR with respect to such information. The CONTRACTOR shall ensure that any agent to whom it provides PHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such PHI.

9. Access to PHI

At the request of the COUNTY, and in the time and manner designated by 45 CFR 164.524, the CONTRACTOR shall provide access to PHI in a Designated Record Set to an Individual or the COUNTY to meet the requirements of 45 Code of Federal Regulations Section 164.524.

10. Amendments to Designated Record Sets

The CONTRACTOR shall make any amendment(s) to PHI in a Designated Record Set that the COUNTY directs or at the request of the Individual, and in the time and manner designated by and in accordance with 45 Code of Federal Regulations Section 164.526.

11. Documentation of Uses and Disclosures

The CONTRACTOR shall document such disclosures of PHI and information related to such disclosures as would be required for the COUNTY to respond to a request by an Individual for an accounting of

disclosures of PHI in accordance with 45 Code of Federal Regulations Section 164.528. CONTRACTOR agrees to implement a process that allows for an accounting to be collected and maintained by CONTRACTOR and its agents or subcontractors for at least six years prior to the request, but not before the compliance date of the Privacy Rule.

12. Accounting of Disclosures

The CONTRACTOR shall provide to the COUNTY or an Individual, in the time and manner designated by 45 CFR 164.528, information collected in accordance with 45 Code of Federal Regulations Section 164.528, to permit the COUNTY to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations Section 164.528.

13. Records Available to Covered Entity and Secretary

The CONTRACTOR shall make available records related to the use, disclosure, security and privacy protection of PHI received from the COUNTY, or created or received by the CONTRACTOR on behalf of the COUNTY, to the Secretary of the United State Department of Health and Human Services for purposes of investigating or auditing the COUNTY's compliance with the HIPAA privacy and security regulations, in the time and manner designated by the Secretary.

14. Destruction of PHI

- a. Upon termination of the underlying Agreement for any reason, the CONTRACTOR shall:
- (1) Return all PHI received from the COUNTY, or created or received by the CONTRACTOR on behalf of the COUNTY required to be retained by the Privacy Rule; or
 - (2) Return or destroy all other PHI received from the COUNTY, or created or received by the CONTRACTOR on behalf of the COUNTY.

This provision also shall apply to PHI in possession of subcontractors or agents of the CONTRACTOR. The CONTRACTOR, its agents or subcontractors shall retain no copies of the PHI. However, CONTRACTOR, its agents or subcontractors shall retain the information required under Section 11 of this Exhibit for a period of six years from the date of the disclosure.

- b. In the event the CONTRACTOR determines that returning or destroying the PHI is not feasible, the CONTRACTOR shall provide the COUNTY notification of the conditions that make return or destruction not feasible. The CONTRACTOR shall extend the protections of this Exhibit to such PHI and limit further use and disclosures of such PHI for so long as the CONTRACTOR, or any of its agents or subcontractors, maintains such PHI.

15. Amendments

The Parties agree to take such action as is necessary to amend the underlying Agreement as necessary for the COUNTY to comply with the requirements of the Privacy Rule and its implementing regulations.

16. Mitigation of Disallowed Uses and Disclosures

The CONTRACTOR shall mitigate, to the extent practical, any harmful effect that is known to the CONTRACTOR of a use, disclosure or exposure of PHI by the CONTRACTOR in violation of the requirements of the underlying Agreement or of the HIPAA Privacy and Security Rules or CMIA.

17. Termination of Agreement

The COUNTY may terminate the underlying Agreement upon knowledge of a material breach by the CONTRACTOR of which the CONTRACTOR fails to cure.

18. Definitions

Terms used, but not otherwise defined, in this Exhibit shall have the same meaning as those in the HIPAA Privacy Rule, the HIPAA Security Rule and CMIA.

19. Interpretation

Any ambiguity in this Exhibit shall be resolved to permit COUNTY to comply with the HIPAA Privacy Rule, the HIPAA Security Rule and CMIA.