



Revision to ASR and/or Attachments

Date: 4/29/2020
To: Clerk of the Board of Supervisors
CC: County Executive Office
From: **Bob Wilson, Interim Agency Director, Health Care Agency**
Re: ASR Control #: 20-000101, Meeting Date 05/05/2020, Item No. # 8
Subject: Contract for ReddiNet Software License, Maintenance and Hardware Support Services

2020 MAY 1 AM 8:29
RECEIVED
CLERK OF SUPERVISORS
ORANGE COUNTY
BOARD OF SUPERVISORS

Explanation:

The Health Care Agency would like to update Attachment A. Thank you.

Revised Recommended Action(s)

Make modifications to the:

Subject Background Information Summary Financial Impact

Revised Attachments (attach revised attachment(s) and redlined copy(s))

Attachment A – Contract with HASC

**CONTRACT NO. MA-042-20010626
FOR
REDDINET SOFTWARE LICENSE, MAINTENANCE AND HARDWARE SUPPORT
SERVICES
WITH
HOSPITAL ASSOCIATION OF SOUTHER CALIFRONIA**

This Contract Number MA-042-20010626 ("Contract"), is made and entered into this ____ day of June, 2020 ("Effective Date") between Hospital Association of Southern California, ("Contractor"), with a place of business at 515 S. Figueroa Street, Suite 1300, Los Angeles, CA 90071-3300 and County of Orange, a political subdivision of the State of California ("County"), through its Health Care Agency, with a place of business at 200 W. Santa Ana Blvd., Suite 650, Santa Ana, CA 92701-7506. Contractor and County may sometimes be referred to hereinafter individually as "Party" or collectively as "Parties."

DEFINITIONS

DPA shall mean the Deputy Purchasing Agent assigned to this Contract.
HCA shall mean the Health Care Agency assigned to this Contract.
HASC shall mean the Hospital Association of Southern California assigned to this Contract.

ATTACHMENTS

This Contract is comprised of these documents and the following Appendixes, which are attached hereto and incorporated by reference into this Contract:

Appendix A – Scope of Work/Payment Terms
Appendix B – Software
Appendix B-1 – Business Associates Contract
Appendix C – Hardware Support Services
Appendix C-1 – Dedicated ReddiNet Unit Hardware and Associate Software
Appendix D – Satellite Communication Services
Appendix D-1 – Satellite Equipment and Services
Appendix D-2 – Hospital Emergency Administrative Radio (HEAR) Equipment Services

RECITALS

WHEREAS, the County, HCA desires to enter into a Contract for ReddiNet Software License, Maintenance and Hardware Support Services with Contractor per the terms and conditions of Contract No. MA-042-20010626; and

WHEREAS, Contractor agrees to provide services to the County as further set forth in the Scope of Work/Payment Terms, attached hereto as Attachment A; and

WHEREAS, Contractor is a trade association with the technical and centralized resources which enable it to effectively administer ReddiNet® system-wide support; and

WHEREAS, Contractor agrees to render all the necessary skills, knowledge, material, and labor to perform the services in connection with the satellite communication upgrade, and to provide for continuing services under this Contract; and

WHEREAS, County participates in the System pursuant to this Contract; and

WHEREAS, County of Orange Board of Supervisors has authorized the County Procurement Officer or designee to enter into Contract with Contractor for obtaining said services; and

NOW, THEREFORE, the Parties mutually agree as follows:

ARTICLES

General Terms and Conditions

- A. **Governing Law and Venue:** This Contract has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any conflict between this Contract and the Attachments, this Contract shall control. In the event of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the Parties specifically agree to waive any and all rights to request that an action be transferred for adjudication to another county.
- B. **Entire Contract:** This Contract contains the entire Contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or designee.
- C. **Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the Parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County's Purchasing Agent or designated DPA in writing.
- D. **Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax. Out-of-state Contractors shall indicate California Board of Equalization permit number and sales permit number on invoices, if California sales tax is added and collectable. If no permit numbers are shown, sales tax will be deducted from payment. The Auditor-Controller will then pay use tax directly to the State of California in lieu of payment of sales tax to the Contractor.
- E. **Delivery:** Time of delivery of goods or services is of the essence in this Contract. County reserves the right to refuse any goods or services and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions or services that do not conform to the prescribed statement of work. Acceptance of any part of the order for goods shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Over shipments and under shipments of goods shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until all goods or services have actually been received and accepted in writing by County.

- F. **Acceptance/Payment:** Unless otherwise agreed to in writing by County, 1) acceptance shall not be deemed complete unless in writing and until all the goods/services have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made as referenced in Attachment B – Compensation and Payment Terms.
- G. **Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "Z" below, and as more fully described in paragraph "Z," harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods/services to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. **Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, proprietary right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "Z" below, it shall indemnify, defend and hold County and County Indemnitees harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, costs and expenses but not including attorney's fees.
- I. **Assignment:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the Parties. Furthermore, neither the performance of this Contract nor any portion thereof may be assigned by Contractor without the express written consent of County. Any attempt by Contractor to assign the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.
- J. **Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any subcontractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to penalties pursuant to Section 1741 of the California Labor Code.
- K. **Termination:** In addition to any other remedies or rights it may have by law, County has the right to immediately terminate this Contract without penalty for cause or after 30 days' written notice without cause, unless otherwise specified. Cause shall be defined as any material breach of contract, any misrepresentation or fraud on the part of the Contractor. Exercise by County of its right to terminate the Contract shall relieve County of all further obligation.

- L. **Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the Party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. **Independent Contractor:** Contractor shall be considered an independent contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- N. **Performance Warranty:** Contractor shall warrant all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workmanlike manner; shall furnish all necessary labor, supervision, machinery, equipment, materials, and supplies, shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those of County required in its governmental capacity, in connection with performance of the work. If permitted to subcontract, Contractor shall be fully responsible for all work performed by subcontractors.
- O. **Insurance Provisions:** Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor's expense, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with. Contractor agrees to keep such insurance coverage, Certificates of Insurance, and endorsements on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

Contractor shall ensure that all subcontractors performing work on behalf of Contractor pursuant to this Contract shall be covered under Contractor's insurance as an additional insured or maintain insurance subject to the same terms and conditions as set forth herein for Contractor. Contractor shall not allow subcontractors to work if subcontractors have less than the level of coverage required by County from Contractor under this Contract. It is the obligation of Contractor to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by Contractor through the entirety of this Contract for inspection by County representative(s) at any reasonable time.

All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of Contractor's current audited financial report. If Contractor's SIR is approved, Contractor, in addition to, and without limitation of, any other indemnity provision(s) in this Contract, agrees to all of the following:

- 1) In addition to the duty to indemnify and hold the County harmless against any and all liability, claim, demand or suit resulting from Contractor's, its agent's, employee's or subcontractor's performance of this Contract, Contractor shall

- defend the County at its sole cost and expense with counsel approved by Board of Supervisors against same; and
- 2) Contractor’s duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
 - 3) The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the Contractor’s SIR provision shall be interpreted as though the Contractor was an insurer and the County was the insured.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com**). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 per occurrence
Workers Compensation	Statutory
Employers Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

- 1) An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the **County of Orange its elected and appointed officials, officers, agents and employees** as Additional Insureds, or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT**.
- 2) A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the **County of Orange, its elected and appointed officials, officers, agents and employees** or provide blanket coverage, which will state **AS REQUIRED BY WRITTEN CONTRACT**.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

Contractor shall notify County in writing within thirty (30) days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the Contract, upon which the County may suspend or terminate this Contract.

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable Certificates of Insurance and endorsements with County incorporating such changes within thirty (30) days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- P. **Changes:** Contractor shall make no changes in the work or perform any additional work without the Deputy Purchasing Agent's specific written approval.

- Q. **Change of Ownership/Name, Litigation Status, Conflicts with County Interests:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, and the County agrees to an assignment of the Contract, the new owners shall be required under the terms of sale or other instruments of transfer to assume Contractor's duties and obligations contained in this Contract, and complete them to the satisfaction of the County.

County reserves the right to immediately terminate the Contract in the event the County determines that the assignee is not qualified or is otherwise unacceptable to the County for the provision of services under the Contract.

In addition, Contractor has the duty to notify the County in writing of any change in the Contractor's status with respect to name changes that do not require an assignment of the Contract. The Contractor is also obligated to notify the County in writing if the Contractor becomes a party to any litigation against the County, or a party to litigation that may reasonably affect the Contractor's performance under the Contract, as well as any potential conflicts of interest between Contractor and County that may arise prior to or during the period of Contract performance. While Contractor will be required to provide this information without prompting from the County any time there is a change in Contractor's name, conflict of interest or litigation status, Contractor must also provide an update to the County of its status in these areas whenever requested by the County.

The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with County interests. In addition to the Contractor, this obligation shall apply to the Contractor's employees, agents, and subcontractors associated with the provision of goods and services provided under this Contract. The Contractor's efforts shall include, but not be limited to establishing rules and procedures preventing its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers in the performance of their duties.

- R. **Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- S. **Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- T. **Compliance with Laws:** Contractor represents and warrants that services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "Z" below, Contractor agrees

that it shall defend, indemnify and hold County and County Indemnitees harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.

- U. **Freight:** Prior to the County's express acceptance of delivery of products. Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- V. **Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.
- W. **Attorney Fees:** In any action or proceeding to enforce or interpret any provision of this Contract, each Party shall bear their own attorney's fees, costs and expenses.
- X. **Interpretation:** This Contract has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each Party had been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each Party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other Party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the Party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the Parties and this Contract.
- Y. **Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations by Contractor pertaining to the eligibility for employment of any Contractor provided persons performing work under this Contract.
- Z. **Indemnification:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board ("County Indemnitees") harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance by Contractor pursuant to this Contract. County agrees to indemnify, defend with counsel approved in writing by Contractor, and hold Contractor, its officers, employees and agents ("Contractor Indemnitees") harmless from any claims, demands or liability of any kind or

nature, including but not limited to personal injury or property damage, arising from or related to the performance by County pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction, Contractor and County agree that liability will be apportioned as determined by the court. Neither Party shall request a jury apportionment.

- AA. **Audits/Inspections:** Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subcontractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this agreement shall be forwarded to the County's project manager.

- BB. **Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the State of California to County; and inclusion of sufficient funding for the services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- CC. **Expenditure Limit:** The Contractor shall notify the County of Orange assigned Deputy Purchasing Agent in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County shall not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued. Excluded from this Expenditure Limit is any California state sales or use tax that may be imposed by the state under this Contract and collected by Contractor and/or paid directly by the County to the state.

Additional Terms and Conditions

1. **Scope of Contract:** This Contract specifies the contractual terms and conditions by which the County shall receive ReddiNet Software License, Maintenance and Hardware Support Services from Contractor as further detailed in the Scope of Work/Payment Terms, identified and incorporated herein by this reference as "Attachment A".

2. **Term of Contract:** This Contract shall commence on June 1, 2020 through and including May 31, 2023, non-renewable. The County does not have to give reason if it decides not to renew. Contract shall be in effect for the time periods specified, unless this Contract is earlier terminated by the Parties.
3. **Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a) Terminate the Contract immediately, pursuant to Section K herein;
 - b) Afford the Contractor written notice of the breach and **thirty (30)** calendar days within which to cure the breach;
 - c) Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - d) Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
4. **Civil Rights:** Contractor attests that services provided shall be in accordance with the provisions of Title VI and Title VII of the Civil Rights Act of 1964, as amended, Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975 as amended; Title II of the Americans with Disabilities Act of 1990, and other applicable State and federal laws and regulations prohibiting discrimination on the basis of race, color, national origin, ethnic group identification, age, religion, marital status, sex or disability.
5. **Conflict of Interest – Contractor’s Personnel:** The Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the County. This obligation shall apply to the Contractor; the Contractor’s employees, agents, and subcontractors associated with accomplishing work and services hereunder. The Contractor’s efforts shall include, but not be limited to establishing precautions to prevent its employees, agents, and subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence County staff or elected officers from acting in the best interests of the County.
6. **Conflict of Interest – County Personnel:** The County of Orange Board of Supervisors policy prohibits its employees from engaging in activities involving a conflict of interest. The Contractor shall not, during the period of this Contract, employ any County employee for any purpose.
7. **Contractor’s Project Manager and Key Personnel:** Contractor shall appoint a Project Manager to direct the Contractor’s efforts in fulfilling Contractor’s obligations under this Contract. This Project Manager shall be subject to approval by the County and shall not be changed without the written consent of the County’s Project Manager, which consent shall not be unreasonably withheld.

The Contractor’s Project Manager shall be assigned to this project for the duration of the Contract and shall diligently pursue all work and services to meet the project time lines. The County’s Project Manager shall have the right to require the removal and replacement of the Contractor’s Project Manager from providing services to the County under this

Contract. The County's Project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within five (5) business days after written notice by the County's Project Manager. The County's Project Manager shall review and approve the appointment of the replacement for the Contractor's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it requires the removal of Contractor's Project Manager from providing further services under the Contract.

8. **Contractor's Records:** The Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored [in the County of Los Angeles](#) for a period of three (3) years after final payment is received from the County.
9. **Conditions Affecting Work:** The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
10. **Data – Title To:** All materials, documents, data or information obtained from the County data files or any County medium furnished to the Contractor in the performance of this Contract will at all times remain the property of the County. Such data or information may not be used or copied for direct or indirect use by the Contractor after completion or termination of this Contract without the express written consent of the County. All materials, documents, data or information, including copies, must be returned to the County at the end of this Contract.
11. **Default – Reprocurement Costs:** In case of Contract breach by Contractor, resulting in termination by the County, the County may procure similar goods and/or services from other sources. If the cost for those similar goods and/or services is higher than under the terms of the existing Contract, Contractor will be responsible for paying the County the pro-rata difference between the Contract cost and the price paid, and the County may deduct this cost from any unpaid balance due the Contractor. The price paid by the County shall be the prevailing market price at the time such similar purchase is made. This is in addition to any other remedies available under this Contract and under law.
12. **Disputes – Contract:**
 - A. The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's Project Manager and the County's Project Manager, such matter shall be brought to the attention of the County Deputy Purchasing Agent by way of the following process:
 1. The Contractor shall submit to the agency/department assigned Deputy Purchasing Agent a written demand for a final decision regarding the disposition of any dispute between the Parties arising under, related to, or involving this

Contract, unless the County, on its own initiative, has already rendered such a final decision.

2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
- B. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract.

Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Deputy Purchasing Agent or his designee. Nothing in this section shall be construed as affecting the County's right to terminate the Contract for cause or termination for convenience as stated in section K herein.

13. **Drug-Free Workplace:** The Contractor hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The Contractor will:
1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a)(1).
 2. Establish a drug-free awareness program as required by Government Code Section 8355(a)(2) to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace;
 - b. The organization's policy of maintaining a drug-free workplace;
 - c. Any available counseling, rehabilitation and employee assistance programs; and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
 3. Provide as required by Government Code Section 8355(a)(3) that every employee who works under this Contract:
 - a. Will receive a copy of the company's drug-free policy statement; and
 - b. Will agree to abide by the terms of the company's statement as a condition of employment under this Contract.

Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the Contract or both, and the Contractor may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. The Contractor has made false certification, or
 2. The Contractor violates the certification by failing to carry out the requirements as noted above.
14. **EDD Independent Contractor Reporting Requirements:** Effective January 1, 2001, the County of Orange is required to file in accordance with subdivision (a) of Section 6041A of the Internal Revenue Code for services received from a “service provider” to whom the County pays \$600 or more or with whom the County enters into a contract for \$600 or more within a single calendar year. The purpose of this reporting requirement is to increase child support collection by helping to locate parents who are delinquent in their child support obligations.

The term “service provider” is defined in California Unemployment Insurance Code Section 1088.8, subparagraph B.2 as “an individual who is not an employee of the service recipient for California purposes and who received compensation or executes a contract for services performed for that service recipient within or without the state.” The term is further defined by the California Employment Development Department to refer specifically to independent Contractors. An independent Contractor is defined as “an individual who is not an employee of the government entity for California purposes and who receives compensation or executes a contract for services performed for that government entity either in or outside of California.”

The reporting requirement does not apply to corporations, general partnerships, limited liability partnerships, and limited liability companies.

Additional information on this reporting requirement can be found at the California Employment Development Department web site located at http://www.edd.ca.gov/Employer_Services.htm

15. **Emergency/Declared Disaster Requirements:** In the event of an emergency or if Orange County is declared a disaster area by the County, state or federal government, this Contract may be subjected to unusual usage. The Contractor shall service the County during such an emergency or declared disaster under the same terms and conditions that apply during non-emergency/disaster conditions. The pricing quoted by the Contractor shall apply to serving the County’s needs regardless of the circumstances. If the Contractor is unable to supply the goods/services under the terms of the Contract, then the Contractor shall provide proof of such disruption and a copy of the invoice for the goods/services from the Contractor’s supplier(s). Additional profit margin as a result of supplying goods/services during an emergency or a declared disaster shall not be permitted. In the event of an emergency or declared disaster, emergency purchase order numbers will be assigned. All applicable invoices from the Contractor shall show both the emergency purchase order number and the Contract number.
16. **Errors and Omissions:** All reports, files and other documents prepared and submitted by Contractor shall be complete and shall be carefully checked by the professional(s) identified by Contractor as project manager and key personnel attached hereto, prior to submission to the County. Contractor agrees that County review is discretionary and Contractor shall not assume that the County will discover errors and/or omissions. If the County discovers any errors or omissions prior to approving Contractor’s reports, files and other written documents, the reports, files or documents will be returned to Contractor for correction. Should the County or others discover errors or omissions in the reports, files or other written documents submitted by the Contractor after County approval thereof, County approval of Contractor’s reports, files or documents shall not be used as a defense

by Contractor in any action between the County and Contractor, and the reports, files or documents will be returned to Contractor for correction.

17. **Equal Employment Opportunity:** The Contractor shall comply with U.S. Executive Order 11246 entitled, "Equal Employment Opportunity" as amended by Executive Order 11375 and as supplemented in Department of Labor regulations (41 CFR, Part 60) and applicable State of California regulations as may now exist or be amended in the future. The Contractor shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, ancestry, religion, sex, marital status, political affiliation or physical or mental condition.

Regarding handicapped persons, the Contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to provide equal opportunity to handicapped persons in employment or in advancement in employment or otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicaps in all employment practices such as the following: employment, upgrading, promotions, transfers, recruitments, advertising, layoffs, terminations, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to comply with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, as amended, pertaining to prohibition of discrimination against qualified handicapped persons in all programs and/or activities as detailed in regulations signed by the Secretary of the Department of Health and Human Services effective June 3, 1977, and found in the Federal Register, Volume 42, No. 68 dated May 4, 1977, as may now exist or be amended in the future.

Regarding Americans with disabilities, Contractor agrees to comply with applicable provisions of Title 1 of the Americans with Disabilities Act enacted in 1990 as may now exist or be amended in the future.

18. **News/Information Release:** The Contractor agrees that it will not issue any news releases in connection with either the award of this Contract or any subsequent amendment of or effort under this Contract without first obtaining review and written approval of said news releases from the County through the County's Project Manager.
19. **Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing with a copy provided to the assigned Deputy Purchasing Agent (DPA), except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate Party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

For Contractor:	Name:	Hospital Association of Southern California
	Attention:	Scott Twomey, SVP-CFO
	Address:	515 S. Figueroa Street, Suite 1300 Los Angeles, CA 90071-3300

Telephone: 213-538-0756
 Facsimile: 213-629-4272
 E-mail: stwomey@hasc.org

For County:

Name: County of Orange
 Health Care Agency/Purchasing
 Address: 200 W. Santa Ana Blvd., Suite #650
 Santa Ana, CA 92701
 Attn: Roland Tabangin
 Title: Deputy Purchasing Agent
 Phone: (714) 834-3151
 Fax: (714) 834-2657
 E-mail: rtabangin@ochca.com

CC:

Name: County of Orange
 HCA/Information Technology
 Address: 200 W. Santa Ana Blvd., Suite 1000
 Santa Ana CA 92701
 Attn: Michael Delaby
 Title: EMS AM II, Asst. Administrator
 Phone: (714) 834-5032
 E-mail: mdelaby@ochca.com

20. **Precedence:** The Contract documents consist of this Contract and its Attachment and Exhibits. In the event of a conflict between or among the Contract documents, the order of precedence shall be the provisions of the main body of this Contract, i.e., those provisions set forth in the recitals and articles of this Contract, the Attachments, and then the Exhibits.
21. **Termination – Orderly:** After receipt of a termination notice from the County of Orange, the Contractor may submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than 60 days from the effective date of the termination, unless one or more extensions in writing are granted by the County upon written request of the Contractor. Upon termination County agrees to pay the Contractor for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation combined with previously paid compensation shall not exceed the total compensation set forth in the Contract. Upon termination or other expiration of this Contract, each party shall promptly return to the other party all papers, materials, and other properties of the other held by each for purposes of performance of the Contract.
22. **Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximations. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at rates/prices listed in the Contract, regardless of quantity requested.
23. **Contractor Screening:** Throughout the term of this Contract, Contractor shall not be listed on any state or federal exclusionary rosters, listed below. County may screen Contractor on a monthly basis to ensure Contractor is not listed on the exclusionary rosters, listed below. If Contractor or its employee(s) are found to be included on any of the rosters indicated below, Contractor shall be deemed in default of its obligation under this Paragraph and shall constitute a cause for County to exercise its right to terminate this Contract immediately. County, in its sole discretion, may afford Contractor an opportunity to cure said default within a reasonable time.

- a. United States Department of Health and Human Services, Office of Inspector General (OIG) List of Excluded Individuals & Entities (LEIE) (<http://exclusions.oig.hhs.gov>).
 - b. General Services Administration (GSA) System for Award Management (SAM) Excluded Parties List (<http://sam.gov>).
 - c. State of California Department of Health Care Services Medi-Cal Suspended and Ineligible Provider List (County Health Care Agency Internal Database).
24. **Debarment:** To the extent applicable, Contractor shall certify in writing that neither Contractor nor its employee(s) are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in a contractual transaction by any state or federal department or agency. Where Contractor is unable to certify to any of the statements in the written certification, Contractor must include a written explanation thereon for the County to consider. County shall have the right to refuse to enter into this Contract with the Contractor, or terminate this Contract if already entered into, if Contractor either fails to certify or certifies that it is subject of any debarment, pending debarment, declared ineligibility or voluntary exclusion from participation by any state or federal department or agency.
25. **Lobbying:** On the best information and belief, Contractor certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, the Contractor to any person influencing or attempting to influence an officer or employee of Congress; or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract.
26. **California Public Records Act:** Contractor and County agree and acknowledge that all information and documents related to the award and performance of this Contract are subject to disclosure pursuant to the California Public Records Act, California Government Code Section 6250 et seq.
27. **Gratuities:** The Contractor warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the County with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the County shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the County in procuring on the open market any goods or services which the Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the County provided in the clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.
28. **Software – Protection:** County agrees that all materials furnished by Contractor hereunder are provided for County's use for the purposes of this Contract only and shall be held in confidence. All proprietary data shall remain the property of Contractor. County agrees to take all reasonable steps to ensure that such data are not disclosed to others without prior written consent of Contractor. County shall ensure, prior to disposing of any media, that any licensed materials contained thereon have been erased or otherwise destroyed. County agrees that it shall take appropriate action by instruction, agreement or otherwise with its employees or other persons permitted access to licensed programs and/or optional materials to satisfy its obligations under this Contract with respect to use,

copying, modification and protection and security of licensed programs and optional materials.

29. **Software – Maintenance:** The correction of any residual errors in any software products which may be discovered by Contractor or by County shall be considered maintenance. Such maintenance shall be performed by Contractor without additional charge for the duration of this Contract. Suspected errors discovered by County in the software products shall be handled by the following procedure:
- a. A listing of the output and a copy of the evidential input data in machine-readable format shall be submitted to Contractor along with a completed copy of the appropriate Contractor information form and, if appropriate, a listing of the contents of the memory of the CPU at the time the error was noted.
 - b. Errors in the software product as verified by Contractor shall be corrected by providing a new copy of said software product or a new copy of the affected portions in machine-readable format.

Contractor shall be available to assist County in isolating and correcting error conditions caused by County's particular hardware or operating system at rates specified in this Contract. If Contractor is called upon by the state to correct an error caused by County's negligence, modification by County, County-supplied data, or machine or operator failure or due to any other cause not inherent in the original software products, Contractor reserves the right to charge County for such service on a time and material basis at rates in accordance with the Contract.

30. **Software License:** Contractor hereby grants to County of Orange and County accepts from Contractor, subject to the terms and conditions of this Contract, a non-exclusive, non-transferable license to use the software products list in this Contract, hereinafter referred to as "software products." The license granted above authorizes County to use the software products in machine-readable form on a single computer system, designated in writing by County to Contractor, provided that if the designated CPU is inoperative due to malfunction, license herein granted shall be temporarily extended to authorize County to use the software products in machine-readable form on any other County CPU until the designated CPU is returned to operation. By prior written notice to Contractor, County may re-designate the CPU in which the software products are to be used and must do so if the re-designation is permanent.

When encryption/CPU ID authorization codes are required to operate the software products, Contractor shall provide all codes to County with shipment of the software. In the case of an inoperative CPU, as defined above, Contractor shall provide a temporary encryption/CPU ID authorization code to County for use on a temporarily authorized CPU until the designated CPU is returned to operation. When changes in designated CPUs occur, Contractor shall issue to County within twenty four (24) hours of notification a temporary encryption/ID authorization code for use on the newly designated CPU until such time a permanent code is assigned.

31. **Software Installation:** This Section left blank as the ReddiNet software is a cloud-based Software as a Service (SaaS) and software provided pursuant to Appendix C-1 Section 1 Contractor Supported Hardware and Software is the responsibility of Contractor.

32. **Software – Acceptance Testing:** Acceptance testing may be required as specified for all Contractor-supplied software as specified and listed in the Contract or order, including all software initially installed. Included in this clause are improved versions, including new releases, of this software, any such software which has been modified by Contractor to satisfy County requirements, and any substitute software provided by Contractor in lieu thereof, unless the Contract or order provides otherwise. The purpose of the acceptance test is to ensure that the software operates in substantial accord with Contractor's technical specifications and meets County's performance specifications.
33. **Software – Documentation:** Contractor agrees to provide to County all manuals and other associated materials and updated versions thereof in electronic format accessible via www.reddinet.net/support, which are necessary or useful to County in its use of the equipment or software provided hereunder.

Contractor further agrees that County may reproduce such manuals for its own use in maintaining the equipment or software provided hereunder. County agrees to include Contractor's copyright notice on any such documentation reproduced in accordance with copyright instructions to be provided by Contractor. County shall destroy any reproduced material at the conclusion of the Contract subject to County's document retention requirements.

34. **Software – Future Releases:** If improvement, upgraded, or enhancement versions of any software product under this Contract are developed by Contractor and are made available to other licensees, they shall be made available to County at County's option, provided such versions are operable on the same computer hardware configuration.
35. **Compliance with County Information Technology Policies and Procedures:**

Policies and Procedures

Contractor, its subcontractors, Contractor personnel, and all other agents and representatives of Contractor, shall at all times comply with and abide by all Information Technology (IT) policies and procedures of County that are provided or made available to Contractor that pertain to Contractor (and of which Contractor has been provided with advance notice) in connection with Contractor's performance under this Contract. Contractor shall cooperate with County in ensuring Contractor's compliance with the IT policies and procedures described in this Contract and as adopted by County from time-to-time, and any material violations or disregard of such IT policies or procedures shall, in addition to all other available rights and remedies of County, be cause for termination of this Contract. In addition to the foregoing, Contractor shall comply with the following:

Security and Policies

All performance under this Contract shall be in accordance with County's security requirements, policies, and procedures as set forth above and as modified, supplemented, or replaced by County from time to time, in its sole discretion, by providing Contractor with a written copy of such revised requirements, policies, or procedures reasonably in advance of the date that they are to be implemented and effective (collectively, the "Security Policies"). Contractor shall at all times use industry best practices and methods, and all applicable HIPAA privacy and security regulations with regard to the prevention, detection, and elimination, by all appropriate means, of fraud, abuse, and other inappropriate or unauthorized access to County systems accessed in the performance of services in this Contract. [However, Contractor shall not be liable under this section if an inappropriate or unauthorized access to County systems is not due to fault of Contractor.](#)

Information Access

County may require all Contractor personnel performing services under this Contract to execute a confidentiality and non-disclosure agreement and concerning access protection and data security in the form provided by County. County shall authorize, and Contractor shall issue, any necessary information-access mechanisms, including access IDs and passwords, and Contractor shall take all commercially reasonable measures that comply with HIPAA security and privacy regulations to secure such mechanisms. Contractor shall provide each Contractor personnel with only such level of access as is required for such individual to perform his or her assigned tasks and functions. All County systems, and all data and software contained therein, including County data, County hardware and County software, used or accessed by Contractor: (a) shall be used and accessed by such Contractor solely and exclusively in the performance of their assigned duties in connection with, and in furtherance of, the performance of Contractor's obligations hereunder; and (b) shall not be used or accessed except as expressly permitted hereunder, or commercially exploited in any manner whatsoever, by Contractor, at any time.

Enhanced Security Procedures

County may, in its discretion, designate certain areas, facilities, or systems as requiring a higher level of security and access control. County shall notify Contractor in writing reasonably in advance of any such designation becoming effective. Any such notice shall set forth in reasonable detail the enhanced security or access-control procedures, measures, or requirements that Contractor shall be required to implement and enforce, as well as the date on which such procedures and measures shall take effect. Contractor shall fully comply with and abide by all such enhanced security and access measures and procedures as of such date.

Breach of Security

Any breach or violation by Contractor of any of the foregoing shall be deemed a material breach of a material obligation of Contractor under this Contract and may be deemed an incurable and material breach of a material obligation of Contractor under this Contract resulting in termination.

Conduct on County Premises

Contractor shall, at all times, comply with and abide by all reasonable policies and procedures of County (or that may be established thereby, from time to time) that pertain to conduct on County's premises, possession or distribution of contraband, or the access to, and security of, the Party's real property or facilities, to the extent that Contractor has been provided with a copy of each such policy or procedure. Contractor shall exercise due care and diligence to prevent any injury to persons or damage to property while on the other Party's premises. The operation of vehicles by either Party's personnel on the other Party's property shall conform to posted and other applicable regulations and safe-driving practices. Vehicular accidents occurring on a Party's property and involving either Party's personnel shall be reported promptly to the appropriate Party's personnel. Each Party covenants that at all times during the Term, it, and its employees, agents, and subcontractors shall comply with, and take no action that results in the other Party being in violation of, any applicable federal, state, and local laws, ordinances, regulations, and rules. Each Party's personnel shall clearly identify themselves as the appropriate Party's personnel and not as employees of the other Party. When on the other Party's premises,

each Party's personnel shall wear and clearly display identification badges or tags, as approved by the other Party.

Security Audits

Each Contract year, County may perform or have performed security reviews and testing. Such reviews and testing shall ensure compliance with all pertinent County security standards as well as any HCA/Environmental Health requirements such as federal tax requirements or HIPAA.

(SIGNATURE PAGE FOLLOWS)

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract No. MA-042-20010626 the date set forth opposite their signatures. If the company is a corporation, Contractor shall provide two signatures as follows: 1) the first signature must be either the Chairman of the Board, President, or any Vice President; 2) the second signature must be that of the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer. In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution or by-laws demonstrating the legal authority of the signature to bind the company.

Contractor: Hospital Association of Southern California

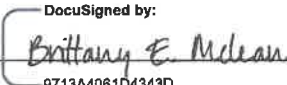
<u>GEORGE W. GREENE</u>	<u>PRESIDENT / CEO</u>
Print Name	Title
	<u>1/8/2020</u>
Signature	Date
<u>SCOTT TWOMEY</u>	<u>SVP-CFO</u>
Print Name	Title
	<u>1/8/2020</u>
Signature	Date

County of Orange, a political subdivision of the State of California
Purchasing Agent/Designee Authorized Signature:

_____	_____
Print Name	Title
_____	_____
Signature	Date

APPROVED AS TO FORM

Office of the County Counsel
County of Orange, California

Brittany E. Mclean		1/10/2020
	<small>9713A4061D4343D...</small>	

APPENDIX A**SCOPE OF WORK/PAYMENT TERMS****Appendix A-1 Software Fees**

Deliverables (3 Locations)	Annual Fee per location 1st Year 6/1/20 – 5/31/21	Annual Fee per location 2nd Year 6/1/21 – 5/31/22	Annual Fee per location 3rd Year 6/1/22 – 5/31/23
Status Module- ED capacity updates and availability of emergency resources to support patient care and transport.	\$687	\$708	\$729
Mass Casualty Incident Module- Manage MCI's. Notify responders; assess ED capacity; dispatch, re-route and arrive ambulances; locate transported and walk-in patients.	\$687	\$708	\$729
Messages Module- Send and receive written communications directly with every participant in your network and within your self-selected out of network providers. Set message templates.	\$687	\$708	\$729
Assessment Module- Poll healthcare providers for available resources, the status of property, personnel and supplies, track trends, and coordinate resources. Create pre-set and ad hoc polls.	\$687	\$708	\$729
Bed Capacity Module- Record and view current and projected bed availability for hospitals and long term care facilities including HAvBed data and patient census.	\$687	\$708	\$729
Family Reunification Center- Facilities locating and uniting injured and unaccompanied minors and those searching for them.	\$687	\$708	\$729
Secondary Responders- up to 300 clinics, LTCs, surgery centers and dialysis centers – 2 to 3 modules, not including dashboard.	\$7,200	\$7,500	\$7,800
VoIP Phones- 2 VoIP phones for each of 25 hospitals within the County of Orange	\$39,425	\$41,000	\$42,625
Alerts- Via remote devices, receive self-selected alerts including messages, ED status changes, MCI notifications, and disaster warnings	Included	Included	Included
Reports- Produce point in time and historical reports from your subscribed modules(s)	Included	Included	Included
Total Software	\$58,991	\$61,244	\$63,547

NOTE: Pricing does not include California state sales and use tax, if applicable. Access to ReddiNet Modules for specific responders is granted with the consent of local EMS agencies.

Training: Resources include a User Guide, an online independent Learning Lab, a simulation Training County for interactive practices, specialty webinars and Help and Support documents. Basic training for the software program is billed at \$125 per hour (minimum 4 increment) plus travel expenses.

Appendix A-2 Hardware Fees Jupiter Satellite

Deliverables	Features	Annual Fee per location 1st Year	Annual Fee per location 2nd Year	Annual Fee per location 3rd Year
	Hardware			
	Preventive Maintenance			
[3] ReddiNet Dedicated Unit and Jupiter Satellite Equipment*	Equipment Replacement/Rental	\$10,181	\$10,558	\$11,011
	Alerting Hardware-one light included			
	Technical Support			
	Training			
2VoIP phones **	Equipment Rental	\$1,577	\$1,640	\$1,705
Visual Alert Hardware – for internet only users and for a second light for dedicated units	Technical Support	None	None	None
Audio Alert Hardware – extra audible alert supplementing speakers on PC	Technical Support	None	None	None
Total Hardware¹ – Satellite		\$35,274	\$36,684	\$38,148

NOTE: Pricing does not include California state sales and use tax, if applicable.

*Includes dedicate ReddiNet Unit (see Appendix C-1) and Satellite Dish (see Appendix D-1), Jupiter satellite is leased.

** Cost are additive to Dedicated Unit.

¹ Total Hardware cost for 3 locations

² Per Appendix A-3, one time installation charger per location not to exceed \$1,000, satellite dish removal fee is \$150 per location, and an additional \$775 fee per modem pair may apply subject to distance between VoIP phones.

Appendix A-3 – Fees for Non-Standard Out of Scope Services and Fees for Satellite Upgrade

- 1) **Demand Service Rate:** Demand Services or time and material is defined as charges for out of scope visits to a location for repairing of physically damaged items, disconnected cables, or other diagnosis and repair of user equipment related problems. Materials will be charged at cost plus 20%. The following pricing applies to time and Material charges for out of scope services. The actual calculation is the “Hourly Rate” plus the “Travel Zone Charge.’ This would be an incremental cost above and beyond the first option of remedial maintenance. Pricing does not include California state sales and use tax, if applicable.

	Hourly Rate	Travel Zone	Travel Charge
Normal Hours: Monday – Friday (local time) 8:00 AM – 5:00 PM	\$125	0 - 25 miles	\$77
After Hours Weekday Monday – Thursday 5:00 PM – 8:00 AM	\$150	26 - 50 miles	\$143
Weekend Monday 5:00 PM - 8:00 AM	\$150	51 – 100 miles	\$286
		101+ miles	\$473

- 2) **Equipment Charges:** In the event that non-standard equipment is required for maintenance (including, but not limited to scaffolding and power lift trucks), County will be billed for the actual cost plus 20%. At sites requiring non-standard equipment for physical access, onsite repair time in excess of one (1) hour will be billed at prevailing rates for Demand Services specified above.

I. Non-Standard Out of Scope Installation Charges for Satellite

DESCRIPTION	PRICE
Obtain permits and approvals, required additional or non-standard documentation or requiring attendance at meeting before local planning or zoning boards	\$90/hour plus all direct expenses at cost plus 20%
Obtain permits and approvals where requested, but not required	\$90/hour plus all direct expenses at cost plus 20%
Engineering Drawings, Non-Standard Reports, etc (applies only if such drawings or reports are requested by County)	Cost plus 20%

DESCRIPTION	PRICE
IFL Non-Plenum Cables (install involves two cable runs – the following pricing covers both cables for the associated length)	
up to 150 feet	Included
151 - 200 feet	\$50 additional
200 - 250 feet	\$100 additional
> 250 feet	\$2.50 per foot
Expedited Installation at County's request (requested with less than fifteen (15) business days of notice) charge is waived if Satellite Vendor does not meet the requested date)	\$250/site
Aborted or Cancelled Installation (This charge will only apply in cases where the installation has been cancelled by County within seven (7) days of the scheduled installation.)	\$250 each
Deinstallation of non-penetrating mount site	\$550
Site relocation charges (including site survey) assumes same city deinstall/reinstall within 72 hours, if not, add \$170 for storage and shipping	\$1,125
Nonstandard Installations	Individual Bid

II. One-time upgrade charges (3 locations/satellite)

DESCRIPTION	PRICE
Upgrade satellite antenna, transceiver and commission new equipment	Not to exceed \$1,000 per site
If requested by Customer, remove and dispose old dish antenna	\$150 per antenna
If Customer elects VoIP capability, additional modem(s) may be required based upon distance between VoIP phone and base modem	\$775/pair modems

APPENDIX B

SOFTWARE

1. SOFTWARE LICENSE.

1.1 **Grant of License.** Contractor hereby grants, and County accepts, a nontransferable, nonexclusive license to use the software modules ordered in this Contract and the Documentation (as defined below) only in accordance with the terms and conditions in this Appendix B and the other parts of this Contract (the "Software").

1.2 **Limitations on License.** Except as allowed under Section 1.3 of this Appendix B, County may not copy, disassemble, decompile, reverse engineer, modify, translate, display, sell, sublicense, lease, rent, assign or otherwise transfer, use or make available or disclose the Software in any form, in whole or in part, to any third party, without the prior written consent of Contractor. County will take appropriate action by instruction, agreement or otherwise with persons permitted access to the Software to satisfy its obligations under this Contract with respect to protection of the Software.

1.3 **Copies.** No more copies of the Software ("Copies") may be produced by County in machine readable form than are necessary for the purposes of this Contract and for back-up purposes. County will maintain appropriate records of the location of the Copies. County will reproduce and include the copyright notice or other proprietary notices of Contractor on the Copies, in whole or in part, or on any form of the Software. All Copies are also subject to the provisions of this Contract.

1.4 **Title.** Title to and all rights and interests in the Software and its code are the exclusive proprietary property of Contractor and are protected by copyright, patent and trade secret laws. The original and any Copies, in whole or in part, including translations, compilations, copies with modifications, enhancements, derivative works, and updated versions are and shall remain the exclusive property of Contractor. County will take all steps necessary to protect Contractor's proprietary rights and confidentiality in the Software, including, but not limited to, the proper display of copyright, trademark, trade secret and other proprietary notices on any copies of the Software. Except for the license granted under the Contract, nothing in the Contract shall be construed as transferring to County any right, title, or interest in the Software or any portions thereof, or as conferring any license or other right, by implication, estoppel or otherwise under any trade secrets, trademark, proprietary right, copyright, patent or otherwise. County shall not alter or remove from the Software or other proprietary Contractor materials or data any notices or identification which indicate ownership of Contractor.

1.5 **Documentation.** Contractor will provide all documentation to County via online access at www.reddinet.net/support.

2. SOFTWARE SUPPORT SERVICES.

2.1 Contractor agrees to provide the Software support services described in this Section 2 ("Software Support Services") and Sections 3.2 through 3.7 of this Appendix.

2.2 The specifications for the Software shall be as specified in the Contract, and as supplemented by documentation ("Documentation"), if any, for the Software provided by Contractor to County (the "Software Specifications"). Contractor will use commercially reasonable

efforts to correct all failures of the Software to operate substantially in accordance with their Software Specifications (“Software Error(s)”).

2.3 Contractor will provide enhancements and modifications to the Software that are made generally available at no additional charge to Contractor’s other ReddiNet® customers receiving Software Support Services similar to the Software Support Services provided hereunder. County must purchase any additional equipment and third-party software, including new releases and new versions of the Software, which Contractor deems required, in its reasonable technical and business judgment, to continue the basic functionality of the Software. Contractor will provide at least thirty (30) days’ notice to County regarding any such required purchase. If County desires to discuss the obligation to purchase such additional equipment and third-party software, County shall notify Contractor within ten (10) days after the receipt of Contractor’s notification hereunder. The parties shall discuss in good faith the obligation to purchase, but if the parties cannot reach agreement, each party’s sole remedy shall be termination of this Contract pursuant to Section 9 of this Contract. New releases and new versions of the Software (including, but not limited to, significant new software functionality which are not made generally available to Contractor’s other customers at no additional charge) are not provided hereunder, but will be made available at Contractor’s then current fees for such items. Enhancements and modifications to, and new releases and new versions of, the Software, shall be included in the definition of “Software” for purposes of this Contract.

2.4 Contractor will provide commercially reasonable telephone assistance to County’s employees in identifying, verifying, isolating and resolving Software Errors. Such telephone assistance will be provided as a supplement to, rather than a substitute for, adequate training for County and its users.

2.5 Contractor will not be required to correct or perform maintenance or Software Support Services for the following:

- (a) Software Errors caused by any modifications of the Software or related hardware by any party other than Contractor;
- (b) problems related to hardware or software not provided by Contractor;
- (c) County’s failure to use enhancements, or programming Software Error corrections;
- (d) County’s failure to use the Software in accordance with the terms of this Contract;
- (e) problems related to County’s combination, operation, or use of the Software with non-Contractor software or equipment unless such software or equipment was authorized by Contractor; or
- (f) problems occurring in an operating environment outside of the environment recommended by Contractor in Appendix C-1.

2.6 Contractor shall provide the Software Support Services in the following manner:

- (a) Nonemergency Software Support Services between the hours of 9:00 a.m. and 5:00 p.m. (Pacific Time), Monday through Friday, except during the following Contractor

holidays: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, and December 25 through December 31.

(b) Emergency Software Support Services via telephone, 24-hours-a-day, 7-days-a-week. For purposes of this Contract, "Emergency Software Support Services" will mean Software Support Services required to maintain Software availability. Emergency Software Support Services do not include operator instruction, user training, or other problems which could be handled by County through adequate training. County may contact Contractor by telephone for the Emergency Software Support Services at any time and Contractor will make commercially reasonable efforts to respond within two (2) hours after receiving a telephone request from County.

(c) Contractor shall be under no obligation to provide the Software Support Services if the following occur:

- (i) County fails to perform its obligations in Section 2.8;
- (ii) any failure in performance or loss or damage under the Contract due to any cause beyond either party's reasonable control;
- (iii) failure by County to maintain site specifications recommended in writing by Contractor;
- (iv) failure by County to apply enhancements and modifications to the Software provided at no additional cost to County, as requested by Contractor;
- (v) County makes any addition of hardware or software for which County has not received prior written approval from Contractor; or
- (vi) there is a failure of the Software or any part thereof which is attributable to: (A) inappropriate or unauthorized use; (B) accident, neglect, misuse or abuse; or (C) exposure of the Software to potentially harmful environmental, electrical, or operating conditions.

2.7 Contractor may, as it deems required in its reasonable technical and business judgment, modify or enhance the Software.

2.8 Contractor and County agree to the following:

(a) County shall designate one person and one alternate to serve as Contractor's support contact (the "ReddiNet® Coordinator") and County's management representative, to perform certain obligations of County under the Contract, and to facilitate Contractor's performance of the Software Support Services. Only the ReddiNet® Coordinator will be authorized to request and receive Software Support Services provided hereunder on behalf of County. County may change its ReddiNet® Coordinator at any time by notice to Contractor;

(b) County understands and acknowledges the need for centralized administration, maintenance, and support of the Software and agrees to utilize only the Software

Support Services of Contractor and its subcontractors in connection with the Software Support Services, unless otherwise approved in advance and in writing by Contractor;

(c) County shall provide Contractor with notice of changes to the Software or any other vital Software component made by any employee, contractor or agent of County. Such changes, without the prior express written consent of Contractor, will relieve Contractor of any and all obligations to provide the Software Support Services; and

2.9 If Contractor provides Software Support Services as a result of any of the causes listed in Sections 2.5 or 2.6(c) of this Appendix B, such Software Support Services will be provided at Contractor's then-current time and materials rates, including reimbursement for travel expenses. Such rates are set forth in Appendix A.

2.10 **Reinstatement Fee.** If County desires to renew the Software Support Services of Contractor after a period of non-coverage under the Contract, County will pay Contractor a reinstatement fee designated by Contractor to update the Software to the then-current version. County will be responsible for any additional hardware or third-party software which Contractor deems required to utilize the then-current version of the Software.

3. DATA AND DATA TRANSMISSION

3.1 **Data Transmission.** Contractor will make commercially reasonable efforts to provide access to and use of the System.

3.2 **Data Sharing and Ownership.** County and Contractor may share data for the purposes of this Contract. Data that County produces and sends to Contractor or another party pursuant to the Contract shall remain the exclusive property of County ("County Data"). Data produced or modified by Contractor, including the format and arrangement of such data, shall remain the exclusive property of Contractor. Each party understands and agrees that data transmitted over the System (including County Data) may be shared with government and other entities, and it may be subject to disclosure under public records laws.

3.3 **Data Use.** County grants that Contractor can use, reproduce, modify and distribute County Data to Contractor's other customers and government entities subject to the applicable government laws and regulations governing County Data.

3.4 **Data Warranty.** County shall be responsible for its County Data entry activities, and for the accuracy of any County Data delivered to Contractor or another party pursuant to this Contract. County represents and warrants that County Data is true and accurate data and information, to the best of County's knowledge. County shall promptly correct any errors in such County Data. Contractor shall not be responsible for errors in County Data or data entry done by County, or for errors in the Deliverables that result from errors in County Data, data entry done by County or County's failure to comply with the Contract. County is responsible for complying with applicable federal, state, or local laws and/or regulations that apply to the delivery of County Data to Contractor and that apply to the use and/or disclosure of such County Data as set forth under this Contract.

3.5 **System Disclaimer.** County understands and agrees that temporary interruptions to the System may occur which will prevent access to and use of the data, including during power outages, internet downtime, installation and/or maintenance of the System, and other events described in Section 18 of the Contract (Force Majeure). Contractor shall not be liable to County

or any other person or entity for any interruption in the System not caused by Contractor's willful misconduct.

3.6 **Exclusive Remedy.** In the event that data to be transmitted through the use of the Software or by or through the System is interrupted, inaccurately transmitted, or not transmitted directly as a result of Contractor's failure to perform its obligations under the Contract (collectively, "Transmittal Error(s)"), County's sole and exclusive remedy shall be that Contractor will: (1) use commercially reasonable efforts to retransmit the data; or (2) if Contractor is unable to retransmit the data, in Contractor's judgment, Contractor will give County a pro rata refund of the fees paid by County to Contractor under the Contract for the remainder of the term and the Contract will terminate; or (3) if the Transmittal Error(s) results in substantial damage to County and Contractor does not terminate the Contract, then Contractor's only obligation and sole liability to County shall be limited to granting County credits equal to County's reasonable out-of-pocket expenses, as reasonably mitigated by County, which County can demonstrate are directly attributable to the Transmittal Error(s) by Contractor or Contractor's vendors, but in no event shall such credits during any one (1) calendar year in the aggregate exceed the lesser of: (i) three times the average monthly revenue received by Contractor from County for the Deliverables which contained the Transmittal Error(s) over the preceding twelve (12) months (or such lesser time if this Contract has been in effect for less than twelve (12) months); or (ii) Five Thousand Dollars (\$5,000).

3.7 **Claim Assertion.** Any claim by County under this Section 3 must be asserted by County in writing within thirty (30) calendar days after Transmittal Error(s), except that, if such Transmittal Error(s) is not reasonably detectable within such 30-day period by County in the exercise of due diligence, then such claim must be asserted no later than ten (10) calendar days after the actual discovery by County of such Transmittal Error(s) and within one hundred eighty (180) calendar days after the Transmittal Error(s). County agrees to supply the requested documentation necessary to support any claim asserted under this Section 3.

4. OTHER OBLIGATIONS

4.1 **Testing.** When Contractor provides the Software to County, County will test the Software within thirty (30) days to ensure that it operates substantially in accordance with the Contract. Contractor will repair or replace any Software that does not operate substantially in accordance with the Contract during these tests.

4.2 **Confidentiality and Protection.** Section 19 of this Contract shall apply fully to all aspects of this Contract.

4.3 **Protected Health Information.** Contractor shall comply with the provisions of Appendix B-1 in connection with any Protected Health Information (as there defined) that Contractor creates or receives on behalf of County under circumstances that constitute Contractor County's business associate for purposes of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Standards for Privacy of Protected Health Information and the Security Standards for the Protection of Electronic Protected Health Information, 45 CFR Parts 160 and 164.

5. LIMITED WARRANTY

Contractor warrants that the Software shall perform substantially in accordance with the Software Specifications for ninety (90) days from delivery of the initial Software to County. Contractor's entire liability and County's exclusive remedy for breach of this warranty shall be for

Contractor, at its option, either to: (a) return the fees paid for the Software; or (b) replace Software that does not meet limited warranty described herein and which is returned to Contractor or (c) make commercially reasonable efforts to correct any Software Errors which County may find in the Software during the above-described warranty period and which prevent the Software from performing substantially in accordance with the Software Specifications.

6. WARRANTY DISCLAIMERS

Contractor GRANTS TO COUNTY NO WARRANTIES UNDER THE CONTRACT, EITHER EXPRESS OR IMPLIED, OTHER THAN WARRANTIES EXPRESSLY GRANTED TO COUNTY IN THIS SECTION 6 OF APPENDIX B. Contractor EXPRESSLY DISCLAIMS THE WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT FOR THE DELIVERABLES. CONTRACTOR DOES NOT WARRANT: THAT THE FUNCTIONS CONTAINED IN THE DELIVERABLES WILL MEET COUNTY'S REQUIREMENTS; THAT THE OPERATION OF THE DELIVERABLES WILL BE UNINTERRUPTED OR ERROR-FREE; OR THAT ALL ERRORS OR DEFECTS IN THE DELIVERABLES WILL BE CORRECTED. Contractor DOES NOT WARRANT THE ACCURACY OR TIMELINESS OF THE DATA TRANSMITTED VIA THE INTERNET.

7. LIMITATION OF LIABILITIES

7.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT, IT IS EXPRESSLY AGREED THAT IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RELATING TO OR ARISING OUT OF THE CONTRACT, EVEN IF THE PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUCH EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF GOODWILL, LOSS OF USE, LOSS OF PROFITS, TORTIOUS CONDUCT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT LIABILITY) OR INTERRUPTION OF BUSINESS. Contractor AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY, INSTALLATION OR OPERATION OF THE DELIVERABLES UNDER THE CONTRACT.

7.2 EACH PARTY'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH ITS PERFORMANCE UNDER THE CONTRACT, INCLUDING WITHOUT LIMITATION FAILURE OR NEGLIGENCE OF ITS EMPLOYEES, CONTRACTORS AND AGENTS, DEFECTIVE DELIVERABLES, FAILURE OF THE ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED HEREUNDER, AND ANY OTHER CAUSE (INCLUDING BUT NOT LIMITED TO TORTIOUS CONDUCT, STRICT LIABILITY, AND BREACH OF CONTRACT) AND THE OTHER PARTY'S SOLE REMEDY, SUBJECT TO THE OTHER REMEDIES PROVIDED UNDER THIS CONTRACT, SHALL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT IN EXCESS OF THE FEES PAID OR PAYABLE UNDER THIS CONTRACT. BOTH PARTIES AGREE THAT SUCH LIMITATION OF LIABILITY, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXTENDS TO LOSS OF DATA, LOSS OF ACTUAL OR ANTICIPATED REVENUE, LOSS DUE TO FAILURE OF ANY SOFTWARE, HARDWARE OR COMMUNICATIONS SERVICES COMPONENT, AND/OR DAMAGE TO BUSINESS REPUTATION.

8. DEFENSE OF CLAIMS

Contractor will defend County against any third party action against County with County's approval that is based on a third party claim that the Software infringes a United States registered

patent or copyright as of the Effective Date and shall pay any costs or damages that may be finally awarded against County resulting from such action, subject to County promptly notifying Contractor in writing of any such action. Contractor will not defend County, however, if the claim of infringement is caused by: (1) County's misuse or modification of the Software or System; (2) County's failure to use corrections or enhancements made available by Contractor; (3) County's use of the System or Software in combination with any product or information not developed or authorized by Contractor; (4) County's distribution, marketing or use for the benefit of third parties of the System or Software not in accordance with the Contract; or (5) information, direction, specification or materials provided by County or any third party. If the Software is, or in Contractor's opinion is likely to be, held to be infringing, Contractor shall at its expense and option either (a) procure the right for County to continue using it, (b) replace it with a noninfringing equivalent, (c) modify it to be noninfringing or (d) direct the return of the Software. The foregoing remedies constitute County's sole and exclusive remedies and Contractor's entire liability with respect to intellectual property claims and actions.

The limitations on liability under Sections 5 through 8 of this Appendix B shall control and supersede any contrary provision in the Contract.

APPENDIX B-1**BUSINESS ASSOCIATE CONTRACT****A. GENERAL PROVISIONS AND RECITALS**

1. The Parties agree that the terms used, but not otherwise defined below in Paragraph B, shall have the same meaning given to such terms under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 ("the HITECH Act"), and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they may exist now or be hereafter amended.

2. The Parties agree that a business associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the Contractor and County arises to the extent that Contractor performs, or delegates to subcontractors to perform, functions or activities on behalf of County pursuant to, and as set forth in, the Contract No. MA-042-20010626 that are described in the definition of "Business Associate" in 45 CFR § 160.103.

3. The County wishes to disclose to Contractor certain information pursuant to the terms of the Contract No. MA-042-20010626, some of which may constitute Protected Health Information ("PHI"), as defined below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Contract No. MA-042-20010626

4. The Parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Contract No. MA-042-20010626 in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The Parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The Parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the Contractor in the same manner as they apply to a covered entity (County). Contractor agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation

specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and electronic PHI created, received, maintained, transmitted, used, or disclosed pursuant to the Contract No. MA-042-20010626.

B. DEFINITIONS

1. "Administrative Safeguards" are administrative actions, and policies and procedures, to manage the selection, development, implementation, and maintenance of security measures to protect electronic PHI and to manage the conduct of Contractor's workforce in relation to the protection of that information.

2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

a. Breach excludes:

i. Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Contractor or County, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

ii. Any inadvertent disclosure by a person who is authorized to access PHI at Contractor to another person authorized to access PHI at the Contractor, or organized health care arrangement in which County participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

iii. A disclosure of PHI where Contractor or County has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

b. Except as provided in paragraph (a) of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless Contractor demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

i. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

ii. The unauthorized person who used the PHI or to whom the disclosure was made;

iii. Whether the PHI was actually acquired or viewed; and

iv. The extent to which the risk to the PHI has been mitigated.

3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

4. "Designated Record Set" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

6. "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

8. "Physical Safeguards" are physical measures, policies, and procedures to protect Contractor's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

10. "Protected Health Information" or "PHI" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.103.

12. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.

13. "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by Contractor.

14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of electronic PHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

15. "Subcontractor" shall have the meaning given to such term under the HIPAA

regulations in 45 CFR § 160.103.

16. "Technical safeguards" means the technology and the policy and procedures for its use that protect electronic PHI and control access to it.

17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of Health and Human Services in the guidance issued on the HHS Web site.

18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE:

1. Contractor agrees not to use or further disclose PHI County discloses to Contractor other than as permitted or required by this Business Associate Contract or as required by law.

2. Contractor agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract MA-042-CONTRACT NUMBER, to prevent use or disclosure of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County other than as provided for by this Business Associate Contract.

3. Contractor agrees to comply with the HIPAA Security Rule at Subpart C of 45 CFR Part 164 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County.

4. Contractor agrees to mitigate, to the extent practicable, any harmful effect that is known to Contractor of a Use or Disclosure of PHI by Contractor in violation of the requirements of this Business Associate Contract.

5. Contractor agrees to report to County immediately any Use or Disclosure of PHI not provided for by this Business Associate Contract of which Contractor becomes aware. Contractor must report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

6. Contractor agrees to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Contractor agree to the same restrictions and conditions that apply through this Business Associate Contract to Contractor with respect to such information.

7. Contractor agrees to provide access, within fifteen (15) calendar days of receipt of a written request by County, to PHI in a Designated Record Set, to County or, as directed by County, to an Individual in order to meet the requirements under 45 CFR § 164.524.

8. Contractor agrees to make any amendment(s) to PHI in a Designated Record Set that County directs or agrees to pursuant to 45 CFR § 164.526 at the request of County or an Individual, within thirty (30) calendar days of receipt of said request by County. Contractor agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.

9. Contractor agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Contractor on behalf of, County available to County and the Secretary in a time and manner as determined by County or as designated by the Secretary for purposes of the Secretary determining County's compliance with the HIPAA Privacy Rule.

10. Contractor agrees to document any Disclosures of PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County, and to make information related to such Disclosures available as would be required for County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

11. Contractor agrees to provide County or an Individual, as directed by County, in a time and manner to be determined by County, that information collected in accordance with the Contract No. MA-042-20010626, in order to permit County to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

12. Contractor agrees that to the extent Contractor carries out County's obligation under the HIPAA Privacy and/or Security rules Contractor will comply with the requirements of 45 CFR Part 164 that apply to County in the performance of such obligation.

13. Contractor shall work with County upon notification by Contractor to County of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

D. SECURITY RULE

1. Contractor shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with 45 CFR § 164.308, § 164.310, § 164.312, and § 164.316 with respect to electronic PHI County discloses to Contractor or Contractor creates, receives, maintains, or transmits on behalf of County. Contractor shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

2. Contractor shall ensure that any subcontractors that create, receive, maintain, or

transmit electronic PHI on behalf of Contractor agree through a contract with Contractor to the same restrictions and requirements contained in this Paragraph D of this Business Associate Contract.

3. Contractor shall report to County immediately any Security Incident of which it becomes aware. Contractor shall report Breaches of Unsecured PHI in accordance with Paragraph E below and as required by 45 CFR § 164.410.

E. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured PHI , Contractor shall notify County of such Breach **within five (5) business days**, however both Parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

a. A Breach shall be treated as discovered by Contractor as of the first day on which such Breach is known to Contractor or, by exercising reasonable diligence, would have been known to Contractor.

b. Contractor shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of Contractor, as determined by federal common law of agency.

2. Contractor shall provide the notification of the Breach to the County Privacy Officer at:

OCIT CEO SECURITY	HCA INFORMATION TECHNOLOGY
<p>Linda Le, CHPC, CHC, CHP County Privacy Officer 1501 E. St. Andrews Place, 2nd Fl. Santa Ana, CA 92705 Office: (714) 834-4082 E-Mail: linda.le@ceoit.ocgov.com privacyofficerinbox@ceoit.ocgov.com</p>	<p>David Castellanos IT Security Officer 200 W. Santa Ana Blvd., Ste. 1000 Santa Ana, CA 92701 Office: (714) 834-3433 E-Mail: dcastellanos@ochca.com</p>

a. Contractor’s notification may be oral, but shall be followed by written notification within twenty-four (24) hours of the oral notification.

3. Contractor’s notification shall include, to the extent possible:

a. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Contractor to have been, accessed, acquired, used, or disclosed during the Breach;

b. Any other information that County is required to include in the notification to Individual under 45 CFR §164.404 (c) at the time Contractor is required to notify County or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

(1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

(2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

(3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

(4) A brief description of what Contractor is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and

(5) Contact procedures for Individuals to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

4. County may require Contractor to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances, at the sole discretion of the County.

5. In the event that Contractor is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, Contractor shall have the burden of demonstrating that Contractor made all notifications to County consistent with this Paragraph E and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

6. Contractor shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

7. Contractor shall provide to County all specific and pertinent information about the Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit County to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon

as practicable, but in no event later than fifteen (15) calendar days after Contractor's initial report of the Breach to County pursuant to Subparagraph E.2 above.

8. Contractor shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of five (5) business days after the last report to County. Contractor shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to County, when such request is made by County.

9. Contractor shall bear all expense or other costs associated with the Breach and shall reimburse County for all expenses County incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach.

F. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

1. Contractor may use or further disclose PHI County discloses to Contractor as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract MA-042-CONTRACT NUMBER, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by County except for the specific Uses and Disclosures set forth below.

a. Contractor may use PHI County discloses to Contractor, if necessary, for the proper management and administration of Contractor.

b. Contractor may disclose PHI County discloses to Contractor for the proper management and administration of Contractor or to carry out the legal responsibilities of Contractor, if:

i. The Disclosure is required by law; or

ii. Contractor obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person immediately notifies Contractor of any instance of which it is aware in which the confidentiality of the information has been breached.

c. Contractor may use or further disclose PHI County discloses to Contractor to provide Data Aggregation services relating to the Health Care Operations of Contractor.

2. Contractor may use PHI County discloses to Contractor, if necessary, to carry out legal responsibilities of Contractor.

3. Contractor may use and disclose PHI County discloses to Contractor consistent with the minimum necessary policies and procedures of County.

4. Contractor may use or disclose PHI County discloses to Contractor as required by law.

G. OBLIGATIONS OF COUNTY

1. County shall notify Contractor of any limitation(s) in County's notice of privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Contractor's Use or Disclosure of PHI.

2. County shall notify Contractor of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Contractor's Use or Disclosure of PHI.

3. County shall notify Contractor of any restriction to the Use or Disclosure of PHI that County has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Contractor's Use or Disclosure of PHI.

4. County shall not request Contractor to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by County.

H. BUSINESS ASSOCIATE TERMINATION

1. Upon County's knowledge of a material breach or violation by Contractor of the requirements of this Business Associate Contract, County shall:

a. Provide an opportunity for Contractor to cure the material breach or end the violation within thirty (30) business days; or

b. Immediately terminate the Contract No. MA-042-20010626, if Contractor is unwilling or unable to cure the material breach or end the violation within thirty (30) days, provided termination of the Contract No. MA-042-20010626 is feasible.

2. Upon termination of the Contract No. MA-042-20010626, Contractor shall either destroy or return to County all PHI Contractor received from County or Contractor created, maintained, or received on behalf of County in conformity with the HIPAA Privacy Rule.

a. This provision shall apply to all PHI that is in the possession of Subcontractors or agents of Contractor.

b. Contractor shall retain no copies of the PHI.

c. In the event that Contractor determines that returning or destroying the PHI is

not feasible, Contractor shall provide to County notification of the conditions that make return or destruction infeasible. Upon determination by County that return or destruction of PHI is infeasible, Contractor shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Contractor maintains such PHI.

3. The obligations of this Business Associate Contract shall survive the termination of the Contract No. MA-042-20010626.

APPENDIX C
HARDWARE SUPPORT SERVICES

1. HARDWARE

1.1 Purchase of Hardware

County has purchased or leased the computer and other hardware identified in Appendix C-1 or substantially similar hardware with the same functionality which is chosen by Contractor in its reasonable judgment as a substitute therefor (the "Hardware") under this Contract and the Satellite Hardware Agreement, subject to the terms and conditions of this Appendix C.

1.2 Title to the Hardware. All Hardware purchased by the County is vested in the County. All Hardware leased by the County vests with the Contractor and/or Satellite Vendor.

1.3 Configuration, Installation, Acceptance of Purchased Hardware

(a) Prior to installation, Contractor shall configure all Hardware purchased or leased by County under the Satellite Hardware Agreement.

(b) Contractor shall install all Hardware purchased or leased by County from Contractor under the Satellite Hardware Agreement.

(c) County shall provide materials as described in Appendix C-1 and perform necessary pre-installation activities as designated by Contractor.

(d) Following installation of the Hardware, County will have up to fourteen (14) calendar days to test the Hardware to confirm that it operates substantially in accordance with the Hardware Specifications. If County gives written notice to Contractor that the Hardware does not operate substantially in accordance with the Hardware Specifications, Contractor will make commercially reasonable efforts to repair or replace, at Contractor's discretion, any Hardware that does not operate substantially in accordance with such Hardware Specifications during these tests. Upon completion of these tests, and if applicable, any repair or replacement of the Hardware by Contractor, Contractor will turn over operation of the Hardware to County and the Hardware shall be deemed accepted by County.

2. HARDWARE SUPPORT SERVICES

2.1 Contractor agrees to provide the Hardware Support Services ordered by County in Section 1 of this Contract as described in this Section 2 of Appendix C ("Hardware Support Services").

2.2 HASC will provide Hardware Support Services for the Hardware identified in Section I of Appendix C-1. The specifications for the Hardware shall be the documentation for the Hardware provided by Contractor to County (the "Hardware Specifications"). Contractor will use commercially reasonable efforts to correct all failures of the Hardware to operate substantially in accordance with the Hardware Specifications ("Hardware Errors").

2.3 County must obtain and maintain the minimum Hardware configuration which is described in Section II of Appendix C-1 in order to operate the ReddiNet Software. Contractor

may change this minimum Hardware configuration from time-to-time. County must purchase and maintain in accordance with the manufacturers' specifications any additional hardware and third-party software which Contractor deems required, in its reasonable technical and business judgment, to continue the basic functionality of the Hardware. Contractor will provide at least thirty (30) days' notice to County regarding any such required purchase. If County desires to discuss the obligation to purchase and maintain in accordance with the manufacturers' specifications such additional hardware and third-party software, County shall notify Contractor within ten (10) days after the receipt of Contractor's notification hereunder. The parties shall discuss in good faith the obligation to purchase, but if the parties cannot reach agreement, each party's sole remedy shall be termination of this Contract pursuant to Section 9 of this Contract.

2.4 Contractor will provide commercially reasonable telephone assistance to County's employees in identifying, verifying, isolating and resolving Hardware Errors. Such telephone assistance will be provided as a supplement to, rather than a substitute for, adequate training for County and its users.

2.5 Contractor will not be required to correct Hardware Errors or perform maintenance or Hardware Support Services for the following:

- (a) Hardware Errors caused by any modifications of the Hardware by any party other than Contractor;
- (b) problems related to hardware or software not provided by Contractor;
- (c) County's failure to use Hardware Error corrections provided by Contractor;
- (d) County's failure to use the Hardware in accordance with the terms of the Contract;
- (e) problems related to County's combination, operation, or use of the Hardware with non-Contractor software or hardware unless such software or hardware was installed and integrated by Contractor; and
- (f) problems occurring in an operating environment outside of the environment recommended by Contractor.

2.6 Contractor shall provide the Hardware Support Services in the following manner:

- (a) Nonemergency Hardware Support Services between the hours of 9:00 a.m. and 5:00 p.m. (Pacific Time), Monday through Friday, except during the following Contractor holidays: New Year's Day, Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the day after Thanksgiving Day, and December 25 through December 31.
- (b) Emergency Hardware Support Services via telephone, 24-hours-a-day, 7-days-a-week. For purposes of the Contract, "Emergency Hardware Support Services" will mean Hardware Support Services required to maintain Hardware availability. Emergency Hardware Support Services do not include operator instruction, user training, or other problems which could be handled by County through adequate training or other services. County may contact Contractor by telephone for the Emergency Hardware Support Services at any time and Contractor will make

commercially reasonable efforts to respond within two (2) hours after receiving a telephone request from County.

(c) Contractor shall be under no obligation to provide the Hardware Support Services if the following occur:

(i) County fails to perform its obligations in Section 2.8 of this Appendix C;

(ii) any failure in performance or loss or damage under the Contract due to any cause beyond either party's reasonable control;

(iii) failure by County to maintain the Hardware Specifications or other site specifications recommended in writing by Contractor or the manufacturer of the Hardware;

(iv) County makes any addition of hardware or software for which County has not received prior written approval from Contractor; or

(v) there is a failure of the Hardware or any part thereof which is attributable to: (A) inappropriate or unauthorized use; (B) accident, neglect, misuse or abuse; or (C) exposure of the Hardware to potentially harmful environmental, electrical, or operating conditions.

2.7 Contractor may, as it deems required in its reasonable technical and business judgment, modify, enhance or replace the Hardware.

2.8 Contractor and County agree to the following:

(a) County understands and acknowledges the need for centralized administration, maintenance, and support of the Hardware and agrees to utilize only the Hardware Support Services of Contractor and its subcontractors in connection with the Hardware Support Services, unless otherwise approved in advance and in writing by Contractor; and

(b) County shall provide Contractor with notice of changes to the Hardware or any other vital system component made by any employee, contractor or agent of County. Such changes, without the prior express written consent of Contractor, will relieve Contractor of any and all obligations to provide the Hardware Support Services.

2.9 If Contractor provides Hardware Support Services as a result of any of the causes listed in Sections 2.5, or 2.6(c), such Hardware Support Services will be provided at Contractor's then-current time and materials rates. Such rates are set forth in Appendix A of this Contract.

2.10 Reinstatement Fee

If County desires to renew the Hardware Support Services of Contractor after a period of non-coverage under the Contract, County will pay Contractor a reinstatement fee designated by Contractor to update the Hardware to the then-current version. County will be responsible for any additional hardware or third-party software which Contractor deems required to utilize the then-current version of the Hardware.

3. CONTRACTOR'S WARRANTY DISCLAIMERS

CONTRACTOR GRANTS TO COUNTY NO WARRANTIES, EITHER EXPRESS OR IMPLIED FOR THE HARDWARE OR HARDWARE SUPPORT SERVICES. CONTRACTOR EXPRESSLY DISCLAIMS THE WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT FOR THE HARDWARE AND HARDWARE SUPPORT SERVICES. HASC DOES NOT WARRANT: THAT THE FUNCTIONS CONTAINED IN THE HARDWARE WILL MEET COUNTY'S REQUIREMENTS; THAT THE OPERATION OF THE HARDWARE WILL BE UNINTERRUPTED OR ERROR-FREE; OR THAT ALL ERRORS OR DEFECTS IN THE HARDWARE OR HARDWARE SUPPORT SERVICES WILL BE CORRECTED.

4. LIMITATION OF LIABILITIES

4.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT, IT IS EXPRESSLY AGREED THAT HASC OR ITS SUPPLIERS SHALL IN NO EVENT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RELATING TO OR ARISING OUT OF THE CONTRACT, EVEN IF HASC IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUCH EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF GOODWILL, LOSS OF USE, LOSS OF PROFITS, TORTIOUS CONDUCT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT LIABILITY) OR INTERRUPTION OF BUSINESS. HASC AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAYS OR ERRORS IN OPERATION OF THE HARDWARE UNDER THE CONTRACT.

4.2 CONTRACTOR'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH ITS PERFORMANCE UNDER THIS APPENDIX C, INCLUDING WITHOUT LIMITATION FAILURE OR NEGLIGENCE OF ITS EMPLOYEES, CONTRACTORS AND AGENTS, DEFECTIVE HARDWARE OR HARDWARE SUPPORT SERVICES, FAILURE OF THE ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED UNDER THE CONTRACT, AND ANY OTHER CAUSE (INCLUDING BUT NOT LIMITED TO TORTIOUS CONDUCT, STRICT LIABILITY, AND BREACH OF CONTRACT) AND COUNTY'S SOLE REMEDY, SHALL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT IN EXCESS OF THE TOTAL FEES FOR THE HARDWARE SUPPORT SERVICES PAID BY COUNTY FOR THE CALENDAR YEAR DURING WHICH ANY SUCH CLAIM FOR DAMAGES MAY HAVE ARISEN. COUNTY AGREES THAT SUCH LIMITATION OF LIABILITY, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXTENDS TO LOSS OF DATA, LOSS OF ACTUAL OR ANTICIPATED REVENUE, LOSS DUE TO FAILURE OF ANY HARDWARE COMPONENT, AND/OR DAMAGE TO BUSINESS REPUTATION.

APPENDIX C-1

DEDICATED REDDINET UNIT HARDWARE AND ASSOCIATED SOFTWARE

I. Contractor Supported Hardware and Software

- a. Computer with Operating System (OS)
- b. Keyboard and Mouse
- c. Monitor
- d. Printer (where applicable)
- e. Two Uninterruptible Power Supplies (UPS)
- f. Alerting Hardware (where applicable)
- g. Audio Speakers
- h. Virus Protection
- i. Satellite dish, modems, and router

II. ReddiNet® Software Minimum PC Requirements

- a. Computer with Operating System (OS)

III. County Supported Hardware

- a. Connectivity cables between satellite equipment and PC equipment (cabling must follow an OSHPD approved route in hospitals)
- b. Emergency power for Satellite and PC equipment
- c. Workspace Area

APPENDIX D**SATELLITE COMMUNICATIONS SERVICES****1. SATELLITE COMMUNICATIONS SERVICES**

1.1 Contractor agrees to provide the Satellite Communications Services and related equipment that County ordered in Section 1 - Deliverables of this Contract (the "Satellite Communications Services"). NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, COUNTY AGREES THAT THE EQUIPMENT COUNTY PURCHASED OR LEASED UNDER THE SATELLITE HARDWARE AGREEMENT AND THIS CONTRACT, SHALL BE USED ONLY FOR THE PURPOSES SPECIFICALLY SET FORTH IN THIS CONTRACT AND FOR NO OTHER PURPOSE.

1.2 Contractor has provided certain equipment regarding HEAR, as described in Appendix D-2 hereto.

1.3 Customers that purchase or lease Satellite Communications Services as a backup for Internet communications shall independently supply Internet services.

2. SATELLITE COMMUNICATIONS SERVICES PROBLEMS

2.1 Contractor will make commercially reasonable efforts to provide access to and use of the System using the Satellite Communications Services. County understands and agrees that temporary interruptions to the Satellite Communications Services may occur which will prevent access to and use of the data, including during power outages, atmospheric or other interference with radio transmissions, internet downtime, satellite transmission downtime, installation and/or maintenance of the Satellite Communications Services, and other events described in Section 18 of the Contract (Force Majeure). Contractor shall not be liable to County or any other person or entity for any interruption in the Satellite Communications Services not caused by its willful misconduct.

2.2 In the event of any Transmittal Error(s) as described in Section 3.6 of Appendix B of this Contract, Contractor's only obligation and sole liability to County shall be limited to the exclusive remedy described in Section 3.6 of Appendix B of this Contract.

3. CONTRACTOR'S DISCLAIMER OF WARRANTIES

CONTRACOR GRANTS TO COUNTY NO WARRANTIES, EITHER EXPRESS OR IMPLIED FOR THE SATELLITE COMMUNICATIONS SERVICES. CONTRACT EXPRESSLY DISCLAIMS THE WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT FOR THE SATELLITE COMMUNICATIONS SERVICES. HASC DOES NOT WARRANT: THAT THE FUNCTIONS CONTAINED IN THE SATELLITE COMMUNICATIONS SERVICES WILL MEET COUNTY'S REQUIREMENTS; THAT THE OPERATION OF THE SATELLITE COMMUNICATIONS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; OR THAT ALL ERRORS OR DEFECTS IN THE SATELLITE COMMUNICATIONS SERVICES WILL BE CORRECTED. HASC DOES NOT WARRANT THE ACCURACY OF THE DATA TRANSMITTED VIA THE SATELLITE COMMUNICATIONS SERVICES.

4. LIMITATIONS OF LIABILITIES

4.1 **Limitation of Liabilities for Data Flow.** ACTIONS OR INACTIONS OF THIRD PARTIES MAY RESULT IN SITUATIONS IN WHICH COUNTY'S CONNECTION TO OR USE

OF THE SATELLITE COMMUNICATIONS SERVICES MAY BE IMPAIRED, DISRUPTED OR DAMAGED. HASC DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE SATELLITE COMMUNICATIONS SERVICES AND DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH IMPAIRMENTS, DISRUPTIONS, OR DAMAGE.

4.2 General Limitation of Liabilities

(a) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT, IT IS EXPRESSLY AGREED THAT HASC AND ITS SUPPLIERS SHALL IN NO EVENT BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES RELATING TO OR ARISING OUT OF THE CONTRACT, EVEN IF HASC IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUCH EXCLUDED DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF GOODWILL, LOSS OF USE, LOSS OF PROFITS, TORTIOUS CONDUCT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE OR STRICT LIABILITY) OR INTERRUPTION OF BUSINESS.

(b) CONTRACTOR AND ITS SUPPLIERS SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED BY DELAY IN DELIVERY, INSTALLATION, OR OPERATION OF THE SATELLITE COMMUNICATIONS SERVICES UNDER THE CONTRACT.

(c) CONTRACTOR'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH ITS PERFORMANCE UNDER THIS APPENDIX, INCLUDING WITHOUT LIMITATION FAILURE OR NEGLIGENCE OF ITS EMPLOYEES, CONTRACTORS AND AGENTS, DEFECTIVE COMMUNICATIONS SERVICES, FAILURE OF THE ESSENTIAL PURPOSE OF THE LIMITED WARRANTY AND REMEDIES PROVIDED UNDER THE CONTRACT, AND ANY OTHER CAUSE (INCLUDING BUT NOT LIMITED TO TORTIOUS CONDUCT, STRICT LIABILITY, AND BREACH OF CONTRACT) AND COUNTY'S SOLE REMEDY, SHALL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT IN EXCESS OF THE FEES PAID BY COUNTY TO HASC FOR THE SATELLITE COMMUNICATIONS SERVICES FOR THE CALENDAR YEAR DURING WHICH ANY SUCH CLAIM FOR DAMAGES MAY HAVE ARISEN.

(d) COUNTY AGREES THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EXTENDS TO LOSS OF DATA, LOSS OF ACTUAL OR ANTICIPATED REVENUE, LOSS DUE TO FAILURE OF ANY SATELLITE COMMUNICATIONS SERVICES, AND/OR DAMAGE TO BUSINESS REPUTATION.

(e) IF COUNTY OBTAINS ACCESS TO THE SYSTEM USING ITS OWN INTERNET SERVICE PROVIDER, COUNTY SHALL BE SOLELY RESPONSIBLE FOR MAINTAINING AND PAYING FOR ITS INTERNET SERVICES. HASC SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR FAILURES OF COUNTY TO RECEIVE OR TRANSMIT DATA OR TO USE THE SYSTEM AS A RESULT OF THE INTERNET.

5. The limitations on liability under Sections 3 through 4 of this Appendix D shall control and supersede any contrary provisions in the Contract.

APPENDIX D-1
SATELLITE EQUIPMENT AND SERVICES

1. Contractor as Intermediary

Notwithstanding anything in the Contract to the contrary, the parties understand and agree that Contractor is functioning as an intermediary between Satellite Vendor and County hereunder and, accordingly, County's sole recourse with respect to any disputes regarding the provision of Satellite equipment and services by Satellite Vendor in connection with the Contract shall be against Satellite Vendor, and County shall specifically not take any action against Contractor in that regard. To the extent that County has any complaint regarding the provision of such Satellite equipment and services in connection with the Contract, County shall notify Contractor, and County and Contractor shall consult in good faith and use best efforts to agree upon an appropriate course of action. County shall not directly contact Satellite Vendor without Contractor's prior approval, and shall promptly provide Contractor with any copies of correspondence, in any medium, between County and Satellite Vendor.

2. Services and Equipment

During the term of the Contract, Satellite Vendor will provide the Satellite Communication Services specified in Attachment I to this Appendix D-1 (the "Services"). As part of the Services, Contractor has coordinated the sale or lease by Satellite Vendor to County of the equipment (collectively, the "Equipment") for County's three locations.

From time to time, County may request Contractor to provide certain supplementary services for County, including supplementary maintenance and repair services, which are outside the scope of the Services ("Demand Services"). Whenever reasonably practicable, the parties will, prior to providing any Demand Services, develop and mutually agree in writing upon the details regarding such services. Unless otherwise specified in writing, County shall pay Contractor for any Demand Services provided by Satellite Vendor at the time and material charge rates set forth in Appendix A-1, Appendix A-2 and Appendix A-3 of this Contract.

3. County Obligations

To facilitate provision of the Equipment and Services by Satellite Vendor, County will fulfill the following obligations:

A. County hereby grants Contractor and Satellite Vendor and Satellite Vendor's authorized representatives access, subject to County's reasonable security restrictions, to Equipment and related locations and areas of County's facilities and premises at its remote locations, and will arrange permitted access to areas of third-party facilities and premises as required to enable Satellite Vendor to perform the Services to be provided under the Contract and the Satellite Hardware Agreement. Contractor shall ensure that the Satellite Vendor will comply with County's rules and regulations regarding such access, a copy of which will be furnished to Satellite Vendor by Contractor promptly after execution of this Contract.

B. Satellite Vendor reserves the right not to provide the Services with respect to any Equipment located at County's premises where physical access to such Equipment or other conditions at the site are determined by Satellite Vendor in its reasonable discretion to be unsafe. In such an event, Satellite Vendor shall notify Contractor, Contractor shall notify County, and County may, at its option, correct the safety problem.

C. County shall ensure that Satellite Vendor technicians are provided with access to electrical power, as well as direct or indirect voice access to the main office as required for Satellite Vendor technicians to efficiently perform the Services.

D. County shall ensure that County personnel cooperate with and assist Satellite Vendor, as required, to install the Equipment, and to troubleshoot, and isolate faults in the Equipment or the Software. County shall also be adequately staffed during installation and service coverage hours to assist Satellite Vendor to commission, troubleshoot, and isolate faults in, any remote terminal sites.

E. Contractor shall ensure that site-environment conditions comply with the following requirements:

Indoors	
Operating Temperature	10°C to 40°C
Humidity	10% to 90%

F. County shall be responsible to perform all tasks assigned to it as required for Satellite Vendor to perform the Installation Services.

G. Prior to any reporting of Service faults to Satellite Vendor, Contractor shall perform Tier 1 and Tier 2 troubleshooting to isolate such faults to ensure they are not caused by any hardware, software, or network equipment external to the Equipment, Software, or Services. Satellite Vendor will provide County a Customer Support Plan, and County shall follow the troubleshooting script provided by Contractor on behalf of Satellite Vendor. County shall be solely responsible to correct faults caused by such external hardware, software, or network equipment.

H. County shall, in a timely manner, perform any and all duties assigned to it in the Contract, and shall provide any additional support reasonably required by Satellite Vendor to perform the Services. Contractor shall also provide Satellite Vendor with reasonable access to office accommodations, facilities, equipment, personnel and other resources of County to the extent required by Satellite Vendor to perform the Services. County acknowledges and agrees that the timely performance of its duties and the provision of resources for which it is responsible are essential to the performance of the Services by Satellite Vendor, Contractor and Satellite Vendor shall be excused from any delay in performing, or inability to perform, its duties hereunder to the extent resulting from any failure by County to perform the material duties assigned to it or to provide such resources.

4. Ownership, Inspection and Risk of Loss.

For Equipment purchased by County, the risk of loss or damage to Equipment will pass to County upon delivery. Title to all or a portion of the Equipment purchased by County will pass to County upon payment. This Contract will constitute a security agreement for the benefit of Satellite Vendor with respect to all leased Equipment delivered or installed at County's location.

ATTACHMENT I TO APPENDIX D-1**SERVICES SCHEDULE****1. Overview of Services**

Contractor will provide full duplex point-to-multipoint Satellite Communications Services, (respectively, "Services"), during the term of the Contract and, in accordance with the terms of the Contract, establish a satellite communications network between a Satellite Vendor Network Operations Center (the "NOC") and HASC's designated locations in the contiguous United States.

2. Description of Services

2.1. Operations. Hub and network operations centers are staffed twenty four (24) hours per day, three hundred sixty five (365) days per year, with Satellite Vendor technical support personnel. The Enterprise Service Center ("ESC") is responsible for network operations and management including configuration management and field dispatch. The ESC is also responsible for onsite maintenance and management of the Hub facilities.

2.2. Installation Services. County will obtain any landlord approvals, if required, for the Service.

2.3. Space Segment. Transponder capacity to support the County's communication network will be provided on a Ka-band satellite.

2.4. Remote Maintenance.

A. Corrective Maintenance. Contractor shall ensure that Satellite Vendor will provide corrective maintenance for County in accordance with the terms provided in this Contract. Satellite Vendor will restore County's malfunctioning Equipment to good working condition by performing the following corrective maintenance as required:

- (1) Diagnostic testing to determine the existence and cause of the malfunction
- (2) Removal and replacement of any malfunctioning field replaceable unit ("FRU")
- (3) Reorientation (repointing) of the antenna subsystem in the event of misalignment
- (4) Repair or replacement of Equipment interconnecting cables
- (5) Reloading initializing instructions and recommissioning
- (6) Verification of proper operation and completion of service report
- (7) Notification to the main office and the County host that Equipment has been restored to operational status

B. Service Coverages and Response Times. Satellite Vendor shall have no obligation to provide any enhanced service coverage, except by mutual written agreement of both parties (including payment to Satellite Vendor of an additional, agreed upon charge)

beyond Continuous Service Coverage (24 hours per day, 365 days per year), as described herein.

After authorization of field service dispatch, Satellite Vendor will dispatch a customer service representative ("CSR") to be onsite at County's premises, in accordance with the maintenance response time table given below (measured from the time of authorization by Satellite Vendor).

MAINTENANCE RESPONSE TIME TABLE	
DISTANCE FROM SERVICE OFFICE	RESPONSE TIME
0 - 50 miles	4 hours
51 - 100 miles	5 hours
101 - 150 miles	6 hours
151 - 200 miles	10 hours
Over 200 miles	24 hours

Response times will be met for at least 90% of all customer service calls placed in a given calendar month.

C. Spare Parts Support. Spares will be provided as part of the Contract. An inventory of spare parts will be prepositioned at Satellite Vendor-designated local maintenance facilities that cover Equipment sites used by County.

Spares for the Equipment antenna subsystem, including reflectors, mounts, modems, and if applicable, certain video equipment will be centrally stocked at a designated location in the continental United States.

Satellite Vendor will replace malfunctioning Equipment components on a one-for-one exchange basis with a functionally equivalent spare part.

D. Remote maintenance does not include any of the following services, unless specifically requested by County, in which event the Demand Services rates will apply.

(1) Maintenance, repair, or replacement of parts damaged or lost through catastrophe, accident, lightning, theft, misuse, fault, or negligence of the County, or causes external to the Equipment, including, but not limited to, failure of, or faulty, electrical power or air conditioning, operator error, failure, or malfunction of data communication Equipment not provided to County by Satellite Vendor, or from any cause other than intended and ordinary use.

(2) Changes, modifications, or alterations in or to the Equipment by anyone other than Satellite Vendor other than Satellite Vendor-approved upgrades and configuration changes.

(3) Deinstallation, relocation, or removal of the Equipment or any accessories, attachments, or other devices.

APPENDIX D-2**HOSPITAL EMERGENCY ADMINISTRATIVE RADIO (HEAR) EQUIPMENT AND SERVICES**

1. To the extent there is any conflict between this Appendix D-2 and the Contract, including any other Appendix, this Appendix D-2 shall control.

2. If County has already been provided with the HEAR equipment from HASC as follows:

1. Kenwood VHF radio
2. Kenwood KPS-15 power supply
3. Zetron Model 250 tone panel
4. Zetron 950-0330 radio cable
5. Zetron HEAR decoder
6. Zetron 709-7179 cable
7. Comtelco antenna, mount and mast
8. LMR-400 coax and connectors (approximately 50 feet)
9. PolyPhaser lightning arrester
10. Zetron Model 280 desktop remote console
11. Uninterruptable power supply (UPS)

County is the owner of such HEAR equipment and shall be solely responsible for the replacement of any such equipment as may become necessary.

3. Contractor shall provide occasional maintenance services for the HEAR equipment as Contractor, in its sole discretion, deems appropriate. Fees, if any, shall be agreed to in advance by County of services to be performed.

4. County is responsible for licensing its HEAR frequency according to Federal Communications Commission regulations.