



**CONTRACT NO. MA-042-1201042115011466**

**FOR**

**REDDINET SOFTWARE LICENSE, MAINTENANCE AND  
HARDWARE SUPPORT SERVICES**

**BETWEEN**

**THE COUNTY OF ORANGE  
HEALTH CARE AGENCY**

**AND**

**HOSPITAL ASSOCIATION OF SOUTHERN CALIFORNIA**

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**CONTRACT NO. MA-042-12010421-15011466****REDDINET® SOFTWARE LICENSE, MAINTENANCE AND HARDWARE SUPPORT SERVICES**

This Contract Number MA-042-12010421-15011466 (hereinafter Contract) is made and entered into this 1<sup>st</sup> day of June, 2012 2015 or upon execution of all necessary signatures between the Hospital Association of Southern California ("HASC") with a place of business at 515 S. Figueroa Street, Suite 1300, Los Angeles, CA 90071-3300, and the County of Orange ("County"), a political subdivision of the State of California, with a place of business at 200 W. Santa Ana Blvd., Suite 650, Santa Ana, CA 92701, which are sometimes individually referred to as "party", or collectively referred to as "parties".

**RECITALS**

WHEREAS, HASC has established the ReddiNet® computerized emergency communications network (the "System"), to provide an emergency communications link with all participating customers; and

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

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

WHEREAS, County and HASC entered into an Agreement for ReddiNet Communication System Upgrade (Contract No. MA-042-10012841) dated May 27, 2010 (the "Satellite Hardware Agreement") under which HASC agreed to provide and install certain satellite and related equipment in order to enable a satellite communications upgrade of the System (the "Satellite Communication Services"); and

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

WHEREAS, the County of Orange Board of Supervisors has authorized the Purchasing Agent or designee to enter into Contract with HASC for obtaining said services; and

NOW, THEREFORE, in consideration of the foregoing premises and the covenants and promises described below, the parties agree as set forth below.

1. **Deliverables.** County and HASC hereby agree that, in accordance with and subject to the terms and conditions of this Contract, HASC will provide the following items and services that are checked in the Deliverables Ordered column (the "Deliverables") as more fully described in Appendices A-1 and A-2 hereto:

DELIVERABLES ORDERED	DELIVERABLES
	SOFTWARE MODULES
3	Bed Capacity
3	Status
3	Mass Casualty Incident
3	Messages
3	Assessment
1	Application Programming Interface with designated County emergency event management software

3	Alerts
3	Reports
	<b>HARDWARE SUPPORT SERVICES</b>
3	Computer, keyboard and mouse, UPS, printer, alerting hardware, audio speakers,
	<b>COMMUNICATION SERVICES</b>
3	Satellite dish, modems, router
3	Hospital Emergency Administrative Radio

## 2. Fees and Payment

2.1 **Invoices.** HASC will invoice County in Advance for any initial fees and annual fees hereunder, in accordance with Appendix A for Deliverables ordered by County, and in arrears on a monthly basis for non-standard services beyond those generally contemplated by the Contract in accordance with Appendix A-3, and County will pay HASC in accordance with the payment terms described herein. The payment for all services will be made to HASC within thirty (30) days of Auditor-Controller's receipt of a valid invoice in a format acceptable to the County.

2.2 **Taxes.** In addition to the fees described in Appendix A, County shall pay HASC upon receipt of any invoice for any taxes, duties, excises or any other similar government charges (except those based on HASC's net income), which HASC may be required to collect or pay upon the sale, use, licensing, or delivery of the Deliverables or any other matter related to this Contract.

2.3 **Billing.** Billing shall cover only those services and/or goods not previously invoiced. HASC shall reimburse the County for any monies paid to HASC for goods and/or services not provided or when goods and/or services do not meet the Contract requirements.

2.4 **Invoice Submittal.** Invoices are to be submitted to County of Orange Health Care Agency, Accounts Payable, P.O. Box 689, Santa Ana, CA 92702. Responsibility of providing an acceptable invoice rests with HASC. An acceptable invoice format shall minimally include:

- (a) Contract Number;
- (b) HASC's Federal I.D. Number and California Board of Equalization Permit Number;
- (c) Description of Services;
- (d) Date(s) of Performance of Services;
- (e) Amount of Payment Requested; and
- (f) Remittance Address

2.5 **Acceptance of Services.** Payments made by the County shall not preclude the right of the County to thereafter dispute any services involved or billed under this Contract and shall not construed as acceptance of any part of the goods or services.

### 3. Term and Termination

3.1 **Term.** The Contract shall be in effect from June 1, 2012 2015 through and including May 31, 2013 2017, non-renewable for periods of one year or more upon mutual concurrence.

3.2 **Termination by HASC.** In addition to the termination rights under the Contract, HASC may also immediately terminate the Contract with prior notice to County if any of the following occur:

3.2.1 County fails to comply with its obligations under Section 4 of Appendix B of this Contract; or

3.2.2 County fails to make payments under the Contract as modified hereby.

3.3 **Governmental or Vendor Actions.** In the event any governmental body having jurisdiction over any aspect of HASC's business, or any telecommunications carrier for HASC's Satellite Communication Services or the System, issues any opinion, rule, tariff, schedule, guidelines, order, or other directive of any nature which prevents HASC from providing part or all of HASC's Satellite Communication Services or the System or otherwise affects any aspect of HASC's business, HASC may, upon forty five (45) days' prior notice, terminate the Contract without any liability.

3.4 **Modification.** HASC may modify Satellite Communication Services, the System or County's use of the System on sixty (60) days' notice. However, County reserves the right to not accept the modifications and continue with the existing Satellite Communication Services and the System.

3.5 **County's Return of Deliverables.** Upon termination of the Contract, County shall return proprietary training and service manuals and any promotional or advertising materials relating to the Deliverables or System to HASC. County shall notify HASC of any HASC proprietary materials that County is not able to return to HASC, and upon HASC's request County shall destroy HASC proprietary materials that County does not return to HASC and certify such destruction in writing. Thereafter, County shall not be permitted to participate in the System unless County enters into a new written agreement under terms agreeable to HASC.

3.6 **HASC Agreement with Satellite Vendor.** Without limitation, HASC has entered into an equipment and service agreement regarding the provision of Satellite Communications Services with a satellite vendor, with such vendor being referred to herein as the "Satellite Vendor", and any agreement with the Satellite Vendor being referred to herein as the "Satellite Vendor Agreement".

3.7 **Prohibited Satellite Vendor Relationships.** County shall not, directly or indirectly, solicit and/or contract with Satellite Vendor to provide any or all of the equipment or services covered by the Contract during the term of the Contract, including any renewals thereof, and for one (1) year thereafter.

County acknowledges that (i) the restrictions contained in this Section 3.7 are necessary, fundamental, and required for the protection of HASC, (ii) these restrictions relate to matters which are of a special, unique and extraordinary character and which give these restrictions a special, unique value, and (iii) breach of these restrictions will result in irreparable harm and damages to HASC which cannot be adequately compensated by monetary award.

The parties hereto intend for the restrictions set forth in this Section 3.7 to be enforced to the fullest extent possible and, to the extent that the time period, scope, or any other aspect of such restrictions is determined by a court or other tribunal of competent jurisdiction to be illegal and/or unenforceable, such restrictions shall be deemed to be reformed in such a manner that the narrowest

change to the time period, scope, or any other aspect of such restrictions is made as shall be required in order to avoid such illegality and/or unenforceability.

**3.8 Acknowledgment of Understanding.** County and HASC agree that the Contract is subject to the terms and conditions of Appendices A through D, which are attached hereto and incorporated herein by this reference. County also agrees that the Contract is the complete and exclusive statement of the agreement between HASC and County and supersedes all proposals, representations or prior agreements, oral or written, and any other communications between HASC and County relating to the subject matter of the Contract, including without limitation prior agreements relating to the System. HASC may provide additional Deliverables or modify the Deliverables provided under this Contract, at then-current prices, where the parties mutually agree to such modification in a purchase order or other signed writing.

**3.9 Equipment Provided.** To the extent County obtains any equipment under the Satellite Hardware Agreement or this Contract, County shall be solely responsible to replace any such equipment as may be necessary, except to the extent expressly provided otherwise in this Contract.

**4. 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 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 trial to another county.

**5. 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 in writing.

**6. Patent/Copyright Materials/Proprietary Infringement.** Unless otherwise expressly provided in this Contract, HASC shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. HASC 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. HASC agrees that, in accordance with the more specific requirement contained in paragraph "32" 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, but not limited to, attorney's fees, costs and expenses.

**7. Assignment or Sub-Contracting.** 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 or sub-contracted by HASC without the express written consent of County. Any attempt by HASC to assign or sub-contract 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.

In the event that the HASC is authorized by the County to subcontract, this contract shall prevail and the terms of the subcontract shall incorporate by reference and not conflict with the terms of this Contract. In the manner in which the County expects to receive services, the County shall look to HASC for performance and not deal directly with any subcontractor. All matters related to this Contract shall be handled by the HASC with the County; the County will have no direct contact with the subcontractor in matters related to the performance of this Contract. All work must meet the approval of the County of Orange.

8. **Non-Discrimination.** In the performance of this Contract, HASC 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. HASC acknowledges that a violation of this provision shall subject HASC to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.

9. **Termination.** In addition to any other remedies or rights it may have by law, HASC and County have the right to terminate this Contract without penalty (1) immediately with cause, subject to the notice and cure provisions of Section 36.A or (2) after thirty (30) days' written notice without cause. Cause shall be defined as any breach of contract, any misrepresentation or fraud on the part of County or HASC. Exercise by HASC or County of its right to terminate the Contract shall relieve HASC or County of all further obligations, except as otherwise specified in this Contract, including Section 36.B.

10. **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.

11. **Remedies Not Exclusive.** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.

12. **Independent Contractor.** HASC shall be considered an independent contractor and neither HASC, its employees, nor anyone working under HASC shall be considered an agent or an employee of County. Neither HASC, its employees nor anyone working under HASC shall qualify for workers' compensation or other fringe benefits of any kind through County.

13. **Performance.** HASC shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. HASC shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods/services furnished by HASC under this Contract. HASC shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefor; 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; and, if permitted to subcontract, shall be fully responsible for all work performed by subcontractors.

14. **Insurance Provisions.** Prior to the provision of services under this Contract, HASC agrees to purchase all required insurance at HASC's expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subcontractors performing work on behalf of HASC pursuant to this Contract shall agree to obtain insurance subject to the same terms and conditions as set forth herein for HASC.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in an amount in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

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



**Qualified Insurer**

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A- (Secure Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the State of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the State of California and does not meet or exceed an A.M. Best rating of A-/VIII, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

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

<b><u>Coverage</u></b>	<b><u>Minimum Limits</u></b>
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
Professional 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 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
2. A primary non-contributing endorsement evidencing that HASC's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

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

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give the County of Orange thirty (30) days' notice in the event of cancellation and ten (10) days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

If HASC's Professional Liability policy is a "claims made" policy, HASC shall agree to maintain Professional Liability coverage for two (2) years following completion of Contract.

The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

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

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

County expressly retains the right to require HASC 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 HASC in writing of changes in the insurance requirements. If HASC 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 HASC, 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 HASC'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.

15. **Bills and Liens.** HASC shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. HASC shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, HASC shall promptly procure its release and, in accordance with the requirements of paragraph "32" below, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

16. **Changes.** HASC shall make no changes in the work or perform any additional work without the County's specific written approval.

17. **Change of Ownership.** HASC agrees that if there is a change or transfer in ownership of HASC's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume HASC's duties and obligations contained in this Contract and complete them to the satisfaction of County.

18. **Force Majeure.** HASC 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 HASC gives written notice of the cause of the delay to County within thirty-six (36) hours of the start of the delay and HASC avails itself of any available remedies.

19. **Confidentiality.** HASC and County agree to maintain the confidentiality of all HASC and County and HASC-related 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 HASC and County and HASC's and County's staff, agents and employees.

20. **Compliance with Laws.** HASC represents and warrants that services to be provided under this Contract shall fully comply, at HASC'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. HASC acknowledges that County is relying on HASC to ensure such compliance, and pursuant to the requirements of paragraph "32" below, HASC 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.

21. **Freight (F.O.B. Destination).** HASC assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

22. **Pricing.** The Contract price shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, in the Scope of Work attached to this Contract, and no additional compensation will be allowed therefor, unless otherwise provided for in this Contract.

23. **Waiver of Jury Trial.** Each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.

24. **Terms and Conditions.** HASC acknowledges that it has read and agrees to all terms and conditions included in this Contract.

25. **Headings.** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.

26. **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.

27. **Calendar Days.** Any reference to the word "day" or "days" herein shall mean calendar day or calendar days, respectively, unless otherwise expressly provided.

28. **Attorney Fees.** In any action or proceeding to enforce or interpret any provision of this Contract, or where any provision hereof is validly asserted as a defense, each party shall bear its own attorney's fees, costs and expenses.

29. **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 its 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 it has not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing it, 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.

30. **Authority.** The parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of its respective organization or entity, enforceable in accordance with its terms.

31. **Employee Eligibility Verification.** HASC 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. HASC 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. HASC shall retain all such documentation for all covered employees for the period prescribed by the law. HASC 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 HASC or the County or both in connection with any alleged violation of any federal or state statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

32. **Indemnification Provisions.**

32.1 Nothing in Section 32.2 is meant to modify the limitations on liability set forth elsewhere in this Contract, including the Appendices, including without limitation Appendix B, Section 5-8 Appendix C, Sections 3-4, and Appendix D-1, Section 1.

32.2 Subject to the limitations on liability elsewhere in this Contract, as described in Section 32.1, HASC agrees to indemnify, defend with counsel reasonably approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies for which County's Board of Supervisors acts as the governing Board, 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 provided by HASC pursuant to this Contract. However, HASC's total liability arising out of or in connection with this Contract shall be limited to direct damages and related defense costs in an amount not in excess of the total fees paid by County hereunder for the calendar year during which any such claim for damages may have arisen. If judgment is entered against HASC and County by a court of competent jurisdiction, HASC and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

33. **Pricing Structure.** HASC agrees that no price/fee increases shall be passed along to the County during the term of this Contract. HASC may discount said prices anytime during the term of the Contract.

34. **Subject to Fiscal Appropriations.** This Contract is subject to and contingent upon applicable budgetary appropriations being approved by the County of Orange Board of Supervisors for each fiscal year during the term of this Contract. If such appropriations are not approved, this Contract shall be terminated without penalty to the County.

35. **Contingency of Funds.** HASC acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the State of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.

36. **Termination.**

**A. Termination – Default:** If HASC is in default of any of its obligations under this Contract and has not commenced cure within ten (10) days after receipt of a written notice of default from County and cured such default within the time specified in the notice, which shall be at least thirty (30) days, the County shall immediately be entitled to either commence resolution in accordance with this paragraph or to terminate this Contract by giving written notice to take effect immediately. Default shall include failure to carry out any of the requirements of this Contract, including, but not limited to not providing enough properly skilled workers or proper materials, persistently disregarding laws and or ordinances, not proceeding with the work as agreed to herein, or otherwise substantially violating any provision of this

Contract. Upon termination of the Contract with HASC, the County may begin negotiations with a third-party contractor to provide goods and/or services as specified in this Contract.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

**B. Termination – Orderly.** After receipt of a termination notice from the County, HASC shall submit to the County a termination claim, if applicable. Such claim shall be submitted promptly, but in no event later than sixty (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 HASC. Upon termination County agrees to pay HASC for all services performed prior to termination which meet the requirements of the Contract, provided, however, that such compensation plus 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 execution of the Contract. In addition, each party will assist the other party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each party.

37. **County Project Manager.** The County shall appoint a Project Manager to act as liaison with HASC during the term of this Contract. The County's Project Manager shall coordinate the activities of the County staff assigned to work with HASC.

38. **Contractor's Project Manager.** HASC shall appoint a Project Manager to direct HASC's efforts in fulfilling HASC's obligations under this Contract. The 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.

HASC's Project Manager shall be assigned to this project for the duration of this 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 HASC's Project Manager or any other HASC's staff providing services to the County under this Contract. The County's Project Manager shall notify HASC in writing of such action. HASC shall accomplish the removal within three (3) 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 HASC's Project Manager. The County is not required to provide any additional information, reason or rationale in the event it elects to request the removal of HASC's Project Manager providing services to the County under this Contract.

39. **Breach of Contract.** The failure of HASC 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. Afford HASC written notice of the breach and ten (10) calendar days or such shorter time that may be specified in this Contract within which to commence the cure of the breach;
- b. Discontinue payment to HASC for and during the period in which HASC is in breach; and
- c. Offset against any monies billed by HASC but yet unpaid by the County those monies disallowed pursuant to the above.

40. **Conflict of Interest.** HASC 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 HASC; HASC's employees, agents, and relatives; sub-tier contractors; and third parties associated with accomplishing work and services hereunder. HASC's efforts shall include, but not be limited to establishing precautions to prevent its employees or agents from making, receiving, providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to appear to influence individuals to act contrary to the best interests of the County.

41. **Child Support Enforcement Requirements (Exhibit 1).** In order to comply with child support enforcement requirements of the County of Orange, within ten (10) days of notification of selection of award of Contract, but prior to official award of Contract, HASC hereby agrees to furnish County with the required data and certifications, Child Support Enforcement Certification Requirements. Child Support Enforcement Certification Requirements, shall include the following information:

- a. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address;
- b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of ten (10) percent or more in the contracting entity;
- c. A certification that the contractor has fully complied with all applicable federal and state reporting requirements regarding its employees; and
- d. A certification that the contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

Failure of HASC to timely submit the data and/or certifications required may result in Contract being awarded to another contractor. In the event a Contract has been issued, failure of HASC to comply with all federal, state, and local reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the Contract. Failure to cure such breach within sixty (60) calendar days of notice from the County shall constitute grounds for termination of the Contract.

42. **Disputes – Contract.** Without limiting the parties' right of termination hereunder, 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 HASC and the County's Project Manager, such matter shall be brought to the attention of the County Purchasing Agent by way of the following process:

- a. HASC shall submit to the County 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.
- b. HASC's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, HASC 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 HASC believes the County is liable.

Pending the final resolution of any dispute arising under, related to, or involving this Contract, HASC agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. HASC'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 Purchasing Agent. If the County fails to render a decision within ninety (90) days after receipt of HASC's demand, it shall be deemed a final decision adverse to HASC's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless HASC commences action in a court of competent jurisdiction to contest such decision within ninety (90) days following the date of the County's final decision or one (1) year following the accrual of the cause of action, whichever is later.

43. **Audits/Inspections.** HASC 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 HASC 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 HASC's records before final payment is made.

HASC agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. HASC agrees to allow interviews of any employees or others who might reasonably have information related to such records. Further, HASC 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 HASC cease to exist as a legal entity, HASC's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's Project Manager.

44. **Notices.** Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' 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 five (5) 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: Attention:  Address:  Telephone: Facsimile: E-mail:	Hospital Association of Southern California Catherine Winans, Contractor Project Manager 515 S. Figueroa Street, Suite 1300 Los Angeles, CA 90071-3300 213-538-0719 213-629-4272 cwinans@hasc.org
For County:	Name:  Attention: Address:  Telephone: Facsimile: E-mail:	County of Orange HCA/Purchasing Dept. Ana Figueroa, assigned buyer 200 W. Santa Ana Blvd., Suite #650 Santa Ana, CA 92701 (714) 834-2170 (714) 834-2657 <a href="mailto:afigueroa@ochca.com">afigueroa@ochca.com</a>
CC:	Name:  Attention: Address:  Telephone:	County of Orange HCA/Health Disaster Management Division Hospital Preparedness Programs Dorothy Hendrickson, County Project Manager 405 W. 5 <sup>th</sup> Street, Suite 310 Santa Ana, CA 92701-4637 714-834-2156

	Facsimile:	714-834-6166
	E-mail:	<a href="mailto:dhendrickson@ochca.com">dhendrickson@ochca.com</a>
CC:	Name:	County of Orange HCA/Health Disaster Management Division Hospital Preparedness Programs
	Attention:	Michael Steinkraus, County Project Manager
	Address:	405 W. 5 <sup>th</sup> Street, Suite 310 Santa Ana, CA 92701-4637
	Telephone:	714-834-3124
	Facsimile:	714-834-6166
	E-mail:	Msteinkraus@ochca.com

45. **News / Information Release.** HASC agrees that it will not issue any news releases or upload County logos or other information onto any website 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 from the County through the County's Project Manager. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by the County unless otherwise agreed to by both parties.

46. **Conflicts with Existing Law.** HASC and the County agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provisions shall promptly inform the other of the presumed non-applicability of such provision. Should the offending provision go to the heart of the Contract, the Contract shall be terminated in a manner commensurate with interests of both parties to the maximum extent reasonable.

47. **Validity.** The invalidity in whole or in part of any article or provision of this Contract shall not void or affect validity of any other article or provision of this Contract.

48. **Gratuities:** HASC warrants that no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by HASC or any agent or representative of HASC 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 HASC agreed to supply shall be borne and paid for by HASC. 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.

49. **Parking.** The County shall not provide free parking.

50. **Contractor Work Hours and Safety Standards.** HASC shall ensure compliance with all safety and hourly requirements for employees in accordance with federal, state and County safety regulations and laws.

51. **California Public Records Act.** HASC 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.*

52. **Debarment.** HASC shall certify that neither HASC nor its principles are presently debarred, proposed for debarment, declared ineligible or voluntarily excluded from participation in the transaction by any federal department or agency. Where HASC as the recipient of federal funds, is unable to certify to any of the statements in the certification, HASC must include an explanation with their bid/proposal. Debarment, pending debarment, declared ineligibility or voluntary exclusion from



participation by any federal department or agency may result in the bid/proposal being deemed non-responsible.

53. **Lobbying.** On best information and belief, HASC certifies no federal appropriated funds have been paid or will be paid by, or on behalf of, HASC to any person for 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 agreement.

54. **Contractor Personnel-Drug Free Workplace.** HASC hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. HASC 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).
2. Establish a drug-free awareness program as required by Government Code Section 8355(b) 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(c) 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 HASC may be ineligible for award of any future County contracts if the County determines that any of the following has occurred:

1. HASC has made false certification, or
  2. HASC violates the certification by failing to carry out the requirements as noted above.
- (Signature Page Follows)

**CONTRACT NO. MA-042-12010421-15011466****SIGNATURE PAGE**

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates shown opposite their respective signatures below.

**\*Contractor's name: Hospital Association of Southern California**

James D. Barber President and Chief Executive Officer

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature Date

\* If the Contractor is a corporation, signatures of two specific corporate officers are required as further set forth. The first corporate officer signature must be one of the following: 1) the Chairman of the Board; 2) the President; or 3) any Vice President.

The second corporate officer signature must be one of the following: 1) Secretary; 2) Assistant Secretary; 3) Chief Financial Officer; or 4) any Assistant Treasurer.

In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signature to bind the company.

\*\*\*\*\*

**County of Orange, a political subdivision of the State of California**

Leila Garcia Administrative Manager I

\_\_\_\_\_  
Print Name Title

\_\_\_\_\_  
Signature Date

\*\*\*\*\*

**APPROVED AS TO FORM**

Office of the County Counsel  
County of Orange, California

\_\_\_\_\_  
County Counsel Deputy Date

**APPENDIX A – PAYMENT TERMS****Appendix A-1 – Software Fees***ReddiNet® Pricing Schedules-Software*

<b>DELIVERABLES</b>	<b>ANNUAL FEE PER LOCATION (1<sup>ST</sup> YEAR)</b>	<b>ANNUAL FEE PER LOCATION (2<sup>ND</sup> YEAR)</b>	<b>ANNUAL FEE PER LOCATION (3<sup>RD</sup> YEAR)</b>
Status Module - ED capacity updates and availability of emergency resources to support patient care and transport. (3 locations)	\$530	\$530	\$560
Mass Casualty Incident Module - Manage MCIs. Notify responders; assess ED capacity; dispatch, re-route and arrive ambulances; locate transported and walk-in patients. (3 locations)	\$530	\$530	\$560
Messages Module - Send and receive written communication directly with every participant in your network and within your self-selected out of network providers. Set message templates. (3 locations)	\$530	\$530	\$560
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. (3 locations)	\$530	\$530	\$560
Bed Capacity Module - Record and view current and projected bed availability for hospitals and long term care facilities including HAvBED data and patient census. (3 locations)	\$530	\$530	\$560
<b>Application Programming Interface - Link ReddiNet database tables for data exchange.(one location only)</b>	<b>\$950 Plus one time set up fee of \$1500</b>	<b>\$950</b>	<b>950</b>
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 module(s).	Included	Included	Included
<b>TOTAL</b>	<b>\$10,400</b>	<b>\$8,900</b>	<b>\$9,350</b>

**Appendix A-1 – Software Fees Year 4 (6-1-15 to 5-31-16) and Year 5 (6-1-16 to 5-31-17)***ReddiNet® Pricing Schedules-Software*

<b>DELIVERABLES</b>	<b>ANNUAL FEE PER LOCATION (4<sup>TH</sup> YEAR)</b>	<b>ANNUAL FEE PER LOCATION (5<sup>TH</sup> YEAR)</b>
Status Module - ED capacity updates and availability of emergency resources to support patient care and transport. (3 locations)	\$580	\$600
Mass Casualty Incident Module - Manage MCIs. Notify responders; assess ED capacity; dispatch, re-route and arrive ambulances; locate transported and walk-in patients. (3 locations)	\$580	\$600
Messages Module - Send and receive written communication directly with every participant in your network and within your self-selected out of network providers. Set message templates. (3 locations)	\$580	\$600
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. (3 locations)	\$580	\$600
Bed Capacity Module - Record and view current and projected bed availability for hospitals and long term care facilities including HAvBED data and patient census. (3 locations)	\$580	\$600
<b>Application Programming Interface - Link ReddiNet database tables for data exchange.(one location only)</b>	<b>\$950</b>	<b>\$950</b>
Alerts - Via remote devices, receive self-selected alerts including messages, ED status changes, MCI notifications, and disaster warnings.	Included	Included
Reports - Produce point in time and historical reports from your subscribed module(s).	Included	Included
<b>TOTAL SOFTWARE</b>	<b>\$9,650</b>	<b>\$9,950</b>

**NOTE:** 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 plus travel expenses.

### Appendix A-2 – Hardware Maintenance and Annual Fees

#### **ReddiNet® Pricing Schedule-Hardware**

PACKAGES	FEATURES	ANNUAL FEES PER LOCATION (1 <sup>ST</sup> & 2 <sup>ND</sup> YEAR)	ANNUAL FEE PER LOCATION (3 <sup>RD</sup> YEAR)
<b>[3] ReddiNet Dedicated Units and Satellite Equipment*</b>	Hardware Maintenance	\$7,350	\$7572
	Preventive Maintenance		
	Equipment Replacement		
	Alerting Hardware-one light included		
	Technical Support		
	Training		
<b>Visual Alert Hardware</b> - for additional lights for dedicated units (optional)	Technical Support	\$250 plus tax and shipping	None
<b>Audio Alert Hardware</b> - extra audible alert supplementing speakers on PC (optional)	Technical Support	\$800	None
<b>TOTAL</b>		\$22,050	\$22,716

### Appendix A-2 – Hardware Maintenance and Annual Fees

#### **ReddiNet® Pricing Schedule-Hardware**

PACKAGES	FEATURES	ANNUAL FEES PER LOCATION (4 <sup>TH</sup> YEAR)	ANNUAL FEE PER LOCATION (5 <sup>TH</sup> YEAR)
<b>[3] ReddiNet Dedicated Units and Satellite Equipment*</b>	Hardware Maintenance	\$7,846	\$8,133
	Preventive Maintenance		
	Equipment Replacement		
	Alerting Hardware- one light included		

	Technical Support		
	Training		
<b>Visual Alert Hardware</b> - for additional lights for dedicated units (optional)	Technical Support	None	None
<b>Audio Alert Hardware</b> - extra audible alert supplementing speakers on PC (optional)	Technical Support	None	None
<b>TOTAL HARDWARE</b>		\$23,538	\$24,399

### **Appendix A-3 – Fees for Non-Standard Out of Scope Services**

(1) **Demand Services 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. Material will be charged at cost plus 20%. The following pricing applies to Time & 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.

	HOURLY RATE	TRAVEL ZONE CHARGE
Normal Hours (8:00 a.m. to 5:00 p.m., Local Time, Monday-Friday)	\$125.00	0-25 Miles \$77
After Hours Weekday (5:00 p.m. to 8:00 a.m., Monday-Thursday)	\$150.00	26-50 Miles \$143
Weekend (5:00 p.m. to 8:00 a.m., Monday)	\$150.00	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%
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

**APPENDIX B – SOFTWARE****1. SOFTWARE LICENSE.**

1.1 **Grant of License.** HASC 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 HASC. 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 HASC 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 HASC 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 HASC. County will take all steps necessary to protect HASC’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 HASC materials or data any notices or identification which indicate ownership of HASC.

1.5 **Documentation.** HASC will provide to County one (1) ReddiNet training CD, one (1) Train-the-Trainer Manual, one (1) Quick Reference Guide, and one (1) Documentation Manual (collectively, the “Documentation”).

**2. SOFTWARE SUPPORT SERVICES.**

2.1 HASC 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 HASC to County (the “Software Specifications”). HASC 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 HASC will provide enhancements and modifications to the Software that are made generally available at no additional charge to HASC’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 HASC deems required, in its reasonable technical and business judgment, to continue the basic functionality of the Software. HASC 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 HASC within ten (10) days after the receipt of HASC'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 HASC's other customers at no additional charge) are not provided hereunder, but will be made available at HASC'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 HASC 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 HASC 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 HASC;
- (b) problems related to hardware or software not provided by HASC;
- (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-HASC software or equipment unless such software or equipment was authorized by HASC; or
- (f) problems occurring in an operating environment outside of the environment recommended by HASC in Appendix C-1.

2.6 HASC 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 HASC 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 HASC by telephone for the Emergency Software Support Services at any time and HASC will make commercially reasonable efforts to respond within two (2) hours after receiving a telephone request from County.

(c) HASC 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 HASC;

(iv) failure by County to apply enhancements and modifications to the Software provided at no additional cost to County, as requested by HASC;

(v) County makes any addition of hardware or software for which County has not received prior written approval from HASC; 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 HASC may, as it deems required in its reasonable technical and business judgment, modify or enhance the Software.

2.8 HASC and County agree to the following:

(a) County shall designate one person and one alternate to serve as HASC's support contact (the "ReddiNet® Coordinator") and County's management representative, to perform certain obligations of County under the Contract, and to facilitate HASC'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 HASC;

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

(c) County shall provide HASC 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 HASC, will relieve HASC of any and all obligations to provide the Software Support Services; and

2.9 If HASC 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 HASC'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 HASC after a period of non-coverage under the Contract, County will pay HASC a reinstatement fee designated by HASC to update the Software to the then-current version. County will be responsible for any additional hardware or third-party software which HASC deems required to utilize the then-current version of the Software.

### 3. DATA AND DATA TRANSMISSION

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

**3.2 Data Sharing and Ownership.** County and HASC may share data for the purposes of this Contract. Data that County produces and sends to HASC or another party pursuant to the Contract shall remain the exclusive property of County ("County Data"). Data produced or modified by HASC, including the format and arrangement of such data, shall remain the exclusive property of HASC. 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 HASC can use, reproduce, modify and distribute County Data to HASC'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 HASC 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. HASC 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 HASC 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). HASC shall not be liable to County or any other person or entity for any interruption in the System not caused by HASC'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 HASC's failure to perform its obligations under the Contract (collectively, "Transmittal Error(s)"), County's sole and exclusive remedy shall be that HASC will: (1) use commercially reasonable efforts to retransmit the data; or (2) if HASC is unable to retransmit the data, in HASC's judgment, HASC will give County a pro rata refund of the fees paid by County to HASC 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 HASC does not terminate the Contract, then HASC'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 HASC or HASC'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 HASC 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 HASC 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. HASC 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.** HASC shall comply with the provisions of Appendix B-1 in connection with any Protected Health Information (as there defined) that HASC creates or receives on behalf of County under circumstances that constitute HASC 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**

HASC 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. HASC's entire liability and County's exclusive remedy for breach of this warranty shall be for HASC, at its option, either to: (a) return the fees paid for the Software; or (b) replace Software that does meet limited warranty described herein and which is returned to HASC 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**

HASC 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. HASC EXPRESSLY DISCLAIMS THE WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT FOR THE DELIVERABLES. HASC 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. HASC 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 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. HASC 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** HASC'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 COUNTY'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 FOR THE DELIVERABLES WHICH CAUSE SUCH LIABILITY. 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 SOFTWARE, HARDWARE OR COMMUNICATIONS SERVICES COMPONENT, AND/OR DAMAGE TO BUSINESS REPUTATION.

## **8. DEFENSE OF CLAIMS**

HASC 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 HASC in writing of any such action. HASC 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 HASC; (3) County's use of the System or Software in combination with any product or information not developed or authorized by HASC; (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 HASC's opinion is likely to be, held to be infringing, HASC 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 HASC's entire liability with respect to intellectual property claims and actions.

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

**REVISED APPENDIX B-1 - HIPAA Requirements Business Associate Contract****A. GENERAL PROVISIONS AND RECITALS**

1. ~~The parties agree that the terms used, but not otherwise defined below, shall have the same meaning as those terms in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as it may exist now or be hereafter amended.~~
2. ~~It is agreed by both parties that HASC is a Business Associate of County for the purposes of this Contract.~~
3. ~~It is understood by both parties that the HIPAA Security and Privacy Rules apply to HASC in the same manner as they apply to the covered entity (County). HASC shall therefore at all times be in compliance with the applicable provisions of both the Privacy and the Security Rules as are described in Sections B.4 and B.5. below, and is responsible for complying with the issued regulations for said rules, as they currently exist or are hereafter amended, for purposes of safeguarding any Protected Health Information (PHI) used or generated by HASC consistent with the terms of this Contract.~~
4. ~~It is understood by both parties that the Privacy Rule does not pre-empt any state statutes, rules or regulations that impose more stringent requirements with respect to confidentiality of PHI.~~
5. ~~County wishes to disclose certain information to HASC pursuant to the terms of this Contract, some of which may constitute PHI as defined in Section B.6. below.~~
6. ~~County and HASC intend to protect the privacy and provide for the security of PHI disclosed to HASC pursuant to this Contract, in compliance with HIPAA and the regulations promulgated thereunder by the U.S. Department of Health and Human Services as they may now exist or be hereafter amended.~~

**B. DEFINITIONS**

1. ~~"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. For purposes of this definition, compromises the security or privacy of the PHI means, poses a significant risk of financial, reputational, or other harm to the Individual.~~
  - ~~b. A use or disclosure of PHI that does not include the identifiers listed at §164.514 (e) (2), date of birth, and zip code does not compromise the security or privacy of PHI.~~
  - ~~c. Breach excludes:~~
    - ~~1) Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of a covered entity or a Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.~~
    - ~~2) Any inadvertent disclosure by a person who is authorized to access PHI at a covered entity or Business Associate to another person authorized to access PHI at the same covered entity or Business Associate, or organized health care arrangement in which the covered entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule.~~
    - ~~3) A disclosure of PHI where a covered entity or business associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.~~
2. ~~"Designated Record Set" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.501.~~
3. ~~"Individual" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).~~
4. ~~"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.~~
5. ~~"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."~~
6. ~~"Protected Health Information" or "PHI" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 160.103, as applied to the information created or received by Business Associate from or on behalf of Covered Entity.~~
7. ~~"Required by Law" shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 CFR Section 164.103.~~

8. ~~"Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.~~
9. ~~"Unsecured Protected Health Information" means Protected Health Information 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.~~

~~C. OBLIGATIONS AND ACTIVITIES OF HASC AS BUSINESS ASSOCIATE:~~

1. ~~HASC agrees not to use or disclose PHI other than as permitted or required by this Contract or as required by law.~~
2. ~~HASC agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Contract.~~
3. ~~HASC agrees to mitigate, to the extent practicable, any harmful effect that is known to HASC of a use or disclosure of PHI by HASC in violation of the requirements of this Contract.~~
4. ~~HASC agrees to report to County within five (5) business days any use or disclosure of PHI not provided for by this Contract of which HASC becomes aware.~~
5. ~~HASC agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from County, or created or received by HASC on behalf of County, agrees to the same restrictions and conditions that apply through this Contract to HASC with respect to such information.~~
6. ~~HASC 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 Section 164.524.~~
7. ~~HASC agrees to make any amendment(s) to PHI in a Designated Record Set that County directs or agrees to pursuant to 45 CFR Section 164.526 at the request of County or an Individual, within thirty (30) calendar days of receipt of said request by County. HASC agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed.~~
8. ~~HASC agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by HASC 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 Privacy Rule.~~
9. ~~HASC agrees to document any disclosures of PHI 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 Section 164.528.~~
10. ~~HASC 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 this Contract, 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 Section 164.528.~~
11. ~~HASC shall work with County upon notification by HASC to County of a Breach to properly determine if any Breach exclusions exist as defined in Section B.1.c. above.~~

~~D. SECURITY RULE~~

1. ~~Security. HASC shall establish and maintain appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI. HASC shall follow generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of PHI.~~
2. ~~Agents and Subcontractors. HASC shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI, agrees to implement reasonable and appropriate safeguards to protect the PHI.~~
3. ~~Security Incidents. HASC shall report any "security incident" of which it becomes aware to County. For purposes of this Contract, a security incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations. This 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 HASC.~~

~~E. BREACH DISCOVERY AND NOTIFICATION~~

- ~~1. Following the discovery of a Breach of Unsecured Protected Health Information, HASC shall notify County of such Breach, however both parties agree to a delay in the notification if so advised by a law enforcement official, pursuant to 45 CFR 164.412.~~
- ~~2. A Breach shall be treated as discovered by HASC as of the first day on which the Breach is known to HASC, or by exercising reasonable diligence, would have been known to HASC.~~
- ~~3. HASC 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 HASC, as determined by federal common law of agency.~~
- ~~4. HASC shall provide the notification of the Breach without unreasonable delay, and in no case later than five (5) business days after a Breach.~~
- ~~5. HASC's notification may be oral, but shall be followed by written notification within 24 hours of the oral notification. Thereafter, HASC shall provide written notification containing the contents stated below, within five (5) business days. HASC shall be required to provide any other information relevant to the Breach in writing, as soon as discovered, or as soon as the information is available.~~
- ~~6. HASC's notification shall include, to the extent possible:~~
  - ~~a. The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by HASC 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 it must provide pursuant to 45 CFR §164.404 (c), at the time HASC 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 Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);~~
    - ~~3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;~~
    - ~~4) A brief description of what HASC 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.~~
- ~~7. County may require HASC 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.~~
- ~~8. In the event that HASC is responsible for, or suffers a Breach of Unsecured Protected Health Information, in violation of the Privacy Rule, HASC shall have the burden of demonstrating that HASC made all notifications to County as required by the Breach Notification regulations, or in the alternative, that the use or disclosure did not constitute a Breach as defined in 45 CFR § 164.402.~~
- ~~9. HASC shall maintain documentation of all required notifications required pursuant to this Contract in the event of an impermissible use or disclosure of Unsecured Protected Health Information, or its risk assessment of the application of an exception to demonstrate that the notification was not required.~~
- ~~10. HASC shall provide to County all specific and pertinent information about the Breach to permit County to meet its notification obligations under the HITECH Act, as soon as practicable, but in no event later than fifteen (15) calendar days after reporting the initial Breach to the County.~~
- ~~11. HASC shall continue to provide all additional pertinent information about the Breach to County as it may become available, in reporting increments of fifteen (15) calendar days after the last report to County. HASC 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.~~
- ~~12. HASC 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 HASC~~



- ~~1. Except as otherwise limited in this Contract, HASC may use or disclose PHI to perform functions, activities, or services for, or on behalf of, County as specified in this Contract, provided that such use or disclosure would not violate the Privacy Rule if done by County or the minimum necessary policies and procedures of County.~~
- ~~2. HASC is permitted to use PHI as necessary for the proper management and administration of HASC or to carry out legal responsibilities of HASC. (ref. 45 C.F.R. 164.504(e)(4)(i)(A-B)).~~
- ~~3. HASC is permitted to disclose PHI received from County for the proper management and administration of HASC or to carry out legal responsibilities of HASC, provided:~~
  - ~~a. The disclosure is required by law; or~~
  - ~~b. HASC 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, the person will use appropriate safeguards to prevent unauthorized use or disclosure of the PHI, and the person immediately notifies HASC of any instance of which it is aware in which the confidentiality of the Information has been Breached. (ref. 45 C.F.R. 164.504(e)(4)(ii)).~~
- ~~4. HASC is also permitted to use or disclose PHI to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, relating to the health care operations of County.~~

#### ~~G. OBLIGATIONS OF COUNTY~~

- ~~1. County shall notify HASC of any limitation(s) in County's notice of privacy practices in accordance with 45 CFR Section 164.520, to the extent that such limitation may affect HASC's use or disclosure of PHI.~~
- ~~2. County shall notify HASC of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect HASC's use or disclosure of PHI.~~
- ~~3. County shall notify HASC of any restriction to the use or disclosure of PHI that County has agreed to in accordance with 45 CFR Section 164.522, to the extent that such restriction may affect HASC's use or disclosure of PHI.~~
- ~~4. County shall not request HASC to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by County.~~

#### ~~H. BUSINESS ASSOCIATE TERMINATION~~

- ~~1. Notwithstanding the Termination provisions set forth in this Contract, the Contract shall only terminate when all of the PHI provided by County to HASC, or created or received by HASC on behalf of County, is destroyed or returned to County, or if infeasible to return or destroy PHI, protections are extended to such information, in accordance with the Termination provisions of this Section.~~
- ~~2. In addition to the rights and remedies provided in the Termination paragraph of this Contract, upon County's knowledge of a material breach by HASC of the requirements of this paragraph, County shall either:~~
  - ~~a. Provide an opportunity for HASC to cure the material breach or end the violation and terminate this Contract if HASC does not cure the material breach or end the violation within thirty (30) business days; or~~
  - ~~b. Immediately terminate this Contract if HASC has breached a material term of this Contract and cure is not possible; or~~
  - ~~c. If neither termination nor cure is feasible, County shall report the violation to the Secretary of the Department of Health and Human Services.~~
- ~~3. Upon termination of this Contract, all PHI provided by County to HASC, or created or received by HASC on behalf of County, shall either be destroyed or returned to County as provided in the Termination paragraph of this Contract, and in conformity with the Privacy Rule.~~
  - ~~a. This provision shall apply to PHI that is in the possession of subcontractors or agents of HASC.~~
  - ~~b. HASC shall retain no copies of the PHI.~~
  - ~~c. In the event that HASC determines that returning or destroying the PHI is infeasible, HASC 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, HASC shall extend the protections of this Contract to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as HASC maintains such PHI.~~

#### 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 HASC and County arises to the extent that HASC performs, or delegates to subcontractors to perform, functions or activities on behalf of County pursuant to, and as set forth in, the Contract MA-042-13011673 that are described in the definition of "Business Associate" in 45 CFR § 160.103.

3. The County wishes to disclose to HASC certain information pursuant to the terms of the Contract MA-042-13011673, 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 MA-042-13011673.

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 MA-042-13011673 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 HASC in the same manner as they apply to a covered entity (County). HASC 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 MA-042-13011673.

#### 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 HASC'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 HASC 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 HASC to another person authorized to access PHI at HASC, 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 HASC 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 HASC 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 HASC’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 HASC.

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

2. HASC agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Contract MA-042-13011673, to prevent use or disclosure of PHI County discloses to HASC or HASC creates, receives, maintains, or transmits on behalf of County other than as provided for by this Business Associate Contract.

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

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

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

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

7. HASC 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. [REDACTED]

8. HASC 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. HASC agrees to notify County in writing no later than ten (10) calendar days after said amendment is completed. [REDACTED]

9. HASC 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 HASC 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. [REDACTED]

10. HASC agrees to document any Disclosures of PHI County discloses to HASC or HASC 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. [REDACTED]

11. HASC 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 MA-042-13011673, 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. [REDACTED]

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

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

#### D. SECURITY RULE

1. HASC 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 HASC or HASC creates, receives, maintains, or transmits on behalf of County. HASC shall follow generally accepted system security principles and the requirements of the HIPAA Security Rule pertaining to the security of electronic PHI.

2. HASC shall ensure that any subcontractors that create, receive, maintain, or transmit electronic PHI on behalf of HASC agree through a contract with HASC to the same restrictions and requirements contained in this Paragraph D of this Business Associate Contract.

3. HASC shall report to County immediately any Security Incident of which it becomes aware. HASC 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, HASC shall notify County of such Breach, 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 HASC as of the first day on which such Breach is known to HASC or, by exercising reasonable diligence, would have been known to HASC.

b. HASC 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 HASC, as determined by federal common law of agency.

2. HASC shall provide the notification of the Breach immediately to the County Privacy Officer at

Thea Bullock, County Privacy Officer  
405 W. 5<sup>th</sup> Street  
Santa Ana, CA 92701  
(714) 834-3154  
[tbullock@ochca.com](mailto:tbullock@ochca.com)  
[privacyofficer@ocgov.com](mailto:privacyofficer@ocgov.com)

Or Linda Le, Deputy County Privacy Officer  
405 W. 5<sup>th</sup> Street  
Santa Ana, CA 92701  
(714) 834-4082  
[lile@ochca.com](mailto:lile@ochca.com)  
[HIPAA@ochca.com](mailto:HIPAA@ochca.com)

a. HASC's notification may be oral, but shall be followed by written notification within 24 hours of the oral notification.

3. HASC's notification shall include, to the extent possible:

a. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by HASC 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 HASC 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 HASC 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 HASC 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 HASC is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, HASC shall have the burden of demonstrating that HASC 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. HASC 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. HASC 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 HASC's initial report of the Breach to County pursuant to Subparagraph E.2 above.

8. HASC 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. HASC 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. HASC 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. HASC may use or further disclose PHI County discloses to HASC as necessary to perform functions, activities, or services for, or on behalf of, County as specified in the Contract MA-042-13011673, 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. HASC may use PHI County discloses to HASC, if necessary, for the proper management and administration of HASC.

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

i. The Disclosure is required by law; or

ii. HASC 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 HASC of any instance of which it is aware in which the confidentiality of the information has been breached.

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

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

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

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

#### G. OBLIGATIONS OF COUNTY

1. County shall notify HASC 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 HASC's Use or Disclosure of PHI.

2. County shall notify HASC 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 HASC's Use or Disclosure of PHI.

3. County shall notify HASC 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 HASC's Use or Disclosure of PHI.

4. County shall not request HASC 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 HASC of the requirements of this Business Associate Contract, County shall:

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

b. Immediately terminate the Contract MA-042-13011673, if HASC is unwilling or unable to cure the material breach or end the violation within (30) days, provided termination of the Contract MA-042-13011673 is feasible.

2. Upon termination of the Contract MA-042-13011673, HASC shall either destroy or return to County all PHI HASC received from County or HASC 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 HASC.

b. HASC shall retain no copies of the PHI.

c. In the event that HASC determines that returning or destroying the PHI is not feasible, HASC 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, HASC 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 HASC maintains such PHI.

3. The obligations of this Business Associate Contract shall survive the termination of the Contract MA-042-13011673.

## **APPENDIX C - HARDWARE SUPPORT SERVICES**

### **1. HARDWARE**

#### **1.1 Purchase of Hardware**

County has purchased the computer and other hardware identified in Appendix C-1 or substantially similar hardware with the same functionality which is chosen by HASC 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 is vested in the County.

#### **1.3 Configuration, Installation, Acceptance of Purchased Hardware**

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

(b) HASC shall install all Hardware purchased by County from HASC 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 HASC.

(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 HASC that the Hardware does not operate substantially in accordance with the Hardware Specifications, HASC will make commercially reasonable efforts to repair or replace, at HASC'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 HASC, HASC will turn over operation of the Hardware to County and the Hardware shall be deemed accepted by County.

### **2. HARDWARE SUPPORT SERVICES**

2.1 HASC 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 HASC to County (the "Hardware Specifications"). HASC 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. HASC 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 HASC deems required, in its reasonable technical and business judgment, to continue the basic functionality of the Hardware. HASC 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 HASC within ten (10) days after the receipt of HASC'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 HASC 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 HASC 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 HASC;
- (b) problems related to hardware or software not provided by HASC;
- (c) County's failure to use Hardware Error corrections provided by HASC;
- (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-HASC software or hardware unless such software or hardware was installed and integrated by HASC; and
- (f) problems occurring in an operating environment outside of the environment recommended by HASC.

2.6 HASC 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 HASC 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 HASC by telephone for the Emergency Hardware Support Services at any time and HASC will make commercially reasonable efforts to respond within two (2) hours after receiving a telephone request from County.

(c) HASC 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 HASC 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 HASC; 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 HASC may, as it deems required in its reasonable technical and business judgment, modify, enhance or replace the Hardware.

2.8 HASC 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 HASC and its subcontractors in connection with the Hardware Support Services, unless otherwise approved in advance and in writing by HASC; and

(b) County shall provide HASC 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 HASC, will relieve HASC of any and all obligations to provide the Hardware Support Services.

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

### 3. HASC'S WARRANTY DISCLAIMERS

HASC GRANTS TO COUNTY NO WARRANTIES, EITHER EXPRESS OR IMPLIED FOR THE HARDWARE OR HARDWARE SUPPORT SERVICES. HASC 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 HASC'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. HASC Supported Hardware and Software**

- a. Standard Desktop Personal Computer
- b. Keyboard and Mouse
- c. 17" Flat Panel Monitor
- d. Inkjet Printer (where applicable)
- e. Two Uninterruptible Power Supplies (UPS)
- f. Alerting Hardware (where applicable)
- g. Audio Speakers
- h. Windows® Operating System
- i. Remote Desktop Software
- j. Virus Protection
- k. Web Brower with Adobe Flash Player version 8.0.0.0 or greater
- l. Satellite dish, modems, and router

**II. ReddiNet® Software Minimum PC Requirements**

- a. Standard Desktop or Laptop Personal Computer
- b. Web Browser with Adobe Flash Player version 8.0.0.0 or greater
- c. 512 megabytes of system RAM or greater

**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 HASC agrees to provide the Satellite Communications Services and related equipment that County ordered in Section 1 of this Contract (the “Satellite Communications Services”). NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, COUNTY AGREES THAT THE EQUIPMENT COUNTY PURCHASED 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 HASC has provided certain equipment regarding HEAR, as described in Appendix D-2 hereto.

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

### **2. SATELLITE COMMUNICATIONS SERVICES PROBLEMS**

2.1 HASC 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). HASC 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, HASC’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. HASC’S DISCLAIMER OF WARRANTIES**

HASC GRANTS TO COUNTY NO WARRANTIES, EITHER EXPRESS OR IMPLIED FOR THE SATELLITE COMMUNICATIONS SERVICES. HASC 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) HASC 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) HASC'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. HASC as Intermediary**

Notwithstanding anything in the Contract to the contrary, the parties understand and agree that HASC 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 HASC 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 HASC, and County and HASC 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 HASC's prior approval, and shall promptly provide HASC 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, HASC has coordinated the sale by Satellite Vendor to County of the equipment (collectively, the "Equipment") for County's three locations.

From time to time, County may request HASC 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 HASC for any Demand Services provided by Satellite Vendor at the time and material charge rates set forth in Appendix A-2 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 HASC 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. HASC 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 HASC 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 HASC, and HASC 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. HASC 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, HASC 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 HASC 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. HASC 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, HASC 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.**

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

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

HASC 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. HASC 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 OFFICE	FROM	SERVICE	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. HASC shall provide occasional maintenance services for the HEAR equipment as HASC, in its sole discretion, deems appropriate, for no additional charges under this Contract.

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

**EXHIBIT 1**  
**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATION**  
**REQUIREMENTS**

In order to enhance the child support collection efforts of the County of Orange Family Support Enforcement, all Contractors are required to provide the following information as listed on the attached form:

- If the Contractor is an individual contractor: Name, date of birth, social security number, and residence address.
- If Contractor is doing business in a form other than as an individual: Name, date of birth, social security number, and residence address of *each* individual who owns an interest of ten (10) percent or more in the contracting entity.

In addition, all Contractors must provide:

- A certification that the Contractor has fully complied with all applicable federal and state reporting requirements regarding its employees, and
- A certification that the Contractor has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment and will continue to so comply.

In order to comply with child support enforcement requirements of the County of Orange, within thirty (30) days of award of Contract, the Contractor agrees to furnish the required contractor data and certifications to the Deputy Purchasing Agent.

Failure of the Contractor to timely submit the data and/or certifications required above or to comply with all federal and state reporting requirements for child support enforcement or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of the contract. Failure to cure such breach within sixty (60) calendar days of notice from the County shall constitute grounds for termination of the Contract.

**EXHIBIT 1 (cont.)**  
**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT**  
**CERTIFICATION REQUIREMENTS**

- A. In the case of an individual contractor, his/her name, date of birth, social security number, and residence address:

Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

Residence Address: \_\_\_\_\_

- B. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, social security number, and residence address of each individual who owns an interest of 10 percent or more in the contracting entity:

Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

Residence Address: \_\_\_\_\_

Name: \_\_\_\_\_

DOB: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

Residence Address: \_\_\_\_\_

(Additional sheets may be used if necessary)

**EXHIBIT 1 (cont.)**  
**COUNTY OF ORANGE CHILD SUPPORT ENFORCEMENT CERTIFICATION**  
**REQUIREMENTS**

*"I certify that Hospital Association of Southern California is in full compliance with all applicable federal and state reporting requirements regarding its employees and with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignments and will continue to be in compliance throughout the term of Contract MA-042-12010421 with the County of Orange. I understand that failure to comply shall constitute a material breach of the Contract and that failure to cure such breach within sixty (60) calendar days of notice from County shall constitute grounds for termination of the Contract."*

---

*Signature\**


---

*Name (Please Print)*


---

*Title*


---

*Date*


---

*Company Name*


---

*Contract Number*


---

*Signature\**


---

*Name (Please Print)*


---

*Title*


---

*Date*


---

*Company Name*


---

*Contract Number*

**\*Two signatures required if a corporation.**