

***INFORMATION TECHNOLOGY AGREEMENT***

***BETWEEN***

***CITY AND COUNTY OF SAN FRANCISCO***

***AND***

***SIEMENS MEDICAL SOLUTIONS USA, INC.***

*Effective July 1, 2010*

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## INFORMATION TECHNOLOGY AGREEMENT

This Information Technology Agreement (this "Agreement"), between the City and County of San Francisco, a municipal corporation ("CCSF"), and Siemens Medical Solutions USA, Inc. ("Siemens"), a Delaware corporation, is effective for a period of ten years. This Agreement supersedes the 2007 RCO Agreement (defined below) and the 2007 PPS Agreement (defined below) as provided in Section 38 below. The effective date of this Agreement is July 1, 2010.

### RECITALS

A. Approval for this Agreement was obtained from a Civil Service Commission Notice of Action for Contract Numbers 4158-06/07, dated 5/21/2007 and 4167-09/10, dated 6/21/2010

B. To continue to improve patient care, continue to prepare for national and state health care reform efforts, and continue to respond to market demands requiring the delivery of health care in a managed care environment, CCSF has sought and continues to seek to operate its public health services in a manner that fully integrates all aspects of its patient care services. A central element of CCSF's public health care integration effort is the expansion of its health care information systems to enable its User Network (defined below) to freely exchange and share, as appropriate, not only traditional patient accounting and billing information, but also detailed clinical-level data, that will be used to (1) improve patient care, (2) improve professional and staff productivity, (3) enhance measurement of patient satisfaction and outcomes, and (4) comply with regulatory and accreditation agency reporting requirements. The expanded health care information systems will assist CCSF to manage its payor contracts and retrieve patient care and financial and cost information as required in a managed care environment.

C. To meet the foregoing goals, CCSF is continuing to implement an integrated public health care system that, among other things, will link through its information systems all provider participants throughout the full spectrum of patient care services, including, but not limited to, trauma care, acute care, long term care, community-oriented primary care, mental health and substance abuse, and related administrative, research, and clinical functions. Specifically, CCSF intends to make available to its User Network multiple software applications to produce a functional and unified view of health care delivery throughout the CCSF public health care system, which is capable of evolving to meet the changing needs of health care delivery as mandated by the state and federal government and accreditation agencies.

D. Siemens acknowledges that as health care organizations continue to merge and align with each other, they face the complex challenge of building a communication infrastructure (or electronic highway) that electronically links the different parts of their own organizations with each other, as well as with those of a variety of external parties. Siemens represents that it has the professional skills and technological capabilities required to integrate these health care networks electronically.

E. Siemens has demonstrated that it offers open systems solutions that permit its customers to interconnect the disparate operational systems, products, and technologies of new network members without major changes to any of the individual systems. In particular, Siemens' interface engine (OPENLink) acts as a central communications hub that interfaces any system or application to another, using any protocol or data format. This interface engine enables Siemens' clients to rapidly transmit and

receive information to and from Siemens and non-Siemens systems and throughout their health care networks.

F. Both parties acknowledge that a principal objective of CCSF in entering into this Agreement is to ensure that its information systems deliver the functionality to enable CCSF to achieve the objectives stated above. It is understood that Siemens will deliver System Components (defined below) in accordance with the Workplan (defined below) and other time requirements provided in this Agreement, which together shall constitute the System (defined below).

#### AGREEMENT

In consideration of the foregoing Recitals (which are incorporated herein) and the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. Definitions. The following terms, when used in this Agreement, shall have the following meanings:

1.1. "2007 PPS Agreement" shall mean that certain Products and Professional Services Agreement between CCSF and Siemens with an effective date of July 1, 2007, as amended from time to time. That agreement is being terminated as provided in Section 38 below

1.2. "2007 RCO Agreement" shall mean that certain Remote Computing Systems Agreement between CCSF and Siemens with an effective date of July 1, 2007, as amended from time to time. That agreement is being terminated as provided in Section 38 below

1.3. "Acceptance" shall mean the date on which the Director or designee certifies in writing that a System Component or System performs as provided in this Agreement and in accordance with CCSF's Final Component Acceptance Test criteria pursuant to the procedures and criteria set out in Section 15 herein.

1.4. "Acceptance Test" shall mean the testing, performed by CCSF to determine if a System Component or the System (as applicable) performs in accordance with the terms of this Agreement, pursuant to the procedures and criteria set out in Section 15 herein.

1.5. "Adaptation" shall mean the non-programming alteration of Applications utilizing on-line architectural support software, including the OAS Application, and other user-controlled features provided by Siemens (e.g., the creation, deletion, and alteration of screens, pathways, reports, profiles, documents, data dictionary elements, transactional control lists, and master files; document routing and printing, and altering job control lists).

1.6. "Agreement" shall mean this Information Technology Agreement and all of its Exhibits which are attached hereto and incorporated herein by this reference.

1.7. "Application(s)" shall mean individually each, and collectively all, of the computer software provided by Siemens under this Agreement, as listed on Exhibits A and C attached hereto, and all computer software provided by Siemens in the future under this Agreement pursuant to mutually executed PSRs, exclusive of Adaptations, whether accessed by CCSF remotely or licensed to CCSF for use on its MAN, provided, however, that third-party software, acquired by CCSF from Siemens, and which is not utilized by Siemens to provide any aspect of the System or a System

Component (defined below), and which is not warranted or serviced by Siemens, shall not be deemed an Application unless mutually agreed to by the parties in writing.

1.8.     “Authorization” or “Authorized” shall mean for this Agreement, an amendment or modification under Section 30, or a PSR authorized in accordance with applicable CCSF internal policies.

1.9.     “Certification” and “Date of Certification” mean, respectively, written certification by the Controller that there is a valid appropriation from which the expenditure of the amount required for this Agreement, an amendment or modification, or a future PSR may be made and that sufficient unencumbered funds are available in the treasury to the credit of such appropriation to pay the amount of such expenditure when it becomes due and payable; and the date that Certification is made.

1.10.    “Controller” shall mean the Controller of the City and County of San Francisco or designated agent.

1.11.    “Covered Claims” shall mean those claims that are or would be covered under the Data Processing, Errors and Omissions insurance policy as specified in Section 28 or the insurance required under Section 27.

1.12.    “Custom Programming” shall mean the alteration of existing Siemens source codes or the writing of new source codes by Siemens at CCSF’s request, including but not limited to interfaces and file conversions. For purposes of this Agreement, Custom Programming does not include Updates, Releases, Versions, corrections, or remedial or warranty programming.

1.13.    “Delivery” or “Delivery Date” mean, with respect to (a) an Application or an item of Custom Programming, the date on which that item is available to CCSF for testing or Adaptation; (b) Equipment installed by a manufacturer, the date on which that manufacturer certifies to CCSF that such Equipment is installed and operational according to manufacturer’s procedures in effect on the date of installation; and (c) all other Equipment, CCSF-installable Applications and Documentation, the date on which that item is physically delivered to CCSF.

1.14.    “Director” means the Director of Public Health or designated agent.

1.15.    “Documentation” shall mean all manuals, and technical information, including those made available as described in Section 8.2, prepared by Siemens sufficient to enable trained System Users to understand the functionality of and how to use the Applications and architectural tools provided under this Agreement.

1.16.    “Enterprise Access Directory” or “EAD” shall mean the System Component consisting of the “Enterprise Access Directory” Application and its Documentation, including but not limited to any and all Updates, Releases and Versions to such Application as may generally be made available by Siemens, including all source coding Modules to be provided under this Agreement as set forth on Exhibit A, Documentation and any other items comprising such software.

1.17.    “Equipment” shall mean the applicable computer hardware (i.e., CPU, terminals, printers, controllers) listed in Exhibit D, Schedule 1 / Hardware Configuration, attached hereto, and such other computer or telecommunications hardware used, or to be used, by CCSF to operate the System during the term of this Agreement.

1.18. “Existing Applications” shall mean the Applications currently in productive use at CCSF and designated as such on Exhibit A under an “Existing Applications” heading.

1.19. “Final Acceptance” shall mean the date on which the Director or designee certifies in writing that the System performs as provided in this Agreement and in accordance with CCSF’s Final System Acceptance Test criteria pursuant to the procedures and criteria set out in Section 15.2 herein.

1.20. “First Productive Use” shall mean the date any System Component is first used for the day-to-day operations of CCSF in processing data. First Productive Use of a System Component cannot occur prior to Integrated Component Acceptance of the System Component.

1.21. “Health Data Exchange” or “HDX” shall mean the System Component consisting of the Health Data Exchange services, including, but not limited to use of the HDX Application(s), as described in its Documentation and Part II of Exhibit A, including but not limited to any and all Updates, Releases, and Versions to such Application as may generally be made available by Siemens, and all source coding, as provided herein, tapes, disks, Modules to be provided under this Agreement as set forth on Part II of Exhibit A, Documentation, and any other items comprising such software or service.

1.22. “Initial Acceptance” shall mean with regard to each System Component, the date the Director or designee certifies in writing the System Component performs as provided in this Agreement and in accordance with CCSF’s Initial Acceptance Test criteria pursuant to the procedures and criteria set out in Section 15 herein.

1.23. “Initial User Network” shall mean the User’s Network as set forth on Exhibit O.

1.24. “Installation” shall mean the process Siemens performs to make the System and System Components available for CCSF’s use, testing, and training, and “Installed” shall mean, as to a System Component, the date on which a System Component passes CCSF’s Preliminary Component Acceptance Test, as described in Section 15.

1.25. “INVISION Application” shall mean the System Component consisting of the “INVISION Applications” as described in its Documentation, including but not limited to any and all Updates, Releases, and Versions to such Application as may generally be made available by Siemens, and all source coding as provided herein, Modules to be provided under this Agreement as set forth on Exhibit A, Documentation, and any other items comprising such software.

1.26. “ISC” means the Siemens Information Services Center designated by Siemens.

1.27. “LCR Application” shall mean the System Component consisting of the “Lifetime Clinical Record” Application as described in its Documentation, including but not limited to any and all Updates, Releases, and Versions to such Application as may generally be made available by Siemens and all source coding, as provided herein, Modules to be provided under this Agreement as set forth on Exhibit A, Documentation, and any other items comprising such software.

1.28. “Licensed Applications” shall mean the System Components that are installed and operated on CCSF’s MAN and are designated as such on Exhibit A, attached hereto, including but not limited to any and all Updates, Releases and Versions to such Applications as may generally be made available by Siemens, and all source coding, as provided herein, Modules to be provided under this Agreement, Documentation and any other items comprising such software. In the event any additional

applications are licensed from Siemens under this Agreement to be installed and operated on CCSF's MAN pursuant to a PSR or amendment as may be applicable, such additional applications shall thereafter be included in the definition of Licensed Applications.

1.29. "Licensed Content" shall mean information or templates that Siemens has embedded into the Applications, or that Siemens licenses or resells to its customers in electronic media for use in or with an Application, such as order entry starter sets, nursing assessment pathways, bill form templates, or CPT codes.

1.30. "Module" shall mean a unit of an Application that has its own discrete function.

1.31. "Municipal Area Network" or "MAN" shall mean CCSF's internal physical network consisting of Novell, DEC and other local area networks, routers, controllers, VAX and other client servers, third party software packages, terminals, printers, and user devices and other computer and/or telecommunications equipment.

1.32. "Non-Provider User" shall mean payors, regulatory agencies, accreditation agencies and other similar entities who shall have access and use of the System and System Components solely to transmit data to and receive data from the System. In no event shall a Non-Provider User make use of the System or System and Components to operate its business other than as specified above.

1.33. "OAS Application" shall mean the System Component consisting of the "Online Architectural Software Application" as described in its Documentation, including but not limited to any and all Updates, Releases, and Versions to such Application as may generally be made available by Siemens, Modules to be provided under this Agreement as set forth on Exhibit A, and any other items comprising such software.

1.34. "OPENLink Application" shall mean the System Component consisting of the "OPENLink" Application as described in its Documentation, including but not limited to any and all Updates, Releases, and Versions to such Application as may generally be made available by Siemens, and all coding (i.e. object code and source code as provided herein) tapes, disks, Modules, Documentation and any other items comprising such software.

1.35. "PSR" shall mean a Siemens document entitled Professional Services Request, which shall be used by CCSF to order from Siemens any professional services not provided for in this Agreement, and any Custom Programming not described in this Agreement, and which must be signed by both Siemens and CCSF and receive Authorization by CCSF as provided herein in order to be effective.

1.36. "Purchaser" means the Director of Purchasing of the City and County of San Francisco or designated agent.

1.37. "Recurring Fees" shall mean any fees due under this Agreement that are billed or due on a predictable periodic basis, including without limitation, term license fees, ASP fees, RCO fees, EDI support and processing fees and other support fees, but does not include WAN fees, Equipment or Third Party Software maintenance fees, Licensed Content subscription fees or other such fees which Siemens collects for the benefit of its vendors or other third parties.

1.38. "Release" shall mean a redistribution of an Application containing an aggregation of Updates, and functional, operational, and/or performance improvements, including but not limited to changes effectuating federal and state regulatory changes.

1.39. “RCO System Applications” shall mean the System Components consisting of Applications that are accessed remotely by CCSF at the ISC, and are designated as RCO or ASP on Exhibit A, attached hereto. In the event any additional System Components are obtained from Siemens under this Agreement to be accessed remotely by CCSF pursuant to a PSR or amendment as may be applicable, such additional System Components shall thereafter be included in the definition of RCO System Applications.

1.40. “Specifications” shall mean the written documentation and materials describing the technical specifications, the functionality, and how to use the Custom Programming mutually agreed to by CCSF and Siemens.

1.41. “System” shall mean the operation of all System Components in a functionally integrated manner, with each System Component interfacing with the others, enabling the Users to have a unified view of the financial, administrative, clinical, or other information relating to patient care, in addition to the ability to access or input such other information, to, from, or between, any System Component as provided under this Agreement.

1.42. “System Component(s)” shall mean individually each, and collectively all, of the separate Applications obtained by CCSF under this Agreement, including Licensed Applications, RCO System Applications, all Custom Programming, Custom Program specifications provided by Siemens, Equipment designated on Exhibit A, and Wide Area Network.

1.43. “Third Party Software” shall mean operating system software and other software, excluding Applications, developed by parties other than Siemens, including without limitation those which CCSF obtains through Siemens as well as those which Siemens specifies as required for CCSF to obtain separately.

1.44. “Update” shall mean a change in an Application initiated by Siemens, which changes the basic program function(s) of the Application (without eliminating any) or adds one or more new program functions, including but not limited to changes effectuating federal and state regulatory changes, implementing Application correction, and addressing common functional and performance issues.

1.45. “User” shall mean any one individual or entity which has use of the System or a System Component(s) through the User Network.

1.46. “User Network” shall mean all Users at all existing CCSF health care facilities and any future facility added pursuant to this Agreement and other health care providers, including but not limited to, physicians, pharmacies, and laboratories that render services to CCSF health care system patients, on behalf of CCSF, and Non-Provider Users that must access or input information in the System which it is designed to provide or capture through the MAN.

1.47. “Version” shall mean new Application features packaged and delivered as part of existing and/or new Applications.

1.48. “Warranty Period” and “Initial Warranty Period” shall have the applicable meaning described in the applicable warranty provisions of this Agreement or in the applicable Exhibit.

1.49. “Wide Area Network” shall mean the network connecting the MAN to Siemens’ ISC and other processing centers, including the leasing and maintenance by Siemens of modems,

Siemens' network management services, and coordination of long-haul communications services with telecommunications suppliers by Siemens on behalf of CCSF.

1.50. **“Workplan”** shall mean the tasks listed in Exhibit F, including Adaptations, analysis and building specifications, quality assurance unit testing, education and training, the development, delivery, and Installation of the System and System Components, and the training schedule, attached hereto as Exhibit F.

2. **Grant of License.** Siemens hereby grants CCSF a non-exclusive, non-transferrable license to the Applications listed in Exhibit A, in accordance with the terms and conditions of this Agreement. That license is perpetual or for a specified duration or term, as specified in Exhibit A.

3. **Term.**

3.1. **Term.** This Agreement shall be effective as of the July 1, 2010 and shall continue in effect through June 30, 2017 (“Term”). No later than thirty (30) days prior to the end of the Term, CCSF shall have the option to extend the Term by twenty-four (24) months at the then-invoiced rates, subject to the applicable adjustment terms in this Agreement, by executing a corresponding amendment with Siemens. Upon termination of this Agreement, Sections 31 and 32 shall survive in perpetuity.

4. **RCO System Applications and Licensed Applications.**

4.1. **Data To Be Processed at ISC.** During the term of this Agreement, Siemens shall process data of CCSF and all of its Users on the RCO System Applications at the ISC in accordance with the terms of this Agreement, and its ISC data processing capabilities and access to RCO System Applications shall be available to CCSF as provided in Exhibit I.

4.2. **Adaptations.** CCSF shall have the right and ability to make Adaptations to the RCO System Applications for use by its User Network utilizing the OAS, which provides CCSF with flexibility and control over Adaptations. The parties agree to use good faith efforts to identify efficiency issues that may be improved by changes to CCSF’s operational procedures, screen logic, pathways, database access, etc., and to mutually agree upon solutions to such identified issues, that do not impact CCSF’s day-to-day operations. In reaching such mutual agreements, CCSF will act in good faith to respond to situations when CCSF Adaptations are documented by Siemens to adversely impact the performance of the System or a System Component. In the event CCSF submits specifications for a planned Adaptation(s) which are approved by Siemens prior to implementation of the Adaptation(s), and subsequent to implementation, an adverse impact on the operation of the System or a System Component is documented by Siemens, Siemens will assist CCSF in identifying and resolving the cause of the adverse impact at no additional charge to CCSF. Siemens agrees to respond to CCSF with regard to specifications for Adaptations submitted pursuant to this Section within forty-five (45) days of receipt from CCSF.

4.3. **Initial User Network.** Attached as Exhibit D, Schedule 1 /Hardware Configuration, is the RCO Sizing and Capacity schedule and the equipment configuration for CCSF’s on-site Equipment for the Initial User Network, as reflected in Exhibit O. Siemens warrants that the Equipment and WAN configuration, specified in Exhibit D, Schedule 1 / Hardware Configuration and Part I of Exhibit A, shall be sufficient to support and operate the System and all System Components for the use of the Initial User Network as described under and in accordance with this Agreement. If Equipment other than as identified on Exhibit D, Schedule 1 / Hardware Configuration, (as it exists now

or is hereafter amended by the parties) is required to support or operate the System or any System Component, Siemens will pay all costs associated with the acquisition and installation of such Equipment. If Siemens fully performs by paying all costs associated with the acquisition and installation of such Equipment, as provided herein, the remedy for breach of warranty provided in this Section shall be CCSF's sole remedy for such breach and shall preclude any other remedy available under this Agreement or at law or in equity for such breach. Siemens also acknowledges that CCSF has informed it of its intention to fully integrate its health care delivery system and of its desired end uses and potential User Network requirements, as set forth in the Recitals herein. Siemens further acknowledges that CCSF's integrated public health care system and therefore its User Network are not intended to be static, but rather, capable of evolving and enlarging to meet the changing needs of health care delivery as dictated by state and federal governments, accreditation agencies, and the marketplace. Therefore, provided additions to the Initial User Network are made in accordance with Section 4.4, each time the User Network is expanded, Siemens agrees to provide updated Equipment and WAN configurations and warranties that the Equipment and expanded Equipment and WAN configurations are sufficient to support and operate the System and all System Components as described in this Agreement, provided CCSF obtains Equipment and makes other MAN changes which are approved by Siemens as being technologically compatible with its suggested Equipment and WAN changes. Exhibit D, Schedule 1 / Hardware Configuration shall be amended to reflect any updated Equipment and WAN configurations hereunder. Siemens' suggested Equipment, WAN and MAN changes shall be consistent with generally accepted standards in the information technology industry. Such updated warranties are to be in writing, mutually agreed to by the Director and Siemens, and made a part of this Agreement. All updated warranties provided under this Section, shall be effective throughout the remaining term of this Agreement, unless superseded by a subsequent updated warranty.

4.4. Additions To User Network. CCSF may utilize the System and System Components to process the data of additional individuals or entities that are not identified as Initial Users, provided that:

A. CCSF provides Siemens with written notice of its intention to add Users to its User Network and obtains Equipment and makes other MAN changes which are approved by Siemens as being technologically compatible with its suggested hardware and MAN changes, including provision of professional services necessary to implement such changes. Siemens' suggested hardware and MAN changes shall be consistent with generally accepted standards in the information technology industry;

B. CCSF remains responsible for any payments due under this Agreement and for compliance with the terms and conditions of this Agreement by its User Network;

C. The addition of Users shall not result in the termination of an existing Agreement between Siemens and such Users; and

D. It is understood by the parties that additions to the User Network may result in processing requirements adjustments as set forth in Exhibit A.

4.5. RCO System Applications License. Siemens hereby grants CCSF a license to use the RCO System Applications for the purpose of processing or transmitting the data of the User Network; provided however, that CCSF warrants that it will not exercise its rights under this license of the RCO System Applications unless and until any of the events identified in Section 34.4 occur. This license is perpetual or for a specified duration or term, as specified in Exhibit A.

4.6. Licensed Applications. Siemens hereby grants CCSF a license for the term of this Agreement to install on the MAN and utilize one (1) copy of the Applications identified in Part III of Exhibit A for the purpose of processing or transmitting the data of the User Network. CCSF shall have the right to make Adaptations and reproduce a reasonable number of copies of those Applications and their Documentation to be used solely at CCSF. CCSF agrees to include on all copies or partial copies any copyright or proprietary notices, and to maintain a record of the number and location of all copies.

4.7. Additional Licensed Applications. Additional Applications may be licensed by CCSF through execution of an amendment to this Agreement pursuant to Section 30.

4.8. Data to be Processed at CCSF. During the term of this Agreement, CCSF shall process its data on the RCO System Applications at CCSF in accordance with the terms of this Agreement.

4.9. Proprietary Rights. Except as provided in Sections 11 and 35, CCSF shall not transfer its license nor sublicense any RCO System Application or Licensed Application. Siemens shall have the exclusive title to, copyright, trade secret right in, and the right to grant additional licenses to, the RCO System Applications and the Licensed Applications. If Siemens incorporates the programs of any third persons or entities in the RCO System Applications or Licensed Applications, those persons or entities shall be entitled to the benefit and the obligations of CCSF under this Section 4.

4.10. Commencement of License. The licenses granted pursuant to Section 4.6 or 4.7 above for any Licensed Application shall commence upon Delivery of that Licensed Application to CCSF, provided payment is made in accordance with this Agreement.

4.11. No Fee For Updates, Etc. In the event that during the term of this Agreement Siemens shall produce for sale, license, or otherwise any future Update, Release, or Version to any Licensed Application after delivery to CCSF, CCSF shall receive such Update, Release, or Version at no additional charge within 30 days of its general availability to Siemens customers. Further, if Application functions not included in any Module or application marketed by Siemens as of the Date of Certification of this Agreement are subsequently made generally available to any of Siemens clients, CCSF shall have the option to obtain that Module or application at a price equal to the Siemens' then-current published rates, less twenty percent (20%).

## 5. Escrow of Source Codes.

5.1. Siemens is a party to a Software Escrow Agreement with Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"), attached as Exhibit O. Siemens warrants that it has deposited into escrow with Iron Mountain the source code ("Source Material"), for all Applications identified in Exhibit A and C of this Agreement and that all Source Material delivered is complete and the Applications thereon are capable of being executable on appropriately configured computer system(s). The following fees apply to the delivery into Escrow of Applications listed in Exhibit A and C. Groupings of Siemens Applications are identified below as "Deposits". CCSF has executed the "Form of Acknowledgment by Beneficiary" and agrees to pay to Siemens an annual fee for the Escrow for the INVISION, Radiology, Pharmacy, Decision Support, Soarian Enterprise Document Management and OPENLink Deposit Groupings of Two Thousand Five Hundred dollars (\$2,500). For a Siemens Application listed below that is not an RCO System Application or Licensed Application as of the Date of Certification of this Agreement, the fees listed below shall remain in effect for twenty-four (24) months from the Date of Certification of this Agreement; thereafter, Siemens' then-current rates will apply. The annual Escrow fee shall commence on the Date of Certification of this Agreement, or as

otherwise agreed by the parties. The fee may be adjusted according to the Monthly Support Fee adjustment provisions of this Agreement

<u>Deposit Grouping</u>	<u>Annual Escrow Fee</u>
INVISION	\$1,000
Radiology	\$ 250
Pharmacy	\$ 250
Decision Support	\$ 250
Soarian Enterprise Document Management	\$ 250
OPENLink	\$ 500

5.2. Siemens will pay to Iron Mountain all fees required to maintain the Escrow relationship, except that CCSF will pay any charges imposed by Iron Mountain on the release of Source Material. As of the Date of Certification of this Agreement, the fee for release of Source Material is \$650 per Deposit. That fee shall remain fixed for at least twenty-four (24) months from the Date of Certification of this Agreement, with Siemens being responsible during that time for any difference between the stated fee and Iron Mountain's then-current fee. If CCSF exercises its rights under the Escrow and receives Application Source Material, such Source Material shall remain the proprietary information of Siemens. In the event that a Source Material release includes Source Material for a Siemens Application that is not an RCO System Application or Licensed Application under this Agreement, CCSF agrees to destroy or return to Siemens all such unlicensed property.

5.3. The events of release of the Source Material or Release Conditions are set forth in Section 1 of Exhibit C to the Software Escrow Agreement reproduced in Exhibit O.

6. Utility Lines. CCSF hereby appoints Siemens as its agent and representative to identify and procure the utility lines necessary to support and operate the RCO System Applications for the User Network and to monitor and support the connection of the System or System Components to the public telephone network.

## 7. Workplan, Installation, And First Productive Use.

7.1. Implementation of Workplan. Siemens shall implement the tasks listed in the Workplan attached hereto as Exhibit F, and incorporated by reference as though fully set forth herein. Any new work requests by CCSF shall be in the form of a PSR and upon execution by both parties shall be appended to and become part of Exhibit F.

7.2. Workplan Schedule. Siemens' responsibilities for the delivery, Installation, and First Productive Use of each new System Component, and the training of CCSF personnel in the use of each new System Component, shall be accomplished by Siemens in accordance with the Workplan and the mutually agreed project workplan developed based on that Workplan. CCSF shall perform its testing and other implementation obligations, including making First Productive Use of Applications, in accordance with the Workplan and the mutually agreed project workplan developed based on that Workplan.

7.3. Failure To Comply With Workplan. The failure of Siemens to meet its responsibilities for the Workplan time schedule as to any System Component and/or to complete

Installation of the System in accordance with the dates specified in the Workplan, unless extended or modified only by mutual written Agreement of the parties, shall be a material breach by Siemens of this Agreement, entitling CCSF, in addition to and cumulative of all remedies available to it, to immediately commence withholding payments due to Siemens under this Agreement until Siemens cures the Workplan time schedule default. The amount of any withholding by CCSF under this Section shall be determined in good faith upon considering the nature of the failure to meet the Workplan time schedule and the other circumstances arising from Siemens' failure to meet the Workplan time schedule. Any withholding under this Section shall be in accordance with Section 9.5.C.

8. System Component Documentation..

8.1. Softcopy. Siemens shall make available to CCSF through Siemens' customer-only website, electronic copies of Siemens' Documentation (hereafter "Softcopy") for all Applications for use by CCSF's User Network at no additional cost on or before Installation of such Application. If Softcopy for any Application is not completed at the time of Installation of the Application, Siemens shall provide Softcopy to CCSF within ten (10) days after its availability for use by Siemens customers.

8.2. Revision or Additional Documentation. If the Documentation for any Application is revised by Siemens at any time, or if additional Documentation is developed by Siemens with respect to any Application, Siemens shall deliver two (2) hard copies and make available electronic copies through Siemens' customer-only website, of such revised or additional Documentation to CCSF within thirty (30) days of its general availability, at no additional cost to CCSF.

8.3. CCSF Use of Documentation. CCSF may, at any time, reproduce limited copies of all Documentation, Specifications, and other printed materials provided by Siemens, distribute such copies to Users, and incorporate such copies into its own technical manuals, provided that such reproduction is made solely for CCSF internal use in the operation and utilization of the System or System Components, excluding the equipment designated on Exhibit A and Wide Area Network, and Siemens' copyright notice is reproduced thereon.

9. Payment.

9.1. Fees. CCSF agrees to pay Siemens for the products and services listed in Exhibit A in accordance with the terms of this Agreement and the fees and fee adjustments specified in Exhibit A. In no event shall the amount of this Agreement exceed THIRTY THREE MILLION EIGHT HUNDRED TWENTY THOUSAND FOUR HUNDRED EIGHTY SEVEN DOLLARS (\$33,820,487).

Siemens understands that, of the maximum dollar obligation listed in Section 9.1 of this Agreement, \$3,623,624 is included as a contingency amount and is neither to be used in Program Budgets attached to this Appendix, or available to Contractor without a modification to this Agreement executed in the same manner as this Agreement or a revision to the Program Budgets of Appendix B, which has been approved by Contract Administrator. Contractor further understands that no payment of any portion of this contingency amount will be made unless and until such modification or budget revision has been fully approved and executed in accordance with applicable City and Department of Public Health laws, regulations and policies/procedures and certification as to the availability of funds by Controller. Contractor agrees to fully comply with these laws, regulations, and policies/procedures.

9.2. Professional Service Fees. CCSF shall pay professional service fees for work performed pursuant to PSRs contained in Exhibit F at Siemens' then current professional service rates within the limits of the funds for which this Agreement is Certified.

9.3. Travel and Living Expenses. Siemens agrees to utilize San Francisco area personnel ("Local Personnel") whenever possible to minimize travel and living expenses incurred. Travel and living expenses charged to CCSF under this Agreement shall be consistent with Siemens policies, which are attached hereto as Exhibit L and are incorporated by reference as though fully set forth herein. The travel and living expense policies contained in Exhibit L may be revised if Siemens sends at least thirty (30) days' written notice to CCSF of the proposed revised policies in writing and CCSF approves such revised policies in writing. Such approval shall not be unreasonably withheld. Upon securing CCSF's written approval, the revised policy shall be appended hereto as Exhibit L.

9.4. Method of Invoice for Professional Services and Other Expenses. Siemens shall invoice CCSF monthly for all hours worked, travel and other reimbursable expenses as specified in this Section 9. The invoices for billable professional services will be at a level of detail sufficient to identify the employee by name and type, the billable hourly rate for that employee type, the date(s) on which the service was rendered, and the hours of service rendered on each date. Siemens shall maintain individual employee timesheets and expense report records to support invoices and permit CCSF to inspect such records upon reasonable prior notice. Each invoice shall be in the form required by CCSF.

9.5. General Payment Provisions. The following provisions shall apply to all payments under this Agreement:

A. Payment shall be made by CCSF to:

Siemens Medical Solutions USA, Inc.  
51 Valley Stream Parkway  
Malvern, PA 19355

B. All payments under this Agreement shall be due and payable within thirty (30) business days after receipt of invoice by CCSF. Siemens may send invoices to CCSF to the attention of: Director of Management Information Systems of CCSF's Department of Public Health. Failure of CCSF to make payment within sixty (60) days of receipt of invoice shall be deemed a material breach of this Agreement.

C. Notwithstanding anything provided in Section 9.5.B., CCSF will not be in material breach of this Agreement for failure to pay with regard to amounts withheld in pursuant to a good faith dispute regarding performance hereunder, if (a) before the payment due date CCSF (i) completes and sends to Siemens a Dispute Form (CCSF may access the Dispute Form at <http://www.smed.com/> and submit online, or email to [custacct@shs.siemens.com](mailto:custacct@shs.siemens.com).) or (ii) provides Siemens' Project Manager with a detailed written description of the dispute and amounts withheld and (b) pays undisputed amounts in accordance with this Section 9.

D. The parties agree that Siemens may increase any Recurring Fees on thirty (30) days' notice once in any twelve (12) month period. The percentage of any increase shall equal the lesser of the previous calendar year's percentage increase in the United States Department of Labor Consumer Price Index, All Urban Consumers ("CPI") or four percent (4%); however, Siemens agrees not to adjust any Recurring Fees before the first anniversary of the date of this Agreement.

10. Payment Does Not Imply Acceptance. The making of any payment or payments by CCSF, or the receipt thereof by Siemens, shall in no way affect the responsibility of Siemens to furnish the System and all System Components in accordance with this Agreement, and shall not imply

acceptance by CCSF of the System or any System Component or the waiver of any warranties or requirements of this Agreement.

11. Terms of Use of System.

11.1. Use Restrictions. Subject to the restrictions of this Agreement, CCSF will use the System and System Components to process or transmit the data of the User Network on the MAN as determined by the Director.

11.2. Other Permitted Uses. Without incurring additional remote computing or license fees from Siemens, CCSF's use of the System and System Components during the term of the Agreement includes, among other things, the following:

A. CCSF's right to add locally-developed modules that interface with the System and System Components; and

B. CCSF's right to add and use third-party applications and interfaces on the MAN.

12. Quiet Enjoyment. CCSF shall be entitled during the term of this Agreement to use the System and all System Components without disturbance subject only to its obligation to make the required payments under this Agreement or as otherwise ordered by a court. Siemens represents that this Agreement is neither subject to nor subordinate to any right of Siemens' creditors nor subject to the claims of any third parties. Further, Siemens warrants that during the term of this Agreement, it will not subordinate this Agreement without the prior written consent of CCSF and providing in such subordination instrument for non-disturbance of CCSF's use of the System and System Components in accordance with this Agreement.

13. Title to Applications and Authority to License.

13.1. Title. Title to the Applications and any additions to or modifications of the Applications provided by Siemens to CCSF shall remain with Siemens or as otherwise designated by Siemens.

13.2. Authority to Contract. Siemens warrants that it has full power and authority to grant the rights granted by this Agreement to CCSF without the consent of any other person, and neither the performance of this Agreement by Siemens (including but not limited to the development of Custom Programming and the provision of RCO Systems Applications) nor the license to, and use by, CCSF and its User Network of the Applications (including the copying thereof) will in any way violate any non-disclosure agreement nor, as specified in Section 29.3, constitute an infringement or other violation of any copyright, trade secret, trademark, patent, invention, proprietary information or other rights of any third party.

14. Installation.

14.1. Installation Services. Siemens agrees to perform the following services to install the System and System Components in accordance with the Workplan attached as Exhibit F and the other requirements of this Agreement:

A. Have the Siemens Project Manager on site at CCSF in accordance with the Workplan or as otherwise agreed;

B. Install the Licensed Applications at CCSF and arrange the communications link with ISC for RCO System Applications so that they are delivered to CCSF; and

C. Provide installation staff to complete Siemens' tasks as defined in this Agreement and the Workplan until Installation of the System and all System Components has been successfully completed and there has been a Final Acceptance of the System by the Director.

14.2. Performance of Siemens Installation Tests. Neither the System nor any System Component shall be considered ready for commencement of CCSF's Acceptance Testing unless and until the content and results of Siemens' standard installation tests have been completed by Siemens and the results thereof made available in a written report to the Director and, with regard to individual System Components, such System Component shall not be considered Installed until it has passed CCSF's Preliminary Component Acceptance Test. Among other things, Siemens' installation test must meet the following criteria:

A. The standard test of all on-line and batch Applications, and their Modules, functions, and features, which may include Siemens' test at its corporate facility;

B. Compliance with all Siemens' installation procedures applicable to the System or System Components;

C. The expected System or System Component test results, with regard to terminal display screens, on-line transaction effects, reports, and update files must be fully described in the Documentation; and

D. Siemens determines each System Component and the System performs as required under this Agreement.

14.3. Notice of Installation. Upon completion of Siemens' installation testing as to each System Component, Siemens shall notify the Director in writing that it considers the System or System Component, as applicable, ready for CCSF's Preliminary Component Acceptance Test.

15. CCSF Acceptance Tests.

15.1. Component Acceptance Tests. There shall be three types of Acceptance Tests performed by CCSF for each individual System Component provided by Siemens hereunder: (1) a Preliminary Component Acceptance Test, (2) an Integrated Component Acceptance Test, and (3) a Final Component Acceptance Test. Unless retesting is required as provided herein, CCSF shall perform all Component Acceptance Tests within the time frames specified in the Workplan or the mutually agreed project workplan developed based on that Workplan. If retesting is required, CCSF shall exercise all reasonable efforts to enable it to perform all Component Acceptance Testing in a timely manner.

A. Preliminary Component Acceptance Test (Installation). Within five (5) business days after Siemens notifies CCSF that a System Component is, in Siemens' view, ready for CCSF Acceptance Testing and has been tested by Siemens, and CCSF's personnel have been trained as provided in Section 7.2 hereof with respect to training that is scheduled to occur prior to Acceptance Testing, CCSF shall perform a Preliminary Component Acceptance Test of the System Component on its MAN and Equipment in order to verify that the System Component has been properly installed, is operational in accordance with the Documentation, including screen displays, and in accordance with specified scheduled and on-demand outputs (including reports and forms, billing and other required documents as set forth in the Documentation or as otherwise mutually agreed), and is ready for

Adaptation. If the System Component does not successfully pass the Preliminary Component Acceptance Test, CCSF shall immediately notify Siemens in writing, specifying how the System Component did not pass the test, and the System Component shall not be considered Installed. Upon receipt of such notice, Siemens shall immediately begin efforts to rectify all failures specified in the notice of failure, use all reasonable efforts to rectify the failure(s) in as expeditious a manner as possible, and shall notify CCSF when, in its view, the System Component has been effectively Installed. The foregoing preliminary testing procedures shall be repeated until the System Component passes CCSF's Preliminary Component Acceptance Test, at which time the System Component shall be deemed to have been Installed. If CCSF makes First Productive Use of any System Component, that System Component shall be deemed Installed.

B. Integrated Component Acceptance Test. Once CCSF has built sufficient Adaptations for an installed System Component, excluding the equipment designated on Exhibit A and Wide Area Network ("Tested Component"), to be utilized in its day-to-day business, CCSF shall perform an Integrated Component Acceptance Test on CCSF's MAN and Equipment in accordance with the Documentation, including screen displays, and in accordance with specified scheduled and on-demand outputs (including reports and forms, billing and other required documents as set forth in the Documentation or as otherwise mutually agreed) in order to determine, among other things, whether (1) the Tested Component, including all of its Modules, performs according to the functions, specifications, and descriptions of the Tested Component as set forth in this Agreement and its Documentation, (2) the Tested Component, including all of its Modules, interface and integrate with each other, and (3) the Tested Component can be effectively utilized in CCSF's approved operating configuration (Exhibit D, Schedule 1 / Hardware Configuration), is capable of running the specified data without failure, and meets the Performance Criteria as warranted in Section 21.3 and Exhibits I and J. If and when a Tested Component passes the Integrated Component Acceptance Test, CCSF shall proceed to First Productive Use of the Tested Component.

C. Final Component Acceptance Test. Within sixty (60) business days after First Productive Use of a System Component, CCSF shall perform a Final Component Acceptance Test on CCSF's MAN and Equipment in accordance with the Documentation, including screen displays, and in accordance with specified scheduled and on-demand outputs (including reports and forms, billing and other required documents as set forth in the Documentation or as otherwise mutually agreed), in order to determine, through the live on-line use of CCSF's actual data in its day-to-day operations, among other things, whether (1) the System Component, including all of its Modules, perform according to the functions, specifications, and descriptions of the System Component as set forth in this Agreement and its Documentation, (2) the System Component including all of its Modules, interfaces and integrates with all of the other System Components and their Modules already on-line on the MAN, and (3) the System Component can be effectively utilized in CCSF's approved operating configuration (Exhibit D, Schedule 1 /Hardware Configuration), is capable of running the specified data without failure, and meets the Performance Criteria as warranted in Section 21.3 and Exhibits I and J. If and when a System Component passes the Final Component Acceptance Test, CCSF shall sign and deliver to Siemens a certificate, in the form attached hereto as Exhibit H, reflecting Acceptance of the System Component.

15.2. Final System Acceptance Test. After receipt by Siemens of all System Component acceptance certificates, and within five (5) business days after Siemens' notification to CCSF that the System has been completely installed to operate as a whole on an integrated basis and tested by Siemens, and CCSF's personnel have been trained as provided in Section 7.2 hereof with respect to training that is scheduled to occur prior to Acceptance Testing, CCSF shall commence performing an Acceptance Test of the entire System ("Final System Acceptance Test") in accordance with the Documentation, including screen displays, and in accordance with specified scheduled and on-demand

outputs (including reports and forms, billing and other required documents as set forth in the Documentation or as otherwise mutually agreed) and shall complete such test as quickly as practicable. The Final System Acceptance Test shall be conducted on CCSF's MAN and Equipment in order to determine, among other things, whether (1) the System performs according to the functions, specifications, and descriptions of the System as set forth in this Agreement and all Documentation, (2) all of the System Components and all of their Modules interface and integrate with each other, and (3) the System can be effectively utilized in CCSF's approved operating configuration (Exhibit D, Schedule 1 / Hardware Configuration), is capable of running the specified data without failure, and meets the Performance Criteria as warranted in Section 21.3 and Exhibits I and J. If and when the System passes the Final System Acceptance Test, CCSF shall sign a certificate in the form attached hereto as Exhibit H, reflecting Final Acceptance.

**15.3. Failure of Integrated Component Acceptance Test, Final Component Acceptance Test or Final System Acceptance Test.** If CCSF makes a good faith determination that a System Component has not successfully completed either the Integrated Component Acceptance Test or the Final Component Acceptance Test, or that the System has failed the Final System Acceptance Test, CCSF shall promptly notify Siemens of such failure in writing (hereinafter, "Notice of Failure"), specifying with as much detail as possible the manner in which the System Component or System failed to pass the applicable Acceptance Test. Siemens shall immediately commence all reasonable efforts to complete, as quickly as possible, such necessary corrections and modifications to the System Component as will permit the System Component to be ready for retesting and the Siemens Vice President of Services-Western Zone shall be notified of the failure and shall remain personally involved in the correction effort. Siemens shall notify CCSF when such corrections and modifications have been completed, and CCSF shall commence a second, and, if required, a third Integrated or Final Component Acceptance Test of the System Component, or Final Acceptance Test of the System (whichever is applicable) as provided above, and use all reasonable efforts to complete such retesting in a timely manner. If after CCSF completes the applicable Acceptance Test for a third time, it makes a good faith determination that the System Component or the System again fails to pass the applicable Acceptance Test, CCSF shall promptly notify Siemens in writing, specifying in the notice CCSF's election either to (1) afford Siemens the opportunity to repeat the correction and modification process as set forth above, or (2) depending on the nature and extent of the failure, and the parts of the System Component or System affected, in CCSF's sole judgment, terminate this Agreement in accordance with Section 23 as a non-curable default with respect to (i) one or more particular Module(s) that is (are) not performing, as required herein, or (ii) the entire System Component. The foregoing correct and modify procedure shall be repeated until the System Component or System, based on CCSF's good faith determination, passes the applicable Acceptance Test, or CCSF elects one of the termination options described above. In the event of a termination under this Section, Section 23.2 below shall apply with respect to transitioning data upon termination, and CCSF shall have the right to receive from Siemens, within 10 business days of written notice of termination, reimbursement of all payments made to Siemens by CCSF under this Agreement for the Module or System Component as to which the termination applies. If the termination applies only to a Module or System Component, at CCSF's option, any reimbursement due to it, may be credited against other sums due and payable by CCSF to Siemens under this Agreement. If Siemens fully performs by making complete reimbursement to CCSF as provided herein for the Module or System Component, as applicable, the reimbursement remedy under this Section shall be CCSF's sole remedy and shall preclude any other remedy available under this Agreement or at law or in equity for failure of the Integrated Component Acceptance Test, Final Component Acceptance Test, or Final System Acceptance Test. Section 27 shall not in any way limit the amount of reimbursement, which shall not be considered damages hereunder, to which CCSF may be entitled under this Section, provided however that punitive, incidental, and consequential damages remain excluded as provided in Section 27.

16. Support.

At no additional charge to CCSF, Siemens shall:

16.1. Siemens shall correct any failure of the Applications to perform substantially in accordance with their respective Documentation, or any failure of supported items of Custom Programming to perform substantially in accordance with their respective Specifications. CCSF may access the Siemens Customer Service Center ("CSC") through either the Internet enabled Electronic Issue Management System ("EIM") or, for urgent issues, by telephone 24 hours per day, 7 days per week to report such failures. CCSF shall provide Siemens with both on-site and remote access to the System via the network configuration described in the customer-only section of the Siemens Web site, [www.smed.com](http://www.smed.com). CCSF shall be responsible for all telecommunication services and remote programming support connections charges.

16.2. Siemens shall initiate work on urgent issues within one hour of CCSF's request for assistance to the CSC. Urgent issues are issues involving substantial Application failure or issues, which, in CCSF's reasonable judgment, are critical to CCSF's overall operation. As to all other issues, Siemens will maintain on-line help screens on the EIM that define escalation levels and response time frames. Through the EIM, CCSF may track the escalation of an issue, together with the time spent and actions performed to resolve the issue. In addition, CCSF may use the EIM to request a reevaluation and escalation of the severity of a support issue.

16.3. Siemens shall provide CCSF with issue solution reference sources, including but not limited to Documentation updates, Customer Memos, and the Siemens Medical Services Knowledge Base, that provide answers to common support questions and advice on problem determination, diagnostic procedures and other support procedures. CCSF shall set up a support help desk and ensure that appropriate personnel are trained in the use and support of the System and network. Prior to reporting a support issue, CCSF shall complete any problem determination procedures, diagnostic activities and remedial actions detailed in these reference sources and in the Documentation. After CCSF reports an issue to the CSC, CCSF shall perform any remedial actions specified by the CSC, including, without limitation, installing Updates, Releases or new Versions. CCSF shall also be responsible for updating and, upon resolution, closing all support issues electronically through the EIM.

16.4. For all Applications or other System components operated at a Facility, CCSF shall be responsible for maintaining a support testing environment configured in accordance with Exhibit D, Schedule 1 / Hardware Configuration and for maintaining all necessary back-ups, recovery and required System operating procedures as specified in the Documentation.

16.5. Siemens shall provide periodic Updates and Releases to the Applications for which CCSF is paying support fees and Documentation of these items at no additional license fee. For those Applications provided (i) remotely or (ii) on a term licensed basis or (iii) for which CCSF is paying "Extended Support" as indicated in a Supplement or amendment, if Siemens announces a new Version, CCSF shall receive the Version together with its Documentation at no additional license fee. Where a perpetually licensed Application is not covered by Extended Support, if Siemens announces a new Version of such Application, the new Version will be charged at Siemens then current rates. For Applications installed at a Facility, CCSF shall implement Updates within sixty (60) calendar days, Releases within six (6) months and Versions within eighteen (18) months after the item's General Availability Date unless Siemens announces or agrees to extensions to these implementation time frames. New features, enhancements to functionality and/or regulatory changes will not be retrofitted to down-level Releases or Versions, and CCSF understands that in order to apply warranty repairs to the

Applications, CCSF must install all Updates. For Applications installed at the ISC, Siemens shall install Updates, Releases and Versions, and CCSF shall perform any implementation tasks as advised by Siemens and in accordance with implementation schedules provided by the ISC.

16.6. At CCSF's expense, CCSF shall obtain all additional equipment, the level of Third Party Software designated by Siemens, and any professional services required to implement Updates, Releases, Versions, Custom Programming or optional net new functionality. CCSF shall obtain support or maintenance for all Third Party Software and Equipment from the respective vendor or support provider or, where available from Siemens and shall be responsible for any additional equipment or professional services required by Third Party Software vendors. Siemens shall provide CCSF with coordination assistance for allied partner support issues that are related to a Siemens Application. Siemens has established a support baseline which the allied partners are expected to provide to Siemens customers in their separate support agreements. CCSF should follow the communications protocols for contacting those Third Party Software and Equipment vendors that have established such protocols for Siemens customers. CCSF should contact Siemens prior to installing Third Party Software Fix Packs and Service Packs. CCSF must install and maintain anti-virus software on all workstations and servers and CCSF is responsible for obtaining power surge protection and an Uninterruptible Power Supply system for all Equipment.

16.7. For Applications or Custom Programming for which a separate Support Fee is indicated either in a Supplement or amendment, CCSF shall commence paying said Support Fee monthly at the end of the Initial Warranty Period. Support Fees for Applications or Custom Programming already installed shall commence on the date hereof. Siemens may increase all Support Fees each February, upon thirty (30) days written notice, by the lesser of four percent (4%) or the previous calendar year's percentage increase in the United States Department of Labor Consumer Price Index, All Urban Consumers ("CPI"). Notwithstanding any other provisions contained in the Agreement, CCSF shall pay any fee increases imposed by Siemens' suppliers of third party licensed content, including without limitation, fees relating to any third party software products or other such third party licensed content imbedded in, or provided with, any Deliverables or services; where any such increases shall be invoiced at such time as other annual/monthly fee increases occur under the Agreement.

#### ADDITIONAL SERVICES.

16.8. Siemens will make available to CCSF programming changes to the Applications in response to generally applicable state-mandated billing changes and generally applicable federally-mandated regulatory changes, including programming changes made in response to HIPAA. Notwithstanding any other provisions of this Support Program, all such programming changes shall be separately chargeable by Siemens. Changes will be made available to CCSF when made generally available to Siemens' customers. CCSF shall be responsible for any additional Equipment and Third Party Software (whether new or upgraded), any professional services and any third party fee increases required in response to federal and state regulatory changes.

16.9. Siemens will provide CCSF with a Monthly Supplemental Support Services Allowance of four (4) hours per month at no additional fee. Any unused portion of this monthly allowance cannot be carried forward to subsequent months. Any hours in excess of this monthly allowance are billable by Siemens in accordance with Section 16.10. below. These hours may be used for diagnostic assistance and other problem determination procedures, for remediation of problems unrelated to Subsection 16.1 above, and for advice on the operation and functions of the Applications ("Supplemental Support Services"). Based on the nature of the CCSF request, CSC personnel may refer CCSF to other billable services offered by Siemens, including but not limited to training or consulting

services. CSC personnel will advise CCSF as to whether the service can be provided under the Supplemental Support Services or whether it will be separately billable. CCSF shall be responsible for approving each service request and, if applicable, referral, prior to Siemens providing assistance. Time spent on Supplemental Support Services will be calculated in minimum time increments of one-half (1/2) hour.

16.10. Each July throughout the term, commencing July 2011, Siemens will review CCSF's actual usage of Supplemental Support Services over the preceding twelve (12) month period and calculate an Annual Supplemental Support Services Fee based on the CCSF's actual hours of usage during the previous twelve (12) months multiplied by Siemens then current Supplemental Support Services hourly rate. CCSF shall then have the option, exercisable by August 1 each year, of paying for Supplemental Support Services:

- (a) Annually in advance, in which event Siemens shall grant CCSF a prepayment discount based on the Net Present Value of the Annual Supplemental Support Services Fee; or
- (b) Monthly in advance, in which event Siemens will divide the Annual Supplemental Support Services Fee into equal monthly installments; or
- (c) Monthly as incurred based on actual usage each month.

17. Administration of Agreement – Siemens Responsibilities.

17.1. Project Manager. Siemens shall designate a Project Manager. The Siemens Project Manager shall be responsible for Siemens' day-to-day activities under this Agreement and for providing to CCSF reports as provided in Sections 17.3 and 17.4. The Siemens Project Manager shall also serve as Siemens' liaison with CCSF, assign and schedule Siemens personnel to perform all of the services required by Siemens under this Agreement, and act as Siemens' initial representative for dispute resolution as provided in Section 22.2. The Siemens Project Manager shall also perform those tasks identified in Part III of Exhibit F.

17.2. Siemens Staff Approval. CCSF shall have the right to approve or to disapprove of any member of Siemens' project staff assigned to perform under this Agreement. Should the Director be dissatisfied with the performance, competence, responsiveness, capabilities, cooperativeness, or fitness for a particular task of any person assigned by Siemens to perform services under this Agreement, including the Siemens Project Manager, the Director may request the replacement of that person. The replacement request shall be in writing and upon receipt of the request, Siemens shall make reasonable efforts to furnish a qualified replacement within fifteen (15) business days. Siemens agrees that all project staff assigned to performing this Agreement must have experience with at least two (2) installations in which they were responsible for performing the tasks to which they will be assigned under this Agreement. In addition, CCSF shall have the right to approve or to disapprove any Siemens initiated changes in Siemens' project staff assigned to performing this Agreement, including but not limited to the Siemens Project Manager. CCSF agrees that its personnel removal and approval rights under this Section shall be exercised reasonably. For all Siemens project staff to be assigned to perform under this Agreement, the Director shall be provided with a resume of the person(s) and an opportunity to interview the person(s) prior to giving approval or disapproval. In the event that, as a result of the actions or inactions of Siemens project staff, additional work, which would not otherwise have been necessary, is required to perform this Agreement, Siemens shall perform all such work at no additional charge to CCSF.

17.3. Oral Reports. The Siemens and CCSF Project Managers (as designated pursuant to Sections 17.1 and 18.1) shall meet as required by the work in progress, but in no event less than once a week. The meetings shall include an oral report from Siemens' Project Manager regarding:

- A. Overview of activities occurring during the reporting period;
- B. Tasks, delivered items, goods, services, and other work scheduled for the reporting period that were not completed;
- C. Tasks, delivered items, goods, services, and other work scheduled for the reporting period that were completed;
- D. Tasks, delivered items, goods, services, and other work to be completed during the reporting period that were not scheduled;
- E. Tasks, delivered items, goods, services, and other work to be completed during the next reporting period;
- F. Issues to be resolved;
- G. Issues resolved;
- H. Summary of project status as of the reporting date;
- I. Updates on the implementation of the Workplan; and
- J. Any other information that CCSF may, from time to time, reasonably request or Siemens may deem appropriate.

17.4. Written Reports. In order to control expenditures and to ensure reporting of all tasks, deliveries, goods, services, and other work provided by Siemens, the Siemens Project Manager shall provide the CCSF Project Manager with a monthly cumulative written report, containing the following information:

- A. Overview of activities occurring during the reporting period;
- B. Tasks, delivered items, goods, services, and other work scheduled for the reporting period that were not completed;
- C. Tasks, delivered items, goods, services, and other work scheduled for the reporting period that were completed;
- D. Tasks, delivered items, goods, services and other work completed during the reporting period that were not scheduled;
- E. Tasks, delivered items, goods, services, and other work to be completed during the next reporting period;
- F. Issues to be resolved;
- G. Issues resolved;

- H. Summary of project status as of the reporting date;
- I. Updates on the implementation of the Workplan; and
- J. Any other information that CCSF may, from time to time, reasonably request or Siemens may deem appropriate.

18. Administration of Agreement - CCSF.

18.1. Designation of Project Manager and Duties. The Director shall designate the person who shall serve as the CCSF Project Manager. The CCSF Project Manager shall serve as CCSF's liaison with Siemens, administer this Agreement for CCSF, and assign and schedule CCSF and CCSF consultant personnel to perform services in accordance with the provisions of this Agreement. The CCSF Project Manager shall, among other things:

A. Evaluate Siemens' performance and, upon submission of proper invoices by Siemens, determine amounts owing to Siemens under this Agreement and make recommendations to the Director for payment;

B. Make recommendations to the Director regarding rejection of work that does not conform with the requirements of this Agreement and the removal or approval of Siemens Project staff;

C. Review and approve or take other appropriate action with respect to Siemens' submittals, including reports submitted under Section 17 and PSRs;

D. Act as the initial CCSF representative for the dispute resolution process described in Section 22 of this Agreement;

E. Prepare proposals for modifications to this Agreement as provided in Section 30, provided, however, that it is understood by the parties that the CCSF Project Manager has no authority to make any changes in the terms and conditions of this Agreement and is not authorized to further obligate CCSF in any respect whatsoever;

F. Have the right at all times to inspect any and all tasks, System Components, the System, goods, services or other work provided by or on behalf of Siemens.

G. Provide information reasonably requested by Siemens' Project Manager to assist Siemens in (1) the performance of its obligations under this Agreement, (2) determining the status of open issues, (3) monitoring performance of project responsibilities and tasks of CCSF under the Workplan, and (4) any other information Siemens may reasonably request from time to time.

18.2. Security Measures. Siemens project staff assigned to perform services under this Agreement, when properly identified, shall be entitled to the same level of security services available at any particular site to CCSF employees.

19. Subcontractors.

19.1. Approval. Although the use of subcontractors is not currently contemplated by Siemens, functions undertaken by Siemens under this Agreement may be carried out under subcontracts only with the prior written approval of the Director. All such subcontracts shall be in writing and shall

abide by such federal, state, and local laws and regulations that pertain to this Agreement. Copies of all subcontracts under this Agreement shall be submitted to the Director for review and approval. The Director shall not unreasonably withhold approval of subcontracts submitted for approval by Siemens.

19.2. Indemnity for Subcontractors' Acts. At Siemens' expense as described herein, Siemens agrees to defend, indemnify, and hold harmless CCSF, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation, attorneys' fees as provided herein), arising from any act or failure to act of any Siemens subcontractor, including any officers, employees, agents, or independent contractors of any subcontractor (hereafter collectively referred to as "Subcontractor Claim(s)") by paying all amounts that a court finally awards or that Siemens agrees to in settlement of such Subcontractor Claim(s) as well as any and all reasonable expenses or charges as they are incurred by CCSF in cooperating in the defense of such Subcontractor Claim(s). CCSF agrees to give Siemens prompt written notice of any Subcontractor Claim and to cooperate fully with Siemens in the defense and any related negotiations of such claim. Upon receipt of written notice, Siemens will provide a defense of such claim by engaging attorneys of its own choosing and at Siemens' sole expense. CCSF may at its expense engage counsel of its own to participate in the defense independent of counsel engaged by Siemens. However, in the event a legal conflict arises from representation by attorneys selected by Siemens of both Siemens and CCSF, Siemens shall engage, at its sole expense, separate attorneys for CCSF. If it is finally determined that CCSF is legally obligated for the Subcontractor Claim, CCSF shall reimburse Siemens for all legal fees and other amounts paid by Siemens associated with the engagement of a separate attorney due to a conflict in representation. In the event Siemens refuses to undertake CCSF's defense or engage separate counsel in the event of a legal conflict, or fails to do either within a reasonable period of time following receipt of written notice of such a claim, CCSF shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the Subcontractor Claim(s) at the risk and sole expense of Siemens and Siemens shall pay such expenses as they are incurred.

19.3. Siemens Obligations Remain Unchanged. Siemens shall remain responsible to CCSF for any and all performance required under this Agreement, including, but not limited to the obligation to properly supervise, coordinate, and perform all work required hereunder, and no subcontract shall bind or purport to bind CCSF or excuse Siemens of performance. Siemens shall be solely liable and responsible for any and all payments and other compensation to and the performance of all subcontractors and their officers, employees, agents, and independent contractors.

## 20. Data Backup and Disaster Plan.

20.1. Data Backup. Siemens shall maintain copies of all CCSF data files for back-up purposes. Siemens shall so maintain at least three generations (3 days of data) of the data, and at least one generation shall at all times be kept by Siemens in a secure, fire-proof storage facility;

20.2. Disaster Plan. Siemens shall maintain and implement disaster avoidance procedures by Siemens in accordance with Siemens' written Disaster and Recovery Plan. Recommendations of new technology by Siemens' communications, equipment, and uninterrupted power supply vendors shall also be reviewed on a regular basis and be included in Siemens' planning process as appropriate.

20.3. Disaster Avoidance. Siemens shall maintain disaster avoidance procedures designed to safeguard the CCSF User Network data and the data processing capability of Siemens' ISC throughout the term of this Agreement. Such disaster avoidance procedures include, but are not limited to, the following:

A. Physical Security. Access to the ISC shall be strictly controlled by Siemens. An electronic badge system will be maintained and utilized by Siemens to control access through the main entrance of the ISC. The electronic badge system shall be programmed to permit only persons who have authorized security clearance from Siemens to enter critical areas of the ISC. In addition, Siemens shall provide security guards twenty-four (24) hours a day, seven days a week to monitor ISC access. Siemens shall also maintain operational video cameras to monitor the ISC main entrance, parking facilities, and critical areas within the ISC twenty-four (24) hours a day, seven days a week.

B. Fire Protection. The ISC building is constructed of precast and poured concrete with fire walls separating computer operation areas to minimize fire damage through containment. Siemens represents that the ISC's fire protection system consists of the appropriate type and quality of equipment required to provide effective fire protection and that it is regularly reviewed and updated, and that the system currently consists of smoke detectors (with remote annunciators and zone indicators), automatic sprinkler systems, and a two-part halon system in the computer and tape library areas. Siemens also will maintain at the ISC a system of on-site water towers and wells as backup in the event of a loss of public water service. Further, Siemens represents that water detection devices and drains are installed under all raised floor areas.

C. Power Supply. Siemens warrants that it maintains multiple levels of power backup designed to provide uninterrupted operation of the ISC and equipment in the event of a loss of power. Siemens shall maintain multiple feeds to the ISC from different processing stations of the local power company which furnishes the main power to the ISC, and Siemens represents that they provide four to five times the power needed to run the entire ISC. Siemens shall maintain two levels of uninterrupted power systems to provide smooth transition to the use of Siemens' four large diesel generators in the event of an extended power company outage.

D. Equipment/Air Conditioning. Siemens shall maintain multiple levels of protection against loss of cooling, including a primary backup system which shall provide 400 tons of backup cooling capacity, and a secondary backup system consisting of ice storage units, which shall be capable of providing continuous cooling during a power outage.

E. Computer Equipment. Siemens warrants that the ISC maintains backup equipment that can maintain operations in the event of hardware failures at the ISC. Siemens warrants that it maintains high-availability, and in some cases, redundant models of CPU, storage, networking devices, and other equipment necessary to maintain the current functional level of performance at the ISC. In addition, Siemens represents that it maintains at the ISC detailed, written recovery procedures which its personnel are familiar with and which enable ISC personnel to switch to backup hardware expeditiously.

F. Hardware and Software Changes. Siemens warrants that it maintains a strict change control process, which ISC personnel are familiar with, and which is used for both hardware and software changes.

20.4. Disaster Recovery. Siemens shall maintain disaster recovery plans to be used in the event of any unplanned interruption of the operations of, or accessibility to, the ISC throughout the term of this Agreement. The disaster recovery plan includes, but is not limited to, the following:

A. Hot Site. Siemens shall maintain a contract with a major hot site vendor, which contract shall provide for a recovery site.

B. Testing. Siemens warrants that disaster recovery testing will be performed at least once per calendar year. The testing shall include, but not be limited to, testing of hardware, installation and operation of Applications, recovery of customer data, processing of data and generation of reports, and testing of telecommunications facilities.

C. Staffing. Siemens represents that it employs a team of experienced analysts dedicated to business recovery on a full time basis to be responsible for updating the disaster avoidance and disaster recovery plans and procedures, planning and coordinating tests, and coordinating the overall business recovery process.

D. Recovery Procedures. Siemens warrants that it maintains extensive recovery procedures and automated recovery tools.

E. Off-Site Data Vaulting. Siemens shall store a current copy of data and system files on magnetic media. The magnetic media shall be stored at a secured and hardened off-site facility. The off-site facility shall be guarded twenty-four (24) hours a day, seven days a week. Siemens shall also maintain an automated tape management system which controls the daily process of vaulting files.

F. Operations Interruptions. In the event of any unplanned interruptions of the operations of, or accessibility to the ISC, Siemens shall use its best efforts to restore service to all of its customers, as expeditiously as possible as provided in Section 20.4G. When working to restore service to its customers as provided herein, Siemens shall give the highest priority to restoration of clinical applications in recognition that the quality of health care is of paramount importance to its customers. Restoration of ancillary systems, financial (billing) applications, and general ledger/payroll applications will follow respectively.

G. Time Frames For Recovery. Time frames for restoration of CCSF's service will vary according to the nature and magnitude of the disaster event, the availability of replacement equipment for drop-shipment and the speed with which alternate telecommunication circuits can be made available. Siemens shall use all reasonable efforts to work with telecommunications carriers and equipment vendors to restore service as expeditiously as possible. It is acknowledged that CCSF's recovery time frames may also be effected by its MAN and the availability of replacement site-specific telecommunications hardware.

20.5. Maintenance of Safeguards. Siemens represents and warrants that it shall maintain safeguards throughout the term of this Agreement against destruction, loss, or alteration of CCSF's User Network data, which are no less rigorous than those in effect at the ISC and Recovery Center as of the Date of Certification of this Agreement.

## 21. Siemens' Representations and Warranties.

21.1. System and System Component Performance Warranty. Siemens warrants that during the term of this Agreement, the System and all System Components (and Modules thereof), excluding the equipment designated on Exhibit A and Wide Area Network, when operated on the Equipment and Third Party Software as set forth in Exhibit D, Schedule 1 / Hardware Configuration, shall perform substantially in accordance with the Documentation for the System and such System Components.

21.2. Correction, Repair, or Replacement.

A. Siemens warrants that it shall make all corrections, whether by repair, replacement, or otherwise, necessary to meet the warranties set forth in Sections 21.1, 21.3, and 21.4, at no additional charge to CCSF during the term of this Agreement.

B. If during the term of this Agreement correction, repair, or replacement of any System, System Component (excluding the equipment designated on Exhibit A and Wide Area Network) or Module is required to make the System, System Component (excluding the equipment designated on Exhibit A and Wide Area Network) or Module conform to the warranty requirements of this Agreement, CCSF shall promptly inform Siemens in writing of its request for such correction, repair, or replacement. Siemens shall promptly, and without additional cost to CCSF, take all reasonable steps to correct, repair or replace System Components, excluding the equipment designated on Exhibit A and Wide Area Network, within fifteen (15) days of receipt of such notice, or such shorter time frame as is otherwise mutually agreed in writing by the parties. Failure by Siemens to comply with its obligations under this Section shall entitle CCSF, in addition to and cumulative of all other remedies available to it, to withhold payments due Siemens under this Agreement until such time as Siemens cures its default hereunder. The amount of any withholding by CCSF under this Section shall be determined in good faith upon considering the nature of the warranty at issue and the other circumstances arising from Siemens' failure to comply with the applicable warranty requirement. Any withholding under this Section shall be in accordance with Section 9.5.C.

21.3. Performance Criteria. Siemens warrants the representations made herein and in Exhibits I and J attached hereto with regard to System down time, response time/availability service response, and System and System Component technical capabilities.

21.4. Service. Siemens warrants that all services to be provided by it under this Agreement shall be performed in a professional, competent, and timely manner by appropriately qualified personnel in accordance with the Workplan and as otherwise contracted for.

21.5. Assignment of Warranties. Siemens hereby assigns and agrees to deliver to CCSF all assignable warranties received by Siemens from third parties for the equipment designated on Exhibit A, Wide Area Network, and such other Equipment obtained for CCSF by Siemens and not warranted by Siemens.

21.6. Incorporation of Applicable Laws.

A. Regulatory Changes. Siemens warrants that all Applications currently incorporate all applicable federal and state of California regulatory requirements, laws, rules and regulations including without limitation all Medicare and Medi-Cal laws, rules and regulations (hereafter collectively referred to as "Regulatory Changes") and that the Applications shall be updated to incorporate all applicable Regulatory Changes. Federally mandated programming changes to Payroll and Accounts Payable Applications and to the Case Mix Groupers/Schemes shall be provided at no charge to CCSF. As to other Regulatory Changes, Siemens reserves the right, depending on the scope of the Regulatory Changes, to charge for programming changes required on a multi-client/pro-rata basis among all Siemens clients to which such Regulatory Changes are applicable and on a specific computing demand basis for processing. Siemens also warrants that Updates with regard to applicable Regulatory Changes shall be available to CCSF within one hundred eighty (180) days after the final specifications are made centrally available by the applicable regulatory agency or such later time for compliance as is specified by that agency.

B. Accreditation Requirements. Siemens warrants that functionality necessary to comply with accreditation requirements of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) shall be made available to CCSF. Siemens and CCSF acknowledge that JCAHO accreditation requirements are continually being defined. Whenever new JCAHO requirements are released and final specifications made available to Siemens, Siemens shall incorporate required functionality either as an Update to existing Applications or as part of new Applications currently under development, as soon as practicable. Charges for this functionality shall be on a multi-client/pro-rata basis as described in subparagraph A above for Updates to existing Applications, or at Siemens' then current rates less twenty (20) percent.

21.7. Siemens' Representations. Siemens warrants that the representations contained in its 2009 Annual Report, attached hereto as Exhibit R are true and correct.

21.8. Litigation Warranty. Siemens warrants that, to the best of its knowledge as of the date of execution of this Agreement, there are no existing or threatened legal proceedings against Siemens that would have a material adverse effect upon its ability to perform its obligations under this Agreement or on its financial condition or operations.

21.9. Virus Warranty. Siemens warrants that, during the term of this Agreement, it will not cause any unplanned interruption of the operations of, or accessibility to the ISC, System, or System Components by CCSF, including, but not limited to, the use of any "lock-up," "time bomb," keylock device or program, or disabling code (hereafter collectively referred to as "Disabling Devices") which could block access to or prevent the use of the ISC, System or System Components by CCSF. Siemens warrants that it has not purposely placed, nor is it aware of, any Disabling Devices provided to CCSF under this Agreement in the Applications, OAS or Custom Programming, which would, without CCSF's intervention, alter, destroy or inhibit the System or CCSF's use of the System or the data contained therein, nor is it Siemens' intention that any subsequently delivered Updates and Releases contain any such Disabling Devices or provide transactions through any interfaces with the intent to inhibit use of non-Siemens systems.

21.10. Insurance Premiums. Siemens warrants that it will maintain all insurance policies referenced in and in accordance with Section 28.

21.11. Warranty Limits. The warranties provided in this Agreement are made to, and for the benefit of, CCSF exclusively. It is understood by the parties that warranties are set forth throughout this Agreement and are not confined to this Section 21. THE WARRANTIES PROVIDED IN THIS AGREEMENT ARE IN LIEU OF ALL OTHERS, EXPRESS OR IMPLIED. EXCEPT WHERE INCONSISTENT WITH THE TERMS OF THIS AGREEMENT, THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXCLUDED.

22. Internal Dispute Resolution.

22.1. Intent. The parties shall resolve their disputes informally to the maximum extent possible. The parties shall negotiate all matters of joint concern in good faith, with the intention of resolving issues between them in a mutually satisfactory manner. Only disputes within the scope of this Agreement are subject to this Section; neither disputes internal to one party nor disputes involving third parties are subject to these procedures.

22.2. Informal Resolution. If a dispute arises during this Agreement, then within three (3) business days after a written request by either party, the CCSF Project Manager and the Siemens Project Manager shall confer to resolve the issue. If the Project Managers cannot resolve the dispute or either of them determines they are not making progress toward the resolution of the dispute within three (3) business days after their initial conference, then the dispute may be submitted to the Director of Management Information Systems of CCSF's Department of Public Health ("CIO") and Siemens' Regional Vice President. If the CIO and Regional Manager cannot resolve the dispute, or either one of them determines that they are not making reasonable progress toward resolution of the issue within five (5) business days after the issue is first submitted to either the CIO or Regional Vice President, then the issue shall proceed pursuant to the Formal Resolution process described in Section 22.3.

22.3. Formal Resolution. A fact finding and dispute resolution panel shall be convened if either Siemens' Vice President or the Director notifies the other in writing of a request for formal dispute resolution ("FDR").

A. The Dispute Resolution Panel. The FDR panel shall consist of three persons. The panel shall be convened ad hoc and there shall be no standing or ex officio members. Siemens' Vice President and the Director shall each appoint one person and their two appointees shall jointly choose a third person who possesses legal and/or technical skills and experience relevant to the dispute at issue. Siemens' Vice President and the Director shall each name their respective appointees within five (5) business days after delivery of notice by a party to initiate FDR. The appointed members of the panel shall choose the final member of the panel within five (5) business days after the date the last of the two appointed members was appointed. If the appointed panel members shall fail to agree upon a mutually acceptable third panel member in the time provided herein, then the parties agree that the third panel member shall be from the San Francisco panel of Judicial Arbitration Mediation Services (JAMS) and shall be selected in the sole discretion of the JAMS administrator.

B. Fact Finding Report. Siemens' Vice President and the Director shall provide to the FDR panel a written description of the dispute, including the particular issues on which the parties seek the FDR panel's recommendations.

(1) Fact Finding. The FDR panel shall engage in fact finding, as required by the dispute and recommend how best to resolve the dispute. The panel may submit written questions to the parties, may request oral statements, and may review relevant documents. Each party has the right to submit written statements to the panel. As to any decision or finding required under this Section 22.3 by the FDR panel, a majority vote of the members of the panel shall be deemed the panel decision or finding.

(2) Report. Within thirty (30) days after the FDR panel is appointed, unless otherwise agreed by Siemens' Vice President and the Director, the FDR panel shall submit a written report, including its finding of fact and recommendations for resolution to the Siemens Vice President and the Director.

22.4. Formal Dispute Resolution Process Not Mandatory. The informal resolution process provided in Section 22.2 is a prerequisite to the exercise of any judicial remedies available to the parties, except in cases where a party is seeking injunctive or other equitable relief. The FDR procedure provided in Section 22.3 is optional and is not a prerequisite to the exercise of any judicial remedies available to the parties including without limitation equitable remedies such as injunctive relief. Failure by a party to pursue FDR shall not constitute a defense to any action by any party to enforce their rights under this Agreement. Nevertheless, the parties agree that the dispute resolution process provided in this

Section 22 should be viewed as the preferred dispute resolution process and used whenever the parties both maintain a good faith belief that the process is likely to result in significant progress toward resolving the dispute.

23. Termination.

23.1. Termination For Cause. In addition to any other provision in this Agreement allowing a party to terminate this Agreement in whole or in part, and without limiting any other remedies available at law, in equity, or under this Agreement, if either party: (1) defaults in the performance of its material duties or obligations under this Agreement; or (2) repeatedly defaults in the performance of its duties or obligations under this Agreement, and such repeated defaults when taken together constitute a material breach and, within sixty (60) days after written notice is given to the defaulting party specifying the default (which period shall include the fifteen (15) day warranty correction period specified in Section 21.2B above if applicable, and not be in addition to it) the default is not cured to the reasonable satisfaction of the party giving the notice of default, or, with respect to those defaults that cannot reasonably be cured within sixty (60) days, if the defaulting party fails to commence to cure the default within sixty (60) days after receipt of the notice of default and to continue proceeding with all due diligence to cure the default, then the party not in default may terminate this Agreement by giving written notice of termination to the defaulting party, which termination shall be effective immediately on receipt of the notice of termination. If the default is incapable of being cured, then the sixty (60) day cure period shall not apply, and notice of termination may be given directly by the party not in default. If the default relates to a particular System Component or Module thereof, the party not in default may elect to terminate this Agreement with respect to such System Component or Module; however, the entire Agreement shall not be terminated unless the default with regard to a System Component or Module materially affects the functionality or performance of the System or other System Components. In the event the party not in default terminates this Agreement as to a System Component or Module, the payments under this Agreement relating to the System Component or Module to which the termination applies shall cease as of the date of termination.

23.2. Transition on Termination or Expiration. Upon expiration of this Agreement at the end of its term (as extended as provided in Section 3 above), or upon termination of this Agreement for cause, Siemens shall at its sole cost and expense deliver to CCSF one copy of all CCSF data from the CCSF User Network stored by Siemens on tape with Siemens' delineated format ASCII with all record layouts so that CCSF can import and use the data on a successor information system, as designated by CCSF. If this Agreement is terminated other than upon expiration of its term or for cause, delivery of CCSF's data as provided herein shall be at CCSF's sole cost and expense. Siemens shall deliver such converted data to CCSF within fifteen (15) days following the termination. Until such time as the converted data is delivered to CCSF, Siemens shall continue to store CCSF's data. Once the converted data is delivered to CCSF, Siemens shall not retain any copy of, in whole or in part, or utilize in any manner, CCSF's data, except as provided in Section 43. The provisions of Sections 31 and 32 shall survive termination of this Agreement.

24. Payment Upon Termination.

24.1. Within 30 days after the specified termination date, Siemens shall submit to CCSF an invoice, which shall set forth each of the following as a separate line item:

A. The reasonable cost to Siemens, without profit, for all services and other work CCSF directed Siemens to perform prior to the specified termination date, for which services or work CCSF has not already tendered payment. Reasonable costs may include a reasonable allowance for

actual overhead, not to exceed a total of ten percent (10%) of Siemens' direct costs for services or other work. Any overhead allowance shall be separately itemized.

B. A reasonable allowance for profit on the cost of the services and other work described in the immediately preceding subsection (A), provided that Siemens can establish, to the satisfaction of CCSF, that Siemens would have made a profit had all services and other work under this Agreement been completed and provided further that the profit allowed shall in no event exceed five percent (5%) of such cost.

C. The reasonable cost to Siemens of handling material or equipment returned to the vendor, delivered to the CCSF or otherwise disposed of as directed by the CCSF.

D. A deduction for the cost of materials to be retained by Siemens, amounts realized from the sale of materials and not otherwise recovered by or credited to CCSF and any other appropriate credits to CCSF against the cost of the services or other work.

24.2. In no event shall CCSF be liable for costs incurred by Siemens or any of its subcontractors after the termination date specified by CCSF, except for those costs specifically enumerated and described in the immediately preceding subsection 24.1. Such non-recoverable costs include, but are not limited to, anticipated profits on this Agreement, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under such subsection 24.1.

24.3. In arriving at the amount due to Siemens under this Section 24, CCSF may deduct: (1) all payments previously made by CCSF for work or other services covered by Siemens' final invoice; (2) any claim which CCSF may have against Siemens in connection with this Agreement; (3) any invoiced costs or expenses excluded pursuant to the immediately preceding subsection 24.2; and (4) in instances in which, in the opinion of the CCSF, the cost of any service or other work performed under this Agreement is excessively high due to costs incurred to remedy or replace defective or rejected services or other work, the difference between the invoiced amount and CCSF's estimate of the reasonable cost of performing the invoiced services or other work in compliance with the requirements of this Agreement.

24.4. CCSF's payment obligation under this Section 24 shall survive termination of this Agreement.

25. Withhold Remedy. In addition to, and cumulative to all other remedies provided under this Agreement, in the event Siemens is in default of its duties or obligations under this Agreement and fails to cure the default within sixty (60) days after receipt of written notice of default from CCSF, CCSF may, without waiving any other rights under this Agreement, elect to withhold from the payments due to Siemens under this Agreement during the period beginning with the 61st day after Siemens' receipt of notice of default and ending on the date that the default has been cured to the reasonable satisfaction of CCSF an amount that is in proportion to the magnitude of the default or the service that Siemens is not providing, in CCSF's sole discretion. Upon cure of the default by Siemens, CCSF will cause the withheld payments to be paid to Siemens, without any interest. The amount of any withholding by CCSF under this Section shall be determined in good faith upon considering the nature of the default at issue and the other circumstances arising from the default. Any withholding under this Section shall be in accordance with Section 9.5.C.

26. Force Majeure. Neither party hereto shall be deemed to be in default of any provision of this Agreement, or for any failure in performance, resulting from any Contingency beyond the control of such party, provided such Contingency is not caused by the fault or negligence of such party. For purposes of this Agreement, a "Contingency" shall be acts of God, civil or military authority, civil disturbance, war, strikes, fires, explosions, embargoes or blockades or terrorist activity; provided, however, that the provisions of this Section shall not relieve Siemens of its obligations to take appropriate security measures to protect the data, records, and information of CCSF; and provided that both parties shall take reasonable steps to mitigate the impact of the Contingency on the other party, including but not limited to the hiring of qualified temporary or extra personnel, if possible.

27. Limitation of Remedy. Siemens' liability for damages for breach of this Agreement shall be to reimburse CCSF for its actual, direct damages up to two million five hundred thousand dollars (\$2,500,000) in the aggregate.

Any sums paid under Sections 29.1, 29.3 and 29.4 of this Agreement shall not be subject to the limits of this Section. Siemens shall not be liable to CCSF for claims caused by the Adaptation or modification of Applications by anyone other than Siemens or for punitive, incidental or consequential damages.

Except as otherwise expressly set forth in this Agreement, CCSF's exclusive remedy for any cause whatsoever, regardless of form of action, whether in contract or tort, and Siemens' entire liability to CCSF is set forth in this Section.

28. Insurance and Indemnity.

28.1. Required Insurance Coverages. In addition to the requirements of Section 27, Siemens shall obtain, pay for, and maintain in full force and effect during the term of this Agreement insurance as follows:

A. Workers' Compensation, in statutory amounts, with Employers' Liability insurance with limits not less than one million dollars (\$1,000,000) each accident, injury or illness; and

B. Commercial General Liability insurance with limits not less than two million dollars (\$2,000,000) each occurrence combined single limit for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and products and completed operations coverage; and

C. Commercial Automobile Liability insurance with limits not less than one million dollars (\$1,000,000) each occurrence Combined Single Limit of liability for bodily injury, death, and property damage, including owned, non-owned and hired automobile coverages, as applicable;

D. Data Processing Errors and Omissions Insurance with limits not less than ten million dollars (\$10,000,000) annual aggregate for all claims each policy year for computer programming, and data processing services

This policy shall contain endorsements that have the effect of providing coverage under the policy for claims arising from both contract and tort breaches of this Agreement by Siemens.

In the event such insurance is not available or is unavailable at commercially reasonable rates in the marketplace, Siemens shall obtain such other coverages that are commercially available, and in combination with self-insurance or solely by self-insurance provide CCSF with, coverage that is in all material respects equivalent to the insurance specified above. In the event Siemens fails to obtain or maintain the insurance or self-insurance as provided for in this Section, Siemens' limit of liability under Section 27 for Covered Claims shall be seven million five hundred thousand dollars (\$7,500,000) and not two million five hundred thousand dollars (\$2,500,000); and

E. Umbrella (Excess) Liability Insurance with an occurrence limit of not less than twenty million dollars (\$20,000,000) shall be secured for each form of required coverage set forth in these Sections 28.1 A-C.

28.2. Claims Made Coverages. To the extent any insurance coverage required under this Section is purchased on a "claims-made" basis, Siemens shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of at least three (3) years beyond the expiration or termination of this Agreement, to the effect that, should occurrences during the contract term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies. Or, Siemens shall purchase an extended policy reporting period of not less than three (3) years, effective upon termination of any such policy or upon termination or expiration of this Agreement.

28.3. Endorsements and Policy Language. Commercial General Liability and Commercial Automobile Liability Insurance policies must provide the following:

A. Name as Additional Insured the City and County of San Francisco, its Officers, Agents, and Employees and must include coverage for bodily injury and property damage. This must be in the schedule under the name of additional insured person(s) or organization(s).

B. That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.

C. Coverage shall provide a Waiver of Subrogation.

28.4. Subcontractors To Be Insured. SIEMENS shall require that all subcontractors shall provide all necessary insurance and shall name the City and County of San Francisco, its officers, agents and employees and the Contractor listed as additional insured.

28.5. Cancellation or Lapse of Insurance. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until CCSF receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, CCSF may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance. All policies shall provide thirty (30) days' advance written notice to CCSF of material reduction or nonrenewal of coverages or cancellation of coverages for any reason. Notices shall be sent to the following address

Controller's Office  
City Hall  
1 Dr. Carlton B. Goodlett Place  
Room 316  
San Francisco, California 94102

and

Contracts Office  
Department of Public Health  
101 Grove Street, Room 307  
San Francisco, California 94102

Should Siemens fail to keep in effect at all times the insurance coverages required under Section 27, CCSF may, in addition to and cumulative with any other remedies available at law, equity, or hereunder withhold payments to Siemens required under this Agreement in an amount sufficient to procure the insurance required herein. If Siemens fails to give notice of cancellation, non-renewal, or material change in coverage or scope or decrease in amount of coverage as provided above, and a claim arises for which insurance to be provided under this Section 28 is not maintained, Siemens shall be liable for such claim and any such liability shall not reduce the amount of liability of Siemens to CCSF under Section 27.

28.6. Other Insurance Requirements. Before commencing any operations under this Agreement, Siemens shall furnish to CCSF certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher as rated in A.M. Best's Insurance Reports, that are authorized to do business in the State of California, and that are reasonably satisfactory to CCSF, in form evidencing all coverages set forth above. Failure to maintain insurance shall constitute a material breach of this Agreement. CCSF acknowledges that in order to obtain necessary insurance coverages, Siemens may contract with Lloyds of London or other insurers authorized to do business in California. Upon written request by CCSF, SIEMENS will provide to CCSF policy extracts and policy documents to clarify insurance coverages or as otherwise needed in the course of CCSF's business activities.

Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.

Approval of the insurance by CCSF shall not relieve or decrease the liability of Siemens hereunder.

29. Indemnity for Injury to Persons and Tangible and Intangible Property.

29.1. Siemens' Indemnity. At Siemens' expense as described herein, Siemens agrees to defend, indemnify, and hold harmless CCSF, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation, attorneys' fees as provided herein), arising out of any act or failure to act by Siemens, its officers, directors, agents, employees, subcontractors, or independent contractors, including, without limitation, negligent or willful misconduct, resulting in any claim of injury to any person or persons or damage to tangible or intangible property (hereafter collectively referred to as "Damage Claim(s)") by paying all amounts that a court finally awards or that Siemens agrees to in settlement of such Damage Claim(s) as well as any and all reasonable expenses or charges as they are incurred by CCSF in cooperating in the defense of such Damage Claim(s). CCSF agrees to give Siemens prompt written notice of any Damage Claim and to cooperate fully with Siemens in the defense and any related negotiations of such claim. Upon receipt of written notice, Siemens will provide a defense of such claim by engaging attorneys of its own choosing, and at Siemens' sole expense. CCSF may at its expense engage counsel of its own to

participate in the defense independent of counsel engaged by Siemens. However, in the event a legal conflict arises from the representation by the attorneys selected by Siemens of both Siemens and CCSF, Siemens shall engage, at its sole expense, separate attorneys for CCSF. If it is finally determined that CCSF is legally obligated for the Damage Claim, CCSF shall reimburse Siemens for all legal fees and other amounts paid by Siemens associated with the engagement of a separate attorney due to a conflict in representation. In the event Siemens refuses to undertake CCSF's defense or engage separate counsel in the event of a legal conflict, or fails to do either within a reasonable period of time following receipt of written notice of such a claim, CCSF shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the Damage Claim(s) at the risk and sole expense of Siemens and Siemens shall pay such expenses as they are incurred.

29.2. CCSF's Indemnity. At CCSF's expense as described herein, CCSF agrees to defend, indemnify, and hold harmless Siemens, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation, attorneys' fees as provided herein), arising out of any act or failure to act by CCSF, its officers, directors, agents, employees, subcontractors, or independent contractors, including, without limitation, negligent or willful misconduct, resulting in any claim of injury to any person or persons or damage to tangible or intangible property (hereafter collectively referred to as "Damage Claim(s)") by paying all amounts that a court finally awards or that CCSF agrees to in settlement of such Damage Claim(s) as well as any and all reasonable expenses or charges as they are incurred by Siemens in cooperating in the defense of such Damage Claim(s). Siemens agrees to give CCSF prompt written notice of any Damage Claim and to cooperate fully with CCSF in the defense and any related negotiations of such claim. Upon receipt of written notice, CCSF will provide a defense of such claim by engaging attorneys of its own choosing, and at CCSF's sole expense. Siemens may at its expense engage counsel of its own to participate in the defense independent of counsel engaged by CCSF. However, in the event a legal conflict arises from the representation by the attorneys selected by CCSF of both Siemens and CCSF, CCSF shall engage at its sole expense, separate attorneys for Siemens. If it is finally determined that Siemens is legally obligated for the Damage Claim, Siemens shall reimburse CCSF for all legal fees and other amounts paid by CCSF associated with the engagement of a separate attorney due to a conflict in representation. In the event CCSF refuses to undertake Siemens' defense or engage in separate counsel in the event of a legal conflict, or fails to do either within a reasonable period of time following, receipt of written notice of such a claim, Siemens shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the Damage Claim(s) at the risk and sole expense of CCSF and CCSF shall pay such expenses as they are incurred.

29.3. Indemnity Re Copyright, Patent, Trademark Infringement. At Siemens' expense as described herein, Siemens agrees to defend, indemnify, and hold harmless CCSF, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation attorneys' fees as provided herein), arising out of any claim that the System or System Components, except as to claims arising solely from the use of equipment designated on Exhibit A or Wide Area Network, or any part of them, infringe upon or otherwise violate any copyright, trade secret, trademark, patent, invention, proprietary information, or other rights of any third party (hereafter collectively referred to as "Infringement Claim(s)") by paying all amounts that a court finally awards or that Siemens agrees to in settlement of such Infringement Claim(s) as well as any and all reasonable expenses or charges as they are incurred by CCSF in cooperating in the defense of such Infringement Claim(s). CCSF agrees to give Siemens prompt written notice of any Infringement Claim and to cooperate fully with Siemens in the defense and any related negotiations of such claim. Upon receipt of written notice, Siemens will provide a defense of such claim by engaging attorneys of its own choosing and at Siemens' sole expense. CCSF may at its expense engage counsel of its own to participate in the defense with independent of counsel engaged by Siemens. However, in the event a

legal conflict arises from the representation by the attorneys selected by Siemens of both Siemens and CCSF, Siemens shall engage, at its sole expense, separate attorneys for CCSF. If it is finally determined that CCSF is legally obligated for the Infringement Claim, CCSF shall reimburse Siemens for all legal fees and other amounts paid by Siemens associated with the engagement of a separate attorney due to a conflict in representation. In the event Siemens refuses to undertake CCSF's defense or engage separate counsel in the event of a legal conflict, or fails to do either within a reasonable period of time following receipt of written notice of such a claim, CCSF shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the Infringement Claim(s) at the risk and sole expense of Siemens and Siemens shall pay such expenses as they are incurred. CCSF also agrees that, if the operation of the System or System Components, or any part of them, becomes, or in Siemens' opinion is likely to become, the subject of an Infringement Claim, CCSF will permit Siemens, at Siemens' option and expense for all associated costs, either to procure the right for CCSF to continue to use the affected System Component, or part thereof, or to replace or modify the System Component with another item of comparable quality and performance capabilities to become non-infringing, provided such replacement or modification does not cause the System or System Components, or any part thereof, to fail to comply with any of the requirements of this Agreement, including but not limited to all functionality, technical specifications and performance warranties in Section 21. Siemens' liability hereunder shall not be limited as provided in Section 27. Siemens shall have no obligation hereunder with respect to any Infringement Claim determined to be a result of (1) an alteration or modification of any Siemens Applications, Modules, Documentation, or Custom Programming for which Siemens develops Specifications by CCSF in violation of this Agreement, (2) illegal use by CCSF of any Siemens Applications, Modules, Documentation, (3) Adaptations performed by anyone other than Siemens or Custom Programming for which Siemens does not develop Specifications or (4) CCSF's operation or use of applications not furnished by Siemens and not otherwise specified or approved for use by Siemens under this Agreement.

**29.4. Indemnity Re Confidential Information.** At its expense as described herein, Siemens agrees to defend, indemnify, and hold harmless CCSF, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation, attorneys' fees as provided herein), arising out of any act or failure to act by Siemens, its officers, directors, employees, agents, subcontractors or independent contractors, resulting in the breach of the provisions of Section 32 relating to Siemens' use of confidential information owned or controlled by CCSF (hereafter collectively referred to as "Confidentiality Claims") by paying all amounts that a court finally awards or that Siemens agrees to in settlement of such Confidentiality Claim(s) as well as any and all reasonable expenses or charges as they are incurred by CCSF in cooperating in the defense of such Confidentiality Claim(s). CCSF agrees to give Siemens prompt written notice of any Confidentiality Claim and to cooperate fully with Siemens in the defense and any related negotiations of such claim. Upon receipt of written notice, Siemens will provide a defense of such claim by engaging attorneys of its own choosing and at Siemens' sole expense. CCSF may at its expense engage counsel of its own to participate in the defense independent of counsel engaged by Siemens. However, in the event a legal conflict arises from the representation by the attorneys selected by Siemens of both Siemens and CCSF, Siemens shall engage, at its sole expense, separate attorneys for CCSF. If it is finally determined that CCSF is legally obligated for the Confidentiality Claim, CCSF shall reimburse Siemens for all legal fees and other amounts paid by Siemens associated with the engagement of a separate attorney due to a conflict in representation. In the event Siemens refuses to undertake CCSF's defense or engage separate counsel in the event of a legal conflict, or fails to do either within a reasonable period of time following receipt of written notice of such a claim, CCSF shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the Confidentiality Claim(s) at the risk and sole expense of Siemens and Siemens shall pay such expenses as they are incurred.

30. Modification of Agreement and PSRs. No alteration, amendment, or modification of the terms of this Agreement, or PSR shall be valid or effective unless in writing, and signed by Siemens and Authorized hereunder by CCSF. Such changes, including any increase or decrease in the amount of Siemens' compensation, which are mutually agreed upon by and between CCSF and Siemens, shall be effective upon execution of an Authorized amendment to this Agreement or PSR.

31. Proprietary Information of CCSF and Siemens.

31.1. Restricted Information. Siemens and CCSF understand and agree that, in the performance of work or services under this Agreement, or in contemplation thereof Siemens and CCSF may have access to private or confidential information of each other and that such information may contain trade secrets, proprietary details and sensitive information ("Restricted Information"), the disclosure of which or use by the other party or by third parties could be damaging to the party who owns the information. Siemens and CCSF each agree that the Restricted Information of the other party shall be held in strict confidence and used only in the performance of the services under this Agreement and shall not, unless otherwise required by the California Public Records Act (Cal. Gov. Code Section 6100 *et seq.*) or San Francisco Administrative Code Sections 67.20-67.32, or any other law or statute of similar effect, be used by the non-owning party or disclosed to any third party without the prior written consent of the party who owns the information. Siemens and CCSF shall exercise the same standard of care as is used to protect their own proprietary data to protect the other's Restricted Information.

31.2. Rights to and Protection of Applications. CCSF understands and agrees that all Applications constitute confidential and proprietary information of Siemens. CCSF agrees to maintain all Applications in strict confidence and agrees not to disclose, duplicate, or otherwise reproduce, directly or indirectly, the Applications in whole or in part or any materials relating thereto except as specifically authorized in this Agreement. CCSF agrees to take reasonable steps to insure that no unauthorized persons shall have access to the Applications and that all authorized persons having access to the Applications shall refrain from any such disclosure, duplication, or reproduction except as authorized in this Agreement or by Siemens. CCSF shall exercise the same standard of care as is used to protect the confidentiality of its own applications. Upon Siemens' request, CCSF shall inform Siemens in writing of the number and location of the original and all copies of each of the Licensed Applications.

31.3. Protection of Trade Secrets. To the extent permitted by law, the parties shall retain in strict confidence all knowledge of the other's business, development plans, programs, documentation, techniques, systems, and know-how.

31.4. Equitable Remedies. Each party acknowledges and agrees that the other party would be irreparably damaged if the provisions of this Section 31 were not capable of being specifically enforced, and agrees that the other party shall be entitled to equitable remedies for any breach of this Section 31, including but not limited to specific performance, injunctive relief, and similar remedies, in addition to, and cumulative with, any legal rights or remedies, including the right to damages.

32. Confidentiality and Maintenance of Records.

32.1. Compliance with Federal and State Confidentiality Requirements. CCSF and Siemens acknowledge and agree that all patient records shall be subject to the confidentiality and disclosure provisions of federal and state law and agree to maintain the confidentiality of all such records in accordance with such laws.

32.2. Confidentiality of CCSF Data. All of the data, records and information processed by or input onto the System, stored by Siemens, or otherwise provided to Siemens under this Agreement shall be and remain the property of CCSF to which CCSF retains exclusive rights and ownership. All of the reports, written or electronically recorded CCSF owned information, and data prepared, processed, assembled or stored by Siemens under this Agreement shall be submitted only to the Director or designee and shall not be divulged by Siemens to any other person or used for any purpose other than performance of this Agreement, except as required by law, unless otherwise first authorized in writing by CCSF. Except as provided in Section 43, the data of CCSF shall not be used by Siemens for any purpose other than as required under this Agreement, nor shall such data or any part of such data be disclosed, sold, assigned, leased or otherwise disposed of to third parties by Siemens or commercially exploited or otherwise used by or on behalf of Siemens, its officers, directors, employees, or agents.

32.3. Third Party Discovery Requests. Except as otherwise provided in this Agreement, if any third party shall seek in any way to discover or otherwise gain access to, or production of ("Discovery") any information or any other data or records (collectively referred to as "Information") of one party that may be in the possession of the other party, the other party shall, if legally permitted, immediately notify the party whose Information is subject to the Discovery, and shall, at the written request of the party whose Information is the subject of the Discovery, cooperate with such party in its efforts to preclude, quash, limit, or otherwise impose a protective order or similar restriction on the Discovery.

32.4. Survival of Confidentiality. The provisions of Sections 31 and 32 shall survive the expiration or termination of this Agreement.

32.5. Equitable Remedies. Each party acknowledges and agrees that the other party would be irreparably damaged if the provisions of this Section 32 were not capable of being specifically enforced, and agrees that the other party shall be entitled to equitable remedies for any breach of this Section, including but not limited to specific performance, injunctive relief, and similar remedies, in addition to, and cumulative with, any legal rights or remedies, including the right to damages.

32.6. Work Papers To Be Maintained: Property of CCSF. Siemens agrees its work papers relating to CCSF under this Agreement are the property of CCSF.

32.7. Employment Non-Solicitation. Siemens and CCSF agree not to solicit the employment of the other party's employees during the term of this Agreement, without the express written consent of the other party.

### 33. Conflict of Interest.

33.1. Compliance with Conflict of Interest Laws. Siemens states that it is familiar with provisions of Section 15.103 and Appendix C8.105 of the Charter of the City of San Francisco, and Section 87100 *et seq.* of the Government Code of the State of California, incorporated herein by reference and made a part hereof, and certifies that it does not know of any aspects of its business or personal practices that constitute a violation of said sections.

33.2. No Financial Interest of CCSF Representatives. CCSF agrees that no officer, member or employee of CCSF and no member of its governing body shall have any pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

33.3. No Influence by Siemens Representatives. No officer, director, or employee of Siemens, nor any member of a Siemens officer's, director's, employee's or family, shall serve on a CCSF

board or committee, or hold any position that either by rule, practice or action nominates, recommends, or supervises Siemens' operations, or authorizes funding to Siemens.

34. Audit, Inspection and Examination of Records.

34.1. Maintenance of Books and Audit Rights. Siemens agrees to keep and maintain and make available to CCSF accurate books, fiscal records, and all other materials relative to its activities funded under this Agreement. Siemens shall permit CCSF to audit, examine and make excerpts and transcripts from such books and records, and to audit all invoices, materials, project accounting records and other data related to all matters covered by this Agreement. Siemens shall maintain such books, records and materials in an accessible location and condition for a period of not less than five (5) years or after final audit has been resolved. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon CCSF by this Section.

34.2. Payment Adjustments. Siemens and CCSF agree to pay any financial adjustments necessitated by any audit described in Section 34.1. If Siemens is under contract to CCSF, the adjustment may be made in the next subsequent billing by Siemens to CCSF, or may be made by another written schedule determined solely by CCSF. In the event Siemens is not under contract to CCSF, written arrangements shall be made for audit adjustments, subject to the limitations on CCSF's payment obligations set forth in Section 41.

34.3. Verification of CCSF Costs by Government. Until the expiration of four (4) years after the furnishing of any service pursuant to this Agreement, Siemens will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of this Agreement and any books, documents, records, and other data of Siemens that are necessary to certify the nature and extent of costs incurred by CCSF for such services. If Siemens carries out any of its duties under this Agreement through a subcontract with a related organization involving a value or cost of Ten Thousand Dollars (\$10,000) or more over a twelve (12) month period, Siemens will cause such subcontract to contain a clause to the effect that, until the expiration of four (4) years after the furnishing of any service pursuant to said contract, the related organization will make available, upon written request of the Secretary of Health and Human Services or the Comptroller General of the United States or any of their duly authorized representatives, copies of records of the related organization that are necessary to certify the nature and extent of costs incurred for such services. This provision shall also apply to any contract between a subcontractor and an organization related to the subcontractor by control or common ownership.

34.4. Bankruptcy and Liquidation. In the event Siemens (1) shall make an assignment for the benefit of creditors, or petition or apply to any tribunal for the appointment of a custodian, receiver, or trustee for it or a substantial part of its assets; or (2) shall commence any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt, dissolution, or liquidation law or statute of any jurisdiction whether now or hereafter in effect; or (3) shall have had any such petition or application filed or any such proceeding commenced against it in which an order for relief is entered or an adjudication or appointment is made, and which remains undismissed for a period of sixty (60) days or more; or (4) shall take any corporate action indicating its consent to, approval of, or acquiescence in any such petition, application, proceeding, or order for relief or the appointment of a custodian, receiver, or trustee for all or any substantial part of its properties; or (5) shall suffer any such custodianship, receivership, or trusteeship to continue undischarged for a period of sixty (60) days or more causing Siemens or any third party, including, without limitation, a bankruptcy trustee, to be empowered under

state or federal law to reject this Agreement or any agreement supplementary hereto, CCSF shall have the following rights:

A. In the event of a rejection of this Agreement or any supplement hereto by a bankruptcy trustee or Siemens successor in interest, Siemens shall return to CCSF copies of all existing CCSF-owned data, records and information, including PHI, in a form that is mutually agreeable to both parties.

B. In the event of a rejection of this Agreement or any agreement supplementary hereto, CCSF may elect to retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 365(n) of the Bankruptcy Code. Upon written request of CCSF to Siemens or the bankruptcy trustee or receiver, Siemens or such bankruptcy trustee or receiver shall not interfere with the rights of CCSF as licensee as provided in this Agreement or in an agreement supplementary hereto to obtain the source code(s) to the System and all System Components, excluding the equipment designated on Exhibit A and Wide Area Network, from the bankruptcy trustee or from a third-party escrow agent and shall, if requested, cause a copy of such source code(s) to be available to CCSF.

C. In the event of a rejection of this Agreement or any agreement supplementary hereto, CCSF may elect to retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 365(n) of the Bankruptcy Code without prejudice to any of its rights of setoff with respect to this Agreement under the Bankruptcy Code or applicable non-bankruptcy law.

D. In the event of a rejection of this Agreement or any agreement supplementary hereto, CCSF may retain its rights under this Agreement or any agreement supplementary hereto as provided in Section 365(n) of the Bankruptcy Code without prejudice to any of its rights under Section 503(b) of the Bankruptcy Code.

35. Assignment. This Agreement shall not be assigned by either party without the prior written consent of the other except as follows:

A. Siemens may assign this Agreement to a parent or subsidiary corporation, or a subsidiary of its parent corporation, or to a successor by purchase of substantially all of its assets, merger, or consolidation, provided (i) such assignment is in writing and in a form reasonably acceptable to CCSF, (ii) states that the assignee is accepting all obligations of Siemens under this Agreement and agrees to be bound by and discharge the Agreement's terms, conditions, and obligations as if it were the original party hereto, and (iii) includes a written opinion from a national accounting firm that the liquidity, capital resources, and overall financial position of the assignee entity, as reflected in its most recent annual report prior to such assignment, purchase, merger or consolidation, Securities and Exchange Commission Form 10K, and financial statements ("Financial Certification"), is such that it is capable of performing the obligations under this Agreement in a manner substantially comparable to Siemens. The Financial Certification shall include, but not be limited to, a discussion of current assets, current liabilities, current statement of income, and statement of current cash flows.

B. CCSF may assign this Agreement in the event of an affiliation, merger, acquisition, sale or disposition of substantially all of its health care facilities and assets, consolidation, or other joint operating arrangement between CCSF and a third party (ies), provided (i) such assignment is in writing and states that the assignee is accepting all obligations of CCSF under this Agreement and agrees to be bound by and discharge each of the Agreement's terms, conditions, and obligations as if it

were the original party hereto, and (ii) includes a written opinion from a national accounting firm that the assignee entity's overall financial position is sufficient to enable it to meet all payment obligations due under this Agreement.

36. Waiver. All waivers under this Agreement shall be in writing in order to be effective. No waiver by a party of any breach of this Agreement or waiver of any warranty, representation or other provision hereunder shall be deemed to be a waiver of any other breach, warranty, representation or provision (whether preceding, or succeeding, and whether or not of the same or similar nature), and no acceptance of payment or performance by a party after any breach by the other party shall be deemed to be a waiver of any breach of this Agreement or of any representation, warranty, or other provision, whether or not the party accepting payment or performance knows of such breach at the time of acceptance. No failure or delay by a party to exercise any right it may have by reason of the default of the other party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right of the non-defaulting party under this Agreement.

37. Independent Contractor.

37.1. Siemens Responsibility for Payment to Employees; Indemnity. Siemens acknowledges that it is at all times acting as an independent contractor under this Agreement and except as specifically provided herein, not as an agent, employee, or partner of CCSF. Siemens agrees to be solely responsible for all matters relating to compensation of its employees, including but not limited to compliance with laws governing worker's compensation, Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related employer assessment or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits. At Siemens' expense as described herein, Siemens agrees to defend, indemnify, and hold harmless CCSF, its officers, agents, and employees from and against any claim, action, proceeding, liability, loss, damage, cost, or expense (including, without limitation, attorneys' fees as provided herein) (hereafter collectively referred to as "claims"), arising out of Siemens' failure to pay, when due, all such taxes and obligations by paying all amounts that a court finally awards or that Siemens agrees to in settlement of such claim(s) as well as any and all reasonable expenses or charges as they are incurred by CCSF in cooperating in the defense of such claim(s). CCSF agrees to give Siemens prompt written notice of any claim and to cooperate fully with Siemens in the defense, and any related negotiations of such claim. Upon receipt of written notice, Siemens will provide a defense of such claim by engaging attorneys of its own choosing and at Siemens' sole expense. CCSF may at its expense engage counsel of its own to participate in the defense independent of counsel engaged by Siemens. However, in the event a legal conflict arises from the representation by the attorneys selected by Siemens of both Siemens and CCSF, Siemens shall engage, at its sole expense, separate attorneys for CCSF. If it is finally determined that CCSF is legally obligated for the claim(s), CCSF shall reimburse Siemens for all legal fees and other amounts paid by Siemens associated with the engagement of a separate attorney due to a conflict in representation. In the event Siemens refuses to undertake CCSF's defense or engage separate counsel in the event in the event of a legal conflict, or fails to do either within a reasonable period of time following receipt of written notice of such a claim, CCSF shall have the right to undertake the defense through attorneys of its own choosing, compromise, or settle the claim(s) at the risk and sole expense of Siemens and Siemens shall pay such expenses as they are incurred.

37.2. No CCSF Benefits for Siemens. Siemens further acknowledges that as an independent contractor it is not eligible to participate in the CCSF Health Service System, vacation, holiday, retirement, or other employee programs. In the event that CCSF should exercise the Agreement termination provisions contained herein, Siemens shall have no recourse to any rights of appeal under

any CCSF rules and regulations that may be applicable to CCSF employees. Siemens shall not be reimbursed for any vacation, sick leave, or overtime conducted pursuant to this Agreement.

37.3. Conduct of Parties. The employees and agents of each party, and those of their respective customers, shall, while on the premises of the other, comply with all rules and regulations of the premises made known to the party, including all security requirements.

37.4. Personnel and Equipment. Siemens agrees that it has secured or shall secure at its own expense all persons, employees, and equipment required to perform the services required under and in accordance with this Agreement, and that all such services shall be performed by Siemens, or under its supervision, by persons authorized, qualified and competent to perform such services. CCSF agrees to make available the persons, employees, and equipment required to perform its obligations under and in accordance with this Agreement.

38. Transition from 2007 Agreements.

38.1. Termination of Obligations Under 2007 Agreements. This Agreement supersedes, in their entirities, the 2007 RCO Agreement and the 2007 PPS Agreement effective as of the date of this Agreement, so that as of that date, the 2007 RCO Agreement and the 2007 PPS Agreement are terminated except that those sections of the 2007 RCO Agreement and the 2007 PPS Agreement that deal with confidentiality shall nevertheless remain in effect. Without limiting the generality of the foregoing, effective as of the date of this Agreement, CCSF's license to the "Applications" (as defined in the 2007 RCO Agreement) is terminated and Siemens shall have no further obligation to make available the functionality of or to provide support for those "Applications" under the 2007 RCO Agreement, and CCSF shall have no further obligation to pay term license, remote computing, ASP, support, WAN, or other fees under the 2007 RCO Agreement with respect to those "Applications" for the period after the date of this Agreement. Likewise, without limiting the generality of the foregoing, effective as of the date of this Agreement, CCSF's license to the "Applications" (as defined in the 2007 PPS Agreement) is terminated and Siemens shall have no further obligation to make available the functionality of or to provide support for those "Applications" under the 2007 PPS Agreement, and CCSF shall have no further obligation to pay term license, support or other fees under the 2007 PPS Agreement with respect to those "Applications" for the period after the date of this Agreement.

38.2. Commitment to Limit Disclosure Regarding Transition from 2007 Agreements. In consideration of the terms of this Agreement, CCSF agrees not to disclose, beyond the extent disclosure is legally required, why certain of the "Applications" as defined in the 2007 RCO Agreement or the 2007 PPS Agreement are not being re-licensed under this Agreement. In particular, CCSF agrees not to publish, call attention to, or otherwise volunteer such information, instead disclosing it only to the extent to which CCSF is legally obligated.

38.3. Release Relating to 2007 Agreements. CCSF, in consideration of the terms of this Agreement, hereby fully, finally and forever releases Siemens and its parents, affiliates, successors and assigns, representatives, officers, directors and employees from any and all claims, demands and causes of action of any kind, known or unknown, whether based in contract, tort, negligence, or other theory of recovery, which have accrued as of the date of this Agreement and which arise out of, are based on or relate in any way to the 2007 RCO Agreement or the 2007 PPS Agreement. CCSF agrees that the promises made under this Agreement are in full and adequate consideration for the releases given herein. As a part of the consideration for this release, CCSF expressly represents and warrants that before executing this instrument, it has been fully informed of its terms, contents, conditions and effects, and

that in making this release, no compromise or representation of any kind has been made to it or anyone acting for it, except as is expressly stated in this Agreement.

38.4. Section 1542 Waiver Relating to 2007 Agreements. In granting the release herein, CCSF acknowledges that it has read and understands California Civil Code section 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

CCSF expressly waives and relinquishes all rights and benefits under that section, and under any law of any jurisdiction of similar effect, with respect to the release contained in this Section 38 of any unknown or unsuspected claims under the 2007 RCO Agreement or the 2007 PPS Agreement.

39. Non-Discriminatory Employment Practices.

39.1. Siemens Shall Not Discriminate. In the performance of this Agreement, Siemens agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any CCSF employee working with, or applicant for employment with Siemens, in any of Siemens' operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Siemens.

39.2. Subcontracts. Siemens shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and shall require all subcontractors to comply with such provisions. Siemens' failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

39.3. Non-Discrimination in Benefits. Siemens does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the CCSF or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

39.4. Condition to Contract. As a condition to this Agreement, Siemens shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

39.5. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by

reference and made a part of this Agreement as though fully set forth herein. Siemens shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Siemens understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Siemens and/or deducted from any payments due Siemens.

40. Local Business Enterprise Utilization; Liquidated Damages.

40.1. The LBE Ordinance.

Siemens, shall comply with all the requirements of the Local Business Enterprise and Non-Discrimination in Contracting Ordinance set forth in Chapter 14B of the San Francisco Administrative Code as it now exists or as it may be amended in the future (collectively the "LBE Ordinance"), provided such amendments do not materially increase Siemens' obligations or liabilities, or materially diminish Siemens' rights, under this Agreement. Such provisions of the LBE Ordinance are incorporated by reference and made a part of this Agreement as though fully set forth in this section. Siemens' willful failure to comply with any applicable provisions of the LBE Ordinance is a material breach of Siemens' obligations under this Agreement and shall entitle CCSF, subject to any applicable notice and cure provisions set forth in this Agreement, to exercise any of the remedies provided for under this Agreement, under the LBE Ordinance or otherwise available at law or in equity, which remedies shall be cumulative unless this Agreement expressly provides that any remedy is exclusive. In addition, Siemens shall comply fully with all other applicable local, state and federal laws prohibiting discrimination and requiring equal opportunity in contracting, including subcontracting.

40.2. Compliance and Enforcement.

If Siemens willfully fails to comply with any of the provisions of the LBE Ordinance, the rules and regulations implementing the LBE Ordinance, or the provisions of this Agreement pertaining to LBE participation, Siemens shall be liable for liquidated damages in an amount equal to Siemens' net profit on this Agreement, or 10% of the total amount of this Agreement, or \$1,000, whichever is greatest. The Director of CCSF's Human Rights Commission or any other public official authorized to enforce the LBE Ordinance (separately and collectively, the "Director of HRC") may also impose other sanctions against Siemens authorized in the LBE Ordinance, including declaring Siemens to be irresponsible and ineligible to contract with CCSF for a period of up to five years or revocation of the Siemens' LBE certification, if any. The Director of HRC will determine the sanctions to be imposed, including the amount of liquidated damages, after investigation pursuant to Administrative Code §14B.17.

By entering into this Agreement, Siemens acknowledges and agrees that any liquidated damages assessed by the Director of the HRC shall be payable to CCSF upon demand. Siemens further acknowledges and agrees that any liquidated damages assessed may be withheld from any monies due to Siemens on any contract with CCSF.

Siemens agrees to maintain records necessary for monitoring its compliance with the LBE Ordinance for a period of three years following termination or expiration of this Agreement, and shall make such records available for audit and inspection by the Director of HRC or the Controller upon request.

41. Termination For Unavailability of Funds. In recognition that CCSF is a governmental entity and its operations and budgets are determined on an annual basis and that this Agreement is subject to the budget and fiscal provisions of the San Francisco Charter, CCSF shall have the right to terminate this Agreement as follows:

41.1. Right To Terminate. This Agreement will terminate without penalty at the end of any fiscal year in the event funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated. CCSF has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other Agreements. CCSF budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Siemens' assumption of risk of possible non-appropriation is part of the consideration for this Agreement. In the event of termination for non-appropriation, Siemens shall be reimbursed in accordance with Section 24 (Payment Upon Termination).

41.2. Payment For Services. If this Agreement is terminated pursuant to Section 41.1, CCSF agrees to promptly pay Siemens all Siemens' fees and other charges determined to be due and payable as of the termination date.

41.3. Reinstatement. If this Agreement is terminated pursuant to Section 41.1, and if funds are appropriated for services of the kind contemplated under this Agreement during the year of termination or during the following year, then CCSF shall promptly notify Siemens in writing and Siemens shall have the right to reinstate this Agreement for that period for which funds are appropriated or the unexpired term of this Agreement as of the date of termination, whichever period is shorter in duration.

42. Taxes. CCSF shall be responsible for the payment by reimbursement of Siemens of all taxes imposed on Siemens or CCSF directly resulting from this Agreement or any performance under this Agreement, excluding taxes based on Siemens' income, Siemens employee payroll taxes, or those taxes associated with Siemens' place of residence or franchise. If CCSF provides Siemens with evidence of a tax exemption, including if available a tax exemption letter or number, Siemens shall not bill CCSF for taxes to which the exemption applies.

43. Aggregated Data. Siemens shall have the right to compile and distribute statistical analyses and reports utilizing aggregated data derived from information and data obtained from CCSF, other Siemens customers, and other sources. Such reports and analyses will not identify CCSF or any physician or patient of CCSF.

44. Interpretation of Agreement.

44.1. Conflict Between Agreement and Exhibits. In the event of any conflict or inconsistency in the interpretation of this Agreement (including its Exhibits), such conflict or inconsistency shall be resolved by giving precedence first to the body of this Agreement; and then to the Exhibits.

44.2. Choice Of Law. This Agreement shall be deemed to be made in California and shall be construed in accordance with the laws of the State of California.

44.3. Venue. The parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a party elects to file an action in federal court) courts located in the City and County of San Francisco, State of California. This choice of venue is intended by the parties to be mandatory and not permissive

in nature, and to preclude the possibility of litigation between the parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this Section. Each party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding, brought in accordance with this Section.

44.4. Agreement Drafted By All Parties. This Agreement is the result of arms length negotiations between the parties and shall be construed to have been drafted by all parties such that any ambiguities in this Agreement shall not be construed against either party.

44.5. Terminology. All personal pronouns used herein, whether used in the feminine, masculine, or neuter gender, shall include all other genders, and the singular shall include the plural and *vice versa*.

44.6. Section Headings. The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

45. Notices. Any notices required or permitted to be given hereunder by either party to the other shall be given in writing, by personal delivery, by bonded courier or overnight delivery company, or by United States first class registered or certified mail, postage prepaid, return receipt requested, addressed to the parties as follows (or to such other addresses as the parties may request in writing by notice given pursuant to this section):

TO CITY AND COUNTY OF SAN FRANCISCO:

Office of Contracts Management  
Department of Public Health  
101 Grove Street, Room 307  
San Francisco, California 94102  
FAX: (415) 554-2555

and

Director, Management Information Systems  
Department of Public Health  
City & County of San Francisco Third Floor  
1380 Howard Street  
San Francisco, California 94103  
FAX: (415) 255-3606

To Siemens:

Vice President of Finance, Siemens  
51 Valley Stream Parkway  
Malvern, Pennsylvania 19355  
FAX: (215) 219-8333

and

Regional Vice President, West Region  
6700 Koll Center Parkway, Suite 220  
Pleasanton, California 94566  
FAX: 925 846-7101

Notices shall be deemed received on the earliest of personal delivery, or twenty-four (24) hours following deposit with a bonded courier or overnight delivery company; or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

46. Entire Agreement. This Agreement is the entire Agreement between Siemens and CCSF with respect to the subject matter of this Agreement, and it supersedes, subject to the terms of Section 38 above, all other prior and contemporary Agreements, understandings, and commitments between Siemens and CCSF with respect to the subject matter of this Agreement.

47. Severability. If any provision of this Agreement is found to be invalid or unenforceable by any court, such provision shall be ineffective only to the extent that it is in contravention of applicable laws without invalidating the remaining provisions hereof.

48. Mac Bride Principles -- Northern Ireland. CCSF urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. CCSF urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, Siemens acknowledges that it has read and understood this Section.

49. Drug Free Work Place. If Siemens is required by its performance under this contract to comply with the Drug Free Work Place Act of 1988 (Pub. L. 100-690, Title V, Subtitle D), Siemens agrees to abide by all applicable terms and conditions of that Act.

50. Tropical Hardwood and Virgin Redwood Ban. Pursuant to San Francisco Administrative Code Section 12I.5(b), CCSF urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

51. Resource Conservation. Chapter 21A of the San Francisco Administrative Code ("Resource Conservation") is incorporated herein by this reference. Any reports or other documents submitted by Siemens to CCSF shall be on recycled paper and printed on doubled-sided pages to the maximum extent possible. Failure by Siemens to comply with this requirement of Chapter 21A shall be deemed a material breach of this Agreement. In the event that Siemens fails to comply in good faith with this requirement of Chapter 21A, Siemens shall be liable for liquidated damages in an amount equal to Siemens' net profit under the Agreement or five percent (5%) of the total amount of the contract dollars, whichever is greater.

52. Compliance with Americans with Disabilities Act. Siemens acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Siemens shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Siemens agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Siemens, its employees, agents or assigns, shall constitute a material breach of this Agreement.

53. Beta Testing. Siemens, in its development of new Applications or upgrades to existing Application, frequently solicits customer involvement in that process by naming one or more customers as Beta Test Sites for the purpose of running the Application in a test environment and providing recommendations and suggestions to Siemens related to that Application. In the event that CCSF desires to take advantage of working as a Beta Test Site for such an Application, CCSF shall enter into a separate Amendment ("Beta Test Amendment") with Siemens, a copy of which is attached to this Agreement as Exhibit M.

54. Earned Income Credit (EIC) Forms. Administrative Code section 120 requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found.

54.1. Siemens shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty (30) days following the date on which this Agreement becomes effective (unless Siemens has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by Siemens; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement.

54.2. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by Siemens of the terms of this Agreement. If, within thirty (30) days after Siemens receives written notice of such a breach, Siemens fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty (30) days, Siemens fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, CCSF may pursue any rights or remedies available under this Agreement or under applicable law.

54.3. Any Subcontract entered into by Siemens shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this section.

54.4. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 120 of the San Francisco Administrative Code.

55. Limitations on Contributions.

Through execution of this Agreement, Siemens acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Siemens acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Siemens further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Siemens's board of directors; Siemens's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Siemens; any subcontractor

listed in the bid or contract; and any committee that is sponsored or controlled by Siemens. Additionally, Siemens acknowledges that Siemens must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Siemens further agrees to provide to City the names of each person, entity or committee described above.

**56. Requiring Minimum Compensation for Employees.**

56.1 Siemens agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at [www.sfgov.org/olse/mco](http://www.sfgov.org/olse/mco). A partial listing of some of Siemens's obligations under the MCO is set forth in this Section. Siemens is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

56.2 The MCO requires Siemens to pay Siemens's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Siemens is obligated to keep informed of the then-current requirements. Any subcontract entered into by Siemens shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is Siemens's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Siemens.

56.3 Siemens shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

56.4 Siemens shall maintain employee and payroll records as required by the MCO. If Siemens fails to do so, it shall be presumed that the Siemens paid no more than the minimum wage required under State law.

56.5 The City is authorized to inspect Siemens's job sites and conduct interviews with employees and conduct audits of Siemens

56.6 Siemens's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Siemens fails to comply with these requirements. Siemens agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Siemens's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

56.7 Siemens understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P

(including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Siemens fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Siemens fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

56.8 Siemens represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

56.9 If Siemens is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Siemens later enters into an agreement or agreements that cause Siemens to exceed that amount in a fiscal year, Siemens shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Siemens and this department to exceed \$25,000 in the fiscal year.

57. Requiring Health Benefits for Covered Employees.

57.1 Siemens agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at [www.sfgov.org/olse](http://www.sfgov.org/olse). Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

57.2 For each Covered Employee, Siemens shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Siemens chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

57.3 Notwithstanding the above, if the Siemens is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

57.4 Siemens's failure to comply with the HCAO shall constitute a material breach of this agreement. City shall notify Siemens if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Siemens fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Siemens fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.

57.5 Any Subcontract entered into by Siemens shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Siemens shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Each Siemens shall be responsible for its

Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Siemens based on the Subcontractor's failure to comply, provided that City has first provided Siemens with notice and an opportunity to obtain a cure of the violation.

57.6 Siemens shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Siemens's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

57.7 Siemens represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

57.8 Siemens shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the City Contract.

57.9 Siemens shall keep itself informed of the current requirements of the HCAO.

57.10 Siemens shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

57.11 Siemens shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten business days to respond.

57.12 Siemens shall allow City to inspect Siemens's job sites and have access to Siemens's employees in order to monitor and determine compliance with HCAO.

City may conduct random audits of Siemens to ascertain its compliance with HCAO. Siemens agrees to cooperate with City when it conducts such audits.

57.13 If Siemens is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Siemens later enters into an agreement or agreements that cause Siemens's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Siemens and the City to be equal to or greater than \$75,000 in the fiscal year.

58. First Source Hiring Program.

58.1 Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Siemens shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

58.2 First Source Hiring Agreement. As an essential term of, and consideration for, any contract or property contract with the City, not exempted by the FSHA, the Siemens shall enter into a first source hiring agreement ("agreement") with the City, on or before the effective date of the contract or property contract. Siemens shall also enter into an agreement with the City for any other work that it performs in the City. Such agreement shall:

58.2.1 Set appropriate hiring and retention goals for entry level positions. The employer shall agree to achieve these hiring and retention goals, or, if unable to achieve these goals, to establish good faith efforts as to its attempts to do so, as set forth in the agreement. The agreement shall take into consideration the employer's participation in existing job training, referral and/or brokerage programs. Within the discretion of the FSHA, subject to appropriate modifications, participation in such programs maybe certified as meeting the requirements of this Chapter. Failure either to achieve the specified goal, or to establish good faith efforts will constitute noncompliance and will subject the employer to the provisions of Section 83.10 of this Chapter.

58.2.2 Set first source interviewing, recruitment and hiring requirements, which will provide the San Francisco Workforce Development System with the first opportunity to provide qualified economically disadvantaged individuals for consideration for employment for entry level positions. Employers shall consider all applications of qualified economically disadvantaged individuals referred by the System for employment; provided however, if the employer utilizes nondiscriminatory screening criteria, the employer shall have the sole discretion to interview and/or hire individuals referred or certified by the San Francisco Workforce Development System as being qualified economically disadvantaged individuals. The duration of the first source interviewing requirement shall be determined by the FSHA and shall be set forth in each agreement, but shall not exceed 10 days. During that period, the employer may publicize the entry level positions in accordance with the agreement. A need for urgent or temporary hires must be evaluated, and appropriate provisions for such a situation must be made in the agreement.

58.2.3 Set appropriate requirements for providing notification of available entry level positions to the San Francisco Workforce Development System so that the System may train and refer an adequate pool of qualified economically disadvantaged individuals to participating employers. Notification should include such information as employment needs by occupational title, skills, and/or experience required, the hours required, wage scale and duration of employment, identification of entry level and training positions, identification of English language proficiency requirements, or absence thereof, and the projected schedule and procedures for hiring for each occupation. Employers should provide both long-term job need projections and notice before initiating the interviewing and hiring process. These notification requirements will take into consideration any need to protect the employer's proprietary information.

58.2.4 Set appropriate record keeping and monitoring requirements. The First Source Hiring Administration shall develop easy-to-use forms and record keeping requirements for documenting compliance with the agreement. To the greatest extent possible, these requirements shall utilize the employer's existing record keeping systems, be nonduplicative, and facilitate a coordinated flow of information and referrals.

58.2.5 Establish guidelines for employer good faith efforts to comply with the first source hiring requirements of this Chapter. The FSHA will work with City departments to develop employer good faith effort requirements appropriate to the types of contracts and property contracts handled by each department. Employers shall appoint a liaison for dealing with the development and implementation of the employer's agreement. In the event that the FSHA finds that the employer under a

City contract or property contract has taken actions primarily for the purpose of circumventing the requirements of this Chapter, that employer shall be subject to the sanctions set forth in Section 83.10 of this Chapter.

58.2.6 Set the term of the requirements.

58.2.7 Set appropriate enforcement and sanctioning standards consistent with this Chapter.

58.2.8 Set forth the City's obligations to develop training programs, job applicant referrals, technical assistance, and information systems that assist the employer in complying with this Chapter.

58.2.9 Require the developer to include notice of the requirements of this Chapter in leases, subleases, and other occupancy contracts.

58.3 Hiring Decisions. Siemens shall make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

58.4 Exceptions. Upon application by Employer, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

58.5 Liquidated Damages. Siemens agrees:

58.5.1 To be liable to the City for liquidated damages as provided in this section;

58.5.2 To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this section;

58.5.3 That the Siemens's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the Siemens to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the Siemens from the first source hiring process, as determined by the FSHA during its first investigation of a Siemens, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the Siemens's failure to comply with its first source referral contractual obligations.

58.5.4 That the continued failure by a Siemens to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a

result of the Siemens's continued failure to comply with its first source referral contractual obligations;

58.5.5 That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this section is based on the following data:

58.5.5.1 The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

58.5.5.2 In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to an employer and who is hired in an entry level position is at least one year; therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a Siemens to comply with its first source referral contractual obligations.

58.5.6 That the failure of Siemens to comply with this Chapter, except property Siemens, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors shall be made by the FSHA.

58.5.7 Subcontracts. Any subcontract entered into by Siemens shall require the subSiemens to comply with the requirements of Chapter 83 and shall contain contractual obligations substantially the same as those set forth in this Section.

59. Prohibition on Political Activity with City Funds. In accordance with San Francisco Administrative Code Chapter 12G, Siemens may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "Political Activity") in the performance of the services provided under this Agreement. Siemens agrees to comply with San Francisco Administrative Code Chapter 12G and any implementing rules and regulations promulgated by CCSF's Controller. The terms and provisions of Chapter 12G are incorporated herein by this reference. In the event Siemens violates the provisions of this section, CCSF may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit Siemens from bidding on or receiving any new CCSF contract for a period of two (2) years. The Controller will not consider Siemens' use of profit as a violation of this section.

60. Preservative-treated Wood Containing Arsenic. Siemens may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from

the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under §1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Siemens may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Siemens from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

61. Services Provided by Attorneys. Any services to be provided by a law firm or attorney must be reviewed and approved in writing in advance by the City Attorney. No invoices for services provided by law firms or attorneys, including, without limitation, as subcontractors of Siemens, will be paid unless the provider received advance written approval from the City Attorney.

62. Supervision of Minors. DELETED in consideration of lack of involvement of minors in delivery of contract services or lack of use of city-operated parks, playgrounds, recreational centers or beaches.

63. Protection of Private Information. Siemens has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Siemens agrees that any failure of Siemens to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, CCSF may terminate this Agreement, bring a false claim action against Siemens pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Siemens.

64. Graffiti Removal. Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with CCSF's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on CCSF and its residents, and to prevent the further spread of graffiti.

Siemens shall remove all graffiti from any real property owned or leased by Siemens in the City and County of San Francisco within forty eight (48) hours of the earlier of Siemens' (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Siemens to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn or painted on any building, structure, fixture or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards and fencing surrounding construction sites, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" shall not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works

Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code Sections 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.).

Any failure of Siemens to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

65. Food Service Waste Reduction Act. Siemens agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Siemens agrees that if it breaches this provision, CCSF will suffer actual damages that will be impractical or extremely difficult to determine; further, Siemens agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that CCSF will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by CCSF because of Siemens' failure to comply with this provision.

66. HIPAA. The parties acknowledge that CCSF is a Covered Entity as defined in the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA") and is therefore required to abide by the Privacy Rule contained therein. The parties further agree that Siemens falls within the following definition under the HIPAA regulations:

- A Covered Entity subject to HIPAA and the Privacy Rule contained therein; or
- A Business Associate subject to the terms set forth in Exhibit P; or
- Not Applicable, Siemens will not have access to Protected Health Information.

67. Cooperative Drafting. This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

68. Submitting False Claims; Monetary Penalties. Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

CITY

Recommended by:

  
MITCHELL H. KATZ, MD.

Director of Health

7/26/10  
Date

CONTRACTOR

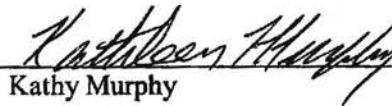
Siemens Medical Solutions USA, Inc.

Approved as to Form:

Dennis J. Herrera  
City Attorney

By signing this Agreement, I certify that I comply with the requirements of the Minimum Compensation Ordinance, which entitle Covered Employees to certain minimum hourly wages and compensated and uncompensated time off.

By:

  
Kathy Murphy  
Deputy City Attorney

8/3/10  
Date

I have read and understood paragraph 48, the City's statement urging companies doing business in Northern Ireland to move towards resolving employment inequities, encouraging compliance with the MacBride Principles, and urging San Francisco companies to do business with corporations that abide by the MacBride Principles.

Approved:

  
Naomi Kelly  
Director of the Office of  
Contract Administration and  
Purchaser

8/3/10  
Date

  
Randy Hill  
Chief Executive Officer  
51 Valley Stream Pkwy  
Malvern, PA 19355

10/3/10  
Date

City vendor number: 17005

**Exhibits**

Exhibit A	License, Support, Remote Computing, and ASP Services
Part I	Remote Computing Supplement
Part II	HDX EDI Supplement
Part III	In-House Computing Supplement
Part IV	Radiology Supplement
Exhibit B	Customization Detail
Exhibit C	CCSF Facilities and Locations
Exhibit D	Schedule 1s
Exhibit E	Technology Bids
Part I	EDM Equipment and Third Party Software
Part II	Radiology Equipment and Third Party Software
Exhibit F	Statements of Work
Part I	Statement of Work for INVISION Clinical Applications
Part II	Statement of Work for Project and Account Management Services
Part III	Statement of Work for Radiology
Exhibit G	Siemens Disaster Avoidance & Recovery Provisions
Exhibit H	Form of Acceptance Certificates
Exhibit I	Information Systems Center Application Availability Warranty
Exhibit J	ISC-based Applications System Response Time Warranty
Exhibit K	Source Code Escrow Agreement
Exhibit L	Summary of Siemens Travel and Living Policies
Exhibit M	Standard Beta Test Amendment
Exhibit N	Network Management Framework
Exhibit O	Initial User Network
Exhibit P	HIPAA Business Associate Addendum
Exhibit Q	Cash Flow Illustration
Exhibit R	Siemens Annual Report

EXHIBIT A - PART I  
CONFIDENTIAL

**Remote Computing Supplement**

1. **Term.** This Part I Supplement shall be effective as of the date of and during the term of the Information Technology Agreement ("Agreement"), including any amendments or extensions thereto.

2. **Remote Computing Services.** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the following Applications and their related Deliverables for the term of the Agreement subject to the terms and conditions of the Agreement. In the case of the Applications listed under Subsection 2.1 below, a license had been granted under the 2007 RCO Agreement, which is being replaced as described in the Agreement. Also during the term of the Agreement, Siemens shall provide support for the Applications in accordance with Section 16 of the Agreement. Siemens shall process the Facility's data at the Siemens ISC throughout the term of the Agreement using these Applications. CCSF shall pay the Recurring Monthly Fees listed in this Exhibit in accordance with the applicable terms and conditions of this Exhibit and the Agreement.

**2.1 Existing RCO Applications.**

<u>Description</u>	<u>Monthly Remote Computing Fee</u>
INVISION Base, including: <ul style="list-style-type: none"><li>• Rules Engine</li><li>• Quality Assurance</li><li>• Builder's Edge</li><li>• Physician's View</li><li>• Resource Scheduling</li><li>• Clinical Observation and Results</li><li>• Clinical Archive</li><li>• Browser Technology (NetAccess / OAS Gold)</li></ul>	Included*
INVISION Orders Module, including <ul style="list-style-type: none"><li>• Med/IV Orders</li><li>• Advanced Patient Assessments</li></ul>	Included*
INVISION Patient Accounting, including <ul style="list-style-type: none"><li>• FMS Test System</li><li>• Receivables Management Workstation</li><li>• Collection Letters</li><li>• Patient Accounts Archive</li><li>• PA Outpatient Prospective Payment (PA OP PPS)</li><li>• Receivables Policy Manager ASP</li></ul>	Included*
Lifetime Clinical Record (LCR) Enterprise Access Directory (EAD) <ul style="list-style-type: none"><li>• EAD Sophisticated Matching Algorithm Application (SMA)</li></ul>	Included* Included*

**EXHIBIT A - PART I**  
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**2.2      New RCO Applications.**

<u>Description</u>	<u>Monthly Remote Computing Fee</u>
INVISION Orders Charting	Included*
INVISION Clinician View	Included*
INVISION Clinical Notification Inbox	Included*
INVISION Med IV/Orders	Included*
INVISION POE Starter set	Included*
INVISION Bed Management	Included*

\* - The referenced fees for these Applications are included in the Monthly Fee described in Section 4 below.

**3.      ASP-Delivered Applications.** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the following Applications and their related Deliverables; the licenses to the Applications listed under Subsections 3.1 and 3.3 below are for the term of the Agreement, and the license to the Applications listed under Subsection 3.2 below is perpetual, in each case the licenses are subject to the terms and conditions of the Agreement.. In the case of the Applications listed under Subsection 3.1 below, a license had been granted under the 2007 RCO Agreement, which is being replaced as described in the Agreement, and in the case of the Application listed under Subsection 3.2 below, a license had been granted under the 2007 PPS Agreement, which is being replaced as described in the Agreement.

Acting as CCSF's Application Services Provider ("ASP"), Siemens shall process the Facility's data at the Siemens ISC throughout the term of the Agreement using these Applications. CCSF shall pay the Recurring Monthly Fees listed in this Supplement, in accordance with the applicable terms and conditions of this Exhibit and the Agreement.

Where an Application is indicated as being licensed for a specific number of concurrent users, such number indicates the maximum number of users permitted to use such Application concurrently and such Applications may contain embedded software controls limiting user log on to the number of concurrent users licensed. CCSF agrees to permit Siemens, upon notice and reasonable request, to audit the number of concurrent users. CCSF may add concurrent users by executing an amendment with Siemens and paying the then current rate for the applicable number of concurrent user licenses. Where an Application is indicated as being licensed for a specific number of beds, such number indicates the maximum number of beds CCSF is permitted to have at those Facilities processing data using the Application and CCSF is required to notify Siemens within thirty (30) days of acquiring any additional beds.

CCSF shall take Delivery of the Application listed below within six (6) months from the date of the Agreement; or in any event, Delivery shall be deemed to have occurred within the applicable time-frame and the Initial Warranty Period shall be deemed to have commenced.

During the term of the Agreement, Siemens shall provide support for the Applications in accordance with Section 16 of the Agreement.

**EXHIBIT A - PART I**  
**CONFIDENTIAL**

**3.1 Existing Term-Licensed ASP Applications.**

<u>Description</u>	<u>Monthly ASP and Term License Fee</u>
DSS Base	Included*
DSS Financial Performance	Included*

**3.2 Existing Perpetual-Licensed ASP Application.**

<u>Description</u>	<u>Monthly ASP and Support Fee</u>
Soarian Scheduling	Included*

**3.3 New Term-Licensed ASP Applications.**

<u>Description</u>	<u>Monthly ASP and Term License Fee</u>
DSS - Clinical Module	Included*
EDM Base (100 concurrent users)	Included*
EDM PFS (477 Beds at the San Francisco General Hospital Facility and 855 Beds (15 acute and 840 skilled nursing) at the Laguna Honda Hospital Facility)	Included*

\* - The referenced Fee for these Applications is included in the Monthly Fee described in Section 4 below.

4. **Fees.** CCSF shall pay a Monthly Fee of \$255,347 commencing on the date of the Agreement and continuing throughout the term of the Agreement. To avoid any doubt, the parties acknowledge that this Monthly Fee is in addition to the Monthly Fee described in Section 4 of Part III of Exhibit A.

5. **Equipment.** CCSF shall retain and maintain all Equipment and such items of Third Party Software which are designated in Exhibit D, Schedule 1 as being required for CCSF to obtain, either from its existing resources, from Siemens and/or from a third party. CCSF agrees to purchase from Siemens and Siemens agrees to supply the items listed in the Technology Bid attached to the Agreement as Exhibit E in accordance with the applicable terms and conditions of the Agreement. All Equipment and Third Party Software listed in Exhibit E shall be delivered to a single location specified by CCSF prior to Equipment and Third Party Software delivery.

**6. Monthly Wide Area Network Services Fee:**

6.1 A Wide Area Network ("WAN") was established between the CCSF location for data processing and the ISC and shall continue to be maintained in good working order by CCSF. CCSF shall continue to grant Siemens such access to the CCSF location as is reasonably adequate for Siemens to provide such services.

6.2 The Monthly Wide Area Network Services Fee shall continue for the term of this Renewal. CCSF shall be responsible for all wide area and local area networks required to operate the

**EXHIBIT A - PART I**  
**CONFIDENTIAL**

System(s), as specified by Siemens. That WAN and the corresponding Monthly Wide Area Network Services Fee are as follows:

<u>Quantity</u>	<u>Description</u>	<u>Siemens ID</u>	<u>Monthly WAN Services Fee</u>
1	Site Type 5D (DS3 port, 10 Meg PVC with IP backup) Includes Token Ring card	07676906	Included*

\* - The referenced fee is included in the Monthly Fee described in Section 4 above.

6.3 If the configuration in Exhibit D, Schedule 1 is changed or enhanced, Siemens may increase the Monthly Wide Area Network Services Fee at Siemens' then-current rates for required additional network service units. CCSF agrees to install required enhancements. Backup long haul communications services shall be paid by CCSF to the supplier. If the Monthly Wide Area Network Services Fee charged by the communication services costs decrease, Siemens will provide written notification of the amount of decrease to permit CCSF to use the cost savings as a credit against other Siemens products or services CCSF may acquire in the subsequent year.

6.4 Siemens will monitor the rates charged by the long haul communication provider to assure that the rates and service levels are competitive with alternate suppliers. Siemens will include these findings in subsequent meetings with CCSF.

7. **Supplies and Other Services and Products.** Siemens will make available to CCSF upon request pre-printed form, supplies, microfiche services, printing services, data archival services, tape-to-tape services, bill formats, freight, other services, and miscellaneous items. CCSF shall pay Siemens' then-current rates for such items which CCSF obtains from or through Siemens. The monthly fees shown below are estimates, based upon CCSF current usage.

	<u>Estimated Monthly Fee</u>
Master Files on Tape	\$2,897
Forms	\$3,882
Postage Usage	\$8,123
Media Fees (Fiche and Paper)	<u>\$6,956</u>
Total	\$21,858

8. **Adjustments to Monthly RCO Fees.**

8.1 **Additional Data Storage**

8.1.1 Additional Data Storage Fees will be charged for data storage usage above the Base Data Storage and additional Base Data Storage listed in Exhibit D, Schedule 1 as Base and Incremental Data Retention/Usage. Siemens will provide CCSF with a monthly report on Data Storage usage of the Facility beginning a month after the date of the Agreement.

8.1.2 On each anniversary of First Productive Use of the first Application, Siemens shall review the actual monthly Data Storage usage for each Application over the previous twelve (12) months. CCSF will be billed monthly over the subsequent twelve (12) month period at Siemens' then-current rates for Additional Data Storage for all the prior twelve (12) months; however, such adjustment shall not decrease the Base Data Storage and Additional Base Data Storage Listed in Exhibit D, Schedule 1. For each subsequent twelve (12) month period, Siemens shall calculate the

**EXHIBIT A - PART I**  
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Additional Data Storage fees on the same basis. If CCSF's actual data usage exceeds the Base Data Storage listed in Exhibit D, Schedule 1 by more than twenty percent (20%) during any month, CCSF will be billed at Siemens' then-current rates for Additional Data Storage for that month's excess data storage usage which is over one hundred twenty percent (120%) of the Base Data Storage. CCSF will be charged for data storage usage that is in addition to any excess usage which is associated with increased PRs as provided above.

**8.2 Ad Hoc Reports**

8.2.1 CCSF shall receive a monthly allowance of Archive Ad Hoc Reports ("Archive Ad Hoc Report Allowance") listed in Exhibit D, Schedule 1 as Archive Ad Hoc Reports Base and Incremental Data Retention. Archive Ad Hoc Reports in excess of the Archive Ad Hoc Report Allowance shall be billable at Siemens' then-current rates for such reports (currently \$30 per report).

8.2.2 CCSF shall receive a separate monthly allowance of Ad Hoc Reports listed in Exhibit D, Schedule 1 as Standard Ad Hoc Reports Base and Incremental Data Retention ("Ad Hoc Report Allowance") for other applicable Applications, exclusive of Archive Ad Hoc Report Allowance. On each anniversary of First Productive Use of the first Application, Siemens shall review the actual monthly Ad Hoc reports utilized for each Application over the previous twelve (12) months. If during these twelve (12) month period the actual monthly Ad Hoc Report utilization average increases or decreases by more than ten percent (10%) from the Ad Hoc Report Allowance, Siemens shall increase or decrease the Total Monthly Remote Computing Fee at Siemens' then-current rates for additional Ad Hoc Reports (currently \$2.50 per report) and shall establish a new Ad Hoc Report Allowance for the next successive twelve month period based on the prior year's usage, except that the Ad Hoc Report Allowance shall not be reduced below the Base Ad Hoc Report Allowance established in the attached Exhibit D, Schedule 1. If CCSF's utilization of Ad Hoc reports exceeds the Ad Hoc Report Allowance by more than twenty percent (20%) during any month, CCSF will be billed at Siemens' then-current rates for that month's excess report usage which is over twenty percent (20%) of the Allowance.

8.3 **End of Term.** At the end of the term, CCSF shall be billed for any Additional Data Storage usage during the last twelve months of the term.

**9. Adjustments to ASP Fees.**

9.1 The DSS Monthly ASP Fee shall be adjusted on an Annual basis commencing thirty (30) days from FPU if any one of the metrics identified in Exhibit D, Schedule 1 attached hereto increases by more than ten percent (10%) from the amounts listed therein. Siemens reserves the right to increase the rates and add additional data statistic values in the event a new Version of the Applications requires increased data processing resources.

9.2 The Base Data Storage for the DSS Applications shall include five (5) Gigabytes of disk space for data from an interface that Siemens did not develop. CCSF will be billed at the current Siemens' rate for each additional unit of disk space required.

9.3 The Monthly ASP Fee for the Soarian Enterprise Document Management (SEDM) Applications is based on 100 Concurrent Users. Commencing on First Productive Use of the SEDM Application, Siemens will perform periodic reviews of concurrent usage. Siemens reserves the right to increase the ASP Fee if the concurrent usage exceeds the maximum Concurrent Users by ten percent (10%) or more for three (3) consecutive months. All adjustments will be based on increasing the maximum Concurrent Users in increments of five (5).

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9.4 The monthly ASP Storage Processing fee for the SEDM Applications includes a projected amount of storage and storage management services based on both the annual statistics and up to (but not in excess of) the total gigabytes indicated in Exhibit D, Schedule 1. Upon consumption of this storage allocation, CCSF's required storage needs will be reassessed and an additional storage management fee for a subsequent allocation will be invoiced to CCSF at then-current rates.

10. **Miscellaneous.** For Applications operated from the ISC, upon CCSF's request, Siemens shall furnish to CCSF data files with file layouts at Siemens' then-current rates or as otherwise negotiated by the parties.

11. **Professional Services.** CCSF hereby engages Siemens to perform the professional services to deliver and install the new Applications and interfaces listed in this Exhibit and in Part III of Exhibit A in accordance with a Project Workplan as further described in the Statements of Work attached to the Agreement as Part I of Exhibit F. The professional service fees below reflect a discount off of Siemens current Professional Services rates; that discount is only valid if Siemens is performing all of the services described in the Statement of Work attached to the Agreement as Part I of Exhibit F. The discount is valid for the entire project provided CCSF permits Siemens to commence the engagement within twelve (12) months. If CCSF delays commencement, Siemens' then-current Professional Service rates shall apply. The professional service fees are net of all discounts and no other discounts shall apply.

11.1 **Specially Charged Professional Services to Implement INVISION Clinical Applications.** Siemens shall perform the following services on a time and materials basis. The estimate for said services is 6,936 hours for an estimated fee of \$1,158,312. The professional service fees for these services shall be waived. In the event that the actual hours for these services exceed 6,936, those excess hours shall be billed and paid monthly as incurred based on the actual hours performed. Travel and living expenses, which are estimated to be \$231,662, are not included in the fees and will be invoiced and paid monthly as incurred as provided in Section 9.3 of the Agreement.

Implementation and Value Add Services	Estimated Hours	Estimated Fee
<b>Overall Engagement Services</b>		
Project Leadership - Required Service	160	\$26,720
<b>Overall Engagement Services Sub Total</b>	<b>160</b>	<b>\$26,720</b>
<b>Required Services</b>		
Decision Support Solutions	132	\$22,044
Bed Management	316	\$52,772
Clinician View Med/IV Orders	1300	\$217,100
Clinician View Orders, Clinical Observations and Results (COR) and Clinical Archive	960	\$160,320
Lifetime Clinical Record	454	\$75,818
Patient Care Documentation	669	\$111,723
Physician Order Entry (POE) Starter Set	1470	\$245,490
Pharmacy Document Management	188	\$31,396
Base Imaging	687	\$114,729

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<b>Required Services Sub Total</b>	<b>6176</b>	<b>\$1,031,392</b>
<b>Additional Services</b>		
Decision Support Solutions	4	\$668
Bed Management	200	\$33,400
Clinician View Orders	196	\$32,732
INVISION 3270 to Re-Mapped Pathways	200	\$33,400
<b>Additional Services Sub Total</b>	<b>600</b>	<b>\$100,200</b>
<b>Total</b>	<b>6936</b>	<b>\$1,158,312</b>

**11.2 Custom Programming.** Siemens shall provide the following item of Custom Programming. The estimate for said services is 16 hours for an estimated fee of \$2,672. The professional service fees for these services shall be waived. In the event that the actual hours for these services exceed 16, those excess hours shall be billed and paid monthly as incurred based on the actual hours performed. Travel and living expenses, which are estimated to be \$534, are not included in the fees and will be invoiced and paid monthly as incurred as provided in Section 9.3 of the Agreement.

Custom Programming	Estimated Hours	Estimated Fee	Monthly Support Fee
<b>Custom Interfaces</b>			
Base Imaging			
Mysis Lab Results Outbound to Enterprise Document Management	16	\$2,672	
<b>Total</b>	<b>16</b>	<b>\$2,672</b>	<b>\$0</b>

**12. Education.** Siemens shall provide and CCSF hereby agrees to pay for the following courses for the number of attendees designated at the fees listed below CCSF shall commence paying Monthly Support Fees, if any, one (1) month following Delivery of the Course. The fees and course availability listed below are valid for twelve (12) months from the date of the Agreement; thereafter, Siemens then-current Education rates and course offerings shall apply. CCSF is responsible for educating its end users on the Third Party Software listed in Exhibit D, Schedule 1.

Course	Duration	Attendee Fee	Attendees	Total	Monthly Support Fee
<b>On-Site Education</b>					
Clinician View Med/IV Orders					
INVISION Clinician View Med/IV Orders	3 days		8	\$8,100*	
Clinician View Orders					
INVISION Clinician View Orders	4 days		8	\$10,800*	
Patient Care Documentation					
INVISION Patient Care Documentation	2 days		8	\$6,000*	
Physician Order Entry (POE) Starter Set					
INVISION POE Starter Set	4 days		8	\$10,800*	

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Base Imaging				
Siemens EDM/Soarian HIM Filing & Bursting	2 days	8	\$6,000*	
<b>Multi Media Education</b>				
Bed Management				
INVISION Bed Management e.Class			\$300*	
Lifetime Clinical Record				
CNI e.Class			\$900*	
LCR Browser Enabled Problem List and Wellness e.Class			\$225*	
INVISION Medication Reconciliation using Lifetime Clinical Record e.Class			\$300*	
Pharmacy Document Management				
Siemens Pharmacy Document Management CD-ROM			\$2,000*	
Base Imaging				
Enterprise Document Management CD-ROM			\$3,000*	
<b>Total</b>			<b>\$48,425*</b>	

\* - The referenced fees are waived.

13. **Professional Services - Project and Account Management Services.** CCSF hereby engages Siemens to perform professional services as further described in the Statement of Work attached to the Agreement as Part II of Exhibit F. Siemens shall perform the following services for the set fees listed below, as summarized in the table below:

13.1 For the term of the Agreement and commencing July 1, 2010, CCSF shall pay Siemens a fixed fee of \$13,750 per month to provide eighty-three (83) hours per month of Project and Account Management services. This monthly fee shall be subject to annual CPI adjustment per Section 9.5 of the Agreement, effective no earlier than July 1, 2013. Travel and living expenses, which are estimated to be \$115,500 over eighty-four (84) months, are not included in the fees and will be invoiced and paid monthly as incurred as provided in Section 9.3 of the Agreement.

Professional Services	Estimated Hours	Estimated Fee
Additional Services	7,000	\$1,155,000
<b>Total</b>	<b>7,000</b>	<b>\$1,155,000</b>

14. **Special Terms.** The Applications may contain embedded free software developed by third parties and licensed for use under a free software license. CCSF's right to use such free software is governed by the terms of the licenses accompanying such software, as provided in the Documentation. In addition, some vendors of third party products require that their terms and conditions may be subject to change over the course of the Agreement, in which event Siemens will post such changes to the customer-only web site or otherwise provide notice of such changes. Said changes shall become effective on the date of posting such notice. Listed below are special terms that relate specifically to certain third party products that are included in this Exhibit.

14.1 **Crystal for DSS.** The Decision Support Application is delivered with report viewer software from Business Objects, for which a named user license is required for each individual user who will use the Siemens Application. CCSF may separately purchase Crystal Reports Professional licenses

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for each Named User who will also want to be able to create and/or modifying reports. The number of users listed indicates the maximum number of CCSF's employees who are designated by CCSF as the only authorized users of that Application and the Crystal software may contain embedded controls or counting devices which measure usage and limit logon to the number of licensed CCSF users. Crystal Reports software shall be used by CCSF solely to operate the Application, and may not be used with or for other Siemens or third party applications not listed herein, for development purposes, or (except with respect to report creating functions included with the Crystal Reports Professional licenses) to create custom reports not delivered with the Application. The annual maintenance fees listed for the Crystal software entitle CCSF to periodic upgrades of the Crystal software as they are made available from Business Objects and qualified by Siemens for use with the Application. The fees also permit CCSF to report problems encountered with standard report templates to Siemens for resolution, however "How to" questions and assistance with customized reports are separately billable.

**14.2 Crystal for EDM.** Soarian Enterprise Document Management ("SEDM") and Soarian HIM are delivered with report viewer software from Business Objects that supports three Concurrent Processing Licenses, allowing up to three simultaneous requests for reports at any given time. Crystal Reports software shall be used by CCSF solely to operate SEDM and Soarian HIM, and may not be used with or for other Siemens or third party applications not listed herein, for development purposes, or to create or modify reports not delivered with SEDM and Soarian HIM. The annual maintenance fees listed for the Crystal software entitle CCSF to periodic upgrades of the Crystal software as they are made available from Business Objects and qualified by Siemens. The fees also permit CCSF to report problems encountered with standard report templates to Siemens for resolution

**14.3 Sophisticated Matching.** EAD includes an Application called EAD Sophisticated Matching ("SMA"). SMA uses IBM software. The IBM software shall be used by CCSF solely to operate SMA, and may not be used for development purposes or to create any new functionality not present in EAD or to create new applications. SMA provides CCSF with the ability to do statistical analysis on patient records to help identify potential duplicate medical records. CCSF acknowledges that the SMA is only intended to provide guidance as to records that should be investigated to determine whether they actually pertain to the same individual. Due to the imperfect nature of statistical analysis, as well as inaccurate data input, the reports generated using SMA may contain errors and other problems such as, but not limited to, false positives (i.e., records identified as possibly pertaining to the same individual which actually relate to different individuals) and false negatives (i.e., separate records that are not identified as pertaining to the same individual but actually do relate to the same individual). Siemens does not warrant or guarantee any specific linkage or that a specific linkage weight shall have equivalent relative importance across multiple files, and CCSF assumes all responsibility for validating all SMA results before performing merges or splits of medical records.

**15. Allowance.** CCSF is entitled to a 2% Electronic Funds Transfer (EFT) Allowance on the entire invoice if the monthly invoice is paid within 5 business days of the receipt of invoice through EFT.

**16. Option for ePrescribing and eScripting Services.** After the General Availability Date of that service, Customer may elect to obtain from Siemens as Customer's ASP access to either or both of the following Optional Services for the Fees listed below throughout the term of the Agreement, provided that Customer (i) notifies Siemens in writing of its election and executes a corresponding amendment with Siemens within twelve (12) months of the date of the Agreement and (ii) commences the term of such Services within twenty-four (24) months of the date of the Agreement. Customer shall be responsible for any additional equipment necessary to obtain the Optional Services and for any additional costs (including but not limited to equipment, installation and support) which are necessary to implement the Optional Services. The Equipment and Third Party Software configuration attached hereto as Exhibit

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D / Schedule 1 does not include use of the Optional Services. Siemens need not deliver a service before its General Availability Date.

<u>Services</u>	<u>Transaction Fee per Patient Found</u>	
ePrescribing – Medication History	\$1.15	
<u>eScripting</u>	<u>Minimum # Of Users</u>	<u>Monthly eScripting Service Fee**</u>
	100	\$ 2,600

\*\*Monthly fee is based on actual number of subscribing providers based on chart below.

- First 100 Providers (1-100) @ **\$26.00/provider per month**
- Each additional 150 Provider (101-250) @ **\$23.75/provider per month**
- Each additional 150 Provider (251-400) @ **\$19.16/provider per month**
- All additional Providers (above 400) @ **\$14.16/provider**

EXHIBIT A - PART II  
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HDX EDI Supplement

1. **Definitions.** The following definitions govern the meaning of these capitalized terms used in this Supplement and supersede definitions used elsewhere in the Agreement. All other capitalized terms are as defined in the Information Technology Agreement ("Agreement").

1.1 "EDI Services" mean those electronic data interchange services described in Appendix 1 to this Part II Supplement.

1.2 "Third Party Recipient(s)" mean any party to whom CCSF intends to send or receive Transactions using the EDI Services including payers, fiscal intermediaries, government entities or other service providers or information suppliers.

1.3 "Transaction" means the occurrence through an EDI Service of a CCSF information request to a Third Party Recipient, and/or the receipt by CCSF of a corresponding response or notification by that Third Party Recipient.

2. **Term.** The term of this Exhibit shall be coterminous with the term of the Agreement. Siemens' then-current standard rates will apply during any renewal term.

3. **EDI Services.** Siemens, as successor by merger to Healthcare Data Exchange Corporation ("HDX") shall provide CCSF with the EDI Services listed in Appendix 1 to this Exhibit throughout the term of the Agreement solely for CCSF's own internal business use and the use of its Facilities.

4. **Warranties.** In addition to the warranties and disclaimers outlined in Section 7 of the Agreement, the following apply to the HDX EDI Services described in this Supplement:

4.1 Siemens will comply with the applicable Health Insurance Portability and Accountability Act ("HIPAA") rules for Electronic Transactions/Code Sets for those electronic data interchange transactions for which Siemens provides the gateway/router and related services.

4.2 NOTWITHSTANDING THE FOREGOING, SIEMENS MAKES NO REPRESENTATIONS OR WARRANTIES (A) WITH RESPECT TO THE UNDERLYING ACCURACY OR CORRECTNESS OF ANY OF THE DATA OR INFORMATION INPUT INTO THE SYSTEM OR COMMUNICATED TO/FROM CCSF VIA THE HDX EDI SERVICES, OR (B) WITH RESPECT TO THE AUTHORITY OF PARTICIPANTS TO SUBMIT INFORMATION TO THE SYSTEM OR ACCESS INFORMATION FROM IT.

5. **Support.**

5.1 Siemens will provide support for the HDX EDI Services and routers and for the connection between Siemens and third parties up to the point of Transaction transfer, as follows:

5.1.1 Siemens will work with CCSF to coordinate and plan first level support for EDI Services delivered via CCSF's healthcare information system

5.1.2 Siemens will provide on-call support via telephone, 24 hours/day, and 7 days/week. Routers will be replaced or repaired within four (4) hours after Siemens's receipt of a malfunction report from CCSF.

5.2 CCSF is responsible for the following support obligations:

5.2.1 CCSF will assist Siemens in establishing and/or maintaining support procedures, and will complete appropriate problem determination procedures prior to contacting Siemens.

5.2.2 CCSF will perform remedial action as reasonably requested by Siemens to assist in problem resolution.

5.2.3 CCSF is responsible for maintaining its own records of data submitted to the EDI Service.

5.2.4 CCSF will be responsible for any upgrades to the router required during the term.

6. **Limitation of Remedies.** The remedy for Siemens's breach of any provision of this Supplement shall be repair, re-performance or replacement by Siemens. In the event that such breach cannot be remedied by repair, re-performance or replacement by Siemens, or where a repair, re-performance or replacement remedy is not applicable, Siemens shall be liable only for direct damages, in the aggregate up to the sum of the EDI Service Fees paid by CCSF for each of the months in which Siemens's liability occurred. As amended, the Limitation of Remedies Section in the Agreement remains in full force and effect and shall apply to this Supplement.

7. **Required Pass-Through Provisions.** Payers, fiscal intermediaries, government entities, and other third party information suppliers may require that CCSF agree to comply with certain obligations (e.g., confidentiality, liability and scope of use) as a condition of accessing their information, in which event Siemens will post changes to the EDI web site or otherwise provide notice of such changes. Said changes shall become effective on the date of posting such notice. CCSF agrees to comply with such obligations as a condition of Siemens providing associated EDI Services. Siemens will pass-through to CCSF any fees charged to Siemens by payers, fiscal intermediaries, or other parties in connection with providing the EDI Services to CCSF.

8. **Miscellaneous.** The parties acknowledge that Siemens's ability to provide the EDI Services is dependent on Third Party Recipients. Siemens shall not be responsible for EDI Service interruptions or cancellations attributed to non-cooperation and/or non-participation of Third Party Recipients. Siemens will, however, assist CCSF in addressing any issues which may arise with such Third Party Recipients.

9. **Confidentiality.** Each party will implement appropriate policies and procedures for purposes of preventing unauthorized access to data, and unauthorized disclosure of data. CCSF authorizes Siemens to transmit the data for purposes of this Supplement. CCSF acknowledges that it is solely responsible for obtaining all required authorizations before submitting data to Siemens. For billing, audit and recovery purposes, Siemens shall log and maintain a record that a Transaction occurred. As amended, the confidentiality provisions of the Agreement shall also apply to this Supplement, and shall protect the confidential information of CCSF, Siemens, and Siemens' suppliers.

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**Appendix 1 to Part II of Exhibit A**

**Fees and EDI Services**

1. **EDI Services**. CCSF shall be entitled to access the following EDI Services for the Facilities listed in Section 2 for the fees listed herein. CCSF shall commence paying Monthly Fees described below monthly in advance upon commencement of the applicable EDI Service. An EDI Service will be deemed to have commenced when CCSF's system is interfaced or connected to the EDI Service and CCSF is able to receive a response to transactions, or in any event within six (6) months of the date of this Supplement unless Siemens delays installation beyond said timeframe. CCSF shall pay the Transaction Fees monthly in arrears based on actual transactions volumes.

<u>Service Description</u>	<u>Monthly Fee</u>	<u>Transaction Fees</u>
Integrated Eligibility Service	Included*	**
HDX CD ROM	Included***	
Electronic Billing – MediCal	Included***	

\* - the fixed monthly fee is included in the Monthly Fee described in Section 4 of Part I of the Agreement's Exhibit A.

\*\* - the fixed monthly fee includes 300,000 transactions per month; transactions in excess of 300,000 per month shall be chargeable at the rate of \$0.28 per transaction.

\*\*\* - the referenced fees are included in the Monthly Fee described in Section 4 of Part III of the Agreement's Exhibit A.

2. **Facilities**. CCSF may use the EDI Services to transmit transactions on behalf of the Facilities listed on the Agreement's Exhibit C.

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**In-House Computing Supplement**

1. **Term.** This Part III Supplement shall be effective as of the date of and during the term of the Information Technology Agreement ("Agreement"). Siemens shall provide support for the Applications identified in this Part III Supplement in accordance with Section 16 of the Agreement.

2. **Applications.** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the following Applications and their related Deliverables; the licenses to the Applications listed under Subsections 2.1 and 2.3 below are for the term of the Agreement, and the licenses to the Applications listed under Subsection 2.2 below are perpetual, in each case the licenses are subject to the terms and conditions of the Agreement. In the case of the Applications listed under Subsections 2.1 or 2.2 below, a license had been granted under the 2007 PPS Agreement, which is being replaced as described in the Agreement.

**2.1 Existing Term-Licensed ICO Applications.**

<u>Description</u>	<u>Monthly Term License Fee</u>
Siemens Pharmacy	Included*
Siemens Medication Administration Check (MAK)	Included*
OPENLink	Included*
FSI Outpatient Retail Pharmacy	\$1,195

**2.2 Existing Perpetual-Licensed ICO Applications.**

<u>Description</u>	<u>Monthly Support Fee</u>
Groupware	Included*
Custom Letter Mgmt	Included*

**2.3 New Term-Licensed ICO Application.**

<u>Description</u>	<u>Monthly Term License Fee</u>
Pharmacy Document Imaging (24 concurrent users)	Included*

\* - The referenced fee is included in the Monthly Fee described in Section 4 below.

3. **Equipment and Third Party Software.** CCSF shall retain and maintain all Equipment and such items of Third Party Software which are designated in Exhibit D, Schedule 1 as being required for CCSF to obtain, either from its existing resources, from Siemens and/or from a third party. Siemens shall provide CCSF with licenses (replacing the licenses previously granted under the 2007 PPS Agreement) and support for the following Third Party Software throughout the term of the Agreement for the fees specified below.

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<u>Description</u>	<u>Monthly Support Fee</u>
VPS	Included*
VPS/TCPIP	Included*
VPS Anyque	Included*
Crystal	Included*

\* - The referenced fee is included in the Monthly Fee described in Section 4 below; the license fees for this Third Party Software were already paid, under the terms of the 2007 PPS Agreement.

4. **Fees.** CCSF shall pay a Monthly Fee of \$11,016 commencing on the date of the Agreement and continuing throughout the term of the Agreement. To avoid any doubt, the parties acknowledge that this Monthly Fee is in addition to the Monthly Fee described in Section 4 of Part I of Exhibit A.

5. **Custom Programming.** Siemens hereby grants CCSF a non-exclusive, non-transferable, perpetual license to the Custom Programming listed on Exhibit B, subject to the terms and conditions of the Agreement.. A license had been granted to that Custom Programming under the 2007 RCO Agreement, which is being replaced as described in the Agreement. Siemens shall provide support for that Custom Programming in accordance with Section 16 of the Agreement for the fee referenced below.

<u>Description</u>	<u>Monthly Support Fee</u>
Custom Support as specified in Exhibit B	Included*
* - The referenced fee is included in the Monthly Fee described in Section 4 above.	

9. **Education.** Siemens shall provide support for the following course for the fee specified below.

Med Admin Check CBT on CD-ROM	Included*
* - The referenced fee is included in the Monthly Fee described in Section 4 above.	

6. **Special Terms.** The Applications may contain embedded free software developed by third parties and licensed for use under a free software license. CCSF's right to use such free software is governed by the terms of the licenses accompanying such software, as provided in the Documentation. In addition, some vendors of third party products require that their terms and conditions may be subject to change over the course of the Agreement, in which event Siemens will post such changes to the customer-only web site or otherwise provide notice of such changes. Said changes shall become effective on the date of posting such notice. Listed below are special terms that relate specifically to certain third party products that are included in this Exhibit.

6.1 **PA OPPS.** Siemens uses Third Party Software to accomplish certain features of the Patient Accounting Outpatient Prospective Payment System Application ("PA OPPS") and may change those suppliers at its sole discretion provided that the Application retains substantially equivalent functionality. Any Third Party Software provided by Siemens as part of PA OPS PPS shall be used by CCSF solely to operate the PA OP PPS Application, and may not be used for development purposes or to create any new functionality not present in the PA OP PPS Application or to create new applications.

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6.2 **VPS.** VPS software is developed by Levi Ray & Shoup, Inc. ("LRS") and is licensed pursuant to an agreement between Siemens and LRS. For each copy of VPS/AnyQueue licensed, only one copy may be installed on a single server; however, each copy of VPS/AnyQueue may support multiple host connections. The above restrictions on the use of VPS software are in addition to all other applicable terms and conditions stated in the Agreement between Siemens and CCSF. Further, CCSF acknowledges and agrees that Siemens is solely responsible to CCSF for all obligations, warranties and remedies regarding the VPS software licensed under this Exhibit and that LRS has no such responsibility to CCSF. CCSF acknowledges that it may bring no claim or lawsuit against LRS for any breach or violation of any term or condition of this Exhibit or for any damages incurred under this Exhibit.

7. **FSI Outpatient Retail Pharmacy Upgrade Professional Services.** CCSF and Siemens agree that the professional services fee to install the new computer (which new computer CCSF is obtaining and supplying on its own, outside the Agreement), transfer the existing data, configure the new network, provide instructions on the differences between the old and the new systems, and configuration of the RedHat Linux Enterprise version operating system is in the amount of \$2,550. CCSF shall pay the fee upon completion of the installation.

**Radiology Supplement**

**1. TERM.**

**1.1 Perpetual License.** The term of the license to the Applications identified in Section 2.1 below or Attachment A to this Exhibit is perpetual, subject to the terms and conditions of the Information Technology Agreement (“Agreement”).

**1.2 Initial Warranty Period and Term of Support.** The Initial Warranty Period for the Applications identified in Attachment A to this Exhibit is six (6) months commencing on the Application’s Delivery. Support for the Applications identified in Section 2.1 below or Attachment A to this Exhibit and for the Custom Programming identified in Section 3 below shall be provided in accordance with Section 16 of the Agreement. The support term shall be coterminous with the Agreement. Support is included at no additional charge during the Initial Warranty Period.

**2. Applications.**

**2.1 Existing Applications.** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the following Applications and their related Deliverables; a license had been granted to these Applications under the 2007 PPS Agreement, which is being replaced as described in the Agreement.

<u>Application</u>	<u>Monthly Support Fee</u>
Siemens Radiology Management System	\$5,212.00
• Radiology Base	
• Radiology Scheduling	
• Automatic Fax	
• Mammography	
• Radiologist Workstation	
• Dictation Interface	

**2.2 Licensed But Not Yet Implemented Applications** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the Applications listed in Attachment A of this Exhibit and their related Deliverables; a license had been granted to these Applications under a recent Amendment (the “syngo Upgrade Amendment”) to the 2007 PPS Agreement, which is being replaced as described in the Agreement, and the parties’ implementation and payment obligations with respect to those Applications have not yet been fulfilled and so are also being carried forward into this Exhibit. CCSF shall take Delivery of the Applications listed in Attachment A of this Exhibit within six (6) months from the date of the syngo Upgrade Amendment. “Procedure Volume” shall mean number of completed order requests based on DICOM MPPS methodology and as reflected in the administrator interface. Where an Application is indicated as being licensed for a specific Procedure Volume, such number indicates the maximum number of annual procedures that CCSF may run using the Application and CCSF shall permit Siemens to conduct an annual review of CCSF’s actual Procedure Volume and, if CCSF’s actual Procedure Volume has increased over the Procedure Volume listed in Exhibit D, Schedule 1, CCSF shall pay Siemens incremental license and support fees based on the corresponding growth in Procedure Volume.

**3. Existing Custom Programming.** Siemens hereby grants CCSF a non-exclusive, non-transferable license to the following Custom Programming; a license had been granted to this Custom Programming under the 2007 PPS Agreement, which is being replaced as described in the Agreement:

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<u>Custom Programming</u>	<u>Monthly Support Fee</u>
PSR 080205443901 - Siemens Radiology Programmer for integration between syngo Workflow V2	\$186.20

4. **Equipment and Third Party Software.** Attached to the Agreement as Exhibit D, Schedule 1 is the sizing and capacity assumptions and the Equipment and software configuration for the Facilities. CCSF shall procure all Equipment and such items of Third Party Software which are designated in Exhibit D, Schedule 1 as being required for CCSF to obtain, either from its existing resources, from Siemens and/or from a third party. CCSF agrees to purchase from Siemens and Siemens agrees to supply the items of Equipment and Third Party Software listed in the Technology Bid attached to the Agreement as Part II of Exhibit E in accordance with the applicable terms and conditions of the Agreement; Customer had agreed to purchase those items and Siemens had agreed to sell those items under the terms of the syngo Upgrade Amendment, and the parties' delivery and payment obligations with respect to those items have not yet been fulfilled and so are also being carried forward into this Exhibit. All Equipment and Third Party Software listed therein shall be delivered to a single location specified by CCSF prior to Equipment and Third Party Software delivery.

5. **Fees.** CCSF shall pay the fees and other amounts described in Attachment A in accordance with this Exhibit and with the other provisions of the Agreement.

5.1 **Support.** CCSF shall pay the Support Fees listed in Sections 2.1 and 3 above on the date of the Agreement. CCSF shall pay the Support Fees listed in Attachment A commencing at the end of the Initial Warranty Period.

5.2 **License and Equipment Fees.** CCSF shall pay the License and Equipment Fees listed in Attachment A as follows:

5.2.1 10% of the total Fees was due on the date of the syngo Upgrade Amendment; and

5.2.2 80% of the total Fees on the earlier of the Delivery Date of each such Application or ninety (90) days from the date of the Agreement, except that this ninety (90) day time frame shall be extended to the extent of any Siemens-caused delay in Delivery; and

5.2.3 10% of the total Fees upon the earlier of First Productive Use of each such Application, provided that all such Fees shall be paid within twelve (12) months from the date of the Agreement except that this twelve (12) month timeframe shall be extended to the extent of any Siemens-caused delay in First Productive Use.

6. **Networks.** CCSF shall be responsible for all local area networks and wide area networks, if any, required to operate the System(s).

7. **Implementation.**

7.1 CCSF hereby engages Siemens to perform the professional services listed in the Statement of Work ("Statement of Work") attached as Part III of Exhibit F to the Agreement for the Implementation Fees listed in Attachment A to this Exhibit; Customer had engaged Siemens to perform those services under the terms of the syngo Upgrade Amendment, and the parties' performance and payment obligations with respect to those services have not yet been fulfilled and so are also being carried

EXHIBIT A - PART IV  
CONFIDENTIAL

forward into this Exhibit. CCSF shall pay all travel and living expenses in accordance with the applicable terms of the Agreement. The estimate for said services is listed in the Statement of Work. The professional service fees for these services shall be billed and paid monthly as incurred based on the actual hours performed. Travel and living expenses, which are estimated to be \$45,748, are not included in the fees and will be invoiced and paid monthly as incurred as provided in Section 9.3 of the Agreement.

7.2 Siemens shall provide the Custom Programming listed in the Statement of Work for the fees listed in Attachment A; Customer had engaged Siemens to perform those services under the terms of the syngo Upgrade Amendment, and the parties' performance and payment obligations with respect to those services have not yet been fulfilled and so are also being carried forward into this Exhibit. CCSF shall pay the Custom Programming Fees in accordance with Subsection 6.1 of this Exhibit. CCSF shall commence paying Support Fees, if any, three (3) months following Delivery of the Custom Programming.

8. **Education.** Siemens shall provide and CCSF hereby agrees to pay for the training classes listed in the Statement of Work; Customer had engaged Siemens to provide those classes under the terms of the syngo Upgrade Amendment, and the parties' performance and payment obligations with respect to those classes have not yet been fulfilled and so are also being carried forward into this Exhibit. The fees and course availability listed in the Statement of Work are valid for twelve (12) months from the date of the Agreement, thereafter Siemens current Education rates and course offerings shall apply. CCSF is responsible for educating its end users on the Third Party Software listed in Exhibit D, Schedule 1.

9. **Special Terms.** The Applications may contain embedded free software developed by third parties and licensed for use under a free software license. CCSF's right to use such free software is governed by the terms of the licenses accompanying such software, as provided in the Documentation. In addition, some vendors of third party products require that their terms and conditions may be subject to change over the course of the Agreement, in which event Siemens will post such changes to the customer-only web site or otherwise provide notice of such changes. Said changes shall become effective on the date of posting such notice. Listed below are special terms that relate specifically to certain third party products that are included in this Exhibit.

9.1 The American College of Radiology does not assure users of protection against intellectual property claims from others arising from the use of its materials. Syngo Workflow includes LEXICON and INDEX software, which is proprietary to the American College of Radiology. Accordingly, Siemens' intellectual property indemnification obligation under the Agreement shall not apply to claims relating to either the LEXICON and INDEX software or any software proprietary to the American College of Radiology which is included in the syngo Workflow Applications.

**EXHIBIT A - PART IV**  
**CONFIDENTIAL**

**Attachment A to Part IV of Exhibit A - Pricing**

<b>Fee Type</b>	<b>Part Number – Description</b>	<b>Extended Net Price</b>
<b>License</b>	<b>10408141 - sW SLR High Availability PL (t5)</b>	<b>\$36,405</b>
<ul style="list-style-type: none"> <li>- Achieve business continuity objectives for essential clinical applications</li> <li>- Reduces unscheduled downtime from hours to minutes</li> <li>- Supports an automated fail-over of the syngo Workflow application from one node to another in an active/passive two node cluster</li> <li>- Includes an application health check which monitors key components: <ul style="list-style-type: none"> <li>- Sybase database engine</li> <li>- Application services</li> <li>- Messaging subsystem (BEA MessageQ)</li> </ul> </li> </ul>		
<b>Equipment</b>	<b>syngo Workflow Technology Bid</b>	<b>\$135,300</b>
<b>Implementations</b>	<b>syngo Suite Professional Services</b>	<b>\$126,326</b>
<p>See Part III of Exhibit F - Statement of Work</p>		
<b>EXTENDED TOTAL NET PRICE</b>		<b>\$298,031</b>

<b>Service</b>	<b>Start</b>	<b>Duration</b>	<b>Extended Net Price</b>
<b>sW SLR High Availability SE (t5)</b>			<b>\$765 per month</b>
<b>Sybase Monthly Support Fee</b>			<b>\$970 per month</b>
<b>TOTAL</b>	<b>Upon expiration of Initial Warranty</b>	<b>Coterminous with the Agreement</b>	<b>\$7,133 per month</b>

EXHIBIT B  
CONFIDENTIAL

Customization Detail

<u>Custom Programming</u>	<u>Description</u>
PRJ# 9407189119	Radiology Results (RTI)
PRJ# 9407189118	LCR Sunquest Results
PRJ# 9407189105	SIGH Custom Bill Forms
PRJ# 9407189120	Transcription Interface
PRJ# 9600881801	Add Hosp Defined PRDOC
PRJ# 9510150701	New FAMIS GL Interface
PRJ #9510150703	Revisions to FAMIS INT
PSR# 9510571402	Custom Alias Name INQU
PSR #9607136801	LCR Interface from FOU
PRJ# 9407189102	SIG – Standard HL7 Int
PRJ# 9708657301	MICRS Reporting Change
PSR# 9105296901	Change to CA Remit Tape
PSR# 9213068113	Online Base 36 to 10
PSR# 9213068115	Custom Geno (CHPPGENY)
PSR# 9213068116	RCO MIG-PAT Appt PROC
PSR# 9213068117	RCO MIG-Alias Weightg
PSR# 9404604202	OLCP RPT-to RCO PA22
PSR# 9213068104	RECIRC Error File
PSR# 9213068109	RCO-Alias
PSR# 9401023801	MIG Intf to RCO-DS22
PSR# 9400315907	Appt Card Flex Report
PSR# 9400315908	ER and IP Return Rpts
PSR# 9400315904	SFPROFE1
PSR# 9400315905	ATP Processing
PSR# 9400315902	FAMIS
PSR# 9400315910	HMS Processing
PSR# 9400315911	CPD Charge Report
PSR# 9414995201	Bus Off Prod Stats Rpt
PSR# 9420493001	Add OAS Profile Flex to GL FAMIS Interface
PSR# 9411432901	MICRS Reporting
PRJ# 9407189115	Radiology (SD&G) to IH
PRJ# 9407189118	Sunquest to LCR Interf
PRJ# 9407189119	Rad to LCR Interface
PRJ# 9400315903	FAMIS GL Interface
PRJ# 9400315906	Charge Edit Processing
PRJ# 9400315909	BDR Processing
PRJ# 9213068111	AR BLIP
PRJ# 9400315912	AR Late Charge Report
PRJ# 9400315913	SFAPCP-PIDX Update
PRJ# 9407189124	Sunquest Orders RTIF I
PRJ# 9407189115	Radiology ADT and Order
PSR #030121109901	Authentication Services
PSR 0211197402	Supp Fee/RTIF Add-On Orders
PSR #040513472801	Novius Radiology Interface V24 with Agfa PACS
PSR # 050811319001	Support fee HL7 TIF Interface
PSR # 0508307696-01	Support fee for Revenue Master Ad Hoc
PSR # 060303196101	Support fee for Reports & Files
PSR #070713328202	Support I/F Daily Audit Report
PSR 071101032101	RTIF interfaces into LCR

**EXHIBIT C**  
**CONFIDENTIAL**

**CCSF Facilities and Locations**

**San Francisco General Hospital (SFGH)**  
1001 Potrero Avenue  
San Francisco, CA 94110

**SFGH Adult General Medicine Clinic**  
1001 Potrero Avenue  
San Francisco, CA 94110

**SFGH Family Health Center**  
1001 Potrero Avenue  
San Francisco, CA 94110

**Castro Mission Health Center**  
3850 17<sup>th</sup> Street  
San Francisco, CA 94114

**Maxine Hall Health Center**  
1301 Pierce Street  
San Francisco, CA 94115

**Silver Avenue Family Health Center**  
1525 Silver Avenue  
San Francisco, CA 94112

**Chinatown Public Health Center**  
1490 Mason Street  
San Francisco, CA 94122

**Ocean Park Health Center**  
1351 24<sup>th</sup> Street  
San Francisco, CA 94122

**Potrero Hill Health Center**  
1050 Wisconsin Street  
San Francisco, CA 94107

**Southeast Health Center**  
2401 Keith Street  
San Francisco, CA 94124

**Tom Waddell Clinic**  
50 Ivy Street  
San Francisco, CA 94102

**Laguna Honda Hospital**  
375 Laguna Honda Boulevard  
San Francisco, CA 94116

**EXHIBIT C**  
**CONFIDENTIAL**

**San Francisco Mental Health Rehab Facility**  
887 Potrero Avenue  
San Francisco, CA 94110

**Youth Guidance Center (Special Programs for Youth)**  
375 Woodside Avenue  
San Francisco, CA 94127

**Larkin Street Center (S.P.Y.)**  
1044 Larkin Street  
San Francisco, CA 94109

**Cole Street Clinic (S.P.Y.)**  
555 Cole Street  
San Francisco, CA 94117

**North of Market Senior Services**  
333 Turk Street  
San Francisco, CA 94102

**Balboa Teen Health Center**  
1000 Cayuga Avenue, #156  
San Francisco, CA 94112

**Health At Home**  
45 Onondaga Street  
San Francisco, CA 94112

**SFGH Children's Health Center**  
1001 Potrero Avenue  
San Francisco, CA 94110

**SFGH Positive Care**  
1001 Potrero Avenue  
San Francisco, CA 94110

**SFGH Urgent Care Clinic**  
1001 Potrero Avenue  
San Francisco, CA 94110

**SFGH Women's Health**  
1001 Potrero Avenue  
San Francisco, CA 94110

**In Home Support Services**  
1650 Mission  
San Francisco, CA 94110

**EXHIBIT C**  
**CONFIDENTIAL**

**Jail Health Services:**

County Jail #1  
850 Bryant Street, 6<sup>th</sup> Floor  
San Francisco, CA 94103

County Jail #2  
850 Bryant Street, 7<sup>th</sup> Floor  
San Francisco, CA 94103

Medical Records  
850 Bryant Street, Rm G24  
San Francisco, CA 94103

Tuberculosis Program  
850 Bryant Street, Basement  
San Francisco, CA 94103

County Jail #8  
425 7<sup>th</sup> Street, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> Floors  
San Francisco, CA 94103

County Jail #9  
425 7<sup>th</sup> Street, 1<sup>st</sup> Floor  
San Francisco, CA 94104

County Jail #3  
1 Moreland Drive  
San Bruno, CA 94066

County Jail #7  
1 Moreland Drive  
San Bruno, CA 94066

Jail Health Administration  
650 5<sup>th</sup> Street, Suite 309  
San Francisco, CA 94107

Jail Psychiatric Services  
984 Folsom Street  
San Francisco, CA 94107

Forensic AIDS Project  
798 Brannan Street  
San Francisco, CA 94103

**EXHIBIT C**  
**CONFIDENTIAL**

**Jail Health Services – continued**

SFGH  
Ward 7D, Ward 94  
1001 Potrero Avenue  
San Francisco, CA 94110

Citywide Case Management  
939 Market Street  
San Francisco, CA 94103

Homebase/Continuum  
44 McAllister Street  
San Francisco, CA 94102

Drug Court  
509 6<sup>th</sup> Street  
San Francisco, CA 94118

Communicable Disease Control Unit  
101 Grove Street, Room 408  
San Francisco, CA 94102

Breast and Cervical Cancer  
30 Van Ness Avenue, Suite 2300  
San Francisco, CA 94102

Tuberculosis Outreach Prevention Services  
973 Market Street  
San Francisco, CA 94103

Barbara Havassey  
Enrique Menendez  
UCSF  
San Francisco, CA 94143

**EXHIBIT D**  
**CONFIDENTIAL**

**Schedule 1s**

Customer: City and County of San Francisco Department of Public Health  
Date: February 22, 2010

**INVISION REMOTE COMPUTING OPTION**

**Schedule 1 Part I**

**Sizing and Capacity**

**Customer: City and County of San Francisco Department of Public Health**

**Assumptions:**

**Processing Requirements**  
**31,022**

<b>Base Allowances and Data Storage</b>			<b>Additional Allowances and DataStorage</b>		
	<b>Base</b>	<b>Units</b>		<b>Units</b>	<b>Fee</b>
<b>Reports</b>					
Standard AD HOC Reports	17,346	Reports		1 Report	\$2.50 per Report
Patient Accounting Archive (PAA) ADHOC Reports	641	Reports		1 Report	\$30 per Report
<b>Data Storage</b>					
Accounts on File (Patient Accounting)	1,892,847	Accounts		1 Account	\$0.10 per Account
Patient Accounting Archive Accounts	9,134,312	Accounts		25,000 Accounts	\$0.01 x PR x Increment
Active File	539,867	Patient		1 Patient	\$0.35 per Patient

**EXHIBIT D**  
**CONFIDENTIAL**

**Schedule 1**

Customer: City & County of San Francisco  
Date: January 22, 2010

<b><u>Applications</u></b>	<b><u>Release</u></b>
Soarian Enterprise Document Management	24.09
- Base	
- Patient Financial Services	

Tracking Code: 100325KO1630S-V24-09

**Customer Statistics**

Annual Inpatient Admissions	12,092
Annual Outpatient Visits	238,500
Annual ER Visits	35,200
Annual Outpatient Surgeries	5,900
Financial System	Invision

**Base and Patient Financial Services (PFS)**

Total Number of Scanned Pages Per Year	3,083,130
Total Number of Backscanned Pages	0
Total Number of Electronically Transferred Pages Per Year	5,767,583
Number of GB in Backloaded Pages	0
Number of KB per Scan Page	60
Number of KB per Electronically Transferred Pages	6

**Minimum Equipment and Third Party Software Requirements:**

**Initial Storage Allocation**

Disk Space Allocation	991GB
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The initial disk storage allocation will support approximately 24 months of data. The rate that disk space is consumed depends on various factors, such as; the actual number of pages stored each year, the document page size and format, and the color and resolution of the scanner(s) used to capture images.

- Annual Growth Estimate: 492GB

**Notes**

- Customers may select and implement a scanner of their choice. If the scanner does not appear on the list of scanners deemed compatible with Siemens Enterprise Document Management, Siemens, at the customer's request and for a fee, will provide the optional service of testing alternative scanning solutions via the Professional Services Organization.
- The Siemens Scan Station requirements may be less than those recommended by scanner vendors. It is recommended that the higher of the two workstations requirements (either Siemens' or the Scanning Vendor's) be used to support the chosen scanners. Also, if a desired scanner requires a SCSI card, ensure the card will fit in the workstation used as the Scan Station.

- Scanning vendors implement the TWAIN interface differently; Siemens recommends purchasing a single scanner in order to thoroughly test the scanner's capabilities to the customer's scanning needs.
- The routing services for Auto-Document Routing needs access to the Fax Server, the printers, and the SMTP Server.

**EDM ASP Workstation – For Base, Patient Financial Services, and Pharmacy Document Management**

Required Equipment:

- 1.4 GHz Intel Pentium Processor
- CD-ROM
- 10/100/1000 MB Network Interface Card
- Video Adapter Card
- Dual Ported Video Adapter Card – for Pharmacy Document Management – Pharmacist Workstation
- 17" Color Monitor, 19" Color Monitor for Scanning
- Dual Monitors – for Pharmacy Document Management – Pharmacist Workstation
- Keyboard and Mouse
- 1 GB RAM
- 2 GB Available Disk Space
- Fax Board – For On-Demand Send
- Siemens Approved 32-Bit TWAIN Scanner compatible with the native mode of the workstation's Operating System

-Required for those workstations used for scanning

-A selected scanner may have workstation requirements above those needed for Enterprise Document Management

-For Pharmacy Document Management place one scanner at each nurse station; purchase one spare scanner for every ten scanners.

Required Third Party Software:

- Microsoft Windows XP Professional or Vista Workstation License
- On-Demand Send requires Windows XP Professional
- The OS may be Limited Based on Certain Scanners Models
- Microsoft Windows 2003 Client Access License
- Microsoft Internet Explorer 6.0, 7.0 or 8.0 with the XML parser
- Public Internet access requires 128 bit encryption version
- Adobe Acrobat Reader 8.1 or 9.1.2
- Symantec pcANYWHERE32 Version 11.5 (*1 copy required for support of IMS application software*)
  - A minimum of one host copy of pcANYWHERE32 software must be installed on any workstation, which requires support from Siemens via remote access. Customers should consider having additional copies of pcANYWHERE to prevent deinstalling pcANYWHERE from one workstation and reinstalling it on another

**Imaging Fax/Routing Server (4 Port)**

**EXHIBIT D**  
**CONFIDENTIAL**

Required Equipment:

- Intel Server with (1) 3.0 GHz Processor
- CD ROM Drive
- Video Adapter Card
- 100/1000 MB Ethernet NIC
- 3.0 GB RAM
- (2) 72GB 10K Wide Ultra SCSI, Hot Pluggable Hard Drives
- Hot Plug AC Redundant Power Supplies
- Brooktrout 4-Port Fax Board supported by Esker. Some cards require Esker FaxServer Feature Pack 1.
- Integrated Controller capable of supporting RAID 1

Required Third Party Software:

- Microsoft Windows 2003 Server License – 32 Bit License
- Esker Fax V5.0 Workgroup Licensing for 4 Lines
- Symantec pcANYWHERE32 V11.5 Host/Remote

**Backup**

Required Equipment:

- Tape Library with the capacity to backup all Imaging Intel Servers within the end-user's acceptable timeframes
- SCSI or Fibre-Channel card directly-attached to a separate Backup Server

Required Third Party Software:

- Backup software capable of performing image backups, not just file-level backups, and supported by the Tape Library – Must include backup agents for Windows

**Windows Domain Control**

Windows Domain Control is required to establish user security for the Enterprise Document Management application. An existing Windows Domain Control may be used for this purpose. If one does not exist, Siemens recommends implementing Windows Active Directory Services in accordance to the specifications published by Microsoft Corporation.

EXHIBIT D  
CONFIDENTIAL

**Schedule 1**

Customer: CITY & COUNTY OF SAN FRANCISCO  
Date: 1/22/2010

<u>Applications</u>	<u>Release</u>
Pharmacy	24.0
Med Administration Check	24.0
Siemens Pharmacy Document Management	24.0

Tracking Code: 091016MW0210S

**Customer Statistics**

<b>Siemens Pharmacy</b>	
Number of Concurrent Users	14
Number of Concurrent UDA Users	4
Number of Inbound Interfaces	2
Number of Entities	1
Number of Sites per Entity	1
Number of Beds	430
Number of Pharmacy Orders Per Day	2400
Number of Years to Retain Pharmacy Orders	7
<b>Application Auditing System</b>	
Will you be implementing Application Auditing System?	Yes
If Yes, do you wish to retain more than one year of audit data on-line?	No
<b>Med Administration Check</b>	
Number of Concurrent Nursing Users Administering Medications	100
<b>Siemens Pharmacy Document Management</b>	
Total Number of Pharmacy Doc Mgmt Concurrent Users	48
Total Number of Scanned Pages Per day	2,400
Total Number of months to retain documents if more than 6	30

**Notes**

- Pharmacy Document Management also requires Enterprise Document Management release 24.05.02 or higher
- If a customer chooses to use an existing SAN, the customer must verify the SAN supports the OpenVMS operating System, and RAID implementation is provided. Siemens recommends separate physical drives per label. Any issues pertaining to SAN performance, hardware, or maintenance is the responsibility of the customer. Additional implementation fees may apply when a SAN is used with the Siemens Pharmacy system.

**Minimum Equipment and Third Party Software Requirements:**

**Pharmacy Workstation**

*Required Equipment:*

- A 100% compatible Pentium III processor or higher – capable of supporting dual video cards for Document Imaging
- 10/100MB network interface card supported by the network
- 17" SVGA 1024 x 768 resolution color monitor – (2) 17" Monitors LCD recommended for Document Imaging
- Windows supported pointing device
- 512MB RAM
- 1.5GB of disk space

*Required Third Party Software:*

- The supported platforms are: Microsoft Windows 2000 Professional Edition Service Pack 4 and above, Windows XP Professional (recommended) Service Pack 2 and above, Windows 2000 Terminal Server Edition, Windows 2003 Terminal Server Edition.
- Microsoft Framework v2.0
- Microsoft Access 2003, 2007 or Business Objects Crystal Reports 11 is required for tailoring of UDA reports
- VT emulation package, Siemens recommends NetManage Rumba Office required for text base functionality

**Point-of-care PC Workstation**

*Required Equipment:*

- A 100% compatible Pentium III processor or higher
- 10/100MB network interface card supported by the network
- 15" SVGA 1024 x 768 resolution color monitor
- Windows supported point device
- 512MB RAM
- 1.5GB of disk space

**Point-of-Care Tablet**

- Windows® XP Tablet PC Edition
- A 100% compatible Pentium III processor or higher (min 1.2 ghz)
- 10.4" XGA TFT LCD (1024 x 768)
- 802.11 a/b/g wireless network interface card supported by the network
- 1.5GB of free disk space or higher
- 512MB of RAM or higher
- RSS Capable Integrated barcode scanner or 1 free USB port on the Tablet

*Barcode Scanner:*

- Reduced Space Symbology capable barcode scanner

*Required Third Party Software:*

- The supported platforms are: Microsoft Windows 2000 Professional Edition Service Pack 4 and above, Windows XP Professional (recommended) Service Pack 2 and above, Windows 2000 Terminal Server Edition, Windows2003 Terminal Server Edition
- Microsoft Access 2003 or Business Objects Crystal Reports 11 is required for tailoring of UDA reports

EXHIBIT D  
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Existing Application/Database Server consists of:

Hp Alpha Server ES45 M2B with (2) 68/1000MHz processors  
41U Tall M Series Cabinet, with redundant 240V PDUs with N+1 power redundancy  
16X DVD Rom  
1.44MB floppy drive  
PCI to dual 10/100 Ethernet  
1GB memory  
StorageWorks 2Gbit Fibre Channel Host Bus Adapters  
MSA1000 Fibre Channel storage system with dual controllers, each with 512MB cache  
(29) 36GB 15K rpm disk drives,  
2.86/5.72TB SDLT220 (1DR/26SLOT), with dedicated single channel adapter  
(15) SDLT 110/220 tape cartridges  
Compuserve 3800 Plus modem  
15" flat panel LCD display and 104 key keyboard with trackball  
32 Concurrent OVMS User License  
OVMS Alpha Documentation on CDRom  
CyberTools Windows Runtime Tailoring Software  
29 InterSystems Cache' Elite Single Server Licenses  
Oracle Transparent Gateway License

Required in addition to the above:

- 1GB of RAM
- InterSystems Cache' V5.2 user count of 85

**EXHIBIT D**  
**CONFIDENTIAL**

**Schedule 1**

**Customer: CITY & COUNTY OF SAN FRANCISCO**

**Date: 3/16/2010**

<u>Applications</u>	<u>Release</u>
syngo Workflow	V30B

Tracking Code: 100316TL1600B

**Customer Statistics**

Concurrent Users (calculated from the below 3 questions):	61
Total number of Concurrent Users (the maximum number of Radiology, Mammography, Scheduling and Browser Users who could be logged in and using the system at the same time, including users who will be accessing syngo Workflow from an integrated PACS Workstation, etc.)	50
Total number of modality devices that will utilize DICOM Work Listing and/or Modality Performed Procedure Step directly from the RIS. (Devices such as CT Scanners, MRI Scanners, etc.).	30
Will the RIS be interfaced to one or more PACS or PACS Brokers? (i.e., HL7 interface between RIS and PACS)	Yes
Maximum number of Concurrent Users (Including Radiologists and Transcriptionists) that will be using syngo Voice.	0
Maximum number of Concurrent Users that will be using syngo Portal Radiologist.	10
Will Portal Executive be utilized?	No
Total number of scanned pages per year if using the Document Scanning functionality (assumes an average of 58 KB per document).	90,000
Number of Radiology/Mammography exams per year.	145,000
Number of activities scheduled per year.	0
Number of years retention of patient exam, results reports and scanned documents.	7
Number of faxes per day.	300

**Minimum Equipment and Third Party Software Requirements:**

**Siemens Support Access**

- A minimum 256k high speed VPN connection is required for Siemens Support access for all syngo Workflow servers
- Remote IP capable KVM switch, Monitor, Keyboard and Mouse

**Classic Client Workstation**

Required Equipment:

- 1.4GHz Pentium 4 (or Pentium compatible)
- 512 MB RAM
- 4GB of disk space
- CD-ROM or DVD drive
- 10/100/1000 MB Network Interface Card
- SVGA Local Bus video adapter or Windows accelerated SVGA graphics adapter
- 17" SVGA Monitor
- Minimum display resolution: 1024x768
- Font Setting: Small (96dpi) or Large (120dpi)
- Keyboard and Mouse
- A minimum connection speed of 33.6K is required for customers who will utilize remote transcription

**Required Third Party Software:**

- Windows 2000 Professional or Windows XP Professional (32-bit)
- Microsoft Internet Explorer 6.0 or 7.0
- A VT emulation package - Required for PCs that will use Non-GUI functionality. Must include VT220 and key map support.
- Word 2003 or Word 2003 Viewer or Word 2007- Required for all workstations where transcription, document building, electronic signature or access to the word processing editor is required.
- Microsoft Windows Server Client Access Licensing
- Microsoft SQL Client Access Licensing – required for users or workstations that will access the Voice Servers.

**Portal Radiologist Workstation**

- The Classic Client can also be installed on this workstation without the need for any additional hardware resources.

**Required Equipment:**

- Intel Pentium Core 2 Duo/ Dual-Core
- 2 GB RAM
- 4GB of disk space
- CD-ROM or DVD drive
- 10/100/1000 MB Network Interface Card
- SVGA Local Bus video adapter or Windows accelerated SVGA graphics adapter
- 17" SVGA Monitor
- Minimum display resolution: 1280x1024
- Font Setting: Small (96dpi) or Large (120dpi)
- Keyboard and Mouse
- A minimum connection speed of 33.6K is required for customers who will utilize remote transcription

**Required Third Party Software:**

- Windows 2000 Professional or Windows XP Professional (32-bit)
- Microsoft Internet Explorer 6.0
- A VT emulation package - Required for PCs that will use Non-GUI functionality. Must include VT220 and key map support.
- Word 2003 or Word 2003 Viewer or Word 2007- Required for all workstations where transcription, document building, electronic signature or access to the word processing editor is required.
- Microsoft Windows Server Client Access Licensing
- Microsoft SQL Client Access Licensing

**Format Servers**

- A minimum of (2) Format Servers are required. The first (2) Format Servers can accommodate a total of 500,000 annual exams. Each additional Format Server can accommodate 250,000 exams.

Required Equipment:

- HP or IBM Xeon Processor
- 1GB of RAM
- (2) Internal Hard Drives (mirrored via disk controller)
- CD-ROM or DVD drive
- 10/100/1000 MB Network Interface Card
- SVGA Local Bus video adapter or Windows accelerated SVGA graphics adapter

Required Third Party Software:

- Microsoft Windows 2003 R2 SP2 Server Standard Edition (32-bit)
- Microsoft Word 2003 or Word 2003 Viewer or Word 2007
- Printer Drivers as required by printer manufacturer
- Microsoft Windows Remote Desktop

**Application Server**

Required Equipment:

- HP ProLiant DL380 or IBM x3650 Server or Equivalent HP or IBM Blade Server
- (4) Xeon Processor Cores
- 4 GB RAM
- RAID Controller with write cache
- (6) 72GB 15,000 RPM Internal SAS Hard Drives
- DVD ROM Drive
- (2) 10/100/1000 MB network interface NIC ports
- Hardware based disk mirroring

Required Third Party Software:

- Red Hat Enterprise Linux 5
- Siemens MessageQ built on BEA Version 5.0
- VIKING Version 3.8 Screen Manager Software

**Database Server - SAN Attached**

Required Server Equipment:

- HP ProLiant DL380 or IBM x3650 Server or Equivalent HP or IBM Blade Server
- (4) Xeon Processor Cores
- 4 GB of RAM
- (2) 72GB 15,000 RPM Internal SAS Hard Drives
- DVD-ROM drive
- (2) 10/100/1000 MB network interface NIC ports
- (2) 2GB Fibre Host Bus Adapter Ports

Required Third Party Software:

- Red Hat Enterprise Linux 5
- Sybase System 12.5 SQL Enterprise Licensing

**Storage - SAN Attached**

Required Storage Equipment for Customers who will utilize customer supplied SAN storage:

- A storage LUN is required for each storage segment described in the following table.
- High Availability installations require one additional instance of the below storage mapping for each additional copy of the database.
- The SAN storage LUNs are not required to match the suggested RAID levels for Directly Attached Storage (DAS) as long as the controllers and adapters can sustain an I/O throughput rate which is at least comparable to that of traditional dedicated Storage.
- It is assumed that the customer's SAN solution provides advanced on-line data guarding and recovery as well as hot-swap capabilities.
- The customer is responsible for providing backup. Siemens can provide tape equipment upon request but it is assumed that the customer has equipment to backup their centralized SAN storage
- The customer's SAN and related components must be completely supported by the OS vendors. This includes identification and installation of the appropriate drivers specific to the OS level on each machine that will be utilizing SAN attached storage.
- The customer assumes responsibility for maintaining and monitoring the health and performance of their SAN-attached storage.

syngo Workflow Storage Description	Min. size (GB)	DAS RAID Level	OLTP Level
<b>Database Server:</b>			
Root filesystem containing executables, application logs, scripts, etc.	10	0+1	Med
Application and support tool "scratch" area	18	5	Low
Sybase system databases: master, sybsystemprocs, systemdb, and tempdb	12	0+1	Med - High
Sybase PRD primary data segment	100	0+1	High
Sybase PRD transaction log segment	4	0+1	High
Sybase PRD non-clustered index segment	8	0+1	High
Sybase PRD report archive data segments	72	0+1 or 5	Low - Med
Sybase TRN and TST data segments	116	0+1 or 5	Low - Med
IF BACKING UP DATABASES TO TAPE: Sybase integrity check db and transaction log dumps	14	5	Low
IF BACKING UP DATABASES TO DISK (ENTERPRISE BACKUP): Sybase integrity check db, 2 days of database backups and transaction log dumps	300	5	Low
<b>Application Server (required only if SAN attaching this server):</b>			
Application root filesystem containing executables, application logs, scripts, etc.	40	0+1	Med
<b>Portal Server (required only if SAN attaching this server):</b>			
Portal filesystem containing executables, application logs, scripts, etc.	40	0+1	Med
<b>Voice Servers (required only if SAN attaching this server):</b>			
Speech Server filesystem containing Powerscribe SDK data and logs	40	0+1	Med
Recognition Server filesystem containing Powerscribe SDK data and logs	40	0+1	Med

**Portal Radiologist Server**

- This configuration can support up to (50) concurrent users. In the event that more than 50 concurrent users are anticipated, an additional Portal Server is required for each additional increment of 50 concurrent users.

Required Equipment:

- HP ProLiant DL380 or IBM x3650 Server
- (4) Xeon Processor Cores
- 4GB of RAM
- RAID Controller with write cache
- (4) 36GB 15,000 RPM SAS Internal Hard Drives (Only (2) Internal Drives required for Blade Installations)
- DVD ROM Drive
- 10/100/1000 MB Network Interface Card
- SVGA Local Bus video adapter or Windows accelerated SVGA graphics adapter

Required Third Party Software:

- Microsoft Windows 2003 R2 SP2 Server Standard Edition (32-bit)
- Microsoft SQL 2005 Server (32-bit) Standard Edition (Required only when Portal Executive will be installed)

**Voice Servers**

- (2) Servers are required, each with the following components and software. This configuration can support up to (50) concurrent users.

Required Equipment:

- HP ProLiant DL380 or IBM x3650 Server or Equivalent HP or IBM Blade Server
- (4) Xeon Processor Cores
- 4GB of RAM
- RAID Controller with write cache
- (4) 72GB 15,000 RPM SAS Internal Hard Drives (Only (2) Internal Drives required for Blade Installations)
- DVD ROM Drive
- 10/100/1000 MB Network Interface Card
- SVGA Local Bus video adapter or Windows accelerated SVGA graphics adapter

Required Third Party Software:

- Microsoft Windows 2003 R2 SP2 Server Standard Edition (32-bit)
- Microsoft SQL Server 2000 or Microsoft SQL Server 2005

Supported Devices:

- Dictaphone USB PowerMic I or PowerMic II Microphone
- Infinity Foot Pedal - Model IN-USB-1
- VXI TalkPro USB-100 Headset

**Fax Server**

Required Equipment:

- BISCOM Faxcom

**EXHIBIT D**  
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- (1) BISCOM fax channel is required for every 300 faxes per day

**Required Third Party Software:**

- Microsoft Windows Operating System
- PCL 5e Interpretation Software

**Paperless Workflow Devices**

- Document Scanner - TWAIN compliant scanner compatible with the desktop hardware and OS
- Electronic Signature Pad - VP9805 ePAD-ink LCD device with Word integration software, available from Interlink Electronics

EXHIBIT E - PART I  
CONFIDENTIAL

Technology Bids for  
EDM Equipment and Third Party Software

**Customer:** City & County of San Francisco  
**Date:** 3/25/2010

**Notes:**

- This offer is valid for 60 days from the bid date.
- Microsoft media must now be downloaded from: <https://eopen.microsoft.com/EN/default.asp>. Call the Microsoft Hotline at 800-248-0655 for details.
- Customer to use an Enterprise Tape System for backup
- Workstation pricing is not included but can be quoted upon request

*Soarian Enterprise Document Management v24.09*

Tracking Code: 100325KO1630B-V24-ASP-Base-PFS

Qty	Siemens ID <u>Equipment and Third Party Software – One Time Fees</u>	Extended Price
1	07679199 <b>Imaging Fax/Routing Server (4 Port)</b> <b>Equipment:</b> <ul style="list-style-type: none"><li>• HP Proliant DL380 G6 with (1) Intel Xeon X5560 2.8GHz Quad-Core Processors</li><li>• 6.0 GB RAM (Note: only 4GB RAM will be recognized)</li><li>• DVD ROM Drive</li><li>• (2) 72GB 15k SAS drives</li><li>• Embedded Dual Port Gigabit Ethernet NIC</li><li>• RAID 1 using HP Smart Array P410i Controller</li><li>• Redundant Power Supply</li><li>• Brooktrout TR Series Analog V.34 4-Port PCI-e Fax Board w/1yr maintenance</li></ul>	\$13,284
5	07680676 <b>Topaz SignatureGem 4x3 LBK755</b> <b>Equipment:</b> <ul style="list-style-type: none"><li>• Topaz Signature Gem LCD 4x3 T-L755-BHSB</li></ul> <b>Support:</b> <ul style="list-style-type: none"><li>• 3 years of 24x7x4 Hour Response Time Equipment Maintenance</li></ul>	\$2,025
25	07679231 <b>Fujitsu 6130C Scanner</b>  <b>Support:</b> <ul style="list-style-type: none"><li>• 3 Year Manufacturer Warranty</li></ul>	\$21,005

**EXHIBIT E - PART I**  
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**Equipment:**

- Fujitsu 6130C, 40PPM, Duplex, 50 Sheet Automatic Document Feeder, USB Cable

**Support:**

- 1 Year Unit Exchange Warranty – 2 Business Days (must register unit within 90days)

1 07679231 **Fujitsu 4340C Scanner** \$4,278

**Equipment:**

- Fujitsu 4340C, Duplex, 40 PPM, SCSI, Color, 100 Sheet Automatic Document Feeder, Up to 8.5x14
- Adaptec 2940U SCSI Card

**Support:**

- 1 Year ScanCare Warranty – Next Business Day, 1 Preventative Maintenance Call, Consumables, Training, Parts/Labor/Travel

1 07657427 **HP Rack Equipment** \$6,299

**Equipment:**

- HP 10642 42U Enterprise Cabinet (79H x 24"W x 40"D)
- 1x16 Port Switch Box
- (2) IP Console Interface Adapter – 8 pack
- (2) 12' KVM Console Cables – 8 pack
- 110V Fan Kit
- Side Panel Kit
- Stabilizer Kit
- Grounding Kit
- TFT5600 1U Integrated Keyboard 15" Flat Panel Monitor Kit
- (3) Rackmounted High Voltage Power Distribution Units (Req. (3) customer-supplied NEMA L6-30R receptacles)

**Support:**

- 3 years of 24x7x4 Hour Response Time Equipment Maintenance

1 07681088 **HP Integration of the EDM Solution Equipment** \$869

**Total One-Time Fees:** \$47,760

EXHIBIT E - PART II  
CONFIDENTIAL

Technology Bids for  
Radiology Equipment and Third Party Software

Customer: CITY & COUNTY OF SAN FRANCISCO

Date: 3/16/2010

Notes:

- This offer is valid for 60 days.
- This Technology Bid does not include all of the components required for syngo Workflow. Please refer to the Schedule 1 for all hardware and third party software requirements.
- The equipment included in this Technology Bid reflects the Customer's preference to utilize existing SAN attached storage and enterprise backup. Siemens would include the server and associated local components, including (2) Fibre Adapters to connect to the existing fabric. The customer is responsible for performance and ongoing management of the SAN fabric and storage. The Customer is also responsible for providing enterprise backup.
- Additional Professional Service fees will apply for an onsite build of the Database Server production storage and blades.
- Siemens MessageQ built on BEA Version 5.0 Licensing and VIKING Version 3.8 Screen Manager Software will transfer from the existing Application/Database Server without a license fee.
- Customer is responsible for ensuring sufficient electrical power.
- Currently, Phase 1 of High Availability (HA) is available. This includes Sybase Replication of each transaction from one Database Server and storage set to another. Phase 2 which is not yet GA, is planned to include additional HA functionality for the Application and Portal Servers. Additional hardware and/or software will be required for Phase 2.
- The \$970 Sybase monthly maintenance fee shown would be in addition to the Customer's existing Sybase monthly maintenance fee.

*syngo Workflow*

Tracking Code: 100316TL1600B

Qty	<u>Siemens ID Equipment and Third Party Software – One Time Fees</u>	Extended Price
1	07680411L HP Blade Chassis Infrastructure Equipment: <ul style="list-style-type: none"><li>• (1) HP BLc7000 Configure-to-order 3 In LCD Enclosure (six C20 plugs total)</li><li>• (2) HP 1:10 GbE Blade Switch, 16 downlinks, 4 out, 3 10Gb uplinks (CX4, XFP) and a 10Gb cross-connect.</li><li>• (1) HP BLc7000 Onboard Administrator Option</li><li>• (1) HP BLc7000 1 PH FIO Power Module Option</li><li>• (6) HP BLc7000 Enclosure Power Supply with IEC Cord</li><li>• (6) Single fan Option</li><li>• (1) HW Installation for Enclosure</li></ul>	\$26,962
1	07680411L Application Server - HP BL460c Blade Equipment: <ul style="list-style-type: none"><li>• HP BL460C G6 Blade with (2) Quad-core Intel Xeon® Processors,</li></ul>	\$11,682

**EXHIBIT E - PART II**  
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X5560 2.8 GHz, 95wts.

- Dual Embedded Gigabit Server Adapters
- 12 GB RAM
- QLogic Fibre Channel Dual Port Host bus adapter
- (2) 72GB 15K SAS Hot Swap disk drives
- Smart Array controller with 128MB Battery Backed Write Cache
- HP iLO Advanced Blade 1 Server License
- HW Installation for Blades

Third Party Software:

- Linux Red Hat Enterprise AS 5 Premium

Support:

- 3 years of 24x7x4 Hour Response Time Hardware Maintenance
- 3 Years of 24x7 Linux Red Hat AS Premium

2 07678886L **Database Server - HP BL460c Blades** \$85,354

Equipment:

- HP BL460C G6 Blade with (1) Quad-core Intel Xeon® Processor, X5560 2.8 GHz, 95wts.
- Dual Embedded Gigabit Server Adapters
- 12 GB RAM
- QLogic Fibre Channel Dual Port Host bus adapter
- (2) 72GB 15K SAS Hot Swap disk drives
- Smart Array controller with 128MB Battery Backed Write Cache
- HP iLO Advanced Blade 1 Server License
- HW Installation for Blades

Third Party Software:

- Red Hat Enterprise Linux AS 5
- Sybase Transfer License
- Sybase SQL Server Enterprise Server License
- (61) Sybase System 12.5 ADL Linus Stand by Licenses
- (4) Sybase System 12.5 ADL Replication Server Licenses - Enterprise Edition

Support:

- 3 years of 24x7x4 Hour Response Time Hardware Maintenance
- 3 years of Red Hat Enterprise Linux Support

2 07680684L **Format Servers - HP BL460c Blades** \$11,302

Equipment:

- HP BL460C G6 Blade with (1) Quad-core Intel Xeon® Processor, X5560 2.8 GHz, 95wts.
- Dual Embedded Gigabit Server Adapters
- 6 GB RAM
- (2) 72GB 15K SAS Hot Swap disk drives
- Smart Array controller with 128MB Battery Backed Write Cache
- HP iLO Advanced Blade 1 Server License

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- HW Installation for Blades

**Third Party Software:**

- Windows Server Std 2008 License (No CALs included)
- Office 2007 Standard License

**Support:**

- 3 years of 24x7x4 Hour Response Time Hardware Maintenance

**Total One-Time Fees:** **\$135,300**

**Equipment and Third Party Software - Monthly Fees**

1	07676815L Sybase License Monthly Support	\$970
		<b>Total Monthly Fees:</b>
		<b>\$970</b>

**Exhibit F - Part I**  
**Statement of Work for INVISION Clinical Applications**

**Overview**

1. Siemens will provide professional services as listed below:
  - 1.1. Phase 1 will include the following with an estimated duration of twelve (12) months:
    - 1.1.1. City and County of San Francisco ("Customer") - Decision Support Solutions, Bed Management, Clinician View Med/IV Orders, Clinician View Orders, Lifetime Clinical Record, Patient Care Documentation, Physician Order Entry (POE) Starter Set, INVISION Clinicals Value Add Services, Pharmacy Document Management, Base Imaging.
  - 1.2. Siemens and Customer will review the phasing described above throughout the project and adjust if appropriate. Changes to the phasing may result in changes in professional services, and related fees. The project team will review changes according to the Change Order process.

**General Implementation Provisions**

2. Siemens will lead the implementation of the Applications and Custom Programming. Customer and Siemens shall work together throughout the implementation so that education and knowledge transfer take place to enable Customer to assume full operation and support of System(s) upon completion of this engagement. The methodology and its tools support the Customer and Siemens implementation team with artifacts, information and Project Workplans.
3. During the planning phase, Siemens will review Customer provided information related to major business initiatives, such as facility or infrastructure expansion or renovation, additional technology investments, in-house re-engineering efforts, or other consulting engagements, that may affect the implementation.
4. Siemens scope of services includes the following unless otherwise noted herein:
  - 4.1. Project Leadership - Siemens will:
    - 4.1.1. Direct initial project start up and provide cross-functional coordination and alignment of Siemens' resources. Siemens will work with Customer's project manager to assist in meeting defined objectives and to develop the project definition and Project Workplan. Siemens and Customer's project managers will be the points of contact for issue resolution and will continuously monitor progress to minimize potential risks. Siemens will provide a periodic project status and budget report.
    - 4.1.2. Initiate and lead the technology portion of the implementation. This includes guiding Customer in identifying resources to perform technology services at Customer site, managing the scope of the technology services project, and monitoring overall progress of the technology work.
  - 4.2. Implementation Consulting - Siemens will:
    - 4.2.1. Assume a consultative role and will provide process considerations, analytical direction, and support during the implementation.
    - 4.2.2. Consult within the planning phase on the requirements and planning of operational workflow, organizational, application and technical specifications as Customer compiles its analysis.

**EXHIBIT F - PART I**  
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- 4.2.3. Collaborate with Customer within the design and adaptation phase regarding design and build of the software and use of model reports. Siemens will assist in translating clinical and business requirements into system related decisions and settings. As part of the collaboration process, Siemens will contribute recommendations based on best practice experiences.
- 4.2.4. Guide Customer during the testing phase in developing Unit Test, Integration Test and Stress/Volume testing plans, as appropriate, so that the system is operating according to the technical specifications and the organization's specific system design. The Siemens services estimate is based on Customer developing, managing and executing all testing within the testing plan. Siemens will provide direction and support during the testing period. Additionally, Siemens will collaborate on the resolution of any functional design issues identified during system tests.
- 4.2.5. Play a consultative role within the training phase. Siemens will provide guidance and direction in core trainer education planning and development of core trainer(s) materials.
- 4.2.6. Provide support and direction for software issue resolution during the live phase. At First Productive Use (FPU) Siemens' resources will provide support for Application issues and in routing issues through the appropriate event tracking system. Siemens will also work to facilitate transition to Customer Relationship Support at the conclusion of the event.

**Application Specific Provisions**

**Decision Support Solutions**

5. Siemens will provide the following implementation services:
  - 5.1. Install the Clinical Performance Management Module software in one (1) ASP Production environment. This includes completing software checkout, and validating software is ready for Customer and Siemens project teams to begin initial build and configuration.
  - 5.2. Enable network communications by completing firewall, Network Address Translation (NAT) and required routing.
  - 5.3. Implement model Crystal reports, On-Line Analytical Processing (OLAP) cubes and Executive View (EV) indicators including:
    - 5.3.1. Setting up and verifying the dimensional model populates from model source system interfaces, for contracted performance module models, to provide the basis for ongoing reporting and analysis.
    - 5.3.2. Implementing model reports, verifying content and structure, and demonstrating required reports for contracted performance modules are available for First Productive Use. This includes:
      - Summarizing patient management., nursing documentation, and orders data based on implemented interface data for the Clinical Performance Management module

**INVISION Clinicals**

6. Siemens will provide the following implementation services:

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- 6.1. Install base software in one (1) RCO Test and Production environment. This includes completing software checkout, and validating software is ready for Customer and Siemens project teams to begin initial build and configuration.
- 6.2. Enabling network communications by completing firewall, Network Address Translation (NAT) and required routing.
- 6.3. Bed Management shall include:
  - 6.3.1. Working with Customer to set up Bed Management. Initial work effort includes:
    - Define INVISION Bed Management specific OAS profiles.
    - Adapt OAS user access specific to Bed Management in the bed placement and nursing areas.
    - Identify and implement room and bed master file characteristics.
    - Identify and implement model bed board function in one (1) department.
  - 6.3.2. In addition to base implementation services, Siemens will:
    - Lead effort to set up and complete the remapping of the INVISION Patient Management OAS/Gold pathways as the relate to Bed Management.
- 6.4. Clinician View Orders:
  - 6.4.1. Leading effort to set up and complete unit testing of one (1) pilot unit. During setup of this pilot unit, Siemens will provide Customer with the education, knowledge and experience to continue adding units that may be required for First Productive Use or thereafter. Initial work effort includes setting up model pathways for the following:
    - Allergies.
    - Enter/Write Orders.
    - View Orders.
    - Print Orders.
  - 6.4.2. In addition to base implementation services, Siemens will:
    - Supplement Customer staff by:
      - Providing one hundred ninety-eight (198) hours of application consultant services for the set up and complete unit testing of one (1) pilot unit on nursing orders.
- 6.5. Clinician View Med/IV Orders shall include:
  - 6.5.1. Leading effort to set up and complete unit testing of one (1) pilot unit. During setup of this pilot unit, Siemens will provide Customer with the education, knowledge and experience to continue adding additional units that may be required for First Productive Use or thereafter. Initial work effort includes setting up model pathways for the following:
    - Enter/Write Med/IV Orders.
    - View Med/IV Orders.
    - Print Med/IV Orders.

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6.6. Lifetime Clinical Record (LCR) shall include:

- 6.6.1. Guiding Customer in setting up screens, pathways and profiles to view LCR results for the following:
  - Problem list.
- 6.6.2. Working with Customer to set up patient queries and security for Clinical Notification Inbox (CNI) and CNI MIS Inbox with results notification.
- 6.6.3. Guiding Customer in setting up Medication Reconciliation Reports for one (1) pilot unit. During setup of this pilot unit, Siemens will provide Customer with the education, knowledge and experience to continue adding units that may be required for First Productive Use or thereafter. Initial work effort includes setting up the following model reports:
  - Home medication list.
  - Admission medication reconciliation report.
  - Transfer medication reconciliation report.
  - Prescriptions.
  - Over the limit.
  - Print control language (PCL) customizations.

6.7. Patient Care Documentation shall include:

- 6.7.1. Leading effort to set up and complete unit testing of one (1) pilot unit. During setup of this pilot unit, Siemens will provide Customer with the education, knowledge and experience to continue adding additional units that may be required for First Productive Use or thereafter. Initial work effort includes:
  - Guiding Customer with setting up of model re-expressed browser enabled screens and pathways for:
    - Patient Assessments.
    - Care Plans.
    - Orders Charting.
- 6.7.2. Patient Assessments shall include:
  - Leading effort to set up and complete unit testing of one (1) model assessment value in INVISION Clinical Observation and Results (COR). During setup of this assessment, Siemens will provide Customer with the education, knowledge and experience to continue adding assessments that may be required for First Productive Use or thereafter.
  - Working with Customer to set up model discharge instructions preliminary and final model defaults and documents.
- 6.7.3. Care Plans shall include:
  - Leading effort to set up and complete unit testing of five (5) plans of care that include Progress Notes using previously developed care plans and/or clinical content. During setup of this plans of care, Siemens will provide

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Customer with the education, knowledge and experience to continue adding plans of care that may be required for First Productive Use or thereafter.

- 6.8. Physician Order Entry (POE) Starter shall include:
  - 6.8.1. Leading effort to set up and complete unit testing of one (1) pilot unit. During setup of pilot unit, Siemens will provide Customer with the education, knowledge and experience to continue adding additional pilot units that may be required for First Productive Use or thereafter. Initial work effort includes:
    - Setting up POE starter set toolset for search engine, specialty logic and content.
    - Analyzing and populating of non-pharmacy services and pharmacy services in the Common Vocabulary Engine (CVE) including creation of five (5) Predefined Common IV (PCI) five (5) types.
    - Designing and creating up to three (3) order sets.
    - Mapping existing INVISION services master with CVE terms
  - 6.8.2. Providing consulting services to guide Customer in the implementation of Physician Order Entry including workflow, technology and integration requirements. Siemens will identify and document expected results, constraints and processes needed prior to Application implementation.

#### **Siemens Medication Management**

7. Siemens will provide the following implementation services:
  - 7.1. Pharmacy Document Management shall include:
    - 7.1.1. Leading effort to set up and complete unit testing to manage written medication orders on one (1) nursing unit. During setup of orders on this unit, Siemens will provide Customer with the education, knowledge and experience to continue managing written medication orders on additional nursing units that may be required for First Productive Use or thereafter. Initial work effort includes:
      - Working with Customer to determine security levels based on Customer defined roles.
      - Identifying patient and document types for routing from Enterprise Document Management to Siemens Pharmacy.
      - Enabling profiles to allow orders communication between Siemens Pharmacy and Siemens Enterprise Document Management utilizing an image pointer.
      - Guiding Customer in establishing processes for scanning patient medication orders.
      - Reviewing Pharmacist annotation capabilities on image.

#### **Soarian Enterprise Document Management**

8. Siemens will provide the following implementation services:
  - 8.1. Install base Enterprise Document Management software in one (1) RCO/ASP Test and Production environment. This includes completing software checkout, and validating

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software is ready for Customer and Siemens project teams to begin initial build and configuration.

- 8.2. Enable network communications by completing firewall, Network Address Translation (NAT) and required routing.
- 8.3. Determine system security needs per Application based on Customer defined roles.
- 8.4. Base Imaging shall include:
  - 8.4.1. Leading effort to set up the base system infrastructure including setting up folder structure and security. Siemens will provide Customer with the education, knowledge and experience to accept system ownership. Initial work effort includes:
    - Reviewing folder and document structure.
    - Performing analysis to determine rules for creating desired folder structure.
    - Establishing security by Customer roles types and linked to document types.
    - Configuring base views and filters.
  - 8.4.2. Guiding the Customer in establishing procedures for daily system maintenance.
  - 8.4.3. Leading effort to set up Patient Financial Services by standardizing an enterprise setup for registration, billing, cash management, correspondence and remittance processing. During setup, Siemens will provide Customer with the education, knowledge and experience to accept system ownership of Patient Financial Services. Initial work effort includes:
    - Guiding Customer in proper setup and use of the following model bill and remittance forms, filing and bursting rules:
      - 1500 (1500 Bill form).
      - UB92/UB04/837 (UB92/UB04/837).
      - Siemens generated detail itemized bill.
      - Medicare Secondary Payor Form.
      - Insurance verification form.
      - Siemens generated face sheet.
    - Creating one (1) registration document template using the forms creation tool for electronic signature capture.
    - Working with Customer to setup and analyze Patient Access/Business Office Inventory forms to identify, catalog and define document attributes to organize document types and folder structure.
    - Creating one (1) scanning profile set including up to three (3) document profiles for the patient access department.
    - Building one (1) base view and one (1) filter for system display.

**Value Add Specific Provisions**

**INVISION Clinicals Value Add Services**

9. Siemens will provide the following value add services:

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**9.1. INVISION 3270 to Re-Mapped Pathways shall include:**

- Providing consulting services to guide Customer in the implementation of the OAS Gold remapping of the existing 3270 Patient Management screens and pathways to OAS Gold Remapped.

**Integration Provisions**

**10. Siemens scope of services for integration will include the following unless otherwise noted herein:**

**10.1. OPENLink Interface Engine Services -**

- 10.1.1. Siemens will provide access to OPENLink model maps for Siemens to Siemens interfaces unless otherwise noted. Model maps are based on current Versions and Releases of Siemens ancillary and surround systems.
- 10.1.2. Siemens will provide the following OPENLink interface implementation services for all interfaces listed therein that will utilize OPENLink as the interface engine:
  - Specification Review - Siemens will facilitate specification review sessions regarding integration requirements from both Siemens and third party systems.
  - Interface Connections - Siemens will build the interface connection definitions between the associated Applications and the interface engine for interfaces listed below.
  - Mapping Modifications - Siemens will work with Customer to identify and complete data mapping.
  - Unit Testing - Siemens will test interfaces to verify data transmissions occur according to specifications.
  - Live Support - Siemens will work with Customer to facilitate the transition from testing to First Productive Use after Customer releases all interfaces to be migrated to the Production environment, in conjunction with live dates.

**10.1.3. Siemens will provide services for the following interfaces:**

- Enterprise Document Management Pointer Outbound to Lifetime Clinical Record.
- INVISION Demographics/ADT Outbound to Enterprise Document Management.
- INVISION Med/IV Orders Outbound to Siemens Pharmacy.
- INVISION Orders Outbound with One-Time Historical Backload to Decision Support Solutions.
- INVISION Patient Management, Clinical Observations and Results Outbound with One-Time Historical Backload to Decision Support Solutions.

**10.2. Point to Point Protocol (PPP) Services -**

**10.2.1. Siemens will utilize PPP to enable direct data flow for the following interfaces:**

- Mysis Lab Results Outbound to Enterprise Document Management.

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- Siemens Medication Administration Record Outbound to Enterprise Document Management.
- syngo Workflow Results Outbound to Enterprise Document Management.

10.3. General Integration Provisions -

10.3.1. Siemens assumes Customer will utilize Siemens interface specifications to define integration between Siemens and third party systems. Customer will manipulate third party data to send data to, and accept data from, Siemens in the standards based format stated in the specifications.

**Technology Provisions**

11. Siemens scope of services for technology will include the following unless otherwise noted herein:

- 11.1. Technology Planning Sessions - Siemens will conduct a series of Technology Planning sessions to identify technical requirements at Customer site for the implementation and will provide documentation of the integration of the Applications infrastructure into the Customer's environment. This will include reviewing:
  - 11.1.1. Application Network Overview (ANO).
  - 11.1.2. Customer infrastructure and network connectivity.
  - 11.1.3. Schedule 1 and Technology bid where appropriate.
- 11.2. Network and System Connectivity - Siemens will validate network and system connectivity, and will provide remote connectivity to the onsite environments for Siemens installation and support activities.
- 11.3. Readiness Review - Siemens will conduct a readiness review to determine equipment location, to prepare networks and install equipment. This includes review of hardware and software install with the Customer and the review of Application delivery requirements with the Customer and Siemens Consultants.
- 11.4. Platform Infrastructure - Siemens will participate in turnover of the platform infrastructure to Siemens support and to the Customer.
- 11.5. Application Traffic - Siemens will route Application traffic between Siemens WAN router at Customer's Facility to the Siemens Data Center via a private network, where appropriate.

**Customer Personnel**

Customer will be responsible for providing the appropriate resources to complete the engagement as recommended in the estimates below. Assigned Customer personnel must have the appropriate time commitment to the project, knowledge of the Facility, subject matter expertise and the appropriate skill sets as outlined in the Roles and Responsibilities document in order to complete the implementation within the stated duration. Additional details about resource assignment, resource tasks and resource work effort are in the Project Workplan, if applicable. FTE calculations are based on 2000 hours per year and the average duration of the install.

<b>Decision Support Solutions</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Financials	114	.68
Integration/Conversions	8	.05

**EXHIBIT F - PART I**  
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Operational Support - Financials	12	.07
Project Leadership	40	.24
Technology	38	.23
Average install duration: 1 month		

<b>Bed Management</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	561	1.12
Operational Support - Clinicals	394	.79
Project Leadership	258	.52
Technology	273	.55
Training	30	.06
Average install duration: 3 months		

<b>Clinician View Med/IV Orders</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	817	.49
Integration/Conversions	350	.21
Operational Support - Clinicals	500	.30
Project Leadership	350	.21
Technology	350	.21
Training	47	.03
Average install duration: 10 months		

<b>Clinician View Orders</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	1536	1.15
Integration/Conversions	624	.47
Operational Support - Clinicals	1320	.99
Project Leadership	672	.50
Technology	768	.58
Training	240	.18
Average install duration: 8 months		

<b>Lifetime Clinical Record</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	92	.28
Operational Support - Clinicals	68	.20
Project Leadership	42	.13
Technology	45	.14
Training	8	.02
Average install duration: 2 months		

<b>Patient Care Documentation</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	808	1.21

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Operational Support - Clinicals	561	.84
Project Leadership	362	.54
Technology	399	.60
Training	61	.09
Average install duration: 4 months		

<b>Physician Order Entry (POE) Starter Set</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	5260	2.63
Operational Support - Clinicals	4240	2.12
Project Leadership	940	.47
Technology	1020	.51
Training	300	.15
Average install duration: 12 months		

<b>Base Imaging</b>	<b>Hours</b>	<b>FTEs</b>
Application Analysis - Clinicals	540	.54
Integration/Conversions	270	.27
Operational Support - Clinicals	450	.45
Project Leadership	236	.24
Technology	479	.48
Training	254	.25
Average install duration: 6 months		

**EXHIBIT F - PART II**  
**CONFIDENTIAL**

**Statement of Work for Project and Account Management Services**

**Overview**

1. Siemens will provide the following professional services for an estimated duration of seven (7) years:
  - 1.1. Siemens will provide Project Management and Account Management for a term of seven (7) years.

**Professional Services**

2. Siemens will provide the following professional services:
  - 2.1. Siemens Project Manager will provide project oversight for the implementation of the INVISION add-on and Siemens surround applications.
  - 2.2. Siemens Project Manager direct initial project start up and provide cross-functional coordination and alignment of Siemens' resources. Siemens will work with Customer's project manager to assist in meeting defined objectives and to develop the project definition and Project Workplan. Siemens and Customer's project managers will be the points of contact for issue resolution and will continuously monitor progress to minimize potential risks. Siemens will provide a periodic project status and budget report.
  - 2.3. Siemens Account Manager will provide the following the following professional services:
    - 2.3.1. Responsibilities for this position include Project Oversight, Account Management, Escalation, Invoice Reconciliation and other duties as mutually agreed to by Siemens and Customer.

**Professional Services**

The Professional Services Bid includes a discount on Siemens current Professional Services rates for eligible services. The discount is valid if Siemens is performing all of the services described in the Statement of Work. The discount is valid for the entire project provided Customer permits Siemens to commence the engagement within twelve (12) months. If Customer delays commencement, Siemens current Professional Service rates shall apply. The Professional Services Bid is net of all discounts and no other discounts apply.

Siemens scope of work for the engagement will be performed on a Time and Materials basis.

Professional Services	Estimated Hours	Estimated Fee
Additional Services	7,000	\$1,155,000
<b>Total</b>	<b>7,000</b>	<b>\$1,155,000</b>

**Summary**

Professional Services Summary	Fee	Monthly Support Fee
Value Add Services	\$1,155,000	
<b>TOTAL - All Services</b>	<b>\$1,155,000</b>	<b>\$0</b>

**EXHIBIT F - PART III**  
**CONFIDENTIAL**

**Statement of Work for Radiology**

**1. Introduction**

**1.1. Purpose of this document**

City and County of San Francisco Dept of Public Health has requested the Siemens Medical Solutions provide syngo® Suite Implementation Services of the syngo® Suite product. This document describes the services that syngo® Suite Services offers to address this request.

**2. Customer Information**

**2.1. Interfaces**

- 2.1.1. Invision Demographics ADT, OO, OSU, AOO and Results**
- 2.1.2. 2.1.2. Care Cast One Way ADT/Orders/ORU/Feed**
- 2.1.3. 2.1.3. Mitra Results Query**

**3. Project Phases**

- 3.1. This project will be implemented in a Single Phase.**

**4. Siemens Implementation Philosophy**

Siemens work effort is based on Siemens philosophy to implement model software, model interfaces and PACS solutions in a timely and cost efficient manner. Model software, role defined toolsets and/or default report templates provide the Customer with the ability to perform focused adaptation to accommodate user/site preferences, as opposed to customization of the model system. Customer may request that Siemens provide additional services for additional fees beyond those described herein to drive to specific Customer clinical and or business objectives. These additional services, if any, will be identified in the tables at the end of this document

**5. Siemens Work Effort**

Siemens work effort is based on Customer's current business state. If a customer is considering additional technology investments, in-house re-engineering efforts or other consulting engagements, Siemens recommends that these initiatives be finalized prior to the initiation of the planning phase so that decisions made during this phase, and moving forward, are appropriate for the Customer's desired future state. Siemens will work with the Customer to determine if utilization of the Change Order will be necessary to accommodate potential changes.

**6. Scope of Services**

Siemens scope of services for this estimate includes the following unless otherwise noted in the solution section:

**6.1. Project Leadership**

Siemens will direct the initial project start up and provide cross-functional coordination and alignment of Siemens' implementation resources. Siemens will provide project leadership to the implementation project as defined in item one (1) above. Siemens will work with the Customer's Project Manager to provide leadership and overall accountability to achieve Customer's desired future state or vision. Siemens' and Customer's Project Managers will be the point of contacts for issue resolution during the

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implementation and will continuously monitor progress to minimize potential risks. Siemens will provide project status reports as needed/required. The Implementation will be divided into 5 phases. Planning, Manufacture, Installation/Testing, Training, and the Live/Post Live Phase

**6.1.1. Planning**

The Siemens Project Manager will assume a consultative role and will provide the Customer with process considerations and analytical direction. The Siemens Project Manager will work with the Customer to develop project definition and to develop a work plan to meet Customer driven outcomes. This may be done either remotely or onsite at Siemens discretion.

**6.1.2. Manufacture**

The Siemens Project Manager and internal Siemens resources will assume direct responsibility of the manufacturing of product specified in the contract deliverables. Delivery of product will take place in consultation with Customer. Customer will provide delivery address and appropriate storage space to the Siemens Project manager.

**6.1.3. Installation and Testing Phase**

Within the Installation and testing phase, Siemens will collaborate with the Customer regarding Model software, role defined toolsets and/or default report templates. As part of the collaboration process, Siemens will contribute recommendations based on best practice experiences.

**6.1.4. Training Phase**

Within the Training phase, Siemens will play a consultative role in Training. Siemens will provide guidance and direction for the Customer in education planning, development of Super User(s) materials, and end user training.

**6.1.5. Live/Post live phase**

Within the Live/Post Live phase, Siemens will provide support and direction to the Customer for software issue resolution in addition to the activities listed in Knowledge Transfer. Siemens anticipates that the knowledge transfer to the Customer has been facilitated during the implementation process. At First Productive Use (FPU) Siemens resources will provide support for Solution issues and in routing issues through the appropriate event tracking system. Siemens will also work with the Customer to facilitate a smooth transition to Customer Relationship Support at the conclusion of the event.

**7. Interfaces**

Siemens will provide services for the completion of the Interfaces identified in Section 2 (above). Siemens scope of services for those Interfaces will include the following unless otherwise noted herein.

- 7.1. Siemens assumes Customer will utilize Siemens interface specifications to define integration between Siemens and third party systems. Customer will manipulate third party data to send data to, and accept data from, Siemens in the standards based format stated in the specifications.
- 7.2. Third Party Interface Engine Assumption - If Customer will utilize a third party interface engine Siemens assumes that Customer will complete all required work on the third party

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interface engine for each interface routed through the third party engine. This will include all interface connections, mapping, implementation, unit testing and live support issues related to integration with both Siemens and third party systems..

7.3. OPENLink Assumptions - If Customer will utilize OPENLink ICO v23 and unless otherwise noted in this Statement of Work that Siemens will provide OPENLink Services, Siemens assumes that Customer will complete all required work on the OPENLink ICO v23 interface engine for each interface routed through OPENLink. This will include all interface connections, mapping, implementation, unit testing and live support issues related to integration with both Siemens and third party systems.

**8. Customer Responsibilities**

The Customer will assign personnel to perform the following functions during the implementation. The estimated Customer resource requirements are based on tasks defined in Siemens standard Implementation Methodology and may not reflect work effort required outside of those tasks. FTE calculations are based on 2000 hours per year and the average duration of the install.

syngo® Workflow	FTEs
syngo® Workflow Project Manager	.25
syngo® Workflow System Administrator	.25
syngo® Workflow Super User/ Report Design	.50
Total	1.0

**9. Hours of Service**

All implementation services are to be completed from Monday to Friday. Weekend implementation services will result in additional charges.

**10. Education Solutions**

The Customer is responsible for education on all third party software as defined in Exhibit D, Schedule 1.

**11. Modification to Services Provided**

No other items or services will be provided under this agreement. Any modifications or additions to this Statement of work will require approval and may incur additional charges.

**12. Implementation Services Provided**

The Implementation Services described below in Table B-1 reflect the service category levels chosen by the Customer based on implementation decisions made for the install. Any requirements for additional hours or services may be subject to additional fees.

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**Table B-1 to Part III of Exhibit F - T&M Services Provided**

Qty	Service Description	Estimated Hours	Estimated Fee
1	<b>Custom Interface Migration T&amp;M</b>  Migration of Custom Interface	16	\$3,040
1	<b>High Availability Redundant Hardware A T&amp;M</b>  High Availability considerations based on the Hardware Technology requested.	76	\$13,135
1	<b>High Availability phase 1 Sybase Replication T&amp;M</b>  Syngo Workflow High Availability Siemens will perform the following services for the syngo Workflow implementation in System configuration that provides database replication and hardware redundancy for the syngo Workflow application server in a warm stand-by fashion. Installation of the Operating System of the redundant database servers. Sybase configuration and database creation on the customers SAN infrastructure. Configuration of Sybase Replication server in a one-way fashion. Installation of the operating system and required application components on two application servers. Migration of application files and database contents from current LIVE environment into newly installed environment with one application server configured to reference the primary database server when the appropriate project milestones are met. Participate in a joint planning session with the customer to document and understand the customer's options with respect to the stand-by application server node as a warm stand-by in the event of an outage. Document the summary of the mutually agreed upon roles and responsibilities	66	\$9,632
1	<b>INVISION Demographics, ADT, Orders Outbound, Order Status Update, Add On Orders &amp; Results Inbound T&amp;M</b>  INVISION Demographics/ADT, Orders Outbound with Order Status Update, Add-On Orders, Results Inbound from syngo Workflow	40	\$5,838
1	<b>Openlink Services Migration(for INV or MS4)</b>  OPENLink Services	4	\$584
1	<b>SAN Attached (Standard Delivery)/Customer Supplied SAN Hardware A T&amp;M</b>  HW Configuration A - SAN Attached (Standard Delivery) / Customer Supplied SAN Hardware  Configuration assumes, an Application Server that utilizes local storage and a Database Server that will connect to the customer SAN storage.  Print Formatters (if applicable) VIS process applies and would arrive at the customer site, tested, pre-configured and ready for customer Acceptance testing.  Application Server - Siemens will install the Linux operating system and the Siemens Application on local storage.  Database Server - Siemens installs the Linux Operating System, configure the SAN connections, and create the syngo database on the SAN storage.  Customer is responsible for defining and configuring the SAN storage and presenting it to the Database Server.	78	\$13,550
1	<b>Third Party Result Interface Migration TM</b>	16	\$2,335

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Third Party Result Interface Migration of existing Interface

1	<b>syngo Workflow Uni-Directional PACS Migrate Interface T&amp;M</b>	32	\$4,670
	syngo Workflow Demographics/ADT, Orders, Order Status Updates Outbound to Third Party Picture and Archival System - Migrate Existing Interface		
1	<b>syngo Workflow Mammography Class at Siemens Regional Training Center</b>		\$1,050
	syngo Workflow, Radiology Mammography Class		
	Class conducted at Siemens Training and Development Center in Cary, NC		
	Price based on number of attendees.		
	Duration 2 days		
1	<b>syngo Workflow Base Upgrade T&amp;M</b>	302	\$44,383
	Application Specific Provisions		
	syngo Workflow Management System		
	Siemens will provide the following implementation services:		
	Stage server to integrate Hardware and software as specified in the Schedule 1. Siemens work effort includes installing base Application software in one (1) ICO Production, Test and Training environment, completing software checkout, and validating software is ready for Customer and Siemens project teams to begin initial build and configuration.		
	Enable network communications by completing firewall, Network Address Translation (NAT) and required routing.		
	Upgrade base software in one (1) ICO Production, Test and Training environment. This includes re-applying existing system information, completing software checkout, and validating software is ready for Customer and Siemens project teams to begin upgrade.		
	syngo Workflow shall include:		
	Re-applying and validating existing database, profile and system information is available in new environment.		
	Analyzing current Radiology processes and guiding Customer in leveraging new Version feature/function to improve Radiology workflow.		
	Guiding Customer in setting up worklists to display patient information with outstanding work for a pre-determined area. Areas worklists could include tracking, read exam or transcription.		
	Leading effort to set up and complete testing for portal radiologist to give radiologist ability to protocol, interpret and sign procedures from the syngo user interface. Siemens will provide Customer with the education, knowledge and experience to continue setup that may be required for First Productive Use of thereafter. Initial work effort includes:		
	Installing software on designated workstations.		
	Conducting analysis on existing workflow and creating new ones, as appropriate.		
	Defining user preferences.		
	Validating data displays on workflow assignments.		
	Providing on-site training for five (5) radiologists and one (1) trainer on physician workstation use. Siemens will share best practice information with the Customer for training additional users required for First Productive Use.		
1	<b>syngo Workflow De-installation of Previous Software</b>	12	\$1,751
	De-installation of previous software		
1	<b>syngo Workflow Hardware Readiness T&amp;M</b>	8	\$1,168
	Technology Provisions		
	Siemens scope of services for technology will include the following unless otherwise noted herein:		
	Readiness Review - Siemens will conduct a readiness review to determine equipment location, to prepare networks and install equipment. This includes review of hardware and software install with the Customer and the review of Application delivery requirements with the Customer and Siemens Consultants.		

**EXHIBIT F - PART III**  
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1	<b>syngo Workflow Interactive and Worklist Document Build Class at Siemens Regional Training Center</b>		<b>\$1,575</b>
	syngo Workflow, Radiology Interactive & Worklist Document Building Class		
	Class conducted at Siemens Training and Development Center in Cary, NC		
	Duration 3 days		
1	<b>syngo Workflow Mammography Upgrade T&amp;M</b>	<b>90</b>	<b>\$13,135</b>
	Mammography shall include:		
	Guiding Customer in new Version feature/function of Mammography.		
1	<b>syngo Workflow Mgt. Implementations Class at Siemens Regional Training Center</b>		<b>\$2,625</b>
	syngo Workflow, Radiology Management Implementation Class		
	Class conducted at Siemens Training and Development Center in Cary, NC		
	Duration 5 days		
1	<b>syngo Workflow Upgrade Class</b>		<b>\$850</b>
	syngo Workflow, Radiology Upgrade Class		
	Class conducted at Customer site.		
	Price based on number of attendees.		
	Duration 2 days		
1	<b>syngo Workflow Voice to Text Migrate Interface T&amp;M</b>	<b>48</b>	<b>\$7,005</b>
	syngo Workflow Order Transaction Outbound with Voice to Text Results Inbound from Third Party Voice to Text - Migrate Existing Interface		
	<b>Estimated Totals</b>		<b>\$126,326</b>

## Siemens Disaster Avoidance & Recovery Provisions

### INTRODUCTION

Siemens is committed to the goal of providing our customers with a secure data processing environment that provides uninterrupted service. To meet this goal, Siemens focuses on both preventive measures and recovery procedures. The Information Systems Center (ISC) systems and operational practices are designed to prevent problems before they develop. In addition, Siemens has a wide range of situations that could potentially disrupt services to our customers. Siemens continually reviews the ISC's preparedness to handle failures or emergency situations.

This document is a summary of Siemens' disaster avoidance provisions and business recovery provisions.

### DISASTER AVOIDANCE

Siemens has made significant investments in disaster avoidance. Provisions include, but are not limited to the following:

- Physical Security – access to the ISC is strictly controlled. An electronic badge system controls access through the main entrance. Within the building, this system is programmed to permit only persons who have appropriate security clearance to enter critical areas. Security guards also monitor building access. Video cameras monitor the main entrance, parking facilities, and critical areas within the ISC building.
- Fire Protection – The ISC building is constructed of pre-cast and poured concrete, with firewalls separating computer operations areas to minimize fire damage through containment. The ISC's fire protection system consists of modern equipment that is regularly reviewed and updated. It consists of smoke detectors (with remote annunciators and zone indicators), automatic sprinkler systems, and a two-part Halon system in the computer and tape library areas. Each of these areas has its own supply of Halon. As a further precaution, the computer rooms have a second Halon system in place to provide backup. These systems are regularly maintained and integrity-assured. In the event of loss of public water service, the ISC has a system of on-site water towers and wells as a backup. Water detection devices and drains are installed under all raised floor areas.
- Power Supply – Siemens has multiple levels of power backup designed to provide uninterrupted operation of the ISC in the event of power loss. The main power is furnished through the local power company. Multiple feeds from different processing stations provide four to five times the power needed to run the entire ISC. Two levels of Uninterruptible Power Systems (UPS) are installed, providing smooth transition to the automatic start-up and use of four large diesel generators in the event of an extended power company outage. These systems are regularly maintained and undergo periodic live testing.
- Equipment Cooling/Air Conditioning – Siemens has multiple levels of protection against loss of cooling. The primary backup system provides 400 tons of backup cooling capacity. The secondary backup system consists of ice storage units, providing continuous cooling during a power outage.
- Computer Equipment – The ISC has backup equipment that can maintain production operations in the event of a hardware failure. It has backup CPU, storage, networking devices, etc. In addition, the ISC has documented detailed recovery procedures which enable personnel to rapidly switch to backup hardware.
- Change Control – Siemens manages a strict change control process in handling hardware and software environments. Responsibilities of personnel are clearly defined.

## DISASTER RECOVERY

The following is a summary of the main points of Siemens' Business Recovery Program.

- Hot Site – Siemens has a contract with a major hotsite vendor. The contract provides for both a primary and secondary recovery site, both of which are within 3.5 hours of Siemens data center in Malvern.
- Recovery Procedures and Testing – Siemens has developed and maintains extensive recovery procedures, as well as automated recovery tools. Hot site testing, using these procedures, is conducted at least once per calendar year.
- Staffing – Siemens has a team of experienced analysts dedicated to business recovery planning on a full time basis. This group is responsible for maintaining the plan and procedures, conducting tests, and managing the ongoing business continuity program.
- Recovery Procedures – Siemens has developed and maintains extensive recovery procedures as well as automated recovery tools.
- Off-site Data Vaulting – Siemens stores backups of systems and data on magnetic tape. One generation is kept in an environmentally conditioned off-site storage facility, that is secured and guarded 24 hours/day.

In the event that normal operation of Information Systems Center is ever severely impaired, Siemens will work to restore service to all customers as quickly as possible, on a best efforts basis. When working to restore service to customers, Siemens will give highest priority to the restoration of critical clinical applications, recognizing that the quality of healthcare is of paramount importance. Ancillary systems, Financial (billing) applications, and General Ledger/Payroll applications will follow respectively.

EXHIBIT H  
CONFIDENTIAL

**Form of Acceptance Certificates**

**CERTIFICATION OF FINAL SYSTEM ACCEPTANCE**

The City and County of San Francisco hereby  
acknowledges that the System has passed the Final  
System Acceptance Test pursuant to  
the Acceptance Testing Procedures of the Agreement.

Date of Acceptance

City & County of San Francisco

By: \_\_\_\_\_  
Director, Department of Health

**EXHIBIT H**  
**CONFIDENTIAL**

***CERTIFICATION OF FINAL SYSTEM ACCEPTANCE  
COMPONENT ACCEPTANCE***

The City and County of San Francisco hereby  
acknowledges that the \_\_\_\_\_ System  
Component has passed the final  
Component Acceptance Test pursuant to  
the Acceptance Testing Procedures of the Agreement.

Date of Acceptance

City & County of San Francisco

By: \_\_\_\_\_  
Director, Department of Health

EXHIBIT I  
CONFIDENTIAL

**Information Systems Center Application Availability Warranty**

**INVISION Availability:** Siemens warrants that the availability for the INVISION Applications located at Siemens' Information Systems Center (ISC) will be 97%. ISC availability shall mean the time that the INVISION Applications are available to CCSF for processing transactions. ISC availability does not include (i) malfunction of the WAN between CCSF and Siemens' ISC, (ii) unavailability of the Applications due to CCSF's actual day-end, weekend, and month-end processing time.

ISC Application availability shall be measured by Siemens using statistical measurement and reporting software provided with the computer equipment located at Siemens' ISC. Such measurements will be taken twenty-four (24) hours per day seven days per week and the result will be calculated over the total available scheduled time for the month.

$$\text{Availability \%} = (\text{Basetime} - \text{Downtime}) \times 100$$

**Basetime**

This estimate is provided to Customer based on Siemens' experience at other customer sites. Customer's actual outage time will be affected by a number of variables that influence the size of the Customer's data bases and run time. These variables include, in part: data retention parameters, online activity and any additional Applications that may be installed subsequent to the date of the Agreement.

Siemens will make all reasonable efforts to work with Customer toward achieving the estimated time. If the estimate is exceeded, at Customer's request and at Siemens' then current professional service rates, Siemens will review Customer's utilization of the System and make recommendations for improved data base maintenance.

**ISC-based Applications System Response Time Warranty**

**1. INVISION RESPONSE TIME WARRANTY.**

1.1 Siemens guarantees that the average Response Time within your production System Environment for ISC-based Applications (including LCR and EAD) shall be 2.75 seconds for ninety-five percent (90%) of all transactions, during the term of the Agreement. Siemens will also include the Resource Scheduling Application in this Response Time Warranty; however, because the Resource Scheduling Application can be implemented in many different ways Siemens reserves the right to review CCSF's implementation of Resource Scheduling and make reasonable recommendations, which will not materially effect CCSF's operational procedures, which CCSF will implement to improve response time. As of the Date of Certification, this warranty is not applicable for Applications located at CCSF data center or other Facilities (e.g., OPENLink).

Response Time shall be the period from the time the Return or Function Key is depressed on a 3270 terminal, PC or other similar device directly attached to the router until the complete screen of the response for the one transaction appears on that locally attached device. That is the transaction travels from the device directly attached to the router which is the primary termination point for the Wide Area Network at CCSF's site to the Siemens ISC and back to the device directly attached to the router. Response Time does not include any downtime, time during System malfunction, processing outside the System for transactions between the System and any other system, transactions against a data base while it is being accessed for batch operations, transactions over remote communication lines other than the primary link to Siemens' ISC, and transactions over the internet. LCR and EAD Application programs shall operate through the Siemens provided, OAS based, model, screens and pathways. Response Time Warranty shall not be applicable for transactions through open ended, free form, inquiry.

1.2 **RESPONSE TIME MEASUREMENT AND SUPPORT.** Response Time will be measured at evenly spaced intervals using host based monitoring facilities. A Response Time failure occurs if the average Response Time, measured each day over the hours of 8:00 a.m. to 5:00 p.m., is not met three times during a Monday through Friday period.

If a Response Time failure occurs or if Customer reasonably expects such a failure, Customer shall notify Siemens in writing, describing the failure and how it was determined, or the reasons for Customer's expectations. Siemens shall begin to work in a timely manner with Customer and review the utilization of the System and Customer's methodology or use of the Online Architectural Software. If Siemens determines that performance will be improved by changes to Customer's operational procedures, customer's local network, or Adaptations, etc., without a significant adverse effect on the use of the System, Siemens shall convey such changes in writing. If Customer implements such changes, or if no changes are suggested, and the Response Time is not met and is Siemens' responsibility, Siemens shall make changes to the System so that the System will meet the Response Time at no additional charge to Customer.

If Siemens demonstrates that the failure to meet the Response Time is not Siemens' responsibility (i.e., in the customer's local network, etc.), or that the System does meet the Response Time, Siemens shall give Customer written notice in reasonable detail, and Customer shall pay to Siemens, at Siemens' then current rates, for all services performed and expenses incurred by Siemens during the investigation and diagnosis. , provided however, that Siemens will provide two (2) hours of Response Time diagnostic support through the use of NetSpy, Netview, Application analysis or other diagnostic assistance at no charge to CCSF for each reported failure

**EXHIBIT J**  
**CONFIDENTIAL**

1.3. **SYSTEM ENVIRONMENT.** The System shall be utilized in accordance with the Documentation, the Agreement, and written instructions provided by Siemens or the appropriate supplier. Any changes or additions to the System Environment, modifications, regulatory changes, or Adaptations which create additional applications or functions, may affect System requirements. Siemens reserves the right to have CCSF remove such items and retest the System.

This warranty is provided for the benefit of CCSF only for use of the System for the Facility. This Exhibit sets forth Siemens' entire obligation and liability and CCSF's sole remedy regarding Response Time Warranty.

EXHIBIT K  
CONFIDENTIAL

Source Code Escrow Agreement

 IRON MOUNTAIN<sup>®</sup>  
THREE-PARTY MASTER DEPOSITOR

ESCROW SERVICE AGREEMENT

Master Deposit Account Number: 34900

**1. Introduction.**

This Escrow Service Agreement (the "Agreement") is entered into by and between Siemens Medical Solutions USA, Inc., ("Depositor") and its Affiliates and subsidiaries, and by any additional party enrolling as a "Beneficiary" upon execution of the Acceptance Form attached as Exhibit E to this Agreement and by Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain") on this 18 day of Sept., 2008 (the "Effective Date"). Beneficiary, Depositor, and Iron Mountain may be referred to individually as a "Party" or collectively as the "Parties" throughout this Agreement.

(a) The use of the term services in this Agreement shall refer to Iron Mountain services that facilitate the creation, management, and enforcement of software or other technology escrow accounts as described in Exhibit A attached hereto ("Services"). A Party shall request Services under this Agreement by submitting a work request for certain Iron Mountain Services ("Work Request") via written instruction or the online portal maintained at the website located at [www.ironmountainconnect.com](http://www.ironmountainconnect.com) or other websites owned or controlled by Iron Mountain that are linked to that website (collectively the "Iron Mountain Website").

(b) Each Beneficiary and Depositor have, or will have, entered into a license agreement or other agreement conveying intellectual property rights to such Beneficiary (the "License Agreement"), and the Parties intend this Agreement to be considered as supplementary to such agreement, pursuant to Title 11 United States [Bankruptcy] Code, Section 365(n).

**2. Depositor Responsibilities and Representations.**

- (a) Depositor shall make an initial deposit that is complete and functional of all proprietary technology and other materials covered under this Agreement ("Deposit Material") to Iron Mountain within thirty (30) days of the Effective Date. Depositor may also update Deposit Material from time to time during the Term of this Agreement provided a minimum of one (1) complete and functional copy of Deposit Material is deposited with Iron Mountain at all times. At the time of each deposit or update, Depositor will provide an accurate and complete description of all Deposit Material sent to Iron Mountain via the Iron Mountain Website or using the form attached hereto as Exhibit B.
- (b) Depositor represents that it lawfully possesses all Deposit Material provided to Iron Mountain under this Agreement free of any liens or encumbrances as of the date of their deposit. Any Deposit Material liens or encumbrances made after their deposit will not prohibit, limit, or alter the rights and obligations of Iron Mountain under this Agreement. Depositor warrants that with respect to the Deposit Material, Iron Mountain's proper administration of this Agreement will not violate the rights of any third parties.
- (c) Depositor represents that all Deposit Material is readable and useable in its then current form; if any portion of such Deposit Material is encrypted the necessary decryption tools and keys to read such material are deposited contemporaneously.
- (d) Depositor agrees, upon request by Iron Mountain, in support of Beneficiary's request for verification Services, to promptly complete and return the Escrow Deposit Questionnaire attached hereto as Exhibit Q. Depositor consents to Iron Mountain's performance of any level(s) of verification Services described in Exhibit A attached hereto and Depositor further consents to Iron Mountain's use of a subcontractor to perform verification Services. Any such subcontractor shall be bound by the same confidentiality obligations as Iron Mountain and shall not be a direct competitor to either Depositor or Beneficiary. Iron Mountain shall be responsible for the delivery of Services of any such subcontractor as if Iron Mountain had performed the Services. Depositor represents that all Deposit Material is provided with all rights necessary for Iron Mountain to verify such proprietary technology and materials upon receipt of a Work Request for such Services or agrees to use commercially reasonable efforts to provide Iron Mountain with any necessary use rights or permissions to use materials necessary to perform verification of the Deposit Material. Depositor agrees to reasonably cooperate with Iron Mountain by providing reasonable access to its technical personnel for verification Services whenever reasonably necessary.
- (e) Depositor shall be solely responsible for properly designating the account(s) that the Beneficiary is enrolling into in the applicable Exhibit E. Iron Mountain shall not be responsible for any discrepancies between the identified application and the deposit account designated for enrollment into by the Beneficiary in the applicable Exhibit E.

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**3. Beneficiary Responsibilities and Representations.**

- (a) Beneficiary acknowledges that, as between Iron Mountain and Beneficiary, Beneficiary assumes all responsibility for the completeness and functionality of all Deposit Material.
- (b) Beneficiary may submit a verification Work Request to Iron Mountain for one of more of the Services defined in Exhibit A attached hereto and further consents to Iron Mountain's use of a subcontractor if needed to provide such Services. Beneficiary warrants that Iron Mountain's use of any materials supplied by Beneficiary to perform the verification Services described in Exhibit A is lawful and does not violate the rights of any third parties.

**4. Iron Mountain Responsibilities and Representations.**

- (a) Iron Mountain agrees to use commercially reasonable efforts to provide the Services requested by Authorized Person(s) (as identified in the "Authorized Person(s)/Notices Table" below) representing the Depositor and Beneficiary in a Work Request. Iron Mountain may reject a Work Request (in whole or in part) that does not contain all Required Information at any time upon notification to the Party originating the Work Request.
- (b) Iron Mountain will conduct a visual inspection upon receipt of any Deposit Material and associated Exhibit B. If Iron Mountain determines that the Deposit Material does not match the description provided by Depositor represented in Exhibit B attached hereto, Iron Mountain will notify Depositor of such discrepancies and note such discrepancy on the Exhibit B.
- (c) Iron Mountain will provide notice to the Beneficiary of all Deposit Material that is deposited into the escrow account under this Agreement.
- (d) Iron Mountain will work with a Party who submits any verification Work Request for Deposit Material covered under this Agreement to either fulfill any standard verification Services Work Request or develop a custom Statement of Work ("SOW"). Iron Mountain and the requesting Party will mutually agree in writing to a SOW on the following terms and conditions that include but are not limited to: description of Deposit Material to be tested; description of verification testing; requesting Party responsibilities; Iron Mountain responsibilities; Service Fees; invoice payment instructions; designation of the paying Party; designation of authorized SOW representatives for both the requesting Party and Iron Mountain with name and contact information; and description of any final deliverables prior to the start of any fulfillment activity. After the start of fulfillment activity, each SOW may only be amended or modified in writing with the mutual agreement of both Parties, in accordance with the change control procedures set forth therein.
- (e) Iron Mountain will hold and protect all Deposit Material in physical or electronic vaults that are either owned or under the control of Iron Mountain, unless otherwise agreed to by the Parties.
- (f) Upon receipt of written instructions by both Depositor and Beneficiary, Iron Mountain will permit the replacement or removal of previously submitted Deposit Material. The Party making such request shall be responsible for getting the other party to approve the joint instructions.

**5. Payment.**

The Party responsible for payment designated in Exhibit A ("Paying Party") shall pay to Iron Mountain all fees as set forth in the Work Request ("Service Fees"). Except as set forth below, all Service Fees are due to Iron Mountain within thirty (30) calendar days from the date of invoice in U.S. currency and are non-refundable. Iron Mountain may update Service Fees with a ninety (90) calendar day written notice to the Paying Party during the Term of this Agreement. Such Service Fees updates for price increases shall be limited to once per year on the anniversary of the Effective Date, provided that no increase shall exceed the standard fees set by Iron Mountain. The Paying Party is liable for any taxes related to Services purchased under this Agreement or shall present to Iron Mountain an exemption certificate acceptable to the taxing authorities. Applicable taxes shall be billed as a separate item on the invoice, to the extent possible. Any Service Fees not collected by Iron Mountain when due shall bear interest until paid at a rate of one percent (1%) per month (12% per annum) or the maximum rate permitted by law, whichever is less. Notwithstanding, the non-performance of any obligations of Depositor to deliver Deposit Material under the License Agreement or this Agreement, Iron Mountain is entitled to be paid all Service Fees that accrue during the Term of this Agreement.

**6. Term and Termination.**

- (a) The initial "Term" of this Agreement is for a period of one (1) year from the Effective Date ("Initial Term") and will automatically renew for additional one (1) year terms ("Renewal Term") and continue in full force and effect until one of the following events occur: (i) Depositor and Beneficiary provide Iron Mountain with written joint notice of their intent to cancel this Agreement at least ninety (90) days' prior to the expiration of the Initial Term or the applicable Renewal Term; (ii) Beneficiary provides Iron Mountain and Depositor with ninety (90) days' prior written notice of their intent to terminate this Agreement, provided such termination shall apply to such Beneficiary only; (iii) the Agreement terminates under another provision of this Agreement; or (iv) after the Initial Term, Iron Mountain provides one hundred twenty (120) days' prior written notice to the Depositor and Beneficiary of Iron Mountain's

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intent to terminate this Agreement. If the Effective Date is not specified in the introduction section, then the last date noted on the signature blocks of this Agreement shall be the Effective Date.

- (b) Unless the express terms of this Agreement provide otherwise, upon termination of this Agreement, Iron Mountain shall return the Deposit Material to the Depositor. If reasonable attempts to return the Deposit Material to Depositor are unsuccessful, Iron Mountain shall destroy the Deposit Material.
- (c) In the event of the nonpayment of undisputed Service Fees owed to Iron Mountain, Iron Mountain shall provide all Parties to this Agreement with written notice of Iron Mountain's intent to terminate this Agreement. Any Party to this Agreement shall have the right to make the payment to Iron Mountain to cure the default. If the past due payment is not received in full by Iron Mountain within thirty (30) calendar days of the date of such notice, then Iron Mountain shall have the right to terminate this Agreement at any time thereafter by sending written notice to all Parties. Iron Mountain shall have no obligation to take any action under this Agreement (except to those obligations that survive termination of this Agreement) so long as any undisputed Service Fees due Iron Mountain under this Agreement remain unpaid.
- (d) The rights of any particular Beneficiary hereunder shall terminate upon the occurrence of the following events: (i) the term of such Beneficiary's software support agreement with Depositor ceases for any reason other than a reason which results in a Release Condition, (ii) such Beneficiary's license to the applicable Deposit Material terminates or expires, or (iii) such Beneficiary fails to pay any fees required herein, or in any agreement between Depositor and such Beneficiary, for the maintenance of such Beneficiary's rights under this Agreement, and such default is continuing after any required notice and cure period. For the avoidance of doubt, Iron Mountain shall not be obligated to recognize the termination of a Beneficiary due to the events stated in either 6(d)(ii) and 6(d)(iii) of this Agreement unless Iron Mountain is notified of such in writing by the Depositor.

**7. General Indemnity.**

Subject to Section 10, each Party shall defend, indemnify and hold harmless the others, their corporate Affiliates and their respective officers, directors, employees, and agents and their respective successors and assigns from and against any and all claims, losses, liabilities, damages, and expenses (including, without limitation, reasonable attorneys' fees), arising under this Agreement from the negligent or intentional acts or omissions of the indemnifying Party or its subcontractors, or the officers, directors, employees, agents, successors and assigns of any of them.

**8. Warranties.**

- (a) IRON MOUNTAIN WARRANTS ANY AND ALL SERVICES PROVIDED HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER. EXCEPT AS SPECIFIED IN THIS SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, AGAINST INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW. AN AGGRAVATED PARTY MUST NOTIFY IRON MOUNTAIN PROMPTLY OF ANY CLAIMED BREACH OF ANY WARRANTIES AND SUCH PARTY'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY SHALL BE RETURN OF THE PORTION OF THE FEES PAID TO IRON MOUNTAIN BY PAYING PARTY FOR SUCH NON-CONFORMING SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE. THE WARRANTY PROVIDED IS SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN THIS AGREEMENT.
- (b) Depositor warrants that all Depositor Information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Depositor Information during the Term of this Agreement.
- (c) Beneficiary warrants that all Beneficiary Information provided hereunder is accurate and reliable and undertakes to promptly correct and update such Beneficiary Information during the Term of this Agreement.
- (d) Ownership Warranty. Depositor warrants that it is the owner or legal custodian of the Deposit Material and has full authority to store the Deposit Material and direct their disposition in accordance with the terms of this Agreement. Depositor shall reimburse Iron Mountain for any expenses reasonably incurred by Iron Mountain (including reasonable legal fees) by reason of Iron Mountain's compliance with the instructions of Depositor in the event of a dispute concerning the ownership, custody or disposition of Deposit Material stored by Depositor with Iron Mountain.

**9. Confidential Information.**

Iron Mountain shall have the obligation to reasonably protect the confidentiality of the Deposit Material. Except as provided in this Agreement Iron Mountain shall not disclose, transfer, make available or use the Deposit Material. Iron Mountain shall not disclose the terms of this Agreement to any third Party. If Iron Mountain receives a subpoena or any other order from a court or other judicial tribunal pertaining to the disclosure or release of the Deposit Material, Iron

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Mountain will immediately notify the Parties to this Agreement unless prohibited by law. After notifying the Parties, Iron Mountain may comply in good faith with such order. It shall be the responsibility of Depositor or Beneficiary to challenge any such order; provided, however, that Iron Mountain does not waive its rights to present its position with respect to any such order. Iron Mountain will cooperate with the Depositor as applicable, to support efforts to quash or limit any subpoena, at such party's expense. Any party requesting additional assistance shall pay Iron Mountain's standard charges or as quoted upon submission of a detailed request.

**10. Limitation of Liability.**

NOTWITHSTANDING ANYTHING ELSE IN THIS AGREEMENT, ALL LIABILITY, IF ANY, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, OF ANY PARTY TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT EQUAL TO FIVE (5) TIMES THE THEN CURRENT ANNUAL FEES PAID OR OWED TO IRON MOUNTAIN UNDER THIS AGREEMENT. IF CLAIM OR LOSS IS MADE IN RELATION TO A SPECIFIC DEPOSIT OR DEPOSITS, SUCH LIABILITY SHALL BE LIMITED TO THE FEES RELATED SPECIFICALLY TO SUCH DEPOSITS. THIS LIMIT SHALL NOT APPLY TO ANY PARTY FOR: (I) ANY CLAIMS OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY RIGHT; (II) LIABILITY FOR DEATH OR BODILY INJURY; (III) DAMAGE TO TANGIBLE PROPERTY (EXCLUDING THE DEPOSIT ITEMS); (IV) THEFT; OR (V) PROVEN WILLFUL MISCONDUCT.

**11. Consequential Damages Waiver.**

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE TO ANOTHER PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR LOST DATA OR INFORMATION, ANY COSTS OR EXPENSES FOR THE PROCUREMENT OF SUBSTITUTE SERVICES, OR ANY OTHER INDIRECT DAMAGES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE EVEN IF THE POSSIBILITY THEREOF MAY BE KNOWN IN ADVANCE TO ONE OR MORE PARTIES.

**12. General.**

- (a) Incorporation of Work Requests. All valid Depositor and Beneficiary Work Requests are incorporated into this Agreement.
- (b) Purchase Orders. In the event that the Paying Party issues a purchase order or other instrument used to pay Service Fees to Iron Mountain, any terms and conditions set forth in the purchase order which constitute terms and conditions which are in addition to those set forth in this Agreement or which establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by Iron Mountain.
- (c) Right to Make Copies. Iron Mountain shall have the right to make copies of all Deposit Material as reasonably necessary to perform the Services. Iron Mountain shall copy all copyright, nondisclosure, and other proprietary notices and titles contained on Deposit Material onto any copies made by Iron Mountain. Any copying expenses incurred by Iron Mountain as a result of a Work Request to copy will be borne by the Party requesting the copies. Iron Mountain may request Depositor's reasonable cooperation in promptly copying Deposit Material in order for Iron Mountain to perform this Agreement.
- (d) Choice of Law. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the Commonwealth of Massachusetts, United States of America, as if performed wholly within the state and without giving effect to the principles of conflicts of laws.
- (e) Authorized Person(s). Depositor and Beneficiary must each authorize and designate one person whose actions will legally bind such party ("Authorized Person(s)" who shall be identified in the Authorized Person(s) Notices Table of this Agreement) and who may manage the Iron Mountain escrow account through the Iron Mountain website or written instruction. The Authorized Person(s) for each the Depositor and Beneficiary will maintain the accuracy of their name and contact information provided to Iron Mountain during the term of this Agreement.
- (f) Right to Rely on Instructions. Iron Mountain may act in reliance upon any instruction, instrument, or signature reasonably believed by Iron Mountain to be genuine and from an Authorized Person(s), officer, or other employee of a Party. Iron Mountain may assume that such representative of a Party to this Agreement who gives any written notice, request, or instruction has the authority to do so. Iron Mountain will not be required to inquire into the truth or evaluate the merit of any statement or representation contained in any notice or document reasonably believed to be from such representative. With respect to Release and Destruction of Deposit Materials, Iron Mountain shall rely on an Authorized Person(s).
- (g) Force Majeure. No Party shall be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation acts of God, earthquake, labor disputes, shortages of supplies, riots, war, acts of terrorism, fire, epidemics, or delays of common carriers or other circumstances beyond its

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reasonable control. The obligations and rights of the excused Party shall be extended on a day-to-day basis for the time period equal to the period of the excusable delay.

- (h) **Notices.** All notices regarding Exhibit C (release) shall be sent by commercial express mail or other commercially appropriate means that provide prompt delivery and require proof of delivery. All other correspondence, including invoices, payments, and other documents and communications, may be sent electronically or via regular mail. The Parties shall have the right to rely on the last known address of the other Parties. Any correctly addressed notice to last known address of the other Parties that is relied on herein that is refused, unclaimed, or undeliverable because of an act or omission of the Party to be notified as provided herein shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by electronic mail, the postal authorities by mail, through messenger or commercial express delivery services.
- (i) **No Waiver.** No waiver of rights under this Agreement by any Party shall constitute a subsequent waiver of this or any other right under this Agreement.
- (j) **Assignment.** No assignment of this Agreement by Depositor or Beneficiary or any rights or obligations of Depositor or Beneficiary under this Agreement is permitted without the written consent of Iron Mountain, which shall not be unreasonably withheld or delayed. Iron Mountain shall have no obligation in performing this Agreement to recognize any successor or assign of Depositor or Beneficiary unless Iron Mountain receives clear, authoritative and conclusive written evidence of the change of parties.
- (k) **Severability.** In the event any of the terms of this Agreement become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect. If this paragraph becomes applicable and, as a result, the value of this Agreement is materially impaired for any Party, as determined by such Party in its sole discretion, then the affected Party may terminate this Agreement by written notice to the others.
- (l) **Independent Contractor Relationship.** Depositor and Beneficiary understand, acknowledge, and agree that Iron Mountain's relationship with Depositor and Beneficiary will be that of an independent contractor and that nothing in this Agreement is intended to or should be construed to create a partnership, joint venture, or employment relationship.
- (m) **Attorneys' Fees.** In any suit or proceeding between the Parties relating to this Agreement, the prevailing Party will have the right to recover from the other(s) its costs and reasonable fees and expenses of attorneys, accountants, and other professionals incurred in connection with the suit or proceeding, including costs, fees and expenses upon appeal, separately from and in addition to any other amount included in such judgment. This provision is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment.
- (n) **No Agency.** No Party has the right or authority to, and shall not, assume or create any obligation of any nature whatsoever on behalf of the other Parties or bind the other Parties in any respect whatsoever.
- (o) **Disputes.** Any dispute, difference or question relating to or arising among any of the Parties concerning the construction, meaning, effect or implementation of this Agreement or the rights or obligations of any Party hereof will be submitted to, and settled by arbitration by a single arbitrator chosen by the corresponding Regional Office of the American Arbitration Association in accordance with the Commercial Rules of the American Arbitration Association. The Parties shall submit briefs of no more than 10 pages and the arbitration hearing shall be limited to two (2) days maximum. The arbitrator shall apply Massachusetts law. Unless otherwise agreed by the Parties, arbitration will take place in Boston, Massachusetts, U.S.A. Any court having jurisdiction over the matter may enter judgment on the award of the arbitrator. Service of a petition to confirm the arbitration award may be made by regular mail or by commercial express mail, to the attorney for the Party or, if unrepresented, to the Party at the last known business address. If however, Depositor and/or Beneficiary refuse to submit to arbitration, the matter shall not be submitted to arbitration and Iron Mountain may submit the matter to any court of competent jurisdiction for an interpleader or similar action. Unless adjudged otherwise, any costs of arbitration incurred by Iron Mountain, including reasonable attorney's fees and costs, shall be divided equally and paid by Depositor and Beneficiary.
- (p) **Regulations.** All Parties are responsible for and warrant, to the extent of their individual actions or omissions, compliance with all applicable laws, rules and regulations, including but not limited to: customs laws; import; export and re-export laws; and government regulations of any country from or to which the Deposit Material may be delivered in accordance with the provisions of this Agreement.
- (q) **No Third Party Rights.** This Agreement is made solely for the benefits of the Parties to this Agreement and their respective permitted successors and assigns, and no other person or entity shall have or acquire any right by virtue of this Agreement unless otherwise agreed to by all the parties hereto.
- (r) **Amendment.** This Agreement may only be modified by mutual written agreement of the Parties. Depositor, Iron Mountain and any particular Beneficiary shall have the right to amend this Agreement, as it applies to such Beneficiary, upon the mutual agreement of all three parties. The amended terms applicable to such Beneficiary shall

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be set forth on the applicable Exhibit E, and the agreement of all three parties thereto shall be evidenced by their execution of such Exhibit E.

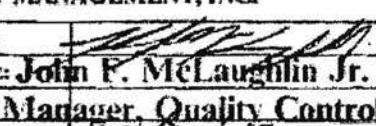
- (s) **Entire Agreement.** The Parties agree that this Agreement, which includes all the Exhibits attached hereto and all valid Work Requests submitted by the Parties, is the complete agreement between the Parties hereto concerning the subject matter of this Agreement and replaces any prior or contemporaneous oral or written communications between the Parties. There are no conditions, understandings, agreements, representations, or warranties, expressed or implied, which are not specified herein. Each of the parties herein represents and warrants that the execution, delivery, and performance of this Agreement has been duly authorized and signed by a person who meets statutory or other binding approval to sign on behalf of its business organization as named in this Agreement.
- (t) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.
- (u) **Survival.** Sections 6 (Term and Termination), 7 (General Indemnity), 8 (Warranties), 9 (Confidential Information), 10 (Limitation of Liability), 11 (Consequential Damages Waiver), and 12 (General) of this Agreement shall survive termination of this Agreement or any Exhibit attached hereto.
- (v) **Affiliates.** "Affiliates", as used herein, shall mean those entities controlling, controlled by, or under common control with, a Party to this Agreement. For purposes of the foregoing definition "control" (including "controlled by" and "under common control") shall mean ownership of, or the right to acquire: (a) not less than fifty percent (50%) of the voting stock of a corporation, (b) the right to vote not less than fifty (50%) of the voting stock of a corporation, or (c) not less than fifty (50%) ownership interest in a partnership or other business entity. It is the intention of the parties (i) that each Affiliate shall be bound by the terms and conditions of this Agreement, (ii) that all of the services provided under this Agreement be made available to each Affiliate, (iii) each Affiliate shall be entitled to enforce this Agreement against Iron Mountain and that (iv) each Affiliate shall be a third party beneficiary of this Agreement.

Note: If contracting electronically via the online portal, clicking the "I Accept" button displayed as part of the ordering process, evidences agreement to the preceding terms and conditions (the "Agreement"). If you are entering into this Agreement via the online portal on behalf of a company or other legal entity, you represent that you have the authority to bind such entity to these terms and conditions, in which case the terms "you" or "your" shall refer to such entity. If you do not have such authority, or if you do not agree with these terms and conditions, you must select the "I Decline" button.

**DEPOSITOR**

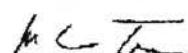
SIGNATURE:	
PRINT NAME:	Thomas Poschner
TITLE:	Sr. Director of Procurement
DATE:	8/20/08
EMAIL ADDRESS:	

**IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.**

SIGNATURE:	
PRINT NAME:	John F. McLaughlin Jr.
TITLE:	Manager, Quality Control
DATE:	9/18/08
EMAIL ADDRESS:	spmcclientservices@ironmountaininc.com

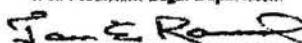
**NOTE: AUTHORIZED PERSONS/NOTICES TABLE, AND BILLING CONTACT INFORMATION TABLE FOLLOW ON THE NEXT PAGE**

Approved as to Operational Content:  
Iron Mountain Operations



Name: John Trott  
Date: May 27, 2008

Approved as to Form and Content:  
Iron Mountain Legal Department



James E. Raymond, Contracts Specialist  
Date: May 7, 2008

Name:	GRAT KUNION
Title:	
Date:	SR. CONTROLLER

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**DEPOSITOR AUTHORIZED PERSON(S)/NOTICES TABLE**

Please provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All Notices will be sent electronically and/or through regular mail to the appropriate address set forth below.

PRINT NAME:	Assistance General Counsel
TITLE:	
EMAIL ADDRESS	<u>Susan.hayne@siemens.com</u>
STREET ADDRESS	51 Valley Stream Parkway, Mail Code T06
PROVINCE/CITY/STATE	Malvern, PA
POSTAL/ZIP CODE	19355
PHONE NUMBER	610-219-8513
FAX NUMBER	610-219-8333

**BILLING CONTACT INFORMATION TABLE**

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent electronically and/or through regular mail to the appropriate address set forth below.

PRINT NAME:	Susan Bayne
TITLE:	
EMAIL ADDRESS	<u>Susan.bayne@siemens.com</u>
STREET ADDRESS	51 Valley Stream Parkway, Mail Code E40
PROVINCE/CITY/STATE	Malvern, PA
POSTAL/ZIP CODE	19355
PHONE NUMBER	610-219-8513
FAX NUMBER	610-219-6461

**IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.**

All notices should be sent to [ijpmclientservices@ironmountain.com](mailto:ijpmclientservices@ironmountain.com) OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

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<b>MUST BE COMPLETED</b>		<b>EXHIBIT A - Escrow Service Work Request - Deposit Account Number:</b>	<b>34900</b>		
<b>SERVICE</b>	<b>SERVICE DESCRIPTION-MASTER THREE PARTIES ESCROW AGREEMENT - DEPOSITOR</b>	<b>ONE-TIME FEES</b>	<b>ANNUAL FEES</b>	<b>PAYING PARTY</b>	
<input checked="" type="checkbox"/> <b>Check box(es) to order service</b>	All services are listed below. Services in shaded tables are required for every new escrow account set up. Some services may not be available under the Agreement.			<input type="checkbox"/> <b>Check box to identify the Paying Party</b>	
<input checked="" type="checkbox"/> <b>Setup Fee</b>	Iron Mountain will setup a new escrow deposit account using a standard escrow agreement. Custom contracts are subject to the Custom Contract Fee noted below.			<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input checked="" type="checkbox"/> <b>Deposit Account Fee - Including Escrow Management Center Access</b>	Iron Mountain will set up one deposit account to manage and administrate access to Deposit Material that will be securely stored in controlled media vaults. Furthermore, Iron Mountain will provide account services that include unlimited deposits, electronic vaulting, access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests. An overage fee may apply.			<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input checked="" type="checkbox"/> <b>Beneficiary Fee - Including Escrow Management Center Access</b>	Iron Mountain will fulfill a Work Request to add a Beneficiary to an escrow deposit account and manage access rights associated with the account. Where possible, Beneficiary will have access to Iron Mountain Connect™ Escrow Management Center for secure online account management, submission of electronic Work Requests, and communication of status. A Client Manager will be assigned to each deposit account and provide training upon request to facilitate secure Internet access to the account and ensure fulfillment of Work Requests.			<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Additional Deposit Account</b>	Iron Mountain will set up one additional deposit account to manage and administrate access to new Deposit Material that will be securely stored in controlled media vaults in accordance with the service description above and the Agreement that governs the Initial Deposit Account.			<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Additional Beneficiary</b>	Iron Mountain will fulfill a Work Request to add a new Beneficiary to an escrow deposit account in accordance with the service description above and the Agreement.			<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Deposit Tracking Notification</b>	At least semi-annually, Iron Mountain will send an update reminder to Depositor. Thereafter, Beneficiary will be notified of last deposit.	N/A		<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Level 1 - Inventory Test</b>	Iron Mountain will perform an Inventory Test on the initial deposit, which includes Analyzing deposit media readability, virus scanning, developing file classification tables, identifying the presence/absence of build instructions, and identifying materials required to recreate the Depositor's software development environment. Output includes a report which will include build instructions, file classification tables and listings. In addition, the report will list required software development materials, including, without limitation, required source code languages and compilers, third-party software, libraries, operating systems, and hardware, as well as Iron Mountain's analysis of the deposit. For Contingencies Enclosed.	Based on Custom SOW	N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Level 2 - Deposit Compile Test</b>	Iron Mountain will fulfill a Work Request to perform a Deposit Compile Test, which includes the Inventory Test as described above plus recreating the Depositor's software development environment, compiling source files and modules, linking libraries and recreating executable code, pass/fail determination, creation of comprehensive build instructions with a final report sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on Custom SOW	N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Level 3 - Deposit Usability Test - Binary Comparison</b>	Iron Mountain will fulfill a Work Request to perform one Deposit Compile Test: Binary Comparison which includes a comparison of the files built from the Deposit Compile Test to the actual licensed technology on the Beneficiary's site to ensure a full match in file size, with a final report sent to the Requesting Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on Custom SOW	N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Level 4 - Deposit Usability Test - Full Usability Test</b>	Iron Mountain will fulfill a Work Request to perform one Deposit Compile Test: Full Usability which includes a confirmation that the built applications work properly when installed. A final report will be sent to the Paying Party regarding the Deposit Material. The Paying Party and Iron Mountain will agree on a custom Statement of Work ("SOW") prior to the start of fulfillment.	Based on Custom SOW	N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Dual/Remote Vaulting</b>	Iron Mountain will fulfill a Work Request to store deposit materials in one additional location as defined within the Service Agreement. Duplicate storage request may be in the form of either physical media or electronic storage.	N/A	\$500	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Release Deposit Material</b>	Iron Mountain will process a Work Request to release Deposit Material by following the specific procedures defined in Exhibit C "Release of Deposit Materials" the Escrow Service Agreement.		N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	
<input type="checkbox"/> <b>Add Custom Services</b>	Iron Mountain will provide its Escrow Expert consulting based on a custom SOW mutually agreed to by all Parties.		N/A	<input type="checkbox"/> <b>Depositor - OR - Beneficiary</b>	

Note: Parties may submit Work Requests via written instruction or electronically through the online portal.

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EXHIBIT B  
DEPOSIT MATERIAL DESCRIPTION

COMPANY NAME: \_\_\_\_\_ ESCROW ACCOUNT NUMBER: 34900

DEPOSIT NAME \_\_\_\_\_ AND DEPOSIT VERSION \_\_\_\_\_  
(Deposit Name will appear in account history reports)

DEPOSIT MEDIA (PLEASE LABEL ALL MEDIA WITH THE DEPOSIT NAME PROVIDED ABOVE)

MEDIA TYPE	QUANTITY	MEDIA TYPE	QUANTITY
<input type="checkbox"/> CD-ROM / DVD		<input type="checkbox"/> 3.5" Floppy Disk	
<input type="checkbox"/> DLT Tape		<input type="checkbox"/> Documentation	
<input type="checkbox"/> DAT Tape		<input type="checkbox"/> Hard Drive / CPU	

	TOTAL SIZE OF TRANSMISSION (SPECIFY IN BYTES)	# OF FILES	# OF FOLDERS
<input type="checkbox"/> Internet File Transfer			
<input type="checkbox"/> Other (please describe below):			

DEPOSIT ENCRYPTION (Please check either "Yes" or "No" below and complete as appropriate)

Is the media or are any of the files encrypted?  Yes or  No

If yes, please include any passwords and decryption tools description below. Please also deposit all necessary encryption software with this deposit.

Encryption tool name \_\_\_\_\_ Version \_\_\_\_\_

Hardware required \_\_\_\_\_

Software required \_\_\_\_\_

Other required information \_\_\_\_\_

DEPOSITOR CERTIFICATION (Please check the box below to Certify and Provide your Contact Information)

<input type="checkbox"/> I certify for Depositor that the above described Deposit Material has been transmitted electronically or sent via commercial express mail carrier to Iron Mountain at the address below.	<input type="checkbox"/> Iron Mountain has inspected and accepted the above described Deposit Material either electronically or physically. Iron Mountain will notify Depositor of any discrepancies.
NAME: _____	NAME: _____
DATE: _____	DATE: _____
EMAIL ADDRESS: _____	_____
TELEPHONE NUMBER: _____	_____
FAX NUMBER: _____	_____

Note: If Depositor is physically sending Deposit Material to Iron Mountain, please label all media and mail all Deposit Material with the appropriate Exhibit B via commercial express carrier to the following address:  
Iron Mountain Intellectual Property Management, Inc.

Attn: Vault Administration  
2100 Norcross Parkway, Suite 150  
Norcross, GA 30071  
Telephone: 800-875-5669  
Facsimile: 770-239-9201

FOR IRON MOUNTAIN USE ONLY: (NOTED DISCREPANCIES ON VISUAL INSPECTION)

_____	_____
_____	_____

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EXHIBIT C

RELEASE OF DEPOSIT MATERIAL  
Deposit Account Number: 34960

Iron Mountain will use the following procedures to process any Beneficiary Work Request to release Deposit Material. All notices under this Exhibit C shall be sent pursuant to the terms of Section 12(h) Notices.

1. **Release Conditions.** Depositor and Beneficiary agree that a Work Request for the release of the Deposit Material shall be based solely on one or more of the following conditions (defined as "Release Conditions"):  
The Beneficiary requesting the release is a valid Beneficiary with rights under this Agreement and any one of the following:
  - (i) Any specific release conditions agreed to in the License Agreement or other agreement between the Depositor and Beneficiary regulating the use of the Deposit Material covered under this Agreement; or
  - (ii) Failure of the Depositor to function as a going concern or operate in the ordinary course; or
  - (iii) Depositor is subject to voluntary or involuntary bankruptcy.
2. **Release Work Request.** A Beneficiary may submit a Work Request to Iron Mountain to release the Deposit Material covered under this Agreement. Iron Mountain will send a written notice of this Beneficiary Work Request within five (5) business days to the Depositor's Authorized Person.
3. **Contrary Instructions.** From the date Iron Mountain mails written notice of the Beneficiary Work Request to release Deposit Material covered under this Agreement, Depositor representative(s) shall have thirty (30) business days to deliver to Iron Mountain contrary instructions. Contrary Instructions shall mean the written representation by Depositor that a Release Condition has not occurred or has been cured ("Contrary Instructions"). Contrary Instructions shall be on company letterhead and signed by an authorized Depositor representative. Upon receipt of Contrary Instructions, Iron Mountain shall promptly send a copy to Beneficiary's Authorized Person(s). Additionally, Iron Mountain shall notify both Depositor and Beneficiary Authorized Person(s) that there is a dispute to be resolved pursuant to the Disputes provisions of this Agreement. Iron Mountain will continue to store Deposit Material without release pending (i) joint instructions from Depositor and Beneficiary with instructions to release the Deposit Material; or (ii) dispute resolution pursuant to the Disputes provisions of this Agreement; or (iii) receipt of an order from a court of competent jurisdiction.
4. **Release of Deposit Material.** If Iron Mountain does not receive Contrary Instructions from an authorized Depositor representative, Iron Mountain is authorized to release Deposit Material to the Beneficiary or, if more than one Beneficiary is registered to the deposit, to release a copy of Deposit Material to the Beneficiary. Iron Mountain is entitled to receive any undisputed, unpaid Service Fees due Iron Mountain from the Parties before fulfilling the Work Request to release Deposit Material covered under this Agreement. Any Party may cure a default of payment of Service Fees.
5. **Termination of Agreement.** This Agreement will terminate upon the release of Deposit Material held by Iron Mountain.
6. **Right to Use Following Release.** Beneficiary has the right under this Agreement to use the Deposit Material for the sole purpose of continuing the benefits afforded to Beneficiary by the License Agreement. Beneficiary's use of the Deposit Materials shall be subject to the license restrictions and other applicable terms and conditions of the License Agreement. Notwithstanding, the Beneficiary shall not have access to the Deposit Material unless there is a release of the Deposit Material in accordance with this Agreement. Beneficiary shall be obligated to maintain the confidentiality of the released Deposit Material.

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EXHIBIT D

AUXILIARY DEPOSIT ACCOUNT TO ESCROW AGREEMENT

Deposit Account Number: 34900

Auxiliary Account Number: \_\_\_\_\_

\_\_\_\_\_, ("Depositor"), and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain") have entered into the above referenced Escrow Agreement ("Agreement"). Pursuant to that Agreement Beneficiary or Depositor may create additional deposit accounts ("Auxiliary Deposit Account") for the purpose of holding additional Deposit Material in a separate account which Iron Mountain will maintain separately from other deposit accounts under this Agreement. The new account will be referenced by the following name: ("Deposit Account Name").

Pursuant to the Agreement, Depositor may submit material to be held in this Auxiliary Deposit Account by submitting a properly filled out Exhibit B with the Deposit Material to Iron Mountain. For avoidance of doubt, Beneficiary's rights and obligations relative to the Deposit Material held in any deposit account under this Agreement are governed by the express terms of the Agreement; this form does not provide any additional rights in the Deposit Material.

The undersigned hereby agrees that all terms and conditions of the above referenced Escrow Agreement will govern this Auxiliary Deposit Account. The termination or expiration of any other deposit account will not affect this account.

DEPOSITOR

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

IRON MOUNTAIN INTELLECTUAL  
PROPERTY MANAGEMENT, INC.

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	<u>ipmclientservices@ironmountain.com</u>

IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.

All notices should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

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**EXHIBIT E  
ENROLLMENT FORM**

Depositor and Iron Mountain Intellectual Property Management, Inc. ("Iron Mountain"), hereby acknowledge that

**BENEFICIARY COMPANY NAME:** \_\_\_\_\_ is the Beneficiary referred to in the Escrow Agreement that  
supposes Deposit Account Number: 34900 with Iron Mountain as the escrow agent. Beneficiary  
hereby agrees to be bound by all provisions of such Agreement.

The Beneficiary has licensed the following Application(s) from Siemens and shall be enrolled into the designated Deposit Accounts below:

**Deposit**

- INVISION® Deposit Account # \_\_\_\_\_
- Radiology/syngo Workflow Deposit Account # \_\_\_\_\_
- Laboratory Deposit Account # \_\_\_\_\_
- Pharmacy Deposit Account # \_\_\_\_\_
- Decision Support Deposit Account # \_\_\_\_\_
- Enterprise Document Management Deposit Account # \_\_\_\_\_
- MedSeries4® Deposit Account # \_\_\_\_\_
- Soarian® Clinicals Deposit Account # \_\_\_\_\_
- Soarian® Financials Deposit Account # \_\_\_\_\_
- Soarian® Cardiology Deposit Account # \_\_\_\_\_
- Eagle 2000® Deposit Account # \_\_\_\_\_
- SIGNATURE® Deposit Account # \_\_\_\_\_
- Siemens OPENLink® Deposit Account # \_\_\_\_\_
- UNITY® Deposit Account # \_\_\_\_\_
- syngo Imaging Deposit Account # \_\_\_\_\_
- syngo Dynamics Deposit Account # \_\_\_\_\_
- Patient Identification System Deposit Account # \_\_\_\_\_

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**BENEFICIARY AUTHORIZED PERSON(S)/NOTICES TABLE**

Please provide the name(s) and contact information of the Authorized Person(s) under this Agreement. All Notices will be sent electronically or through regular mail to the appropriate address set forth below. Please complete all information as applicable. Incomplete information may result in a delay of processing.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	

**PAYING PARTY COMPANY NAME:** \_\_\_\_\_

**BILLING CONTACT INFORMATION TABLE**

Please provide the name and contact information of the Billing Contact under this Agreement. All Invoices will be sent to this individual at the address set forth below.

PRINT NAME:	
TITLE:	
EMAIL ADDRESS	
STREET ADDRESS	
PROVINCE/CITY/STATE	
POSTAL/ZIP CODE	
PHONE NUMBER	
FAX NUMBER	
PURCHASE ORDER #	

**DEPOSITOR**

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS	

**BENEFICIARY**

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	

**IRON MOUNTAIN INTELLECTUAL PROPERTY MANAGEMENT, INC.**

SIGNATURE:	
PRINT NAME:	
TITLE:	
DATE:	
EMAIL ADDRESS:	ipmclientservices@ironmountain.com

All notices to Iron Mountain Intellectual Property Management, Inc. should be sent to ipmclientservices@ironmountain.com OR Iron Mountain Intellectual Property Management, Inc., Attn: Client Services, 2100 Norcross Parkway, Suite 150, Norcross, Georgia, 30071, USA.

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**EXHIBIT Q**  
**ESCROW DEPOSIT QUESTIONNAIRE**

***Introduction***

From time to time, technology escrow beneficiaries may exercise their right to perform verification services. This is a service that Iron Mountain provides for the purpose of validating relevance, completeness, currency, accuracy and functionality of deposit materials.

***Purpose of Questionnaire***

In order for Iron Mountain to determine the deposit material requirements and to quote fees associated with verification services, a completed deposit questionnaire is requested. It is the responsibility of the escrow depositor to complete the questionnaire.

***Instructions***

Please complete the questionnaire in its entirety by answering every question with accurate data. Upon completion, please return the completed questionnaire to the beneficiary asking for its completion, or e-mail it to Iron Mountain to the attention of [verification@ironmountain.com](mailto:verification@ironmountain.com)

***Escrow Deposit Questionnaire***

**General Description**

1. What is the general function of the software to be placed into escrow?
2. On what media will the source code be delivered?
3. What is the size of the deposit in megabytes?

**Requirements for the Execution of the Software Protected by the Deposit**

1. What are the system hardware requirements to successfully execute the software? (memory, disk space, etc.)
2. How many machines are required to completely set up the software?
3. What are the software and system software requirements, to execute the software and verify correct operation?

**Requirements for the Assembly of the Deposit**

1. Describe the nature of the source code in the deposit. (Does the deposit include interpreted code, compiled source, or a mixture? How do the different parts of the deposit relate to each other?)
2. How many build processes are there?
3. How many unique build environments are required to assemble the material in the escrow deposit into the deliverables?
4. What hardware is required for each build environment to compile the software? (including memory, disk space, etc.)
5. What operating systems (including versions) are used during compilation? Is the software executed on any other operating systems/version?
6. How many separate deliverable components (executables, share libraries, etc.) are built?
7. What compilers/linkers/other tools (brand and version) are necessary to build the application?
8. What, if any, third-party libraries are used to build the software?
9. How long does a complete build of the software take? How much of that time requires some form of human interaction and how much is automated?
10. Do you have a formal build document describing the necessary steps for system configuration and compilation?
11. Do you have an internal QA process? If so, please give a brief description of the testing process.
12. Please list the appropriate technical person(s) Iron Mountain may contact regarding this set of escrow deposit materials.

*Please provide your technical verification contact information below:*

COMPANY:	
SIGNATURE:	
PRINT NAME:	
ADDRESS 1:	
ADDRESS 2:	
CITY, STATE, ZIP	
TELEPHONE:	
EMAIL ADDRESS:	

For additional information about Iron Mountain Technical Verification Services, please contact  
Manager of Verification Services at 978-667-3601 ext. 100 or by e-mail at [verification@ironmountain.com](mailto:verification@ironmountain.com)

### Summary of Siemens Travel and Living Policies

**The following is a summary of the principal provisions of Siemens' present policy for reimbursement of the travel and living expenses of its employees within the United States. Siemens passes these charges through to Customer. Siemens' policy for travel and living expense reimbursement may be changed by Siemens from time to time to reflect changes in economic and business factors.**

1. **Commercial Air Fare.** Employees must accept the lowest logical coach class airfare available in the market place on any reasonable air carrier. Air travel is not permitted between the cities of Philadelphia, PA, New York, NY, Baltimore, MD and Washington, DC. Employees must use ground transportation to travel to these cities.
2. **Car Rental.** A rental car should be used when the cost is less than that of other available transportation such as taxis, airport shuttles, and personal cars. When renting a car for an extended period of time, employees should use Siemens' preferred suppliers at discounted rates. Cars in the intermediate class (midsize) are authorized for use. Larger cars are authorized only if three or more people are traveling together. When possible, two or more people traveling to the same location should share a car.
3. **Use of Personal Automobile.** Commuting between the employee's residence and normal work location is not reimbursable. Employees are not authorized to make long distance business trips using their personal automobile that exceed 200 miles per day, unless authorized by their manager in advance of the trip. It is more economical to use a rental car if the business trip exceeds 200 miles per day. Employees will be reimbursed for business usage of personal cars at the IRS standard rate. Gasoline or other related automobile purchases made while using a personal vehicle for company business are not reimbursable.
4. **Rail Travel.** All domestic rail travel reservations should be booked directly with Amtrak or other rail companies. All rail travel must be booked in coach class.
5. **Other Ground Transportation.**
  - **Taxis** - Employees will be reimbursed for reasonable taxi fares for inter-city transportation.
  - **Airport Transportation** - The most economical mode of transportation should be used to and from airports. These include but are not limited to buses, subways, taxis, shuttles, airport shuttle and car services and personal car. Consideration must be given to the length of trip and associated parking costs when determining the most economical mode of transportation. If using a personal car to drive to and from the airport, employees must subtract the mileage of their daily commute to/from work before submitting for reimbursement.
6. **Airport and Other Parking.** For any trip longer than one day, employees should use the economy/long-term parking which can be on airport property or off-site. For off-hours travel only (arriving to the airport prior to 6:00 AM and/or leaving after 9:00 PM), the short term parking garage can be used for safety reasons. When using a parking meter, reasonable expenses incurred are reimbursed.
7. **Tolls.** Siemens reimburses for tolls incurred while traveling on company business. A receipt is not required unless the tolls exceed a daily limit of \$10. Frequent travelers using an automated toll system (e.g., E-ZPass) may submit their toll charges for reimbursement upon receipt of a monthly statement from the provider. The traveler must indicate which charges are business related on the monthly statement.
8. **Lodging.** Employees must use the hotels listed in the Siemens North American Travel Directory or those hotels with which Siemens has negotiated discounted rates. Siemens will reimburse employees for

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reasonable dry cleaning or laundry charges for trips exceeding seven (7) consecutive days of travel. Siemens does not reimburse employees for in-room movies, mini bar purchases, and health club/spa fees.

9. **Meals.** Meals are reimbursed when business travel requires an overnight stay preventing the employee from returning home or when business requires the employee to leave home very early or return home late and causes the employee to incur meal expense. Lunch is not reimbursable unless incurred on weekends or holidays while on company business. Itemized original receipts for each meal are required. Multiple meals (e.g., breakfast and dinner) are reimbursed up to the maximum amounts per day shown below.

<u>Travel Period</u>	<u>Maximum Reimbursable Amount</u>
	<u>Per Day</u>
Domestic Travel – Monday through Friday	\$40.00
Domestic Travel - Holidays & Weekends	\$55.00

10. **Telephone Usage.** Phone calls which are made for business purposes are reimbursable with the proper documentation. Personal phone calls for safe arrival and emergencies are reimbursable while on business travel provider proper documentation is provided. Travelers will not be reimbursed for use of airline in-flight phones. When staying at a hotel, employees should avoid making phone calls that have an added surcharge. Siemens will reimburse employees for reasonable hotel high speed internet access charges while traveling on company business. For infrequent travelers, occasional cellular phone expenses incurred for business purposes are reimbursable. For frequent travelers, all wireless services used for company business must be procured and reimbursed through the Siemens corporate programs for cellular phones.

11. **Receipts.** Employees must submit original receipts, except for personal car mileage, metered parking, and tolls under \$10 per day.

Standard Beta Test Amendment

This Amendment is made as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between SIEMENS MEDICAL SOLUTIONS USA, INC. ("Siemens"), having its principal office at 51 Valley Stream Parkway, Malvern, Pennsylvania 19355 and CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("CCSF").

CCSF is hereby authorized and agrees to "Beta Test" Siemens' new \_\_\_\_\_ [INSERT NAME OF BETA SOFTWARE] ("Beta Software"), in conjunction with the Information Technology Agreement between Siemens and CCSF dated July 1, 2010, as amended ("Agreement"). The following additional terms and conditions shall apply to the Beta Test.

1. The Beta Test will be guided by a Project Workplan, which will define the schedule and the responsibilities to be performed by the parties and which will be based on the Statement of Work. A preliminary Statement of Work is attached hereto as Attachment A. CCSF and Siemens each agree to perform their respective tasks set forth in the Project Workplan and to thoroughly test the Beta Software as specified in the Beta Test plans even if CCSF does not intend to use a particular function after the Beta Test. Changes or decisions which affect the scope of the work effort or which delay scheduled completion of the project may result in a charge from Siemens to CCSF and must be made in writing and signed by CCSF's designated project manager and Siemens' designated project manager. These changes shall be defined as "Change Orders" and will detail the nature of the change and any professional service fees due for said change. Using the Change Order Process described herein and in the Agreement, CCSF may engage Siemens to perform or complete tasks designated as CCSF's tasks in the Project Workplan at Siemens rates, which shall be due and payable by CCSF monthly as incurred on a time and materials basis. Siemens will not perform work beyond the scope of the work effort without a Change Order.
2. Although the Beta Software will undergo quality assurance testing by Siemens prior to delivery, such testing in an internal environment does not ensure that all possible combinations of system options have been quality assured. CCSF acknowledges the developmental nature of this project, and the fact that Siemens does not warrant the Beta Software. CCSF and Siemens agree that the purpose of the Beta Test is to verify the functionality, validate the Documentation for the Beta Software, and assist in identifying any software errors that are as yet unfixed. When a Beta Test problem arises, upon receiving a report from CCSF, the Siemens Beta team will provide technical support assistance. CCSF may report the issue using Siemens' on-line Event Issue Management system or by contacting Support Services directly at (610) 219-8600. Siemens Support Services will coordinate Siemens' response to resolve the problem. In addition to error or problem reporting, CCSF agrees to provide Siemens Beta team with timely feedback and validation regarding Beta Software functionality.
3. Siemens will supply supporting materials and draft Documentation regarding the Beta Software, which is preliminary and is subject to change by Siemens. CCSF acknowledges that Documentation for the Beta Software is still under development and in some cases will not be completed prior to completion of the Beta Test. Siemens values customer validation and feedback on the Siemens supplied Documentation and supporting materials. CCSF agrees to review the supporting materials and Documentation and provide feedback to Siemens to assist in producing "final" Documentation. Siemens reserves the right to copy and modify the Documentation inclusive of CCSF's input as an aid to other Siemens customers.
4. Neither party shall have any liability to the other relating to the Beta Test. CCSF shall have full responsibility for the care and well being of its patients and any reliance by CCSF on the Beta Software shall not diminish that responsibility. The defined terms and the confidentiality and use restrictions of the

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Agreement shall apply to this Beta Test, to the Beta Software and to its Documentation. Siemens has exclusive title to the Beta Software, its Documentation, and any Modifications, Adaptations, and additions thereto. Siemens retains the right to use for itself and its customers all Modifications, Adaptations, and additions to the Beta Software developed during the Beta Test period.

5. CCSF and Siemens understand that either party may terminate the Beta Test by written notification to the other party if the Beta Test is not progressing according to the provisions of this Amendment. Siemens may terminate this Amendment at any time, without costs, at Siemens' sole discretion, if Siemens determines that further CCSF testing is no longer required. The Beta Test and this Amendment shall expire upon receipt of this notification.

6. For purposes of this Amendment, "Generally Available" or "GA" shall mean that Siemens has announced that the software is ready for Delivery to licensed customers generally, whether as a new Application or an Update, Release or Version of an existing Application. If a Version of the Beta Software is made Generally Available, the GA version will be provided to CCSF as an Update, Release or Version of an already-licensed Application under the terms of Support for that Application under the Agreement. CCSF shall de-install the Beta Software and Siemens shall be under no further obligation to support the Beta Software six (6) months after Siemens announces the GA Version.

7. CCSF-specific Custom Programming and/or Adaptations performed by Siemens outside of the Project Workplan will be permitted unless such Custom Programming or Adaptations would, in Siemens' view, extend the Beta Test timeline or entail new regulatory requirements. Any Custom Programming or Adaptations outside the Project Workplan will be billed to CCSF on a time and materials basis. Custom Programming or Adaptations that Siemens agrees are needed as part of the Beta Test will be incorporated into the Project Workplan. For purposes of this Amendment, "Derivative Work" shall mean work, including Adaptations, Modifications and Custom Programming, based upon one or more preexisting works including Applications or any other form in which a work may be recast, transformed or adapted. A work consisting of editorial revisions, annotations, elaborations or other modifications which, as a whole, might represent an original work of authorship is still a Derivative Work. Siemens or its suppliers shall have the exclusive title to, copyright and trade secret right in, and the right to grant additional licenses to all Derivative Works.

8. To support market references, CCSF agrees to consider allowing at least \_\_\_\_\_ (  ) site visits per month during the first \_\_\_\_\_ (  ) months after First Productive Use of the Beta Software and at least \_\_\_\_\_ (  ) site visits per month for the next \_\_\_\_\_ (  ) months thereafter. CCSF agrees to allow Siemens to use its name in promotional materials and will provide a reasonable number of telephone or other references. Siemens agrees to review with CCSF all such promotional references in advance of publication.

9. CCSF has previously agreed to obtain the Equipment and Third Party Software detailed in existing Schedule 1 under the Agreement, and currently Siemens anticipates that Equipment and Third Party Software will be sufficient for CCSF to perform the Beta Test. Quality assurance and on-site performance testing may require re-evaluation of those requirements. CCSF acknowledges that the equipment requirements for operation of the Beta Software may change as the test progresses and agrees to acquire any additional equipment required to complete the Beta Test. Except as otherwise set forth herein, CCSF shall be responsible for the integration of any technology required for the operation of the System into its own enterprise environment.

10. Siemens will perform a technology assessment prior to commencement of the Beta Test to review CCSF's hardware, software and any other technology components that may impact use of the Beta

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Software. Siemens will provide CCSF with a copy of the assessment findings and recommendations and CCSF agrees to implement Siemens' recommendation before commencement of the Beta Test.

11. Siemens will provide training and education to CCSF, and/or courses on the Beta Software. Siemens agrees to train up to \_\_\_\_\_ () of CCSF's employees as trainers in the use of the Beta Software at no additional fee to CCSF. CCSF agrees to send the appropriate individuals to the education classes. Those trainers shall be responsible for training other CCSF employees. Training will be conducted by conference call or Web cast. CCSF understands that the courses and educational materials will themselves be preliminary and in a state of development. Siemens values customer validation and feedback on the Siemens provided training content and educational materials. CCSF agrees to review the educational materials and/or assist Siemens in the development of courses to be used in training users of the Beta Software. Siemens may adapt and use CCSF's input to further revise Siemens' training content and educational materials for the benefit of other customers.

12. CCSF's project team for the Beta Test shall consist of \_\_\_\_\_ () IT analyst(s), \_\_\_\_\_ () Nursing Advocate(s), \_\_\_\_\_ () Physician Advocate(s), \_\_\_\_\_ () Clinical Core Trainer(s) and other representatives from CCSF's Information Systems and end user departments as indicated in the Project Workplan. CCSF's project team shall meet with Siemens' project team as often as necessary. Siemens agrees to provide one (1) Project Manager and one (1) Implementation Consultant and other representatives from Siemens as indicated in the Project Workplan to guide CCSF in performing the Beta Test. {**NOTE SELECT ONE OF THE FOLLOWING AND DELETE THE OTHER:** Siemens staff will perform the majority of its Project Workplan tasks remotely and will only be on site for training and testing of the Beta Software in CCSF's production environment. **OR** Siemens will perform all of its Project Workplan tasks remotely.}

13. As required by 42 CFR 1001.952(g) and (h), CCSF may be required, where applicable, to fully and accurately report any discounts or credits or other financial concessions described in the Agreement or this Amendment, in the applicable cost reporting mechanism or claim for payment filed with U.S. Department of Health and Human Services ("DHHS") or a state agency, and, upon request from the applicable agency, must provide the information contained in the Agreement or this Amendment regarding any discounts, credits, or other financial concessions to DHHS or the state agency.

14. This document constitutes an amendment to the Agreement for Beta Test purposes only and supersedes all other commitments between Siemens and CCSF with respect to this subject matter. As hereby amended, the Agreement remains in full force and effect, and is not otherwise modified by this document in any way.

**EXHIBIT M**  
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IN WITNESS WHEREOF, and intending to be legally bound, Siemens and CCSF have executed this Amendment as of the day and year first above written.

**SIEMENS MEDICAL SOLUTIONS USA, INC.**      **CITY AND COUNTY OF SAN FRANCISCO**

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name and Title)

\_\_\_\_\_  
(Type or Print Name and Title)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

### **Network Management Framework**

Herein described is a framework that allows joint management of T1 LAN interconnect network between Siemens and CCSF.

#### ***Siemens Responsibility***

Siemens is fully responsible for the availability and operation of the T1 lines between Siemens and CCSF. Siemens will procure the phone lines, ensure maximum diversity, cause the lines to be installed and monitor the lines 24x7 for availability and utilization.

Siemens is fully responsible for the connection between CCSF up to and including the DSU at Siemens and client site.

Siemens' network responsibility in the Siemens ISC includes ensuring availability of VTAM, NCP, Token Ring, DSU, telco lines, and all CISCO router components. Siemens monitoring responsibilities include system availability, response time, line quality, transmission quality, DSU and router performance. Siemens will use industry standard tools which currently include: Netview (NCCF, NLDM, NPDA), and Netspy to perform monitoring tasks.

Siemens will honor any network measures such as filtering to meet state and local CCSF security regulations.

Siemens will serve CCSF with ten (10) business days advanced written notice for any changes to a router configuration in the Siemens ISC, that would affect the Siemens – CCSF connection.

#### ***San Francisco General Hospital & Department of Public Health Responsibilities***

If, after using monitoring tools listed above and concluding that an Siemens responsible problem does not exist, Siemens will request that CCSF examine their network for problems. Siemens will attempt if possible, to "lead" CCSF as to a probably cause of a problem.

CCSF shall provide Siemens with ten (10) business days advance written notice for any feeder node or remote site attachment to the CCSF network.

CCSF shall provide Siemens with ten (10) business days advance written notice for any new protocol introduced to the CCSF network.

CCSF shall provide Siemens with ten (10) business days advance written notice for any router changes on the CCSF side. Siemens will evaluate and review any changes as requested.

CCSF will have at a minimum, onsite hardware, software and personnel capable of monitoring all current Synoptics hubs, end stations: Intelligent (PCs) and unintelligent (VTs), all routers inter (Siemens and CCSF) and intra (within CCSF network), as well as segment utilization and collision percentage.

Siemens recommends that CCSF not exceed 30% Ethernet segment utilization and not exceed standard CSMA/CD collision rates.

**EXHIBIT N**  
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CCSF will discuss with Siemens any hardware and software additions to the CCSF network to ensure compatibility and quantify any possible performance impacts. This would include for example, LV software for end user workstations, operating system upgrades such as NT. This does not include the introduction of any industry standard SNMP manager.

Siemens requests 30 days advance notice if CCSF elects to have Siemens monitor or assist in monitoring any portion of the CCSF local network such as Synoptics hubs, end user stations, and intra network routers. CCSF will meet any software prerequisites for such monitoring as dictated by Netview and Optivity.

***Mutual Responsibilities***

Siemens and CCSF will discuss the installation of any router software upgrade to ensure its necessity and effect on the CCSF – Siemens connection. No party will upgrade router software without written consent of the other party, which shall not be unreasonably withheld.

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**Initial User Network**

The Initial User Network as described under and in accordance with the Agreement shall include the following:

- (1) The City and County Facilities and Locations listed in Exhibit "D".
- (2) As to each facility listed in Exhibit "D", the Initial User Network shall include all affiliated employees and providers. In addition, the Initial User Network shall include Non-Provider Users as restricted in the Agreement; and
- (3) Use of OPENLink Level n to access and input CCSF data from and to the System by Community Public Health Services including the AIDS Office, Forensic Services, Public Health Offices, and Mental Health and Substance Abuse.

BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum is entered into to address the privacy and security protections for certain information as required by federal law. City and County of San Francisco is the Covered Entity and is referred to below as "CE". The CONTRACTOR is the Business Associate and is referred to below as "BA".

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RECITALS

- A. CE wishes to disclose certain information to BA pursuant to the terms of the Contract, some of which may constitute Protected Health Information ("PHI") (defined below).
- B. CE and BA intend to protect the privacy and provide for the security of PHI disclosed to BA pursuant to the Contract in compliance with 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 regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.
- C. As part of the HIPAA Regulations, the Privacy Rule and the Security Rule (defined below) require CE to enter into a contract containing specific requirements with BA prior to the disclosure of PHI, as set forth in, but not limited to, Title 45, Sections 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("C.F.R.") and contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

1. Definitions

- a. **Breach** shall have the meaning given to such term under the HITECH Act [42 U.S.C. Section 17921].
- b. **Business Associate** shall have the meaning given to such term under the Privacy Rule, the Security Rule, and the HITECH Act, including, but not limited to, 42 U.S.C. Section 17938 and 45 C.F.R. Section 160.103.
- c. **Covered Entity** shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to, 45 C.F.R. Section 160.103.
- d. **Data Aggregation** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- e. **Designated Record Set** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- f. **Electronic Protected Health Information** means Protected Health Information that is maintained in or transmitted by electronic media.
- g. **Electronic Health Record** shall have the meaning given to such term in the

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HITECT Act, including, but not limited to, 42 U.S.C. Section 17921.

- h. **Health Care Operations** shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501.
- i. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and E.
- j. **Protected Health Information or PHI** means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; and (ii) that identifies the individual or with respect to where there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.501. Protected Health Information includes Electronic Protected Health Information [45 C.F.R. Sections 160.103, 164.501].
- k. **Protected Information** shall mean PHI provided by CE to BA or created or received by BA on CE's behalf.
- l. **Security Rule** shall mean the HIPAA Regulation that is codified at 45 C.F.R. Parts 160 and 164, Subparts A and C.
- m. **Unsecured PHI** shall have the meaning given to such term under the HITECH Act and any guidance issued pursuant to such Act including, but not limited to, 42 U.S.C. Section 17932(h).

2. **Obligations of Business Associate**

- a. **Permitted Uses.** BA shall not use Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. Further, BA shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so used by CE. However, BA may use Protected Information (i) for the proper management and administration of BA, (ii) to carry out the legal responsibilities of BA, or (iii) for Data Aggregation purposes for the Health Care Operations of CE [45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(i)].
- b. **Permitted Disclosures.** BA shall not disclose Protected Information except for the purpose of performing BA's obligations under the Contract and as permitted under the Contract and Addendum. BA shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule or the HITECH Act if so disclosed by CE. However, BA may disclose Protected Information (i) for the proper management and administration of BA; (ii) to carry out the legal responsibilities of BA; (iii) as required by law; or (iv) for Data Aggregation purposes for the Health Care Operations of CE. If BA discloses Protected Information to a third party, BA must obtain, prior to making any such disclosure, (i) reasonable *written* assurances from such third party that such Protected Information will be held confidential as provided pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to such third party, and (ii) a *written* agreement from such third party to immediately notify BA of any breaches of confidentiality of the Protected Information, to the extent it has obtained knowledge of such breach [42 U.S.C.

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Section 17932; 45 C.F.R. Sections 164.504(e)(2)(i), 164.504(e)(2)(i)(B), 164.504(e)(2)(ii)(A) and 164.504(e)(4)(ii)].

- c. **Prohibited Uses and Disclosures.** BA shall not use or disclose Protected Information for fundraising or marketing purposes. BA shall not disclose Protected Information to a health plan for payment or health care operations purposes if the patient has requested this special restriction, and has paid out of pocket in full for the health care item or service to which the PHI solely relates 42 U.S.C. Section 17935(a), to the extent CE has notified BA in writing of such request by the patient. BA shall not directly or indirectly receive remuneration in exchange for Protected Information, except with the prior written consent of CE and as permitted by the HITECH Act, 42 U.S.C. Section 17935(d)(2); however, this prohibition shall not affect payment by CE to BA for services provided pursuant to the Contract.
- d. **Appropriate Safeguards.** BA shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information otherwise than as permitted by the Contract or Addendum, including, but not limited to, administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Protected Information, in accordance with 45 C.F.R. Section 164.308(b)]. BA shall comply with the policies and procedures and documentation requirements of the HIPAA Security Rule, including, but not limited to, 45 C.F.R. Section 164.316 [42 U.S.C. Section 17931]
- e. **Reporting of Improper Access, Use or Disclosure.** BA shall report to CE in writing of any access, use or disclosure of Protected Information not permitted by the Contract and Addendum, and any Breach of Unsecured PHI of which it becomes aware without unreasonable delay and in no case later than 10 calendar days after discovery [42 U.S.C. Section 17921; 45 C.F.R. Section 164.504(e)(2)(ii)(C); 45 C.R.R. Section 164.308(b)].
- f. **Business Associate's Agents.** BA shall ensure that any agents, including subcontractors, to whom it provides Protected Information, agree in writing to the same restrictions and conditions that apply to BA with respect to such PHI. If BA creates, maintains, receives or transmits electronic PHI on behalf of CE, then BA shall implement the safeguards required by paragraph c above with respect to Electronic PHI [45 C.F.R. Section 164.504(e)(2)(ii)(D); 45 C.F.R. Section 164.308(b)]. BA shall implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation (see 45 C.F.R. Sections 164.530(f) and 164.530(e)(1)).
- g. **Access to Protected Information.** BA shall make Protected Information maintained by BA or its agents or subcontractors in Designated Record Sets available to CE for inspection and copying within ten (10) days of a request by CE to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.524 [45 C.F.R. Section 164.504(e)(2)(ii)(E)]. If BA maintains an Electronic Health Record, BA shall provide such information in electronic format to enable CE to fulfill its obligations under the HITECH Act, including, but not limited to, 42 U.S.C. Section 17935(e).
- h. **Amendment of PHI.** Within ten (10) days of receipt of a request from CE for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, BA or its agents or subcontractors shall make such Protected

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Information available to CE for amendment and incorporate any such amendment to enable CE to fulfill its obligation under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.526. If any individual requests an amendment of Protected Information directly from BA or its agents or subcontractors, BA must notify CE in writing within five (5) days of the request. Any approval or denial of amendment of Protected Information maintained by BA or its agents or subcontractors shall be the responsibility of CE [45 C.F.R. Section 164.504(e)(2)(ii)(F)].

- i. Accounting Rights.** Within ten (10)calendar days of notice by CE of a request for an accounting for disclosures of Protected Information or upon any disclosure of Protected Information for which CE is required to account to an individual, BA and its agents or subcontractors shall make available to CE the information required to provide an accounting of disclosures to enable CE to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 C.F.R. Section 164.528, and the HITECH Act, including but not limited to 42 U.S.C. Section 17935(c), as determined by CE. BA agrees to implement a process that allows for an accounting to be collected and maintained by BA and its agents or subcontractors for at least six (6) years prior to the request. However, accounting of disclosures from an Electronic Health Record for treatment, payment or health care operations purposes are required to be collected and maintained for only three (3) years prior to the request, and only to the extent that BA maintains an electronic health record and is subject to this requirement. At a minimum, the information collected and maintained shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (iii) a brief description of Protected Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure. In the event that the request for an accounting is delivered directly to BA or its agents or subcontractors, BA shall within five (5) calendar days of a request forward it to CE in writing. It shall be CE's responsibility to prepare and deliver any such accounting requested. BA shall not disclose any Protected Information except as set forth in Sections 2.b. of this Addendum [45 C.F.R. Sections 164.504(e)(2)(ii)(G) and 165.528]. The provisions of this subparagraph h shall survive the termination of this Agreement.
- j. Governmental Access to Records.** BA shall make its internal practices, books and records relating to the use and disclosure of Protected Information available to CE and to the Secretary of the U.S. Department of Health and Human Services(the "Secretary") for purposes of determining BA's compliance with the Privacy Rule [45 C.F.R. Section 164.504(e)(2)(ii)(H)]. BA shall provide to CE a copy of any Protected Information that BA provides to the Secretary concurrently with providing such Protected Information to the Secretary.
- k. Minimum Necessary.** BA (and its agents or subcontractors) shall request, use and disclose only the minimum amount of Protected Information necessary to accomplish the purpose of the request, use or disclosure. [42 U.S.C. Section 17935(b); 45 C.F.R. Section 164.514(d)(3)] BA understands and agrees that the definition of "minimum necessary" is in flux and shall keep itself informed of guidance issued by the Secretary with respect to what constitutes "minimum necessary."
- l. Data Ownership.** BA acknowledges that BA has no ownership rights with respect to the Protected Information.

- m. Business Associate's Insurance.** BA shall maintain a sufficient amount of insurance to adequately address risks associated with BA's use and disclosure of Protected Information under this Addendum.
  - n. Notification of Breach.** During the term of the Contract, BA shall notify CE within twenty-four (24) hours of any suspected or actual breach of security, intrusion or unauthorized use or disclosure of PHI of which BA becomes aware and/or any actual or suspected use or disclosure of data in violation of any applicable federal or state laws or regulations. BA shall take (i) prompt corrective action to cure any such deficiencies and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.
  - o. Breach Pattern or Practice by Covered Entity.** Pursuant to 42 U.S.C. Section 17934(b), if the BA knows of a pattern of activity or practice of the CE that constitutes a material breach or violation of the CE's obligations under the Contract or Addendum or other arrangement, the BA must take reasonable steps to cure the breach or end the violation. If the steps are unsuccessful, the BA must terminate the Contract or other arrangement if feasible, or if termination is not feasible, report the problem to the Secretary of DHHS. BA shall provide written notice to CE of any pattern of activity or practice of the CE that BA believes constitutes a material breach or violation of the CE's obligations under the Contract or Addendum or other arrangement within ten (10) calendar days of discovery and shall meet with CE to discuss and attempt to resolve the problem as one of the reasonable steps to cure the breach or end the violation.
  - p. Audits, Inspection and Enforcement.** Within ten (10) calendar days of a written request by CE, BA and its agents or subcontractors shall allow CE to conduct a reasonable inspection of the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of Protected Information pursuant to this Addendum for the purpose of determining whether BA has complied with this Addendum; provided, however, that (i) BA and CE shall mutually agree in advance upon the scope, timing and location of such an inspection, (ii) CE shall protect the confidentiality of all confidential and proprietary information of BA to which CE has access during the course of such inspection; and (iii) CE shall execute a nondisclosure agreement, upon terms mutually agreed upon by the parties, if requested by BA. The fact that CE inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems, books, records, agreements, policies and procedures does not relieve BA of its responsibility to comply with this Addendum, nor does CE's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices, constitute acceptance of such practice or a waiver of CE's enforcement rights under the Contract or Addendum. BA shall notify CE within ten (10) calendar days of learning that BA has become the subject of an audit, compliance review, or complaint investigation by the Office for Civil Rights relating to the services provided by BA to CE under the Contract, provided BA is not legally prohibited from so notifying CE.

### 3. Termination

- a. Material Breach.** A material breach by BA of any provision of this Addendum, as determined by CE, shall constitute a material breach of the Contract and shall provide grounds for immediate termination of the Contract pursuant to Section 23 of the Contract. [45 C.F.R. Section 164.504(e)(2)(iii)].

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- b. Judicial or Administrative Proceedings.** CE may terminate the Contract, effective immediately, if (i) BA is named as a defendant in a criminal proceeding for a violation of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws or (ii) a finding or stipulation that the BA has violated any standard or requirement of HIPAA, the HITECH Act, the HIPAA Regulations or other security or privacy laws is made in any administrative or civil proceeding in which the party has been joined.
- c. Effect of Termination.** Upon termination of the Contract for any reason, BA shall, at the option of CE, return or destroy all Protected Information that BA or its agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by CE, BA shall continue to extend the protections of Section 2 of this Addendum to such information, and limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible[45 C.F.R. Section 164.504(e)(ii)(2)(I)]. If CE elects destruction of the PHI, BA shall certify in writing to CE that such PHI has been destroyed.

**4. *Disclaimer***

CE makes no warranty or representation that compliance by BA with this Addendum, HIPAA, the HITECH Act, or the HIPAA Regulations will be adequate or satisfactory for BA's own purposes. BA is solely responsible for all decisions made by BA regarding the safeguarding of PHI.

**5. *Certification***

To the extent that CE determines that such examination is necessary to comply with CE's legal obligations pursuant to HIPAA relating to certification of its security practices, CE or its authorized agents or contractors, may, at CE's expense, examine BA's facilities, systems, procedures and records as may be necessary for such agents or contractors to certify to CE the extent to which BA's security safeguards comply with HIPAA, the HITECH Act, the HIPAA Regulations or this Addendum.

**6. *Amendment***

- a. Amendment to Comply with Law.** The parties acknowledge that state and federal laws relating to data security and privacy are rapidly evolving and that amendment of the Contract or Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that CE must receive satisfactory written assurance from BA that BA will adequately safeguard all Protected Information. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule or other applicable laws. CE may terminate the Contract upon thirty (30) calendar days written notice in the event (i) BA

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does not promptly enter into negotiations to amend the Contract or Addendum when requested by CE pursuant to this Section or (ii) BA does not enter into an amendment to the Contract or Addendum providing assurances regarding the safeguarding of PHI that CE, in its sole discretion, deems sufficient to satisfy the standards and requirements of applicable laws.

**7. Assistance in Litigation or Administrative Proceedings**

BA shall make itself, and any subcontractors, employees or agents assisting BA in the performance of its obligations under the Contract or Addendum, available to CE, at no cost to CE, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against CE, its directors, officers or employees based upon a claimed violation of HIPAA, the HITECH Act, the Privacy Rule, the Security Rule, or other laws relating to security and privacy, except where BA or its subcontractor, employee or agent is a named adverse party.

**8. No Third-Party Beneficiaries**

Nothing express or implied in the Contract or Addendum is intended to confer, nor shall anything herein confer, upon any person other than CE, BA and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

**9. Effect on Contract**

Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Contract shall remain in force and effect.

**10. Interpretation**

The provisions of this Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.

**11. Replaces and Supersedes Previous Business Associate Addendums or Agreements**

This Business Associate Addendum replaces and supersedes any previous business associate addendums or agreements between the parties hereto.

**EXHIBIT Q**  
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**Cash Flow Illustration**

**City and County of San Francisco**  
**- Siemens Annual Payment Exhibit**  
**- July 1, 2010**

<b>Remote Computing (RCO) Exhibit</b>	<b>Year End</b> <b>6/30/2011</b>	<b>Year End</b> <b>6/30/2012</b>	<b>Year End</b> <b>6/30/2013</b>	<b>Year End</b> <b>6/30/2014</b>	<b>Year End</b> <b>6/30/2015</b>	<b>Year End</b> <b>6/30/2016</b>	<b>Year End</b> <b>6/30/2017</b>	<b>84 Month</b> <b>Total</b>
<b>RCO</b>								
Support and Services	\$ 3,064,164	\$ 3,064,164	\$ 3,064,164	\$ 3,064,164	\$ 3,064,164	\$ 3,064,164	\$ 3,064,164	\$ 21,449,148
Supplies ESTIMATE	262,296	262,296	262,296	262,296	262,296	262,296	262,296	1,836,072
New Applications/Services	181,328	108,203	50,540	61,660	123,320	123,320	3,320	771,689
RCO - Existing and New Applications								
<b>SubTotal</b>	<b>\$3,507,788</b>	<b>\$3,434,663</b>	<b>\$3,377,000</b>	<b>\$3,388,120</b>	<b>\$ 449,780</b>	<b>\$3,449,780</b>	<b>\$3,449,780</b>	<b>\$24,056,909</b>
<b>Taxes &amp; CPI</b>								
Taxes	316,014	320,551	316,014	321,871	327,729	327,729	327,729	2,257,637
CPI - Maximum	-	-	134,210	139,579	145,162	150,968	157,007	726,927
<b>Taxes &amp; CPI Subtotal</b>	<b>\$ 316,014</b>	<b>\$ 320,551</b>	<b>\$ 450,224</b>	<b>\$ 461,450</b>	<b>\$ 472,891</b>	<b>\$ 478,698</b>	<b>\$ 484,736</b>	<b>\$ 2,984,564</b>
<b>Total RCO</b>	<b>\$3,823,801</b>	<b>\$3,755,213</b>	<b>\$3,827,224</b>	<b>\$3,849,570</b>	<b>\$3,922,671</b>	<b>\$3,928,477</b>	<b>\$3,934,516</b>	<b>\$27,041,473</b>
<b>In-house (ICO) Exhibit</b>	<b>Year End</b> <b>6/30/2011</b>	<b>Year End</b> <b>6/30/2012</b>	<b>Year End</b> <b>6/30/2013</b>	<b>Year End</b> <b>6/30/2014</b>	<b>Year End</b> <b>6/30/2015</b>	<b>Year End</b> <b>6/30/2016</b>	<b>Year End</b> <b>6/30/2017</b>	<b>84 Month</b> <b>Total</b>
<b>In-house</b>								
Support and Services	\$ 213,808	\$ 213,808	\$ 213,808	\$ 213,808	\$ 213,808	\$ 213,808	\$ 213,808	\$ 1,496,656
New Applications/Services and Account Management	194,970	202,320	202,320	202,320	202,320	202,320	202,320	1,408,890
In-house - Existing and New Applications								
<b>SubTotal</b>	<b>\$ 408,778</b>	<b>\$ 416,128</b>	<b>\$ 2,905,546</b>					
<b>Taxes &amp; CPI</b>								
Taxes Subtotal	21,301	22,290	22,290	22,290	22,290	22,290	22,290	155,039
CPI - Maximum	-	-	17,504	18,204	18,932	19,689	20,477	94,806
<b>Taxes &amp; CPI Subtotal</b>	<b>\$ 21,301</b>	<b>\$ 22,290</b>	<b>\$ 39,793</b>	<b>\$ 40,494</b>	<b>\$ 41,222</b>	<b>\$ 41,979</b>	<b>\$ 42,767</b>	<b>\$ 249,844</b>
<b>Total In-house</b>	<b>\$ 430,079</b>	<b>\$ 438,418</b>	<b>\$ 455,921</b>	<b>\$ 456,622</b>	<b>\$ 457,350</b>	<b>\$ 458,895</b>	<b>\$ 458,895</b>	<b>\$ 3,155,390</b>
<b>GRAND TOTAL w/ TAXES and CPI Max</b>	<b>\$4,253,880</b>	<b>\$4,193,631</b>	<b>\$4,283,145</b>	<b>\$4,306,192</b>	<b>\$4,380,021</b>	<b>\$4,386,584</b>	<b>\$4,393,411</b>	<b>\$30,196,863</b>

**EXHIBIT R**  
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**Siemens Annual Report**

[see the PDF copy on the accompanying CD-ROM, also available at the following link:  
[http://www.siemens.com/investor/pool/en/investor\\_relations/e09\\_00\\_gb2009.pdf](http://www.siemens.com/investor/pool/en/investor_relations/e09_00_gb2009.pdf)]