

STATE OF TEXAS §
 §
COUNTY OF HIDALGO §

INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE COUNTY OF HIDALGO AND
DOCTORS HOSPITAL AT RENAISSANCE

THIS Agreement is made on this the ____ day of _____, 2012, by and between the **DOCTORS HOSPITAL AT RENAISSANCE**, hereinafter referred to as the “Hospital,” and the **COUNTY OF HIDALGO, TEXAS**, hereinafter referred to as the “County” pursuant to the provisions of the Texas Interlocal Cooperation Act, as follows:

WITNESSETH:

WHEREAS, the Hospital is a hospital located in Hidalgo County, Texas;

WHEREAS, County is a county in the State of Texas;

WHEREAS, County is the recipient of a Public Health Preparedness and Response for Bioterrorism grant from the Department of State Health Services to be used to upgrade local bioterrorism preparedness and response, outbreaks of infectious disease, and other public health threats and emergencies;

WHEREAS, the parties recognize the vulnerability of citizens in the County to a public health emergency that may result from natural or manmade causes;

WHEREAS, during such public health emergency, it may be necessary to monitor healthcare registration data collected in real time from emergency department visits through the Real-time Outbreak and Diseases Surveillance (RODS) System. RODS automatically collects public health surveillance data, analyzes them for possible outbreaks, notifies users, and has a web-base interface to examine the data and be able to treat a large number of people in the area served by the County Public Health Department, and

WHEREAS, Hospital emergency department data, which generally includes a unique encrypted patient identifier, chief complaint, screening date, date of birth, gender and residential zip code for each record will be used as previously described in the project proposal; and

WHEREAS, Hospital and County are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Texas Gov’t Code 791.001 et seq., which authorizes local governments to contract with each other to perform governmental functions and services under the terms of the Act.

NOW, THEREFORE, Hospital and County, in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. HIPAA Compliance

A. General.

a. hold all Protected Health Information ("PHI") and Electronic Protected Health Information ("EPHI") confidential except to the extent that disclosure is required by Federal or State law, including the Texas Public Information Act, Chapter 552, Texas Government Code. Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended. PHI is defined in 45 CFR § 164.501 and is limited to information created or received by each Party from or on behalf of the other Party. EPHI is individually identifiable health information that is transmitted by or maintained in electronic media. A Security Incident is the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information, or interference with the systems operations in an information system.

b. be bound by all applicable Federal and State of Texas licensing authorities' laws, rules, and regulations regarding records and governmental records, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), PL 104-191, the HIPAA regulations (codified at 42 CFR Parts 160 and 164), and Chapter 181, Texas Health and Safety Code, as amended, collectively referred to herein as "Privacy and Security Requirements."

B. Business Associate: Each Party is a "Business Associate" of the other Party as that term is defined under the Privacy and Security Requirements. Each Party agrees:

1. *Nondisclosure of PHI and EPHI:* Not to use or disclose the PHI and EPHI received from the other Party or created, compiled, or used by it pursuant to this Agreement other than as permitted or required by this Agreement, or as otherwise required by law.

2. *Limitation on Further Use or Disclosure:* Not to further use or disclose the PHI and EPHI received from the other Party or created, compiled, or used by it pursuant to this Agreement in a manner that would be prohibited by the Privacy and Security Requirements of HIPAA if disclosure was made by the other Party, or if either it or the other Party is otherwise prohibited from making such disclosure by any present or future State or federal law, regulation, or rule.

3. *Safeguards:* To use appropriate safeguards to prevent use or disclosure of the PHI and EPHI other than as provided for by this Agreement or as required by State or federal law, regulation, or rule. To implement administrative, physical,

and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI.

4. *Reporting Unauthorized Disclosures and EPHI Incidents*: To report to the other Party any use or disclosure of PHI and EPHI that is not authorized by this Agreement immediately upon becoming aware of such unauthorized use or disclosure.

5. *Subcontractors and Agents*: To make all reasonable efforts to ensure that any subcontractors or agent to whom either Party provides PHI and EPHI received from the other Party or created, compiled, or used by it pursuant to this Agreement agrees to the same restrictions and conditions that apply to it with respect to such PHI and EPHI.

6. *Mitigation*: To mitigate, to the extent practicable, any harmful effect that is known to either Party of a use or disclosure of PHI and EPHI by either Party or by a subcontractor or agent of either Party resulting from a violation of this Agreement.

7. *Notice – Access by Individual*: To notify the other Party in writing within three business days of any request by an individual for access to the individual's PHI and EPHI and to, upon receipt of such request from an individual, provide access to the degree required or permitted by law or, if the other Party maintains the requested records, direct the individual to the other Party for access to the individual's PHI and EPHI.

8. *Notice – Request for Amendment*: To notify the other Party in writing within three business days of any request by an individual for amendment to the individual's PHI and EPHI and to, upon receipt of such request from an individual, make such amendments as required or permitted by law, or if the other Party maintains the records, direct the individual to the other Party to request amendment of the individual's PHI and EPHI.

9. *Notice – Request for Accounting*: To notify the other Party in writing within three business days of any request by an individual for an accounting of disclosures made of the individual's PHI and EPHI and to, upon receipt of such request from an individual, provide an accounting as required or permitted by law, or if the other Party maintains the records, direct the individual to the other Party for an accounting of the disclosures of the individual's PHI and EPHI.

10. *HHS Inspection*: Upon written request, to make available to the Secretary of Health and Human Services ("HHS") or her designee, its internal practices, books, and records relating to the use and disclosure of PHI and EPHI received from or held for the other Party in a time or manner designated by the Secretary for purposes of the Secretary determining each Party's compliance with the Privacy and Security Requirements.

11. *Inspection*: Upon written request, to make available to the other Party during normal business hours its internal practices, books, and records relating to the use and disclosure of PHI and EPHI received from or held for the other Party in a time and manner designated by the other Party.

12. *PHI and EPHI Amendment*: To incorporate any amendments, corrections, or additions to the PHI and EPHI received from or created, compiled, or used by it pursuant to this Agreement when notified by the other Party that the PHI and EPHI is inaccurate or incomplete or that other documents are to be added as required by or allowed by the Privacy and Security Requirements.

13. *Documentation of Disclosures*: Each Party agrees to document disclosure of PHI and EPHI and information related to such disclosures as is necessary for the other Party to respond to a request by an individual for an accounting of disclosures of PHI and EPHI in accordance with 45 CFR § 164.528, as amended.

14. *Termination Procedures*: Upon termination of this Agreement for any reason, to transfer to the other Party all PHI and EPHI received from the other Party or created, compiled, or used by it pursuant to this Agreement or, if specially requested to do so by the other Party in writing, to destroy all such PHI and EPHI. This provision applies when either Party maintains PHI and EPHI from the other Party in any form. If either Party determines that transferring or destroying the PHI and EPHI is infeasible, it shall (i) provide to the other Party notification of the conditions that make transfer or destruction infeasible; (ii) extend the protections of this Agreement to such PHI and EPHI; and (iii) limit any further uses and disclosures of such PHI and EPHI to those purposes that make the return or destruction infeasible.

15. *Notice-Termination*: Upon written notice to the other Party, either Party may terminate any portion of the Agreement under which the other Party maintains, compiles, or has access to PHI and EPHI. Additionally, upon written notice to the other Party, either Party may terminate the entire Agreement if it determines, at its sole discretion, that the other Party has repeatedly violated a Privacy Requirement.

16. Survival of Privacy Provisions: Each Party's obligations with regard to PHI and EPHI shall survive the termination of this Agreement.

17. Amendment Related to Privacy and Security Requirements: The Parties agree to take such action as is necessary to amend this Agreement it to comply with the Privacy and Security Requirements of HIPAA and Tex. Health & Safety Code Ann. §§181.001 *et seq.*, as amended, and any other law or regulation affecting the use or disclosure of PHI and EPHI. Any ambiguity in this Agreement shall be resolved to permit the Parties to comply with the Privacy and Security Requirements of HIPAA and Tex. Health & Safety Code Ann. §§ 181.001 *et seq.*, as amended.

2. **Term.** This Agreement shall become effective on the Countersignature Date and shall remain in effect for a period of one (1) year (“Initial Term”), from the date first written above and shall automatically renew unless sooner terminated as provided for in this Agreement herein. If Hospital chooses not to renew this Agreement, the Emergency Department Director or the Director’s Designee shall notify the County of Hidalgo of non-renewal at least 30 days before the expiration of the then-current term.
3. **Termination.** Either party may terminate this agreement at any time by giving 30 days written notice to the other party. The right to terminate this agreement for convenience is cumulative of all rights and remedies which exist now or in the future. Upon receiving or delivering the notice, Hidalgo County Health and Human Services shall, unless the notice directs otherwise, immediately notify the RODS datacenter hosted by the Texas Association of Local Health Officials (TALHO) resulting in the disconnection of Doctors Hospital at Renaissance.
4. **Security.** Information retrieved by RODS is only accessible to public health personnel responsible for disease surveillance and outbreak detection. Safeguards to protect the information include but are not limited to password-protected computers and the use of aggregation and other methods in maps for presentation or publication to prevent potential identification of individual patients or individual hospitals.
5. **Conflict of Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between and provision of their Agreement and any present or future law, ordinance, or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have no legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
6. **No Waiver.** No waiver by any party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
7. **Entire Agreement.** This Agreement contains the entire contract between the parties hereto and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by Hospital and County, and not otherwise.
8. **TEXAS LAW TO APPLY.** THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, AND ALL OBLIGATION OF THE PARTIES CREATED HEREUNDER ARE

PERFORMABLE IN HIDALGO COUNTY, TEXAS. THE PARTIES HEREBY
CONSENT TO PERSONAL JURISDICTION IN HIDALGO COUNTY, TEXAS.

9. County of Hidalgo County will fund the initial costs to connect Hospital to the RODS system.

TALHO will integrate Hospital into the syndromic surveillance applications RODS and ESSENCE. Access to surveillance data will be provided to Hidalgo County Health & Human Services Department in the form of RODS and ESSENCE user accounts.

The facility to be integrated includes:

1. HL7 connection fee per hospital
2. Feeder hospital – data flowing into one central hospital system

County of Hidalgo is responsible for negotiating a data-sharing agreement directly with participating facility and providing TALHO with executed copies 60 days prior to integration. If fees occur for the hospital listed above due to its own vendor work on HL7 interface configuration during initial setup, TALHO may reimburse up to \$2,500 not to exceed the 1 HL7 connection outlined above. Vendor quotes are required for reimbursement.

Initial setup includes maintenance on HL7 connections for a period of 24 months from the date of project completion.

10. **Notice.** Except as may be otherwise specifically provided in this Agreement, all notices, demands, requests or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the parties at the addresses set forth below, or at such other addresses as may have been theretofore specified by written notice delivered in accordance herewith:

If to Hospital: Doctors Hospital at Renaissance
5501 S. McColl Rd.
Edinburg, Texas 78539

If to County: Hidalgo County, Texas
Attention: Ramon Garcia, County Judge
P.O. Box 758
Edinburg, Texas 78540-0758

Each notice, demand, request or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail.

Additional Documents. The parties hereto covenant and agree that they will execute each such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

Successors. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by this Agreement.

Assignment. This Agreement shall not be assignable.

Headings. The headings and captions contained in this Agreement are solely for convenience reference and shall not be deemed to affect the meaning or interpretation of any provision or paragraph hereof.

Gender and Number. All pronouns used in this Agreement shall include the other gender, whether used in the masculine, feminine or neuter gender, and singular shall include the plural whenever and as often as may be appropriate.

Authority to Execute. The execution and performance of this Agreement by Hospital and County have been duly authorized by all necessary laws, resolutions or corporate action, and this Agreement constitutes the valid and enforceable obligations of Hospital and County in accordance with its terms.

Governmental Purpose. Each party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying party as herein provided.

Commitment of Current Revenues Only. In the event that during any term hereof, the governing body of any party does not appropriate sufficient funds to meet the obligations of such party under this Agreement, then any party may terminate this Agreement upon ninety (30) days written notice to the other party. Each of the parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement. The parties intend this provision to be a continuing right to terminate this Agreement at the expiration of each budget period of each party hereto pursuant to the provisions of Tex. Loc. Govt. Code Ann. § 271.903.

WITNESS THE HANDS OF THE PARTIES effective as of the day and year first written above.

DOCTORS HOSPITAL AT RENAISSANCE

Hospital Contact (Emergency Department Director)
Chief Administrative Officer, Doctors Hospital at
Renaissance

ATTEST:

HIDALGO COUNTY TEXAS

Ramon Garcia, County Judge

ATTEST:

Arturo Guajardo, JR. Hidalgo County Clerk

APPROVED AS TO FORM:

By: Josephina Ramirez Solis

Hidalgo County Assistant District Attorney
County Affairs