



**MEMORANDUM OF UNDERSTANDING
SERVICE AGREEMENT
FOR RIO GRANDE VALLEY HIE**

This Memorandum of Understanding Services Agreement [“Services Agreement”], dated _____, 2021, is an agreement between the County of Hidalgo by and through its Hidalgo County Health & Human Services Department [referred to as “Provider” in this Services Agreement] and Rio Grande Valley Health Information Exchange (“RGV HIE”), a Texas non-profit health information exchange organization. This Services Agreement is effective as of the date of execution (the “Effective Date”).

A. Provider operates a health care facility known as Hidalgo County Health & Human Services

B. RGV HIE furnishes health information exchange (“HIE”) related services and products, directly and through its certified vendors, to participating Providers.

D. Provider desires to access and use RGV HIE’s services described below, and RGV HIE agrees to furnish such services under the terms of this Services Agreement, as amended from time to time.

E. To implement its mission, RGV HIE is developing provider based Services that are designed to provide the technology solution Providers need to successfully access and use electronic health information in the way that they have identified as priorities.

AGREEMENT

Overall, Provider understands that information received via RGV HIE may only be used as permitted by law and the regulations (including, but not limited to, the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”); 42 C.F.R. Part 2 (Confidentiality of Alcohol and Drug Abuse Patient Records) and Texas Medical Privacy Act and other state laws. As a condition of receiving services from RGV HIE, Provider agrees to the following:

1. **Application.** This Services Agreement and the Business Associate Agreement applies to any person working for Providers’ organization who has access to information received via RGV HIE, including all physicians, nurses, office staff and others.
2. **Business Associate Agreement.** Provider and RGV HIE agree to sign a Business

Associate Agreement (included as Attachment B) (the “BA Agreement”) for the protection of the privacy and security of any confidential patient information received by RGV HIE from Provider for use in the HIE, in order to comply with HIPAA and other relevant federal and state privacy and security laws.

3. **Confidential Information.** Each party shall hold proprietary information of the other party in confidence and agrees that it shall not, during the term or after the termination of this Services Agreement, re-disclose to any person or entity, nor use for its own business or benefit, any information obtained by it in connection with this Services Agreement unless such use or re-disclosure is permitted by the terms of this Services Agreement or Applicable Law. RGV HIE shall require any other participant or provider in the HIE to abide by this Section as well.

4. **RGV HIE Responsibilities.**

4.1 RGV HIE Services and Support. RGV HIE shall furnish one or more of the following services and support to Provider, either through RGV HIE staff, or its technology vendor (*See Attachment A, Fee Statement, for Provider’s election of services*).

- A. Services: Secure, web-based access to RGV HIE’s technology platform to support the following Services:
 - **Clinical Document Repository:** Cross Enterprise Document Sharing (XDS) compliant repository populated with CCD/C-CDA and other documents if available (Discharge Summaries, Diagnostic reports, etc.);
 - **Community Provider Portal:** a web Portal for Providers to view and access a patient’s clinical documents across a continuum of care. Portal also allows for secure communication across the provider network for referrals;
 - **EMPI:** Enterprise Master Patient Index is our patient matching software used to maintain consistent and accurate information about each patient registered by the HIE.
- B. **Training:** Documentation and training session(s) on how to access and use the Services available to Provider online, as defined in the RGV HIE’s scope of work document.
- C. **Help Desk:** Telephone support through RGV HIE technology vendor during normal business hours to answer reasonable questions regarding how to use the Services.
- D. **Authority to Use Service:** All licenses necessary for Provider to use the Services.
- E. **Audit Trail:** RGV HIE is responsible for creating and maintaining an audit trail of Provider’s (including each Provider Authorized User’s) transactions as required by federal guidelines.

F. **Quality Services:** RGV HIE will perform the Services required under the Agreement in a professional and workmanlike manner.

4.2 Access to Health Data by RGV HIE. Neither RGV HIE nor any of its subcontractors will access Health Data unless required for the express purpose of troubleshooting system problems, repair of the system, providing assistance to the Provider in using the system, or otherwise fulfilling its obligations under this Service Agreement. RGV HIE does not claim any ownership in any of the content, including any text, data, information, images, sound, video or other material, that Provider may send, store or receive via the Services.

4.3 Data Aggregation. Provider agrees that RGV HIE may use PHI to provide data aggregation services relating to population health management, payor services and public health program support, including development of community reports, provider specific reports, disease registry management and reports, chart audits and ADT notifications. Reports include, but are not limited to analyzing patient needs, utilization patterns, service coordination and integrated care, population health and other issues using patient demographics, allergies, procedure codes, diagnoses codes, encounters, and other data as made available by data contributors. RGV HIE will notify Provider and obtain their approval, prior to releasing location specific data regarding services at Provider's facilities to either another RGV HIE participant or non RGV HIE participant.

5. Provider Responsibilities:

5.1 Permitted Purposes for use of Services. Provider and each Provider Authorized User may use the Services only for the Permitted Purposes described herein. These limits apply: (a) when individuals use their username and password to access data; and (b) when data is delivered automatically and directly into data storage programs, such as an electronic medical record. "Permitted Purposes" means one of the following reasons for which Participant or Participant's users may legitimately use the Services, subject to any additional restrictions contained in Applicable Law:

- a. Treatment of the individual who is the subject of the Health Data;
- b. Payment activities of the Provider for the individual who is the subject of the Health Data which includes, but is not limited to, exchanging Health Data in response to or to support a claim for reimbursement submitted by a Provider to a health plan.
- c. Health Care Operations, as such term is defined under HIPAA, of Provider;
- d. Public health activities and reporting as permitted by Applicable Law, including the HIPAA Regulations at 45 C.F.R. § 164.512(b) or 164.514(e);
- e. Any purpose to demonstrate meaningful use of certified electronic health record technology by Provider, provided that the purpose is permitted by Applicable Law, including but not limited to the HIPAA regulations. "Meaningful use of certified

electronic health record technology” shall have the meaning assigned to it in the regulations promulgated by the Department of Health and Human Services under the American Recovery and Reinvestment Act, Sections 4101 and 4102; and

- f. Uses and disclosures pursuant to an authorization provided by the individual who is the subject of the Health Data or such individual’s personal representative as described in 45 C.F.R. § 164.502(g) of the HIPAA Regulations.

5.2 Impermissible Purposes. Provider shall not use the Services or permit any Provider Authorized User to use the Services to conduct any business or activity, or solicit the performance of any activity, which is prohibited by or would violate HIPAA, HITECH, state law or any Applicable Law or legal obligation, or for purposes that may create civil or criminal liability, including but not limited to:

- a. Uses which are defamatory, deceptive, obscene, or otherwise inappropriate;
- b. Uses that violate or infringe upon the rights of any other person, such as unauthorized distribution of copyrighted material;
- c. “Spamming,” sending unsolicited bulk e-mail or other messages on the Network or sending unsolicited advertising or similar conduct;
- d. Threats to or harassment of another;
- e. Knowingly sending any virus, worm, or other harmful component;
- f. Attempt to gain unauthorized access to RGV HIE’s or any Provider’s computer system; and
- g. Impersonating another person or other misrepresentation of source; except that physicians substituting for or on call for another physicians may use that physician’s log-in and address.

5.3 Certification of Compliance. Each disclosure and each receipt of Health Data by Provider through RGV HIE shall constitute a certification by Provider that Provider is complying with this Services Agreement.

5.4 Operational Responsibilities. Provider shall:

- a. Comply, and ensure that each Provider Authorized User comply with this Service Agreement;
- b. Provide its own web browser and the workstations, desktops, laptops or other hardware, software, and applications as necessary to access RGV HIE web portal via the internet according to RGV HIE specifications;

- c. Update its information with RGV HIE as necessary and required, including but not limited to current users, deleting old users and adding new users within 48 hours of the change in their user status;
- d. Permit its registration information to be audited for consistency with other information sources at RGV HIE's discretion;
- e. Be solely responsible for its use, nonuse and interpretation of any Health Data it receives, and the accuracy of any Health Data it sends, using RGV HIE;
- f. Transmit a minimum data set to RGV HIE database, the data elements of which will be mutually agreed upon in writing by Provider and RGV HIE; and
- g. Update Provider's interface(s) with RGV HIE as needed to ensure ongoing compliance with RGV HIE technology standards for interfaces.

5.5 Passwords and Usernames.

- a. Provider acknowledges that the password and username provided for access to RGV HIE's services are personal to each individual in the Provider's organization whom Provider authorizes to have access to information. Use by anyone other than these individuals is strictly prohibited. Provider agrees to provide RGV HIE with the name of an individual ["Superuser"] responsible for managing assignment and use of passwords by all individuals for whom Provider authorizes access. Provider agrees to provide the identifying information that RGV HIE requests about the Superuser to comply with HIPAA safeguards related to information access, such as name, job title, department, supervisor, and employee number or other identifier.
- b. Provider agrees to notify RGV HIE when user has left employment or is otherwise no longer authorized to access data, within 2 Business days of the change in the user's status, to ensure compliance with this Agreement and the Business Associate Agreement. RGV HIE will be responsible for deleting user accounts, after notification from the Provider. Provider agrees to require the Superuser to complete training and execute a document acknowledging responsibility for management of Provider's authorized users in accordance with this Agreement. Provider understands that the Superuser's responsibility for password management does not extend to authority to edit, amend, or change any data in the RGV HIE system.
- c. Provider agrees to provide information related to active status of authorized users on a regular basis as requested by RGV HIE to audit compliance by Provider with this Agreement.
- d. An individual's use of their username and password acts as a "signature". Provider is accountable for all actions taken by individuals in Provider's organization.

- e. The limits regarding access to and use of data and information in this Services Agreements apply: (1) when individuals use their username and password to access data; and (2) when data is delivered automatically and directly into Provider's data storage programs, such as Provider's electronic medical record.
6. **Data Requests.** RGV HIE may request information from Provider related to potential breach, security or technical issues, and Provider shall not unreasonably refuse to provide information for such purposes. Notwithstanding the preceding sentence, in no case shall Provider be required to disclose PHI to RGV HIE in violation of Applicable Law. Any information, other than Health Data, provided by Provider to RGV HIE shall be treated as Proprietary Information unless agreed otherwise.
7. **Security.** RGV HIE and Provider shall be responsible for and mutually attests that they are maintaining a secure environment, in compliance with HIPAA privacy and security requirements and other Applicable Law, that supports access to, use of, and the continued development of the Services, and shall use appropriate safeguards to prevent use or disclosure of Health Data by such party other than as permitted by this Services Agreement. Provider shall report any instances of noncompliance to RGV HIE within five (5) days upon discovery of the occurrence.
8. **Malicious Software.** Provider and RGV HIE shall use commercially reasonable efforts to ensure that the information and Health Data being transmitted and any method of transmitting such information and Health Data shall not introduce any viruses, worms, unauthorized cookies, Trojans, malicious software, "malware," or other program, routine, subroutine, or data designed to disrupt the proper operation of the RGV HIE system or the Services or any part thereof, or any hardware or software used by Provider or RGV HIE in connection therewith, or which, upon the occurrence of a certain event, the passage of time, or the taking of or failure to take any action, shall cause the RGV HIE or Services or any part thereof or any hardware, software or data used by Provider or RGV HIE in connection therewith, to be improperly accessed, destroyed, damaged, or otherwise made inoperable.
9. **No Reliance on Accuracy or Data Availability.**
- 9.1 Accuracy of Health Data. Nothing in these Terms and Conditions shall be deemed to impose responsibility or liability on Provider or RGV HIE related to the clinical accuracy, content or completeness of any Health Data provided.
- 9.2 Incomplete Medical Record. Each Provider acknowledges that Health Data received via the Services may not include the Individual's full and complete medical record or history.
- 9.3 Reliance on Health Data Availability. Provider acknowledges that RGV HIE cannot guarantee that another Provider shall read and/or reply to a request for Health Data in a timely manner and therefore Provider shall not rely upon the availability of another

Provider's Health Data.

9.4 Carrier Lines. Provider acknowledges that the exchange of Health Data via the Services may be provided over various facilities and communications lines, and information shall be transmitted over local network and Internet backbone carrier lines and through routers, switches, and other devices (collectively, "carrier lines") owned, maintained, and serviced by third-party carriers, utilities, and Internet service providers, all of which may be beyond Provider's or RGV HIE's control. Provided Provider and RGV HIE use security measures in compliance with HIPAA, the Business Associate Agreement, this Services Agreement, and all Applicable Law, Providers and RGV HIE shall assume no liability for or relating to the integrity, privacy, security, confidentiality, or use of any information transmitted over such carrier lines, or any delay, failure, interruption, interception, loss, transmission, or corruption of Health Data or other information attributable to transmission over such carrier lines.

10. **Payment of Fees.** As consideration for the Services, Provider shall pay to RGV HIE the fees set forth in the Statement of Fees attached and incorporated by reference as part of this Service Agreement as Attachment A. Costs for interface development for "interface building and implementation" are the responsibility of the Provider.

11. **Authority to Sign.** Each party represents and warrants that the individual executing this Service Agreement has read and understood its terms and is duly authorized to execute and deliver this Services Agreement. This Services Agreement applies to everyone working for the Provider signing this Service Agreement who has access to information received or sent via RGV HIE's system and the Services, including all physicians, nurses, social workers, office staff and others.

12. **Policies and Procedures.** Provider agrees to comply with RGV HIE's policies and procedures, including privacy and security rules about use of strong passwords, remote access requirements, limitations on use of RGV HIE's services and other privacy and security requirements which are included on RGV HIE's website as updated from time to time. Any new, additional, initial or amendments to RGV HIE's policies and procedures shall not be effective on Provider until delivered to Provider.

13. **Suspension of Access.** Provider understands and agrees that RGV HIE has the right to suspend access to the data or to terminate this Services Agreement, in its sole discretion:

- a. as necessary or appropriate to maintain stability of the network or integrity of the data;
or
- b. as necessary to ensure compliance with law.

RGV HIE will use all commercially reasonable means to attempt to notify Provider before taking such action.

14. Indemnification. To the extent caused by such party, the parties agree to indemnify, defend, and hold harmless each other and each other's respective employees, directors, officers, subcontractors, agents, or other members of its workforce against all actual and direct losses suffered by the indemnified party and all liability to third parties arising from any negligence or wrongful acts or omissions by the indemnifying party or its employees, directors, officers, subcontractors, agents or other members of its workforce during its performance of this Agreement. The indemnifying party shall reimburse for all actual and direct losses, liabilities, fines, penalties, costs or expenses including reasonable attorney fees, which may be imposed as a result of an indemnifying party's actions except that no consequential or punitive damages shall be recoverable. The parties' obligation to indemnify shall survive the expiration or termination of this Agreement. The terms of this Services Agreement shall not be construed to limit or deny any rights or limited liabilities which the parties may enjoy by operation of law.

15. Warranties.

A. PROVIDER UNDERSTANDS THAT THERE ARE NO WARRANTIES WITH RESPECT TO THE ABILITY OF PROVIDER TO ACCESS HIE DATA OR THE QUALITY OF DATA PROVIDED BY RGV HIE. RGV HIE IS MERELY ACTING AS A CONDUIT FOR CERTAIN INFORMATION, AND INFORMATION, RESULTS AND THE QUALITY OF THE DATA PROVIDED BY OR THROUGH RGV HIE IS PROVIDED "AS IS" WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, TIMELINESS, ACCURACY AND USE BY PROVIDER OF THE DATA LIES WITH THE USER OF SUCH INFORMATION, DATA AND RESULTS. RGV HIE DOES NOT GUARANTEE THAT TRANSMISSION OR CONNECTIVITY WILL BE UNINTERRUPTED OR ERROR-FREE.

B. PROVIDER IS SOLELY RESPONSIBLE FOR ALL DECISIONS AND ACTIONS TAKEN OR NOT TAKEN INVOLVING PATIENT CARE, INCLUDING BUT NOT LIMITED TO UTILIZATION MANAGEMENT AND QUALITY MANAGEMENT, RESULTING FROM OR IN ANY WAY RELATED TO THE USE OF DATA OR INFORMATION PROVIDED BY OR THROUGH RGV HIE.

16. Insurance. Provider shall maintain, at a minimum, the insurance coverages described below throughout the term of this Agreement:

A. Cyber Liability and Technology Errors and Omissions Insurance with a minimum of \$1 million each claim and \$1 million in the aggregate. These required limits may be satisfied by a combination of primary and excess insurance policies.

b. Any cyber liability and technology errors and omissions and general liability insurance policies that Provider is required to carry pursuant to this Section shall: (i) name Rio Grande Valley Health Information Exchange, and its respective officers, directors, trustees, and employees as additional insureds, as such parties'

interests may appear with respect to this Agreement; and (ii) be on a primary and non-contributory basis, as to RGV HIE with respect to any other insurance or self-insurance Provider may maintain.

- C. Prior to the policies' effective date and at each policies' renewal, Provider shall request its insurers to issue to RGV HIE, a Certificate of Insurance evidencing the coverage and policy endorsements in effect. Any cancellation or reduction in coverage shall not relieve Provider of its continuing obligation to maintain insurance coverage in accordance with this Section
 - D. RGV HIE shall procure and maintain, with respect to the subject matter of this Agreement, appropriate insurance coverage including, at a minimum, general liability insurance or as may be required by law with adequate limits to cover RGV HIE's activities under this Agreement. Certification of such coverage must be provided to the County as part of this response. Prior to award, Hidalgo County must be listed as a Certificate Holder to the policies.
17. **Breach Notification.** Each party shall report to the other any serious breach of confidentiality or security with respect to Health Data of which it becomes aware. This notification shall not be deemed to supersede or relieve a party's obligations (if any) under relevant security incident, breach notification or confidentiality provisions of this Services Agreement or the Business Associate Agreement and Applicable Law.
18. **Notice.** Each party understands that all notices to be made under this Services Agreement and the BA Agreement shall be given in writing to the appropriate party's representative at the address listed in the signature blocks of this Services Agreement and shall be deemed given: (i) upon delivery, if personally delivered; (ii) upon the date indicated on the return receipt, when sent by U.S. Postal Service Certified Mail, return receipt requested; or (iii) if by nationally recognized overnight courier service that has the capability to track the notice, upon receipt. A party may change its address for receiving notices by written notice to the other party.
19. **Term.** This Services Agreement shall commence on the Effective Date and continue for a term of two years, and automatically renew for additional one year terms, unless earlier terminated under the terms of this Agreement. The Provider or RGV HIE may choose not to renew this Service Agreement or may choose to terminate without cause upon sixty (60) days written notice to the other party at any time.
20. **Termination for Cause.** If either party becomes aware of a pattern of activity or practice that constitutes a material breach or violation of the obligations under the provisions of this Services Agreement, such party has the option to terminate the Services Agreement upon demanding a cure within ten (10) days of providing written notice to the defaulting party, if the breach involves the privacy or security of personal health information or within thirty (30) days for all other breaches. If the defaulting party fails to cure such breach after the ten (10) day period, the party who demanded the default be cured has the right to terminate the Services Agreement immediately. Any breaches or violations of the obligations under

the Services Agreement are subject to the indemnification provisions in this Agreement and under the BA Agreement, and such indemnification obligations shall survive the termination of the Services Agreement.

21. **Procedure upon Termination.** RGV HIE shall continue to extend the protections of this BA Agreement to any information that remains in RGV HIE's possession after termination, if any, and the applicable provisions of this Services Agreement relating to protecting such remaining information shall survive termination of this Agreement
22. **Assignment.** Except in the case of Provider's acquisition by another entity, neither party may assign this Services Agreement or the BA Agreement, to someone else, in any respect, without the prior written consent of the other party, which consent shall not be unreasonably withheld. If Provider is acquired by another entity, the full terms of this Agreement continue to apply to the Provider acquired entity.
23. **Severability.** Each Party understands and agrees that if any condition of this Services Agreement or the BA Agreement is held invalid or unenforceable by a court, the remainder of these Agreements will not be affected and each condition will be valid and enforceable to the fullest extent permitted by law.
24. **Force Majeure.** Each Party understands that they will not be in violation of any provision of this Services Agreement if either Party is prevented from performing any of its respective obligations because of: (i) severe weather or storms; (ii) earthquakes or other disruptive natural occurrences; (iii) strikes or other labor unrest; (iv) power failures; (v) nuclear or other civil or military emergencies; (vi) terrorist attacks; or (vii) acts of legislative, judicial, executive, or administrative authorities.
25. **No Waiver.** Provider understands and agrees that failure or delay by either RGV HIE or Provider to enforce compliance with any condition of this Services Agreement or the BA Agreement will not constitute a waiver of such condition.
26. **Entire Agreement; Conflicts.** The Service Agreement, the BA Agreement, and all Exhibits, if any, to these Agreements constitute the entire agreement between the parties with regard to Provider's participation and use of the RGV HIE and supersede all previous communications, whether oral or written, between the parties with respect to such subject matter. Any actual or perceived conflicts between the Services Agreement and the BA Agreement shall be resolved first with the Business Associate Agreement, then the Services Agreement.
27. **Amendments.** This Services Agreement may be amended only upon mutual agreement in writing signed by each party. Provider acknowledges and agrees that RGV HIE intends for data accessed or transmitted through RGV HIE is to improve patient care and lead to increased efficiency in healthcare, and that there is no intent to violate any law. If, in the reasonable opinion of legal counsel of either party, compliance with this Services Agreement or continued use of RGV HIE to provide access to data as contemplated by

the parties is or could reasonably be found, deemed or construed to be illegal or to violate law, the parties agree to negotiate in good faith to modify this Services Agreement as necessary to comply with law, and if such modification is not possible, this Services Agreement shall terminate upon ten (10) days prior written notice.

28. **Governing Law.** The laws of the State of Texas shall govern this Services Agreement and the BA Agreement, without regard to its conflicts of law provisions. The venue of any action will be Cameron County, Texas.
29. **Independent Contractors.** The parties are independent contracting entities. Nothing in this Services Agreement shall be construed to create a partnership, agency relationship, or joint venture among the parties. No party hereto shall have any authority to bind or make commitments on behalf of one another, nor shall any such party hold itself out as having such authority.
30. **Severability.** Each Party understands that the terms and conditions of paragraphs 3, 14, 15, 16, 17, 22, 28, and 29 contained in this Services Agreement, remain in effect past the completion of the performance, expiration, or termination of this Agreement
31. **Definitions.** For the purposes of the Agreement, capitalized terms shall have the meanings set forth below:
 - a. **Regulatory Terms.** “*Applicable Law*” means the applicable statutes, rules, and regulations of the state of Texas, as well as all applicable federal statutes, rules, and regulations relating to privacy and security such as HIPAA and HITECH. “*HIPAA*” means the Health Insurance Portability and Accountability Act of 1996, as amended and as implemented by the HIPAA Regulations. “*HIPAA Regulations*” means the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information (45 CFR Parts 160, 162 and 164) promulgated by the U.S. Department of Health and Human Services. “*HITECH*” means Title XIII (the Health Information Technology for Economic and Clinical Health Act) of the American Recovery and Reinvestment Act of 2009.
 - b. **Data Terms.** “*Health Data*” means that information which is requested, disclosed, stored on, made available on, or sent through the Services, including, but not limited to, Provider directory information, PHI, individually identifiable health information, de-identified data (as defined in the HIPAA Regulations), Limited Data Sets as defined in the HIPAA Regulations, pseudonymized data, metadata, and schema.
 - c. **Provider Terms.** “*Provider Authorized User*” means Provider (if an individual) or Provider’s credentialed and/or identity-proofed employees who have been authorized by Provider to use the Services.

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Attachment A: Fee Statement

SUBSCRIPTION & ANNUAL FEES			
Software Subscriptions	Monthly Fee	Total Providers	Annual Subscription
HIE Service Subscription (check all that apply)	n/a	n/a	n/a
<input type="checkbox"/> Clinical Document Repository: Cross Enterprise Document Sharing (XDS) compliant repository populated with CCD/C-CDA and other documents if available (Discharge Summaries, Diagnostic reports, etc.) <input type="checkbox"/> Community Provider Portal: a web Portal for Providers to view and access a patient’s clinical documents across a continuum of care. Portal also allows for secure communication across the provider network for referrals. <input type="checkbox"/> EMPI: Enterprise Master Patient Index is our patient matching software used to maintain consistent and accurate information about each patient registered by the HIE.			
Reoccurring Services			
Annual Interface maintenance	N/A	N/A	n/a
One time fees		EMR instance	
(ADT/CCDA Base import-export package)	n/a	n/a	n/a
TOTAL ANNUAL SUBSCRIPTION FEES			\$N/A

- 1. Provider Annual Membership Fee.** Provider agrees to pay the annual membership fees identified in the table above for the two years of this Agreement for all the Services described in Section 4.1.a. of this Services Agreement.

Provider shall pay the annual Membership Fee on a monthly basis for the next month’s services unless Provider and RGV HIE mutually agree in writing to a quarterly or annual payment schedule.

- 2. Adjustment of Membership Fees.** Provider and RGV HIE agree that the Fee Structure is based on the current membership composition of the HIE and that the fee levels are designed to ensure the sustainability of the RGV HIE. Provider agrees that RGV HIE may adjust the Fee Structure and Provider’s Annual Membership Fee upwards or downwards on an annual basis as necessary to ensure the sustainability of the HIE. RGV HIE agrees that Provider may request an adjustment to the Annual Membership Fee should a change occur in the Provider’s circumstances that materially impacts Provider’s net revenues on which the Membership Fee is based.

RGV HIE may adjust Provider’s Annual Membership Fee by written amendment to this Agreement only after sixty (60) days prior notice to Provider. Provider may terminate this

Agreement in accordance with this Agreement if Provider fails to agree with the Fee adjustment.

4. **Taxes.** All fees and other charges for a particular service shall be exclusive of all federal, state, municipal, or other government excise, sales, use occupational, or like taxes now in force or enacted in the future. Hidalgo County is exempt from all federal excise, state and local taxes unless, otherwise stated in this document. Hidalgo County claims exemption from all sales and/or use taxes under Texas Tax Code §151.309, as amended. RGV HIE is not to include tax in any cost figures and Provider is not responsible for any tax that RGV HIE may be required to collect or pay now or at any time in the future and that are imposed upon the sale or delivery of items or services provided pursuant to this Core Service Line Agreement.
5. **Third-Party Fees and Charges.** Provider shall be solely responsible for any other charges or expenses Provider may incur to access or use the service, including any costs associated with interface development.
6. **Failure to Pay Fees.** Provider shall pay fees for rendering services as provided herein payable against RGV HIE's written invoice in accordance with the payment provisions of the Texas Prompt Payment Act, Tex. Govt. Code Ch. 2251