NAPA COUNTY AGREEMENT NO. _____
CITY OF NAPA AGREEMENT NO. _____
CALIFORNIA DEPARTMENT OF STATE
HOSPITALS, AGREEMENT NO._____
AMERICAN CANYON FIRE PROTECTION
DISTRICT AGREEMENT NO. _____

JOINT POWERS AGREEMENT

(Electronic Patient Care Reporting System Participation)

THIS JOINT POWERS AGREEMENT ("Agreement") is made and entered into as of this ___ day of _____ 2017, by and between NAPA COUNTY, a political subdivision of the State of California, by and through its Emergency Medical Services Agency, hereinafter referred to as "COUNTY," the Department of State Hospitals – Napa, a hospital that is part of the California Department of State Hospitals, hereinafter referred to as "STATE," the city of NAPA, a municipal corporation, hereinafter referred to as "CITY," and the AMERICAN CANYON FIRE PROTECTION DISTRICT, a fire protection district operating as a subsidiary district of the City of American Canyon, hereinafter referred to as "DISTRICT."

RECITALS

WHEREAS, pursuant to the Joint Exercise of Powers Act (Government Code section 6500 et seq.), two or more public agencies by agreement may jointly exercise any power common to each of the agencies; jointly exercise such common powers within their own or each others' geographic jurisdictions; and, in lieu of creating an independent agency, may designate one or more of the parties to provide services and property for the common use of the parties; and

WHEREAS, STATE, COUNTY, DISTRICT and CITY (collectively referred to hereafter as "the Participating Jurisdictions") share the common power under their respective governing statutes to engage in emergency medical service response and treatment activities and to acquire medical supplies and equipment needed for such activities; and

WHEREAS, state law requires the use of an electronic health record system that exports data in a format that is compliant with the current versions of the California Emergency Medical Services Information System (CEMSIS) and the National Emergency Medical Services Information System (NEMSIS) standards, and the Participating Jurisdictions now desire to enter into this Agreement to provide for joint funding and participation of a commonly used system by each of the Participating Jurisdictions.

TERMS

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth herein, the Participating Jurisdictions hereby agree as follows:

1.   Term of the Agreement. The term of this Agreement shall commence on the date first above written and shall continue in effect as to a Participating Jurisdiction until terminated as to

that party or dissolved as to all of the Participating Jurisdictions in accordance with Paragraph 7 (Termination); except that the obligations of each Participating Jurisdiction under Paragraphs 4 (Insurance) and 5 (Hold Harmless/Defense/Indemnification) shall continue in full force and effect after such expiration date or early termination in relation to acts or omissions occurring prior to such dates , and the obligations of the Participating Jurisdictions shall also continue after said expiration date or early termination in relation to the obligations prescribed by Paragraph 15 (Access to Records/Retention).

2.   Purpose. During the term of this Agreement, COUNTY shall procure and maintain a contract with Beyond Lucid Technologies (BLT) to provide electronic patient care reporting (ePCR) software. The contract, which was secured pursuant to a Request for Proposals with input by the parties herein, and services provided by BLT are set forth in Exhibit "A," attached hereto and incorporated by reference herein. The Participating Jurisdictions shall comply with relevant provisions of the BLT contract, including Paragraph 1 (License), Paragraph 3 (End-User Agreement), Exhibit A of the BLT contract (End-User Advisory, Terms and Conditions: Telogis Geobase Mapping Software Component) and participate in funding the shared costs of the ePCR software in the manner provided in this Agreement, as set forth in Exhibit B, "Costs," also attached hereto and incorporated by reference herein.

3.   No Agency. In performing any of the obligations or exercising any of the rights conferred by this Agreement, each Participating Jurisdiction shall be acting in an independent capacity; none shall be deemed by virtue of this Agreement to be or to otherwise act in the capacity of an agent for any of the other Participating Jurisdictions; and none of the officers, agents and employees of any of the Participating Jurisdictions shall be deemed to be an employee of any of the other Participating Jurisdictions for any purpose, including workers' compensation and employee benefits.

4.   Insurance. Each Participating Jurisdiction shall obtain and maintain in full force and effect throughout the term of this Agreement, and thereafter as to matters occurring during the term of this Agreement, the following insurance coverage, either through a program of self-insurance satisfactory to COUNTY's Risk Manager or through policies issued by a company having an A.M. Best rating of A:VII or better, or a combination thereof:
    (a)   <u>Workers' Compensation Insurance</u>. To the extent required by law during the term of this Agreement, each Participating Jurisdiction shall provide workers' compensation insurance for the performance of any of Participating Jurisdictions duties under this Agreement, including but not limited to, coverage for workers' compensation and employer's liability and a waiver of subrogation, and shall provide COUNTY with certification of all such coverages upon request by COUNTY'S Risk Manager.
    (b)   <u>Liability Insurance.</u> Each Participating Jurisdiction shall obtain and maintain in full force and effect during the term of this Agreement commercial or comprehensive general liability [CGL] insurance coverage (personal injury and property damage) of not less than FOUR MILLION DOLLARS ($4,000,000) combined single limit per occurrence, covering liability or claims for any personal injury, including death, to any person and/or damage to the property of any person arising from the acts or omissions of that Participating Jurisdiction or any of its officers, agents, employees, volunteers or contractors in performing any of the obligations or exercising any of the rights of that Participating Jurisdiction under this Agreement.
    (c)   <u>Deductibles/Retentions</u>. Any deductibles or self-insured retentions shall be declared and be subject to approval by COUNTY's Risk Manager.

5. Hold Harmless/Defense/Indemnification.

(a) <u>In General</u>. To the full extent permitted by law, each Participating Jurisdiction shall defend, indemnify and hold harmless each of the other Participating Jurisdictions as well as their respective officers, agents and employees from any claims, suits, proceedings, loss or liability, including reasonable attorney's fees, for personal injury (including death) or damage to property, arising out of or connected with any acts or omissions of that party or its officers, agents, employees, volunteers, contractors or subcontractors when performing any activities or obligations authorized by or required of that party under this Agreement. Each Participating Jurisdiction shall notify the other Participating Jurisdictions immediately in writing of any claim or damage related to activities performed under this Agreement. The Participating Jurisdictions shall cooperate with each other in the investigation and disposition of any claim arising out of the activities under this Agreement, providing that nothing shall require either party to disclose any documents, records or communications that are protected under peer review privilege, attorney-client privilege, or attorney work product privilege.

(b) <u>Employee Character and Fitness.</u> Each Participating Jurisdiction accepts responsibility for determining and approving the character and fitness of its employees (including volunteers, agents or representatives) who may be using or have access to the ePCR software that each Participating Jurisdiction is sharing in the funding thereof, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, each Participating Jurisdiction shall hold harmless each of the other Participating Jurisdictions as well as their respective officers, agents, and employees from any liability for injuries or damages resulting from a breach of this provision or a Participating Jurisdictions actions in this regard.

6. Privileges, Immunities and other Benefits. In accordance with California Government Code section 6513, all of the privileges and immunities from liability, all exemptions from laws, ordinances and rules, and all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of the trustees, officers, employees or agents of the parties when performing their functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties associated with performance of this Agreement.

7. Termination.

(a) <u>Termination by a Participating Jurisdiction.</u> Any Participating Jurisdiction may terminate its participation in this Agreement for any reason and at any time by giving no less than ninety (90) days written notice of such termination to all of the other Participating Jurisdictions and specifying the effective date thereof. A Participating Jurisdiction that terminates participation in this Agreement shall be responsible for their funding of shared costs in the calendar year of the effective date of their termination.

(b) <u>Automatic Termination.</u> Failure of the STATE, CITY or DISTRICT to provide COUNTY with proof of the insurance or self-insurance required of that Participating Jurisdiction by Paragraph 4 or to pay COUNTY the total annual costs required of that Participating Jurisdiction under Exhibit "A" shall constitute constructive notice by that Participating Jurisdiction to COUNTY and to all of the other Participating Jurisdictions of that party's intention to terminate the Agreement as to that party. COUNTY's Risk Manager or designee shall send written notice to that Participating Jurisdiction notifying it of its unfulfilled obligation under the Agreement and stating that the Agreement will be deemed terminated as to that party if

the insurance obligations are not fulfilled within thirty (30) days after such notification. If the obligations have not been met by the date stated in the notice, the Agreement shall be terminated as to that Participating Jurisdiction and COUNTY's Risk Manager shall notify all of the remaining Participating Jurisdictions that the termination has occurred.

(c)   Dissolution of the Agreement.   In the event of termination of the Agreement by all, or all but one of the Participating Jurisdictions under subparagraph (a), above, the Agreement shall cease to exist as all of the Participating Jurisdictions except in regard to the provisions in the Paragraphs listed in Paragraph 1.

8.   No Waiver. The waiver by any party to this Agreement of any breach or violation of any requirement of this Agreement by any other party to this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.

9.   Notices. All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any mailed notice, demand, request, consent, approval or communication that either party desires to give the other party shall be addressed to the other party at the address set forth below. Either party may change its address by notifying the other party of the change of address. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.

CITIES	DISTRICT	COUNTY
City of Napa Fire Dept.	American Canyon Fire	Napa County EMS Agency
P.O. Box 660	Protection District	2751 Napa Valley Corporate
Napa, CA 94559	911 Donaldson Way East	Drive
	American Canyon, CA 94503	Building B
		Napa, CA 94558

STATE
Department of State Hospitals
– Napa
2100 Napa-Vallejo Highway
Napa, CA 94558

10.   **Compliance with COUNTY Policies on Waste, Harassment and Drug/Alcohol-Free Workplace, and Computer Use.** Each Participating Jurisdiction hereby agrees to comply, and require its employees and subcontractors to comply, with the following policies (or substantially equivalent policies adopted by STATE, CITY or DISTRICT for their own employees), as such may be amended from time to time, copies of which are on file with the Clerk of the Napa County Board of Supervisors and incorporated by reference herein, and to not engage in any activities, or permit its officers, agents and employees to do so, during the performance of any of its obligations or exercise of any of the rights under this Agreement, which would interfere with compliance or induce violation of these policies by the employees or contractors of any of the other Participating Jurisdictions.

(a)   Waste Source Reduction and Recycled Product Content Procurement Policy adopted by resolution of the Board of Supervisors on March 26, 1991.

(b)   County of Napa "Policy for Maintaining a Harassment Free Work Environment" revised effective August 23, 2005.

(c)   County of Napa Drug and Alcohol Policy adopted by resolution of the Board of Supervisors on June 25, 1991.

11.   Confidentiality/Protected Health Information/HIPAA/Breach Notification/ Encryption.

(a)   <u>Maintenance of Confidential Information.</u> Confidential information is defined as all information made available to Participating Jurisdictions through the ePCR software jointly funded and accessible by Participating Jurisdictions. Participating Jurisdictions shall hold all such information it receives through its use of the ePCR software in trust and confidence, except with the prior written approval of COUNTY, expressed through its Emergency Medical Services Administrator. Upon cancellation or expiration of this Agreement, Participating Jurisdictions' access to the information it created and/or stored using the ePCR software shall be limited by the terms set forth in the contract with Beyond Lucid Technologies (BLT), which is referred to in Paragraph 2.

(b)   <u>Protection of Personally Identifiable Information and Protected Health Information.</u>

(1)   To the extent Participating Jurisdictions create, or have access to, Protected Health Information, or any other legally protected confidential information or data in any form or matter, Participating Jurisdictions shall adhere to all federal, state and local laws, rules and regulations protecting the privacy of such information. Participating Jurisdictions shall adhere to all existing and future federal, state and local laws, rules and regulations regarding the privacy and security of protected health information (PHI), including, but not limited to, laws and regulations requiring data encryption or policy and awareness programs for the protection of PHI provided to, or accessed or created by, Participating Jurisdictions. Additionally, Participating Jurisdictions shall only access, use, or disclose PHI if such access, use, or disclosure is in the furtherance of treatment, payment, or health care operations. Any other access, use, or disclosure of PHI is prohibited.   Examples of prohibited access, use, and disclosure include, but are not limited to, access by persons who no longer have a business need for PHI. To the extent Participating Jurisdictions are covered entities under the Health Insurance Portability and Accountability Act (HIPAA), nothing in this Agreement is intended to otherwise alter or modify the obligations imposed upon HIPAA covered entities to safeguard patient information.

(2)   Participating Jurisdictions shall ensure that its staff and any third party organizations or individuals that it engages to perform services that require access to the ePCR system are trained to its privacy and security policies, as well as Paragraph 11 of this Agreement; and procedures and that appropriate physical, technological and administrative safeguards are in place to protect the confidentiality of PHI in the ePCR system. Participating Jurisdictions are individually responsible for ensuring that only authorized and trained staff or individuals are provided access to the ePCR system. Participating Jurisdictions are individually responsible for any privacy or security breaches to the ePCR system caused by its staff or the individuals to whom a Participating Jurisdiction has allowed to access the ePCR system. Upon request, Participating Jurisdictions shall make available its policies and procedures, staff training records and other documentation of compliance with this Paragraph.

(c)   "Breach" is defined as the acquisition, access, use, or disclosure of unsecured Protected Health Information, in a manner not permitted by HIPAA, which poses a significant risk of financial, reputational, or other harm to the affected individual.

(1)   Participating Jurisdictions shall notify COUNTY and other members to this Agreement immediately of any unauthorized access to or disclosure of PHI of which it becomes aware. This includes instances wherein Participating Jurisdictions have not removed access to the ePCR system by individuals who are no longer performing services on behalf of Participating Jurisdictions. Notification to COUNTY shall be made to the EMS Administrator, the County Privacy Officer, and the County HIPAA Security Official. Participating Jurisdictions further agree to provide any legally required consumer notice to any affected individuals whose PHI was compromised.

(2)   Participating Jurisdictions shall be individually responsible for any breach notification and reporting that is necessary to any federal or state agency related to the PHI of said Participating Jurisdictions. COUNTY reserves the right to make a separate determination whether it will also make a breach notification report to any federal or state agency.

(3)   Participating Jurisdictions shall be responsible for all costs associated with Participating Jurisdictions' breach of the security and privacy of PHI maintained within the ePCR system, or its unauthorized access to or disclosure of such PHI, including, but not limited to, mitigation of the breach, cost to the COUNTY of any monetary sanctions resulting from breach, notification of individuals affected by the breach, and any other action required by federal, state, or local laws, rules or regulations applicable at the time of the breach. Participating Jurisdictions shall reimburse COUNTY for all associated costs of a breach, including but not limited to notification costs and associated penalties imposed upon COUNTY, where the breach is attributable to the action or inaction of Participating Jurisdictions.

(d)   <u>Protection of Data</u>. If Participating Jurisdictions shall be processing and storing any PHI from the ePCR system in an offsite location, such as a cloud service site, cloud storage site, hosted application site, or hosted storage site, Participating Jurisdictions shall guarantee that such data is encrypted using an encryption algorithm that meets the current US Department of Defense (DoD) minimum requirements in order to protect COUNTY data against a breach of protected data if lost or stolen. All offsite cloud applications and storage systems utilized by Participating Jurisdictions shall be located in the United States, which includes any backup and failover facilities. Application and storage solutions in any foreign location are prohibited.

(1)   All desktop and laptop computers, as well other similar type computer systems, used by Participating Jurisdictions shall be encrypted using the same DoD encryption algorithm described above. All PHI or data in transit shall require the same encryption. Storage of PHI on removable portable storage is prohibited.

(2)   Upon termination of this Agreement, Participating Jurisdictions shall ensure that any of its PHI stored in the ePCR system is removed from the ePCR system consistent with the requirements set forth in the contract with BLT, which is incorporated by reference and set forth in Exhibit A.

12.   Amendment/Modification. Except as specifically provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of all of the Participating Jurisdictions who are party to the Agreement at the time of the amendment or modification.

13.   Interpretation; Venue.
(a)   **<u>Interpretation.</u>** The headings used herein are for reference only. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California.
(b)   **<u>Venue.</u>** This Agreement is made in Napa County, California. The venue for any

legal action in state court filed by any party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement shall be in the Superior Court of California, County of Napa, a unified court. The venue for any legal action in federal court filed by any party to this Agreement for the purpose of interpreting or enforcing any provision of this Agreement lying within the jurisdiction of the federal courts shall be the Northern District of California. The appropriate venue for arbitration, mediation or similar legal proceedings under this Agreement shall be Napa County, California; however, nothing in this sentence shall obligate any party to submit to mediation or arbitration any dispute arising under this Agreement.

14. **Compliance with Laws/Non-Discrimination.** In performing its obligations and exercising its rights under this Agreement, each Participating Jurisdiction shall observe and comply with all applicable Federal, State and local laws, ordinances, and codes. Such laws shall include, but not be limited to, Government Code section 12940, et seq., known as the California Fair Employment and Housing Act as applied below, except where prohibited by law:

> In its use of the ePCR software under this Agreement, each Participating Jurisdiction and its officers, agents, employees, volunteers and licensees shall not deny the benefits thereof to any person, or discriminate unlawfully against any employee or applicant for employment in connection therewith, on the basis of sex, race, color, ancestry, religion or religious creed, national origin or ethnic group identification, sexual orientation, marital status, age (over 40), mental disability, physical disability or medical condition (including cancer, HIV and AIDS), and shall ensure that the evaluation and treatment of such employees and applicants for employment are free of such discrimination or harassment.

15. **Access to Records/Retention.** Each Participating Jurisdiction, shall have access to any books, documents, papers and records of each other Participating Jurisdiction which are directly pertinent to the subject matter of this Agreement for the purpose of making audit, examination, excerpts and transcriptions. Except where longer retention is required by any federal or state law, each Participating Jurisdiction shall maintain such records for at least seven (7) years after the creation of such record or until all litigation arising in connection with such records are closed, whichever is later.

16. **Authority to Contract.** By authorizing execution of this Agreement, each Participating Jurisdiction warrants to the other Participating Jurisdictions that it is legally permitted and otherwise has the authority to enter into and perform its obligations and exercise its rights under this Agreement.

17. **Third Party Beneficiaries.** Nothing contained in this Agreement shall be construed to create any rights in third parties and the Participating Jurisdictions do not intend to create such rights.

18. **Attorney's Fees.** In the event of any litigation by any of the Participating Jurisdictions to enforce the provisions of this Agreement or to obtain damages for breach thereof, each of the Participating Jurisdictions shall be responsible for their own costs and attorney's fees incurred in connection with such action.

19. **Severability.** If any provision of this Agreement, or any portion thereof, is found by any

court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.

20. **Entirety of Contract.** This Agreement, including its exhibits and any documents expressly incorporated by reference whether or not attached hereto, constitutes the entire agreement between the parties relating to the subject of this Agreement. Participating Jurisdictions specifically intend that this Agreement shall supersede and replace all previous agreements, promises, representations, understandings and negotiations, whether written or oral, among some or all of the parties with respect to the subject matter hereof.

[REMAINDER OF THE PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

DISTRICT:
AMERICAN CANYON FIRE PROTECTION
DISTRICT   APPROVED AS TO FORM:

By _____   By _____
      Glen E. Weeks, Fire Chief   William D. Ross, District Counsel

CITY:
CITY OF NAPA, a municipal corporation   COUNTERSIGNED:

By _____   By _____
      Steve Brassfield, City of Napa Fire Chief   Desiree Brun, City Auditor

ATTEST: APPROVED AS TO FORM:

By _____   By _____
      Dorothy Roberts, City Clerk   Michael W. Barrett, City Attorney

STATE:
DEPARTMENT OF STATE HOSPITALS – NAPA

By_____
      Fire Chief, Trent Schager

COUNTY:

                                                       NAPA COUNTY, a political subdivision of
                                                       the State of California

                                                       By_____
                                                       BELIA RAMOS, Chair of the
                                                       Board of Supervisors

APPROVED AS TO FORM Office of County Counsel	APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS	ATTEST: GLADYS I. COIL Clerk of the Board of Supervisors
By: *Jennifer Yasumoto* Chief Deputy County Counsel Date: March 29, 2017	Date: _____ Processed By: _____ Deputy Clerk of the Board	By:_____

NAPA COUNTY AGREEMENT NO. _____
PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of _____, 2017 by and between NAPA COUNTY, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and **BEYOND LUCID TECHNOLOGIES, INC.,** hereinafter referred to as "CONTRACTOR."

RECITALS

WHEREAS, COUNTY wishes to obtain specialized services in order to obtain Electronic Patient Care Reporting (ePCR) Software and CONTRACTOR is willing to provide such specialized services to COUNTY under the terms and conditions set forth herein.

TERMS

The maximum amount of this Agreement for Fiscal Year 2016-2017, and each automatic renewal, shall be **Seventy Thousand Dollars ($70,000.00)** per fiscal year; provided, however, that such amounts shall not be construed as guaranteed sums, and compensation shall be based upon services actually rendered and expenses actually incurred.

NOW, THEREFORE, COUNTY hereby engages the services of CONTRACTOR, and CONTRACTOR agrees to serve COUNTY in accordance with the Terms and Conditions that are attached hereto and incorporated by reference herein, including Exhibits A through E.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

NAPA COUNTY, a political subdivision of the State of California	CONTRACTOR

By _____
     BELIA RAMOS, Chair of the Board of Supervisors
 	
ATTEST: GLADYS COIL, CLERK of the Board
By: _____
 	
DATE APPROVED BY THE BOARD: _____
 	
Processed by: _____
          Deputy
	Signature
	
	Printed Name of Person Signing, and Title, if applicable
	
	JONATHON FEIT, Chief Executive Officer
	Signature
	
	Printed Name of Person Signing, and Title, if applicable
	
	CHRISTIAN WITT, President and Chief Technology Officer

Maximum Amount of this Agreement: $70,000	APPROVED AS TO FORM BY NAPA COUNTY COUNSEL
Term Expires: June 30, 2017 Automatic renewal of term applies [X] does not apply [ ] is modified [ ].	By: _Jennifer Yasumoto,_ Chief Deputy Date: March 20, 2017

Definitions. Capitalized terms used herein shall have the following definitions ascribed to them:

"**Agency**" or "**Agencies**" means the organization that is, owns, operates, or manages the End-User(s).

"**Affiliate**" of any particular Person means any other Person controlling, controlled by or under common control with such particular Person, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, contract or otherwise. However, market-based relationships, where no corporate ownership exists, shall be insufficient for purposes of this section.

"**Application**" means the several software components that comprise the MediView-brand software, whether taken together or separately, in any build or format, and whether contained within a Client Service Layer or accessed externally (i.e., via Cloud), incorporating various proprietary technical subcomponents, including but not limited to: mapping data and GPS functionality, multimedia functionality (including but not limited to photography, full-motion video transmission and capture, audio transmission and capture, Portable Document Format ("PDF") file transmission and capture, facsimile transmission, or other media formats), and various data collection, display, and transmission algorithms and protocols.

"**Billable Patient Care Records**" means the number of patient care records that have been generated by the software within the billing period (without regard for the present state or context of such records), minus the number of patient care records that have been Delete Requested and/or Delete Confirmed in the same monthly (or billing) period.

"**Client**" means a local software build and associated components that reside on a portable OR non-portable device, but which does not absolutely require an Internet connection in order to operate.

"**Cloud**" means a non-local software build and associated components that reside on the Internet, whether through a public access network and/or a private server (that is, one that is owned by, operated by, or licensed for use by CONTRACTOR and that are accessed via an Internet connection.
"**Company**" means CONTRACTOR its affiliates, employees, agents, and assignees.

"**Contract Year**" means a period of one (1) year beginning on the Effective Date and each anniversary thereof.

"**Copy or Copies**" means any reproduction, in any form, of all or any portion of the Licensed Software, any of its components, or derivatives thereof.

"**Effective Date**" is the date of signature on the cover page under the following heading: *"Signature indicates acceptance of agreement terms & conditions."*

"**End-User**" means an individual Licensee, and any single employee, agent, franchisee, or contractor of Licensee, who receives or uses a Copy on behalf of Licensee for Licensee's internal or corporate use.

"**Licensed Software**" means the specific build of the MEDIVIEW-brand software authorized for use under this Agreement.

"**Map Data**" means (i) map information described above as "Map Data" or equivalent data licensed under this Agreement that provides the geophysical and infrastructure locations in a specific geographic area and that is used by an Application Program to accurately display physical locations of streets, structures, and the tracking device containing the Application Program, and may display routes and other functional information and (ii) satellite and aerial imagery and related data described above as "Map Data", if to be provided under this Agreement.

"**Map Data Provider**" means an entity indicated as the "Map Data Provider" or another entity from whom Company obtains Map Data under this Agreement, and shall also include such entity's subsidiaries, collectively and singly, unless the context of this Agreement clearly requires otherwise. "**Term**" means the period of this Agreement from Effective Date through Expiration Date.

"**Update**" means the most recent version of the Licensed Software released by the Company since the prior delivery of Licensed Software to Licensee, and made available to the Agency or End-User by the Company or a contractor, either in fixed form (such as a compact disc) or via download.

1. **LICENSE.**

    1.1 <u>License Grant.</u> CONTRACTOR grants to Licensee a non-exclusive, non-transferable (except as permitted by this Agreement) revocable license to use Licensed Software, and to distribute Copies of the Client Application among its End-Users, subject to the following restriction: at most one (1) Copy of the Licensed Software may be used per device upon which the Client Application resides, and at most one (1) login to the Cloud Application may be used per Copy of the Client Application that is licensed to the Agency. An exception to this provision shall be allowed only if End-User has purchased, and attempts to utilize, more than one version of the Application (for example, MediView™ Mobile and MediVew™ for Heavy Industry, or another brand derivative.) The License granted for cloud and Client Application access shall be the same length as this Agreement.

    1.2 <u>CONTRACTOR's Representations.</u> CONTRACTOR warrants the Licensed Software is operable as to the Version of the software purchased by Licensee, and as to that Version only. CONTRACTOR expressly disclaims any liability for the stability of Third-Party Components (incorporated herein as Exhibits, if any). Hardware and other third party components which are sold as part of CONTRACTOR's solutions are warranted by their manufacturers. CONTRACTOR expressly disclaims liability for those third party components. CONTRACTOR will provide the Licensed Software; compatible hardware, if purchased from CONTRACTOR; a quick start manual (in print or digital form); troubleshooting tips; and basic technical support; CONTRACTOR may make available advanced, after-hours support with purchase of an advanced support package.

         1.2.1 <u>Basic Technical Support</u>: CONTRACTOR shall provide telephone technical support, Monday to Friday, 8:00am to 6:00pm Pacific Standard Time. Subject to change without notice.

1.3   Reverse Engineering. Licensee agrees not to, or to allow any third party to, disassemble, decompile, derivate, or otherwise reverse engineer the Licensed Software or any of its components. If CONTRACTOR becomes aware of any such activity, CONTRACTOR reserves the right to immediate deactivate the Application.

1.4   Ownership. Licensee acknowledges and agrees that the Licensed Software, its components, and its associated documentation, are licensed, not sold. CONTRACTOR reserves all rights not expressly granted to Licensee in this Agreement. Licensee agrees that CONTRACTOR and/or the various suppliers with which CONTRACTOR contracts, are respectively the sole and exclusive owners of all rights, title and interest, including all Intellectual Property Rights, in and to the Licensed Software and its components as applicable, including any sub-components, corrections, updates, derivative works and associated documentation thereof, and that Licensee will not contest such ownership. Except for the rights expressly enumerated herein, Licensee is not granted any rights in any Intellectual Property Rights by CONTRACTOR or any of the suppliers with which it contracts. Licensee acknowledges that certain portions of the Application may originate as open source software, and that to these portions of the Application CONTRACTOR makes no claim of ownership.

1.5   Licensee acknowledges that CONTRACTOR is not responsible, makes no claim for, and does not warranty any component utilized in the operation of the Application that is not part of the Application. LICENSEE AGREES THAT REMEDY SHALL BE SOUGHT EXCLUSIVELY FROM THE MANUFACTURER OF ANY NON-APPLICATION COMPONENT (i.e., not produced by CONTRACTOR). This provision shall extend to, but not be limited to, computer hardware, network connectivity cards, power adapters, printers, wires, display monitors, batteries, disc drives or memory, embedded or preinstalled software, drivers, interoperability bridges, browsers, network uptime, or any other part, service, or program not specifically identified as part of the Application, and installed by CONTRACTOR (whether such installation is completed in-person by CONTRACTOR or by the Agency or End-User after downloading Application from the Internet).

1.6   For the purposes of this Agreement, "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

1.7   Proprietary Notices. Licensee shall not reverse engineer, make unauthorized copies of the Licensed Software, or in any way attempt to infringe upon proprietary notices or ownership indicators such as the MEDIVIEW™ splash and start-up screens, "About" information that identifies the name and version of the Licensed Software, and/or any contracted components that comprise the Application.

1.8   Trade Secrets. Licensee acknowledges and agrees that the proprietary information and know-how, techniques, algorithms, and processes contained in the Licensed Software and Map Data, or any modification or extraction thereof, constitute trade secrets of CONTRACTOR, and/or its suppliers and shall only be used by Licensee in accordance with this Agreement. Therefore Licensee shall, by all necessary means, protect such trade secrets, including without limitation, securing, and/or maintaining employee confidentiality agreements, security access to the Licensed Software, password protection, numbered copies, and all other legal and equitable means. Licensee shall not disseminate any portion or modified portion of the Licensed Software, Application, or any of its components, or any computer software or hardware embodying or based upon the foregoing, to any third party, except as expressly provided for in this Agreement and/or by expressed written consent of an Officer of CONTRACTOR. Licensee shall not publish any portion of the Licensed Software in a public forum.

1.9   Unauthorized Use, Distribution or Copying. Licensee acknowledges and agrees that it is prohibited from using, copying, distributing, duplicating, or otherwise reproducing all or any part or translated part of the Licensed Software, the Application, or its components, and that any such action is a material breach of this Agreement that subjects the license to termination and the Licensee to legal and equitable remedies, including immediate deactivation of the Application and sequestration of all data that CONTRACTOR reasonably believes may have been compromised, except as provided by law. In no case shall Licensee modify or create any derivative application that relies upon use of any component of the Application or the Licensed Software taken as a whole, or distribute any portion of same to any End-User outside the Agency, EXCEPT when derivative applications are developed with CONTRACTOR's consent and agreement to support.

1.10   Changes to the Licensed Software. All right title and interest in the Licensed Software, including but not limited to, any designs, modifications, or other changes made by Licensee, shall remain the property of CONTRACTOR or its suppliers. Any trademarks, copyrights or other intellectual property rights associated therewith are and shall remain the property of CONTRACTOR and/or the respective owners of such Intellectual Properties.

1.11   Delivery. CONTRACTOR shall deliver or make available for download to Licensee (or Agency, if different from Licensee and duly requested by the Licensee in writing) as many copies of the Licensed Software as called for on Page one (1) of this Agreement within fourteen (14) calendar days or ten (10) business days of the effective date indicated on cover page.

1.12   Updates; Major New Application Releases. CONTRACTOR may, from time to time, make updates to the Application or its components (including, but not limited to, map data, usability functions, and other components of the Application) available to Agencies and End-Users during the duration of this Agreement. "Updates," as defined in this section, may not include major new functionalities that are occasionally released, are marketed as products and services entirely separate from the MEDIVIEW product

suite, and are significant enough to warrant a separate product code and/or price. Such "new major application releases" are distinct from no-additional-cost "updates," a distinction that shall be bestowed by the CONTRACTOR in its sole discretion. New major product releases may not be provided to all subscribers at zero cost, depending on the technical specifications of the new product and the market circumstances surrounding their release. Licensees may be offered the opportunity to purchase additional or separate licenses to obtain new major application releases.

1.13   Specifications; Disclaimer Against Third-Party Data. CONTRACTOR reserves the right to modify the content specifications for the Licensed Software at any time, including, without limitation, adding, deleting and re-defining functions; provided, however, that CONTRACTOR will provide Licensee with at least three (3) months prior notice of any modification to the specification which deletes or significantly redefines a function. Licensee acknowledges that Map is subject to change by its supplier, and that such changes may be outside of CONTRACTOR's control. CONTRACTOR makes no claim with respect to the accuracy of any data provided to it by a third-party supplier, and, except where prohibited by law, Licensee specifically indemnifies CONTRACTOR, its affiliates, and suppliers against any and all claims arising from any inaccuracy in, or change to, data that is supplied to and/or incorporated into application or the Licensed Software taken as a whole.

1.14   In the event that an update to the Application impinges upon the Licensee's ability to access the Licensed Software (for example, an unforeseen compatibility problem arises), CONTRACTOR shall utilize commercially reasonable efforts to restore the Licensed Software to the last fully operational state it was in prior to the problem. The Licensee shall have fix (6) months to upgrade to the newer version. During such time, CONTRACTOR will continue to support one version behind the current version. For example, if the Licensee currently operates version A.1, and CONTRACTOR has released version A.2, CONTRACTOR will continue to support A.1 for six (6) months. At the expiration of six (6) months, prior versions will no longer be supported, nor will updates and fixes be made available for prior versions. Licensee shall be required to upgrade to the newest version of the Application within the derivative originally purchased. At any time during the duration of this Agreement and without prior notice, in order to either remedy or forestall a problem of the sort describe in this section, CONTRACTOR may replace the Application or any component thereof with a substantially equivalent Application without the prior consent of Licensee, subject to the notification requirement defined herein. Such replacement may occur remotely, via required/forced download, or by sending a compact disc or other media to Licensee by mail.

2.   **LICENSE FEES AND CANCELLATION**

2.1   Software License Usage Fee. In consideration for the license granted under this Agreement, upon execution of this Agreement Licensee shall pay CONTRACTOR a license fee in the amount of the then- current price as posted on CONTRACTOR's website at www.beyondlucid.com, or as detailed on the cover page of this Agreement.

Such fees shall be payable at the conclusion of thirty (30) calendar days of the Effective Date.

2.1.1 License is cancellable with thirty (30) calendar days' written notice to CONTRACTOR. If customer has chosen to pay in full up front, CONTRACTOR shall refund the unused portion of the service, subject to cancellation fees. Service refers to the number of patient care records, if any, that have been prepaid by Licensee. If Licensee has elected to pay in advance on a monthly basis, then CONTRACTOR shall refund the unused portion of the month, and Licensee shall be subject to cancellation fees as outlined below. If Licensee pays for each month's records in arrears, then no refund is due. Annual software license fees for the current contract year, which are due in full upon activation and on each anniversary thereafter, are not refundable. Fees for custom work, including (but not limited to) integration costs to connect with external systems, are not refundable.

2.1.2 License renewal fees shall be payable within thirty (30) calendar days of the anniversary of the Effective Date, unless otherwise agreed in writing.

Following the probationary period (if any) set forth on the cover page of this Agreement, all cancellations of service during its effective period are subject to a cancellation fee equal to the price of three (3) months of service at the then-current rate or the highest rate-for-service provided for in this Agreement, whichever is higher. In the event of a pay-as-you-go contract, a "month of service" shall be defined as one-twelfth of the annual cost of the Licensed Software plus one-twelfth of the estimated annual number of patient contacts, as indicated on the cover sheet of this Agreement. Cancellations must be received in writing from the Point of Contact or another authorized officer of the Agency. Documentation may be required to verify authorization to contractually bind or cancel contracts entered into by the Agency. All cancellations must be in writing with thirty (30) days written notice to CONTRACTOR by certified mail or other form of post that contains a tracking number. No other form of cancellation notice is allowed and billing will continue until such cancellation is received from End-User.

2.2 <u>Support and Maintenance; Fees.</u> Fees, support, and maintenance for the Licensed Software, including Updates, are described on page one (1) and will be due on each anniversary of this Agreement in advance of the year, within thirty (30) calendar days after the date of invoice. During CONTRACTOR's normal business hours, 8:00am to 6:00pm PST (subject to change without notice), CONTRACTOR shall use commercially reasonable efforts to provide e-mail and telephonic assistance and technical support with respect to the use of the Licensed Software, the Application, and its components. In addition, Agencies and End-Users may purchase a legal right (as applicable) to technical support with respect to hardware and software, for an additional fee. Such fees are established on a case-by-case basis unless otherwise stated, and may be provided by CONTRACTOR, a contractor or a supplier, based on the nature of the issue.

2.3   Taxes. Licensee is solely responsible for payment of any and all use taxes arising from license or usage fees, third-party fees (including, but not limited, to fees pertaining to network connectivity), hardware or network access plans, duties, other governmental charges, and any related penalties and interests, arising from this Agreement. Except where prohibited by law, Licensee will indemnify and hold CONTRACTOR and all its suppliers harmless against any and all violations of this section.

2.4   Manner of Payment. All payments made by Licensee to CONTRACTOR hereunder shall be made by means of official check (issued to CONTRACTOR), credit card, or wire transfer of funds in United States currency, and to the bank account as CONTRACTOR may from time-to-time direct. Provision of services or devices under this Agreement, including but not limited to the shipment of hardware and/or the activation of Licensed Software (both Cloud and Client Applications) is subject to verification of payments received.

2.5   Late Payments. To the extent allowed by law and except where prohibited, accounts receivable by CONTRACTOR that are over thirty (30) days past due are subject to late payments and/or interest charges at an APR equal to the lesser of 18% or the maximum rate permitted by law from the original due date until paid in full. CONTRACTOR shall be entitled to recover any out-of-pocket expenses incurred in collecting payments due, including, without limitation, bank charges for returned checks and attorney's fees. Recurring delinquencies following notice may result in service suspension. CONTRACTOR bears no liability if services have been suspended for nonpayment.

2.6   Audit. CONTRACTOR shall have the right, at its own expense and with reasonable notice, during business hours, and not more often than two (2) times per year (unless under legal order by a governmental or judicial entity), to inspect and audit the usage records and other relevant information of Licensee Agency and End-Users, to verify compliance with this Agreement, including but not limited to, the number of Licensed Software installations in use by the Agency, and compliance with privacy laws and regulations. If requested by CONTRACTOR, Licensee agrees to furnish relevant records and information in advance of the audit so as to facilitate the audit. Both CONTRACTOR and the Agency shall maintain the confidentiality of such audit to the extent required under Section 8 (Confidentiality). If such audit determines that the Agency or End-User is in violation of this Agreement with respect to the number of software installations in use, then the reasonable expense of the audit, unless prohibited by law, shall be borne by Licensee Agency or End-User and Licensee Agency or End-User shall pay to CONTRACTOR the difference between the number of software installations (both Cloud and Client Application, taken separately) that are actually in use at the time of the audit, and the number of software installations (both Cloud and Client Application, taken separately) that have been authorized under this Agreement, Licensee shall pay CONTRACTOR any amount shown to be due by an audit within thirty (30) calendar days of completion of the audit, plus any applicable interest, except where prohibited by law, as specified herein on the amount of the underpayment. If such audit determines that the Agency or End-User is in violation of this agreement with

respect to any other curable provision of this Agreement, CONTRACTOR shall provide written instructions to Agency detailing how such breach much be corrected. If any material breach of this agreement is not cured, to the satisfaction of CONTRACTOR, within thirty (30) calendar days of the date that notification was provided, CONTRACTOR shall have the right to immediately terminate this Agreement and deactivate the Application.

2.7   Minimum Use / Idle Account Fee. Licenses are subject to a minimum use or "Idle Account" charge equal to 1/12 per license of the total annual license price indicated on the cover sheet attached to this Agreement. This charge is supplemental to license fees, and will only be applied if Licensee Agency fails to create and accept any records within any 30 day period following the agreed-upon "go-live" date (or if no "go-live" date has been specifically defined, then 30 days following the provision of notice by email to the POC that the Licensee Agency's database setup is complete), unless otherwise agreed by CONTRACTOR and Licensee Agency in writing. The Idle Account charge shall be re-applied every 30 days until the account is rendered active in accordance with this section, or is terminated in accordance with section 2.1 of this Agreement (early termination fees, if any, will apply)

3.   END-USER AGREEMENT.

3.1   In General. Before delivering or providing access to the Licensed Software or any of its components to an Agency or End-User, CONTRACTOR or distributors of its Licensed Software shall require each Agency or End-User to accept this legally binding end-user license agreements with respect to several components of the Application, as provided in Exhibits to this Agreement. CONTRACTOR's suppliers may reserve the right to review and verify that the End-User Agreement complies with the obligations under this Section, and the right to amend and/or replace End-User Agreement and the form and manner of presentation thereof after providing 90 days advance written notice to CONTRACTOR, which will provide like notice to the Agency or End-User. Suppliers may require Agency or End-Users to accept such amended and/or replaced agreements. In addition to the foregoing, CONTRACTOR or distributors of its Licensed Software shall provide each Agency or End-User with any and all legally required and otherwise necessary and appropriate training, instruction, warnings, disclaimers, and safety information to use Licensed Software.

3.2   Termination of End-User Licenses. Licensee is responsible for End User's compliance with this Agreement in its entirety. A breach by End User shall be considered a breach by Licensee.

3.3   Error Reporting. Licensee agrees to promptly report to CONTRACTOR any errors, disruptions, inaccuracies, missing information, misappropriation, unauthorized use, security breach, public disclosure, and any other problems concerning the Licensed Software or any component of the Application upon Licensee's discovery thereof, and shall cooperate with CONTRACTOR efforts to prevent the same. Upon receipt of Notice under this section, CONTRACTOR shall make commercially reasonable efforts

to provide a solution through the use of a patch, fix or other means. CONTRACTOR is entitled to use such information without charge, attribution, or limitation. Without limiting the foregoing, CONTRACTOR and its suppliers shall have the right to use such information in, or to improve, the Licensed Software, the Application, and its several components. The Agency or End-User shall not retain, acquire or assert any right, title or interest in or to the Licensed Software, the Application, or any component thereof, or the Intellectual Property Rights thereto, based on the transfer or use of such information (or derivatives thereof) in the Licensed Software, Application, or any component thereof. Licensee grants CONTRACTOR permission to use, without notice, royalty, exclusivity, or license, all suggestions and recommendations presented to it with respect to the Licensed Software, including in the creation of new features and functionalities that may appear in future versions of the Application. Neither Licensee Agency nor End-Users shall bear any claim to Intellectual Properties generated through ideas presented to CONTRACTOR as described herein.

3.4   <u>Excess Data Use Fee</u>: Each patient care record that exceeds 3 MB in aggregate (including attachments, imported data, and captured images) shall be assessed a one-time data surcharge of $0.05 per megabyte in excess of 3 MB. This surcharge will appear on Licensee Agency's monthly statement in the month during which the record exceeded 3 MB and/or on the Licensee Agency's annual true-up, and will identify details including (but not limited to) the applicable patient care record numbers, the size of said patient care records (in excess of 3 MB), and the total amount due and payable. Payment for excess data usage shall be due on terms equivalent to those of Licensee Agency's payment for patient care records. In the event that records in excess of 3 MB are repeatedly or frequently created by Licensee Agency, the CONTRACTOR technical team will expeditiously notify Licensee Agency when the pattern is observed, and will make all reasonable efforts to set up a technical support discussion with Licensee Agency in order to discuss technical and/or operational means to reduce the record size and associated expenses. However, Licensee Agency is under no obligation to undertake the recommended steps to reduce document size and any associated expenses; and CONTRACTOR reserves the right to continue billing Licensee Agency, as provided in this section, for continued creation and processing of large records after being notified of the matter by CONTRACTOR.

4.   <u>TRADEMARKS AND MARKETING.</u>

4.1   <u>Display of Marks</u>. Licensee shall conspicuously display CONTRACTOR's trademarks and logos ("**Marks**"), as well as any Marks that are included as part of the Licensed Software, in the instructions (printed and electronic), and in all packaging and other written materials, which accompany or relate to the Licensed Software, the Application, or its components. Licensee will only use Marks provided to it by CONTRACTOR.

4.2   <u>Approval of Collateral</u>. Prior to publishing or distributing any advertising or marketing materials ("**Collateral**") and/or any press releases or other public announcements relating to CONTRACTOR or the Licensed Software, Agency or End-User shall submit a sample of the final version of any such Collateral and Announcements to

CONTRACTOR for approval. Agency or End-User shall not publish or distribute such Collateral or Announcements without specific written approval by an authorized CONTRACTOR representative.

4.3 <u>Use of Licensee Marks</u>. With prior approval from Licensee, CONTRACTOR may display the Agency or End-User's trade name, trademark(s), logo(s), and CONTRACTOR and product descriptions and similar information and designations (collectively "**Licensee Marks**") relating to the Licensed Software, in advertisements, brochures, exhibits and other marketing and promotional material of CONTRACTOR (collectively "**Licensor Collateral**"). For the duration of this Agreement, Agency or End-User grants CONTRACTOR a non-exclusive, non-transferable (except as permitted under this Agreement), non-sublicensable right to use the Agency or End-User's Marks as permitted in the preceding sentence. Nothing stated herein shall constitute a grant or other transfer to CONTRACTOR of any right, title or interest in Licensee Marks.

5. **TERMINATION.**

5.1 <u>Initial Agreement Period and Renewal</u>. This term of this Agreement shall commence on the date first above written on page 1 of the Agreement. The term of this Agreement shall be automatically renewed for an additional year at the end of each fiscal year at the pricing set forth in Exhibit B, not to exceed 4 additional years, unless either party gives the other party written notice of intention not to renew no less than thirty (30) days prior to the expiration of the then current term. For purposes of this Agreement, "fiscal year" shall mean the period commencing on July 1 and ending on June 30. Thereafter, Agency will have the right to renew for successive one (1) year periods, unless either party elects not to renew by providing a written notice of non-renewal at least thirty (30) days prior to the end of then-current service period, provided that CONTRACTOR will have the right to amend pricing for any renewal agreement period if CONTRACTOR provides prior written notice of the price amendments at least sixty (60) days prior to the end of then-current period.

5.2 <u>Termination for Breach</u>. If either party materially breaches this Agreement, and fails to cure such a breach within thirty (30) days after receiving written notification of such breach from the non-breaching party, the non-breaching party may immediately terminate this Agreement as well as access to the Application. This provision shall not restrict the non-breaching party's right and/or ability to pursue remedies, in law and in equity, to protect its interests.

5.2.1 Termination for reverse engineering, copying, distribution, or any other breach of intellectual property rights or violation of trade secrets: If Licensee breaches this Agreement through any of the above means, or related means, this Agreement shall be deemed immediately breached. No notice shall be required. Licensee shall have no opportunity to cure, and CONTRACTOR may take immediate injunctive action, as well as seek additional remedies.

5.2.2 Termination for lack of payment: Licensee shall have thirty (30) calendar days to

cure breach for lack of payment, after initial Late Payment Notice has been sent.

5.3   <u>Termination for inability to repair Application</u>: If CONTRACTOR is unable to repair problems in the Application, CONTRACTOR shall refund the the pro rata portion of usage paid for but unused to date. Licensee shall have no other remedy.

5.4   <u>Termination for Bankruptcy</u>. Either party may immediately terminate this Agreement if any of the following events occurs with respect to other party: (i) insolvency of the other party; (ii) voluntary bankruptcy or application for bankruptcy by the other party; (iii) involuntary bankruptcy or application for bankruptcy, by the other party, which is not discharged within sixty (60) days; (iv) appointment of receiver for all or a portion of the other party's assets; or (v) any assignment by the other party for the benefit of creditors.

5.5   <u>Termination Caused by Third-Party</u>. CONTRACTOR may terminate this Agreement or access to certain components of the Application if CONTRACTOR's right to distribute third-party data is restricted in any way. CONTRACTOR will endeavor to provide Agency or End-User with as much notice as reasonably possible, if it is possible to do so. In accordance with this Agreement, if it is reasonably possible to do so. Licensee may seek remedy under section 5.3.

5.6   <u>Effect of Termination</u>. All licenses granted by CONTRACTOR and/or Map Data Provider to Licensee shall terminate upon any termination or expiration of this Agreement, and, except as expressly permitted herein, Licensee and/or End-User (if different from Licensee) and/or any distributors, if applicable, shall immediately cease all use of the Licensed Software and Map Data and use or distribution of the Application Program, Map Data, and related documentation, and shall return to CONTRACTOR or destroy (and provide written certification of such destruction) the Licensed Software, and Map Data, and any and all copies thereof within ten (10) business days following any such termination or expiration. A duly authorized officer of Licensee shall certify in writing to CONTRACTOR that all such materials have been returned or destroyed within the applicable ten (10) day period. If this Agreement is terminated prior to the end of the Initial Period or any applicable Renewal Period for any reason other than material breach of this Agreement by CONTRACTOR, Licensee shall pay to CONTRACTOR a cancellation fee as detailed in this Agreement. Notwithstanding the foregoing, all perpetual licenses for the Application Program granted to End-Users will remain in place provided that Licensee has paid for those licenses and End-Users are in compliance with the End-User Agreement.

    5.6.1   Section 3.3 and Sections 6-13 of this Agreement shall continue to bind the parties;

    5.6.2   Licensee agrees to cease use of the Application;

    5.6.3   CONTRACTOR may, but is not obligated to, remove the software from Licensee's system and possession;

    5.6.4   CONTRACTOR is not liable to Licensee or any third party for termination of access to the Application;

    5.6.5   CONTRACTOR retains all rights to the wireless data line (if purchased through

CONTRACTOR) and any GPS license(s);

5.6.6 Within not longer than sixty (60) days from the date of termination, CONTRACTOR shall, upon specific request from Licensee, make available to Licensee a backup copy of all data sets and records collected through use of the Application, in accordance with this Agreement and applicable laws and regulations. Such data will be provided in a commercially accessible database, spreadsheet or tabular format.

6. **NOT A MEDICAL DEVICE.** NO PORTION OF THE LICENSED SOFTWARE, THE APPLICATION, OR ITS COMPONENTS ARE INTENDED TO DIAGNOSE, TREAT, CURE, OR PREVENT ANY DISEASE OR MEDICAL CONDITION. **THE LICENSED SOFTWARE AND THE APPLICATION ARE NOT MEDICAL DEVICES. AGENCIES AND END-USERS ARE HEREBY ADVISED THAT USE OF THE LICENSED SOFTWARE AS A LIFESAVING TOOL CONSTITUTES A VIOLATION OF THIS AGREEMENT.** EXXCEPT WHERE PROHIBITED BY LAW, agency or end-user hereby irrevocably indemnifies CONTRACTOR its agents, affiliates, employees, officers, investors, and suppliers against any and all claims that may arise from use of the licensed software in a manner that violates this section. The Licensed Software, the application, and its components are intended for logistical support, productivity, and documentary purposes only. Any other use is beyond the scope of, and in violation of, this agreement and the Application's intended purpose. CONTRACTOR uses industry-standard or higher levels of security software to safeguard all collected personally identifiable data, and believes that it is in compliance with current HIPAA-HITECH technical requirements. A list of technical features pertaining to HIPAA-HITECH compliance is attached as Exhibit D. If, at any point, a government agency or other third-party (including a supplier to CONTRACTOR) restricts CONTRACTOR's ability to operate freely within the marketplace or maintain its obligations under this agreement, this agreement shall be subject to immediate termination and due notice shall be provided to Agency and End-Users, in accordance with this Agreement.

7. **DATA OWNERSHIP; RIGHTS AND RESPONSIBILITIES.**

7.1 Data collected using the Licensed Software is the property of Licensee Agency, and shall be made available to Licensee Agency in XML and/or SQL format via secure download or transfer to fixed digital media (e.g., DVD, hard disc, flash drive, or similar fixed media), at no cost, upon request by the Licensee Agency, at a frequency set forth in accordance with the service package or subscription licensed to Licensee Agency by virtue of this Agreement. Details associated with service plans, including data download frequency, are included with the subscription registration documentation, and can also be found online at http://www.beyondlucid.com.

7.2 Data collected using the licensed software and identifiable as belonging to a specific Licensee Agency, End-User, or transported individual, shall not be shared with other Licensee Agencies, with the exception of "covered entities" as authorized by the patient, Licensee Agency, and/or within the context of a Health Information Exchange, Accountable Care or Community Paramedicine organization, or other data-sharing model, or as required by law or judicial action. DUE TO ITS STATED STRUCTURE

AND INTENT, UNLESS INDICATED BELOW, USE OF THE LICENSED SOFTWARE SHALL BE DEEMED AS AUTHORIZING THE ELECTRONIC SHARING OF PATIENT CARE RECORDS BETWEEN LICENSEE AGENCY AND AFFILIATED CARE FACILITIES WITH WHICH LICENSEE AGENCY CURRENTLY EXCHANGES PATIENT CARE RECORDS, IN ACCORDANCE WITH HIPAA-HITECH AND OTHER APPLICABLE LAWS. Access to data collected by Licensee Agency may be requested by email, certified or registered post mail. An automatic download or transfer of collected data by other means may also be set to automatically occur at a frequency determined by the aforementioned service package or subscription, and delineated as an attached Exhibit.

7.3   Notwithstanding the provisions of this section regarding ownership of data collected using the Licensed Software, CONTRACTOR shall maintain a duplicate set of all records for a period of at least seven (7) years, or as required by law or regulation for compliance and audit purposes. Licensee Agency acknowledges that duplicate records are not a substitute for diligent record maintenance by Licensee Agency, in accordance with applicable laws and regulations. Duplicate records shall be secured in accordance with the Health Insurance Portability and Accountability Act (HIPAA) the Health Information Technology for Economic and Clinical Health (HITECH) Act, and other application regulations. Any perceived violation of either of these Acts shall be brought directly to the attention of CONTRACTOR's Chief Executive Officer using the primary office phone number and/or email published on CONTRACTOR's main website at http://www.beyondlucid.com.

7.4   As allowed by law, and with all necessary precautions taken to ensure patient privacy and redact personally identifiable information, CONTRACTOR and its assigns shall have the right to query and/or investigate collected data IN AGGREGATE ONLY, without seeking specific-use authorization, for analytic, investigational, and/or quality assurance / improvement purposes.

8.   **DISCLAIMER.**   THE LICENSED SOFTWARE, APPLICATION, AND ALL COMPONENTS THEREOF, AND ANY RELATED DOCUMENTATION AND SERVICES, ARE PROVIDED "AS IS" AND "WITH ALL FAULTS BASIS." CONTRACTOR AND ITS SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. WITHOUT LIMITING THE FOREGOING, CONTRACTOR EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF ANY KIND, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF TITLE, QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR NONINFRINGEMENT. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, CONTRACTOR DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE LICENSED SOFTWARE, NOR OF THE APPLICATION OR ITS COMPONENTS, NOR THEIR RELATED DOCUMENTATION, NOR OF ANY OTHER MATERIALS OR SERVICES WITH RESPECT TO CORRECTNESS, ACCURACY, RELIABILITY, OR OTHERWISE. NO ORAL OR WRITTEN ADVICE OR INFORMATION PROVIDED BY CONTRACTOR OR ITS SUPPLIERS, OR ANY OF THEIR AGENTS,

EMPLOYEES, OR THIRD PARTY PROVIDERS SHALL CREATE A WARRANTY, AND LICENSEE IS NOT ENTITLED TO RELY ON ANY SUCH ADVICE OR INFORMATION. THIS DISCLAIMER OF WARRANTIES IS AN ESSENTIAL CONDITION OF THIS AGREEMENT.

9. **NETWORK CONNECTIVITY SERVICE LEVEL**. Some elements of the Licensed Application may benefit from or require an Internet connection to function fully. CONTRACTOR has built safeguards into its Application, such as "buffering," that hedge against network disruption, and Licensee hereby stipulates that CONTRACTOR does not provide Internet connectivity, and bears no responsibility whatsoever for the performance or non-performance of any voice or data network, or the performance of its software on any particular data network. Licensee acknowledges that no hedge against network disruption can be guaranteed to work 100% of the time. CONTRACTOR may partner, package, co-sell, or otherwise engage in collaborative business activities with select Internet, network, or cellular data providers whose services are made available to CONTRACTOR's Agency and End-User customers as a convenience only. The Agency or End-User may engage a third-party network provider, at its own risk and expense. CONTRACTOR does not operate, manage, or in any way, expressed or implied, influence the operation of network networks, grids, satellites, routers, or any other wired or wireless connection to a telecommunications network. Use of or access to the network through a wired or wireless network connection is provided through a third-party provider, which may require acceptance of separate agreement. If purchased from CONTRACTOR, these agreements will be attached as Exhibit E to this Agreement. CONTRACTOR is not responsible for enabling or guaranteeing any "uptime" or service level associated with the network, nor is CONTRACTOR responsible for network outages, roaming charges, travel by the Agency or End-User beyond the reliable range of the network, or any other action or event which might lead to a network disruption. ANY AND ALL WARRANTIES AND LIABILITY BY CONTRACTOR, EXPRESS OR IMPLIED EXTEND ONLY TO THE OPERABILITY AND INTEGRITY OF ITS OWN APPLICATIONS, WHICH ARE DESIGNED TO OPERATE "OFFLINE."

10. **LIMITATION OF LIABILITY.**

   10.1 Except as to Confidentiality, and as otherwise provided in Section 10 ("Network Connectivity Service Level"), Section 11 ("Limitation of Liability") and Section 12 ("Indemnification") and to the maximum extent permitted by law, the liability of both parties and their suppliers shall be limited to direct damages only, thus excluding liability for any other damages, such as indirect, special, incidental, consequential or punitive damages (including but not limited to lost profits, lost data, lost revenue, lost savings, lost business and loss of goodwill), regardless of whether the party was advised of the possibility of such damages.

   10.2 Cap on Direct Damages. Notwithstanding the foregoing, in no event shall the aggregate liability of CONTRACTOR or suppliers to Licensee or End-User with respect to any matters whatsoever, arising under or in connection with this Agreement, whether under contract or tort, exceed the amount of fees paid to CONTRACTOR or its suppliers (as applicable) during the twelve (12) months period preceding the claim giving rise to such

liability. CONTRACTOR is not responsible for and will have no liability for hardware, software, or other items or any services provided by any persons other than CONTRACTOR. INSTALLATION OR USE OF THE LICENSED SOFTWARE, THE APPLICATION, OR ITS COMPONENTS ON COMPUTER HARDWARE OF ANY KIND THAT HAS BEEN PURCHASED BY THE AGENCY OR END-USER FROM A SOURCE OTHER THAN CONTRACTOR OR ITS SUPPLIERS ("UNSUPPORTED HARDWARE") IS AT AGENCY'S AND END-USER'S OWN RISK. CONTRACTOR SHALL BEAR NO RESPONSIBILITY FOR, AND DISCLAIMS ANY AND ALL WARRANTIES REGARDING, THE OPERATIONAL INTEGRITY OR RELIABILITY OF LICENSED SOFTWARE WHEN INSTALLED ON UNSUPPORTED HARDWARE. AGENCY OR END-USER STIPULATES AS TO THIS SECTION, AND EXCEPT WHERE PROHIOBITED BY LAW, INDEMNIFIES CONTRACTOR AND ITS SUPPLIERS AGAINST ALL CLAIMS AND WARRANTIES EXPRESSED OR IMPLIED WHEN LICENSED SOFTWARE IS OPERATED OR INSTALLED ON UNSUPPORTED HARDWARE.

11.   **INDEMNIFICATION.**

11.1   General Indemnification.   Except where prohibited by law and, to the extent that CONTRACTOR is obligated to indemnify Agency or End-User, as provided by this Agreement, Licensee shall indemnify and hold harmless CONTRACTOR and its suppliers, and each of their officers, directors, employees, agents and affiliates (**"CONTRACTOR'S Indemnitees"**) from and against any and all damages, losses, and liabilities of COTRACTOR'S Indemnitees and all costs and expenses, including attorneys' fees (collectively, **"Costs"**), incurred by CONTRACTOR'S Indemnitees in defending against or settling any claim by a third party, including but not limited to any claim based on personal injury, property damage, or product liability, which arises from any cause or event which is attributable to:

11.1.1   Any use, possession, or distribution of the Licensed Software, Application, or any of its components by Agency, End-User or their affiliates, corporate parents, any "covered entity" (including, but not limited to, hospitals, physicians, private individuals, senior care centers, urgent care centers, critical access hospitals, VA facilities, or any other treatment facility), or any other third party that uses Licensed Software, the Application, its components, and/or any information derived therefrom as a result of the licenses granted to Agency or End-User hereunder;

11.1.2   Licensee's failure to perform or comply with any items within Agreement; or

11.1.3   End-User's failure to comply with the End-User Agreement.

11.2   Intellectual Property Indemnification. CONTRACTOR shall, at its sole option, defend or settle at its expense and indemnify the Agency or End-User and its officers, directors, employees, and agents (**"Agency or End-User Indemnitees"**) from damages from any claim or suit against an Agency or End-User Indemnitee arising out of or in connection

with an assertion that the Licensed Software infringes any intellectual property rights of third parties, provided that (i) CONTRACTOR is promptly notified in writing of such claim or suit, (ii) CONTRACTOR shall have the sole control of the defense and/or settlement thereof, and (iii) Agency or End-User Indemnitee furnishes to CONTRACTOR, on request, all relevant information available to Licensee Indemnitee and reasonable cooperation for such defense. The foregoing shall be the sole obligation of CONTRACTOR and the exclusive remedy of Agency or End-User Indemnitee with respect to any alleged infringement by the Licensed Software of any third party's Intellectual Property Rights. Agency or End-User Indemnitee shall not admit or settle any such claim or suit without the prior written consent of CONTRACTOR. CONTRACTOR shall have no obligation under this section if and to the extent that any such claim or suit arises from: (1) any application developed by or for Agency or End-User using the Licensed Software, (2) compliance by CONTRACTOR with Agency or End-User specifications, (3) modification of the Licensed Software other than by CONTRACTOR, (4) the combination of the Licensed Software with any other products or services, (5) Agency or End-User continuing any manufacturing, use, distribution, or licensing after being notified of any allegedly infringing activity and after being informed of or provided with modifications that would have avoided the alleged infringement, or (6) Agency or End-User's use of the Licensed Software that is not strictly in accordance with the license granted under this Agreement. If the Licensed Software becomes, or in CONTRACTOR's opinion is likely to become, the subject of an infringement claim, CONTRACTOR may, at its option and expense, either (a) procure for Agency or End-User the right to continue using such Licensed Software; or (b) replace or modify such Licensed Software so that it becomes non-infringing without materially affecting functionality, or if the alternatives specified in (a) or (b) above are not available to CONTRACTOR on a commercially reasonable basis, then CONTRACTOR will have the right to terminate this Agreement. In such case the Licensee will be entitled to a prorated refund.

12.   **GENERAL PROVISIONS.**

12.1   Successors and Assigns. The rights and obligations of each party under this Agreement may not be transferred or assigned directly or indirectly without the prior written consent of the other party, which consent will not be unreasonably withheld or delayed, except that either party may assign this Agreement to a parent, subsidiary, or any entity that acquires substantially all of its stock, assets or business of the assigning party related to this Agreement. Except as otherwise expressly provided herein, the provisions hereof shall inure to the benefit of, and be binding upon, the successors, permitted assigns, heirs, executors and administrators of the parties hereto. Any attempted assignment in violation of the foregoing will be null and void.

12.2   Third Party Beneficiaries. CONTRACTOR's suppliers are third party beneficiaries of this Agreement and may enforce this Agreement directly against the Agencies or End-Users.

12.3   Independent Contractors. The relationship of CONTRACTOR and Agency or End-User

established by this Agreement is that of independent contractors, and nothing contained in this Agreement will be construed to (a) give either party the power to direct and control the day-to-day activities of the other, (b) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking, or (c) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

12.4   Background Checks. CONTRACTOR is responsible for determining and approving the character and fitness of its employees (including volunteers, agents, or representatives) to provide the services required under this Agreement, including completion of a satisfactory criminal/background check and period rechecks to the extent permitted by law. Notwithstanding anything to the contrary in this Paragraph, CONTRACTOR is solely responsible for any liability for injuries or damages to Agency or End-User resulting from a breach of this provision.

12.5   Export Control. Agency or End-User shall not export from anywhere any part of the Licensed Software or any direct product thereof except in compliance with all licenses and approvals required under, applicable export laws, rules and regulations.

12.6   Force Majeure. Neither party shall be liable to the other for a failure to perform any of its obligations under this Agreement, except for payment obligations under this Agreement, during any period in which such performance is delayed due to circumstances beyond its reasonable control, including but not limited to Network Outages, Map Data error, earthquake, general strike, flood and other natural or man-made disasters, provided such party makes reasonable efforts to notify the other of the delay.

12.7   Entire Agreement and Construction. This Agreement, together with its Exhibits and any Non-Disclosure Agreements referenced above, constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes any and all prior negotiations, promises, commitments, undertakings, and agreements of the parties relating thereto. To the extent any provision of this Agreement conflicts with any other pre-existing agreement between the parties, this Agreement will control. Without limiting the foregoing, the parties agree that the agreement of any purchase order or similar instrument that Agency or End-User may send to CONTRACTOR in connection with this Agreement and/or the subject matter hereof shall not be binding on CONTRACTOR, except as to quantity and delivery destination; CONTRACTOR hereby rejects all such agreement, whether sent to or received by CONTRACTOR prior to or after the date of this Agreement, unless otherwise authorized in writing by CONTRACTOR's Chief Executive Officer in his or her sole authority. The headings and numbers used in this Agreement are only used for convenience of reference and are not to be considered in construing this Agreement. This Agreement may be executed in counterparts, each of which shall be an original, but all of which together shall constitute one instrument. This Agreement may be modified or amended only by a written instrument duly executed by the parties hereto. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, the remaining provisions hereof shall be

unaffected thereby and remain valid and enforceable as if such provision had not been set forth herein. The parties agree to modify any invalid provision to the minimum extent necessary to make such provision valid, keeping the same intent

12.8 <u>Waiver of Breach</u>. No waiver of any kind under this Agreement will be deemed effective unless set forth in writing and signed by the party charged with such waiver, and no waiver of any right arising from any breach or failure to perform will be deemed to be a waiver or authorization of any other breach or failure to perform or of any other right arising under this Agreement.

12.9 <u>Limitation on Action for Breach</u>. Except with respect to any breach of Licensee's payment obligations hereunder or any unauthorized use of CONTRACTOR's, or any of CONTRACTOR's suppliers', Intellectual Property Rights, any and all claims arising from or in connection with any breach of this Agreement must be brought within three (3) years, or such longer period as required by mandatory applicable law, from the date of such breach.

12.10 <u>Governing Law</u>. This Agreement is construed and governed by the substantive laws of the State of California, without giving effect to conflict of laws provisions. The United Nations Convention of Contracts for the International Sale of Goods shall not apply to this Agreement. Any legal action or other legal proceeding relating to this Agreement must be brought or otherwise commenced in a state or federal court located in the county of the <u>defendant's</u> headquarters. Each party expressly and irrevocably consents and submits to the jurisdiction of each such state and federal courts in connection with any such legal proceeding. In addition, the parties may agree to a binding arbitration by a neutral arbitrator, in which case the parties agree to utilize to utilize, and be bound by, the rules set forth by the American Arbitration Association.

12.11 <u>Notices</u>. Notices under this Agreement, shall be sent to the Agency / End User:

Napa County Emergency Medical Services Agency Administrator
Attn: Brian Henricksen
2751 Napa Valley Corporate Drive
Building B
Napa, CA 94558
E-Mail: brian.henricksen@countyofnapa.org

Beyond Lucid Technologies, Inc.
Attn: Jonathon Feit, CEO
1220 Diamond Way, Suite #240
Concord, CA 94520
E-Mail: jonathon.feit@beyondlucid.com

Such notices shall be effective (1) if sent by overnight courier, two business days after mailing, and (2) if sent otherwise, upon delivery as evidenced solely by proof of receipt in the form of a response. The parties shall notify one another of a change of address or

email.

12.12 <u>Survival</u>. Each provision of this Agreement that is intended by its nature to survive expiration or termination of this Agreement shall so survive.

13. <u>Suspension and Debarment</u>. CONTRACTOR certifies by its representative's signature to this contract that CONTRACTOR has not been suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency including but not limited to CMS, OIG and HHS. CONTRACTOR agrees to and shall inform Licensee immediately if at any point it is suspended, debarred, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency. If at any point CONTRACTOR is or is proposed to be suspended or debarred this Agreement will terminate immediately.

14. <u>Liability Insurance</u>. CONTRACTOR will maintain liability insurance in the amount of one million per occurrence and three million in the aggregate.

EXHIBIT A

END-USER ADVISORY, TERMS AND CONDITIONS:
TELOGIS GEOBASE MAPPING SOFTWARE COMPONENT

MEDIVIEW™ includes hardware and software components, some of which carry their own end-user license terms and conditions. The following terms and conditions pertain to the Geobase®-brand mapping software provided under license from Telogis, Inc. The following information is provided for end-user advisory purposes only. The Terms of this section cannot be modified.

The data ("Map Data") is provided for your business or personal, internal use only and not for resale. It is protected by copyright, and is subject to the following terms and conditions which are agreed to by you, on the one hand, and CONTRACTOR, and its licensors (including their licensors and suppliers) on the other hand.

© 2011-2012 NAVTEQ. NAVTEQ holds a non-exclusive license from the United States Postal Service® to publish and sell ZIP+4® information. © United States Postal Service® 2011. Prices are not established, controlled or approved by the United States Postal Service®. The following trademarks and registrations are owned by the USPS: United States Postal Service, USPS, and ZIP+4. All rights reserved.

Terms and Conditions

Personal Use Only. You agree to use this Map Data together with MediView™ for the solely business or personal, internal purposes for which you were licensed, and not for service bureau, time-sharing or other similar purposes. Accordingly, but subject to the restrictions set forth in the following paragraphs, you may copy this Map Data only as necessary for your permitted use to (i) view it, and (ii) save it, provided that you do not remove any copyright notices that appear and do not modify the Map Data in any way. You agree not to otherwise reproduce, copy, modify, decompile, disassemble, create any derivative works of, or reverse engineer any portion of this Map Data, and may not transfer or distribute it in any form, for any purpose, except to the extent permitted by mandatory laws. Multi-disc sets may only be transferred or sold as complete set as provided by CONTRACTOR, and not as a subset thereof.

Restrictions. Except where you have been specifically licensed to do so by CONTRACTOR and without limiting the preceding paragraph, you may not (a) use this Map Data with any products, systems, or applications installed or otherwise connected to or in communication with vehicles, capable of vehicle navigation, positioning, dispatch, real time route guidance, fleet management or similar applications; or (b) with or in communication with any positioning devices or any mobile or wireless-connected electronic or computer devices, including without limitation cellular phones, palmtop and handheld computers, pagers, and personal digital assistants or PDAs.

Warning. The Map Data may contain inaccurate or incomplete information due to the passage of time, changing circumstances, sources used and the nature of collecting comprehensive geographic data, any of which may lead to incorrect results.

No Warranty. This Map Data is provided to you "as is," and you agree to use it at your own risk. To the maximum extent permitted by applicable law, The Company and its licensors (and their licensors and suppliers) make no guarantees, representations or warranties of any kind, express or implied, arising by law or otherwise, including but not limited to, content, quality, accuracy, completeness, effectiveness, reliability, fitness for a particular purpose, usefulness, use or results to be obtained from this Map Data, or that the Map Data or server will be uninterrupted or error-free.

Disclaimer of Warranty: CONTRACTOR AND ITS LICENSORS (INCLUDING THEIR LICENSORS AND SUPPLIERS) DISCLAIM ANY WARRANTIES, EXPRESS OR IMPLIED, OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. Some States, Territories and Countries do not allow certain warranty exclusions, so to that extent the above exclusion may not apply to you.

Disclaimer of Liability: CONTRACTOR AND ITS LICENSORS (INCLUDING THEIR LICENSORS AND SUPPLIERS) SHALL NOT BE LIABLE TO YOU: IN RESPECT OF ANY CLAIM, DEMAND OR ACTION, IRRESPECTIVE OF THE NATURE OF THE CAUSE OF THE CLAIM, DEMAND OR ACTION ALLEGING ANY LOSS, INJURY OR DAMAGES, DIRECT OR INDIRECT, WHICH MAY RESULT FROM THE USE OR POSSESSION OF THE INFORMATION; OR FOR ANY LOSS OF PROFIT, REVENUE, CONTRACTS OR SAVINGS, OR ANY OTHER DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF YOUR USE OF OR INABILITY TO USE THIS INFORMATION, ANY DEFECT IN THE INFORMATION, OR THE BREACH OF THESE TERMS OR CONDITIONS, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF [CLIENT] OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Some States, Territories and Countries do not allow certain liability exclusions or damages limitations, so to that extent the above may not apply to you.

Export Control. You agree not to export from anywhere any part of the Map Data provided to you or any direct product thereof except in compliance with, and with all licenses and approvals required under, applicable export laws, rules and regulations.

Entire Agreement. These terms and conditions constitute the entire agreement between CONTRACTOR (and its licensors, including their licensors and suppliers) and you pertaining to the subject matter hereof, and supersedes in their entirety any and all written or oral agreements previously existing between us with respect to such subject matter.

Governing Law. The above terms and conditions shall be governed by the laws of the State of Illinois, without giving effect to (i) its conflict of laws provisions, or (ii) the United Nations

Convention for Contracts for the International Sale of Goods, which is explicitly excluded. You agree to submit to the jurisdiction of the State of Illinois for any and all disputes, claims and actions arising from or in connection with the Map Data provided to you hereunder.

<u>Government End-Users</u>. If the Map Data is being acquired by or on behalf of the United States government or any other entity seeking or applying rights similar to those customarily claimed by the United States government, this Map Data is a "commercial item" as that term is defined at 48 C.F.R. ("FAR") 2.101, is licensed in accordance with these End-User Terms, and each copy of Map Data delivered or otherwise furnished shall be marked and embedded as appropriate with the following "Notice of Use," and shall be treated in accordance with such Notice:

> NOTICE OF USE
> CONTRACTOR (MANUFACTURER/ SUPPLIER) NAME: NAVTEQ
> CONTRACTOR (MANUFACTURER/SUPPLIER) ADDRESS: 425 WEST RANDOLPH
> STREET, CHICAGO, ILLINOIS 60606
> THIS MAP DATA IS A COMMERCIAL ITEM AS DEFINED IN FAR 2.101 AND IS SUBJECT
> TO THESE END-USER TERMS UNDER WHICH THIS MAP DATA WAS PROVIDED.
> © 2011-2012 NAVTEQ – ALL RIGHTS RESERVED.

If the Contracting Officer, federal government agency, or any federal official refuses to use the legend provided herein, the Contracting Officer, federal government agency, or any federal official must notify NAVTEQ prior to seeking additional or alternative rights in the Map Data.

LICENSEE INFORMATION

Name of Partner-Client:	Napa County Emergency Medical Services Agency		
Address:	2751 Napa Valley Corporate Drive		
City:	Napa		
State:	CA	**Zip Code:**	94558
County or Parish:	Napa		
Main	(707) 253-4341	**Fax:**	
Point of Contact:			
Direct:	Brian Henricksen	**Email**	Brian.Henricksen@countyofnapa.org

beyond Lucid
Technologies & Consulting

Annual Charges:

Term of Agreement: 5 Years

Item		Qty			Rate	Unit		Total
MEDIVIEW™ HUB Web-based ePCR receiving portal and administration, including CQI, Billing Company and Hospital access.		Unlimited Users	@	$	-	Per User	= $	-
MEDIVIEW™ MOBILE Standard Field Licenses: Includes Online/Offline operations, integrated GPS, Telemedicine. A4 (Typically 1-2 per ambulance, as desired)		43	@	$	500.00	Per License	= $ = $	21,500.00 -
MEDIVIEW™ Billable Patient Care Records "Billable Patient Care Records" are patient care, transport or other records generated using any MEDIVIEW system and exported from the system in which it was generated, regardless of the ultimate destination for said data (e.g., hospital, county, internal billing, printer, etc.) Once a record has been exported, it may be exported any number of additional times and to any number of additional destinations at no additional cost—each report will be metered at most one time. Patient care records that are deleted are not billed.		22,000 22,660.00 23,339.80 24,039.99 24,761.19	@ Year 2 Year 3 Year 4 Year 5	$	0.95	Per PCR Reflects a 3% discount (normally $0.98 per PCR at 22,000 volume) ePCR counts 3% growth	= $	20,900.00
MEDIVIEW™ TRIPS *OPTIONAL* Integrated scheduling and dispatch system designed for paratransit, non-emergency transport and Community Paramedicine / Mobile Integrated Health that can be layered onto the MEDIVIEW ePCR system and prehospital health information exchange.		-	@	$	0.50	Per Trip	= $ = $	- -
RSQ911 Solutions - 180° EMS Survey www.RSQ911solutions.com RSQ911 Solutions, LLC provides a customized web-based survey tool that utilizes the insight and perceptions of the patient, the referring facilities, the receiving facilities, and/or other EMS agencies that activated and participate in the encounter. Built upon that feedback, the information provided reveals opportunities for improvement and areas of success to recognize and celebrate. The result is a collection of industry insights and public perceptions that the EMS agency can use to evaluate the quality of service that they are providing to the community.			@	$	0.20	Per Trip	= $	-
Secure Fax Service *OPTIONAL*		-	@	$	0.12	Per Page	= $	-
Total Annual Fee							$	42,400.00

One Time Charges

Item			Qty			Rate	Unit		Total
Agency Set-up			5	@		$1,000	Per Agency	= $	5,000.00
* Virtual Train the Trainer (T3) Training Program:			1	@		$0	Per Agency	= $	-
* On-Site Training *OPTIONAL*				@		$1,500	Per Day Travel Expenses	= $ = $	- -
** Custom Interactive Forms: *OPTIONAL*			-	@		$2,500	Per Page	= $	-
*** Custom Engineering - CAD Integration	(See Attached SOW) (SOW must be Accepted)	*ASSUMING 1 CAD*	36	@		$150	Per Hour Pass Thru Costs from CAD Vendor	= $ $	5,400.00 -
- Other Custom Integration	(See Attached SOW)		40	@		$150	Per Hour	= $	6,000.00
- Custom Fields		*OPTIONAL*		@		$150	Per Hour	= $	-
		>							
		>							
		>							
Total One Time Charges								$	16,400.00

Breakdown of Fees

			1st Year	2nd Year	3rd Year	4rd Year	5rd Year		Grand Total
Sales Tax	**Total First Year Fees:**	$	58,800.00	$ 43,027.00	$ 43,672.81	$ 44,337.99	$ 45,023.13	$	234,860.94
0.00%	**Estimated Sales Tax:**	$	-	$ -	$ -	$ -	$ -	$	-
	Total for Year:	$	58,800.00	$ 43,027.00	$ 43,672.81	$ 44,337.99	$ 45,023.13	$	234,860.94

1st YEAR PAYMENT SCHEDULE WILL BE AS FOLLOWS: 25% of total @ contract execution   25% @ workbook completion   25% @ training completion   25% @ official go-li

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LICENSEE INFORMATION

Name of Partner-Client:	Napa County Emergency Medical Services Agency		
Address:	2751 Napa Valley Corporate Drive		
City:	Napa		
State:	CA	Zip Code:	94558
County or Parish:		Napa	
Main	(707) 253-4341	Fax:	
Point of Contact:			
Direct:	Brian Henricksen	Email	Brian.Henricksen@countyofnapa.org

beyond Lucid
Technologies & Consulting

NOTES:

*** DEFINITION OF "CUSTOM ENGINEERING" (also known as NON-RECURRING ENGINEERING):

"Custom engineering" shall be defined as any product development effort that is intended for the specific use of one partner-client agency, without a clear and demonstrated ability to cross-sell such engineered products or services to other partner-client agencies. Projects to which custom engineering / non-recurring engineering (NRE) charges apply include, but are not limited to, the following: Development of agency-specific interactive forms; integration with non-municipal dispatch, AVL, and/or billing systems; custom integration of hardware (except Physio-Control, Zoll and Philips defibrillators). Any applicable charges will be included with a Statement of Work, and approval for such charges shall be required prior to commencement of custom engineering / NRE work.

- Custom Engineering at the request of a partner-client, that is not considered an enhancement to the MediView system as a whole will be billed out at the current rate of $150 per hour.

- Development of a CAD interface will be billed out to the respective partner-client at the current rate of $150 per hour, and is exclusive of any fees charged by their CAD vendor.

- Any requests from the client-partners of MediView, which improves the experience and performance of all MediView Users, Billing Companies and Hospitals that use MediView will *normally* be conducted at no charge, if performed at BLT's convenience. *For the purposes of this RFP, BLT will not charge Napa County EMS (or the county) for integration with EF Recovery or American Medical Response's MEDS billing service or EF Recovery's billing system, or similar major market billing contractor(s) that the County may work with in the future.*

- EKG integration: Included at no additional cost.
- Custom Engineering that is not contemplated in this proposal is billable at $150 per hour (or current rate, which is subject to change)
- REPORTING (cost, ETA, and pipelining): Beyond Lucid Technologies will create an unlimited number of analytic reports based on data already captured by MEDIVIEW (addition of new data elements may constitute custom development work), on-demand. We will endeavor to create reports in a 24-48 hour turnaround from the time of request. However, actual turnaround times may vary based on the complexity of the report (i.e., there may be questions about requested calculations, etc.), the number of reports that are requested at any given time, and current organization workload (e.g., if multiple agencies have requested reports at the same time, they will typically be created in the order they are received, with consideration given to each report's complexity and to the degree to which the reports requested by multiple agencies overlap with one another -- overlapping reports are typically created first).

Contract engineering is not included except as itemized above. Any custom engineering, integration, or development work will require an SOW (Statement of Work) which shall indicate the estimated time, estimated cost, and estimated number of personnel that are required to complete the project. This SOW will need to be approved before any custom engineering work can commence.

** Digitizing of an Agencies Paper Form into MediView™ will be a flat $2,500 per page
Forms that are not contemplated in this proposal are billable at the current rate, which is subject to change without notice

* No cost for virtual / video-based (T3) training. On-site training costs $150 per hour (or $1500 per day plus travel, if a full day is needed due to distance) x number of requested days.
Plus all Travel Expenses in accordance with federal IRS guidelines
Training that is not contemplated in this proposal are billable at the current rate, which is subject to change without notice

ADDITIONAL NOTES:

Finial acceptance of this Quote is subject to acceptance of the attached mutually executed terms and conditions.

Partner-client will provide its own connectivity service via an external hotspot or an embedded modem. Hardware costs are not included: MEDIVIEW™ is designed for use on Windows computers running Microsoft Windows 7 or later, and based on the following configuration;

- 4GB RAM
- 1-2 integrated webcams
- Quad core processor (i5 or greater)
- Integrated GPS chipset
- Wi-Fi and/or cellular network connectivity
- We strongly suggest using the latest Firefox browser for MEDIVIEW™ HUB.

- Multitouch touchscreen
- Bluetooth 2.0
- 1366 x 768 screen resolution
- 128GB solid state hard drive

BLT recommends Dell hardware and warranty services, and that these items be purchased via BLT for the best warranty and ease of service.

Purposed Terms

- Set-up fees, the Mobile Annual Support Fees, and Training Fees are payable immediately upon the delivery of the Standard Licenses of MediView.
- All Product related fees, such as, but not limited to Billable Patient Care Reports, TRIPS, RSQ911Solutions and Secure Fax Fees, are estimates that has been provided by the LICENSEE, and payment is due based on the estimate. Actual cost may be higher or lower based on the actual number of patient care records submitted. At the end of each 12-month cycle, the actual number of billable patient care records will be calculated, and a "true-up" invoice will be generated. In cases where fewer reports were generated than estimated, a credit will be applied to the next year's estimate; in cases where more reports were generated than estimated, partner-client will receive a supplemental bill for the difference, which is due upon receipt. Are estimates and are payable upon deployment and paid at the projected Annual Volume. Any overages would be billed at the agreed upon rate or at the new tier level whichever is less, and any remaining balance would be credited to the following year.

  - Account statements for billable patient care records may be paid on monthly or annual basis.
  - However Monthly statements will incur a collection surcharge of 10% per record.
- Unless outlined in the S.O.W., All Custom Engineering requires 50% of BLT's costs and 100% of all "Pass Through Costs" to be paid prior to BLT starting work. The Balance is due upon completion or Go Live date, which ever is greater.
- Failure to pay any invoice after 30 days will force Beyond Lucid to turn off the agencies access to the product.
- Remit checks to: Beyond Lucid Technologies, Inc., 1220 Diamond Way, Suite #240, Concord, CA 94520.

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LICENSEE INFORMATION

Name of Partner-Client:	Napa County Emergency Medical Services Agency		
Address:	2751 Napa Valley Corporate Drive		
City:	Napa		
State:	CA	**Zip Code:**	94558
County or Parish:	Napa		
Main	(707) 253-4341	**Fax:**	
Point of Contact:			
Direct:	Brian Henricksen	**Email**	Brian.Henricksen@countyofnapa.org

beyond lucid
Technologies & Consulting

MediView™ Pricing Matrix

With MediView™ you will always be assured of the lowest possible price. Since as your Volume increases, So does your savings.

Tier Increase	Calls Submitted			Rate	Disc.	
	Standard Rate			$1.00		
10,000	-	to	10,000	$1.00	0.00%	
10,000	10,001	to	20,000	$0.99	1.00%	
10,000	20,001	to	30,000	$0.98	2.00%	
10,000	30,001	to	40,000	$0.97	3.00%	
10,000	40,001	to	50,000	$0.96	4.00%	
10,000	50,001	to	60,000	ePCR counts	#VALUE!	**Starting Point**
10,000	60,001	to	70,000	#VALUE!	#VALUE!	
10,000	70,001	to	80,000	#VALUE!	#VALUE!	
10,000	80,001	to	90,000	#VALUE!	#VALUE!	
10,000	90,001	to	100,000	#VALUE!	#VALUE!	
20,000	100,001	to	120,000	#VALUE!	#VALUE!	
20,000	120,001	to	140,000	#VALUE!	#VALUE!	
20,000	140,001	to	160,000	#VALUE!	#VALUE!	
20,000	160,001	to	180,000	#VALUE!	#VALUE!	
20,000	180,001	to	200,000	#VALUE!	#VALUE!	
20,000	200,001	to	220,000	#VALUE!	#VALUE!	
20,000	220,001	to	240,000	#VALUE!	#VALUE!	
30,000	240,001	to	270,000	#VALUE!	#VALUE!	
30,000	270,001	to	300,000	#VALUE!	#VALUE!	
30,000	300,001	to	330,000	#VALUE!	#VALUE!	
30,000	330,001	to	360,000	#VALUE!	#VALUE!	
40,000	360,001	to	400,000	#VALUE!	#VALUE!	
40,000	400,001	to	440,000	#VALUE!	#VALUE!	
50,000	440,001	to	490,000	#VALUE!	#VALUE!	
60,000	490,001	to	550,000	#VALUE!	#VALUE!	
70,000	550,001	to	620,000	#VALUE!	#VALUE!	

Please note that "Deployment" Dates will be determined only after a thorough review has been made regarding the states requirements. The time needed to "Cut Over" or "Go Live" will vary from State to State, agency by agency, any additional SOW's requested and where the agency falls in the deployment process.

"Cut Over" Dates will be determined by the time needed to train all field personnel and based on the time necessary to ensure completion

EXHIBIT C

SERVICE LEVEL AGREEMENT

Monthly Uptime

CONTRACTOR will make MEDIVIEW™ available with a Monthly Uptime Percentage (defined below) of at least 99.9%, in each case during any monthly billing cycle. In the event CONTRACTOR does not meet this service commitment, Napa County will be eligible to receive a Service Credit as described below.

Definitions
- "Monthly Uptime Percentage" is calculated by subtracting from 100% the percentage of minutes during the month in which MEDIVIEW™, was "Unavailable." Monthly Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Exclusion (defined below).

- "Unavailable" and "Unavailability" mean:
  o MEDIVIEW™ clients are unable to connect to host to access or transfer data

- A "Service Credit" is a dollar credit, calculated as set forth below, that we may credit back to an eligible account.

Service Credits are calculated as a percentage of the total charges paid by Napa County (excluding one-time payments such as upfront payments) for the month (beginning with the first full month of service) in accordance with the schedule below. CONTRACTOR will apply any Service Credits against future payments otherwise due from Napa County.

% of MEDVIEW™ Availability per Calendar Month	Service Credit
< 99%	25%
< 98%	50%
< 97%	75%
< 96%	100%
Critical training item: MOBILE is to be used for field charting. If HUB is seen to go offline, users must use MOBILE to continue charting. Administrative functions will be restored with HUB, and should be excluded from this section because they are not vital to ongoing emergency operations	
Exclusions: major published attack (e.g., DOS, terrorism, etc., bicoastal outage that is reported by AWS), or natural disaster that brings HUB down when	

MOBILE units are not available (e.g., all computers are in hands of IT team, all batteries are dead, no power can be used for charging, etc.)	
Upgrade process: MOBILE and HUB will never be taken offline simultaneously.	Proposed change

Disaster Recovery
CONTRACTOR will insure that in the event of a disaster that makes the primary data center unavailable (defined below) MEDIVIEW™ will be brought back online at a secondary data center as per the RTO and RPO requirements below. Data backups shall be maintained or replicated at a site geographically disparate from the production site such that the loss of one data center does not prohibit recovery of data within the prescribed RTO.

Definitions
- "Datacenter availability" is determined by inability to provide or restore functions necessary to support MEDIVIEW™. *In the event of network inaccessibility, crews should chart using MEDIVIEW MOBILE. HUB will be restored as quickly as possible.*

- Recovery Time Objective (RTO) is the most anticipated time it will take to bring the service back online in the event of a data center event. *Please note proposed exception above: i.e., major (but unanticipated) data center-impact event that prevents failover. Example: broad DOS.*

- Recovery Point Objective (RPO) the amount of data lost that is considered acceptable.

RTO and RPO Requirements:

Recovery Time Objective	**Recovery Point Objective**
5 Minutes	24 Hours

EXHIBIT D

CONTRACTOR PRIVACY AND SECURITY OBLIGATIONS

CONTRACTOR does not anticipate disclosing any individually identifiable information in the normal course of providing services in accordance with this Agreement. However, should Protected Health Information (PHI) be made available to, or obtained by, CONTRACTOR through the use of the Licensed Application, CONTRACTOR does hereby assure its customers that it will:

- Comply with the rules and regulations concerning the privacy and security of PHI under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH). CONTRACTOR is not itself a "covered entity" with respect to HIPAA, but the company's clients are in general.

- Not use or disclose any PHI except in the course of meeting our contractual obligations or as required by law.

- Ensure that agents or subcontractors working on behalf of CONTRACTOR agree to the same restrictions as CONTRACTOR with respect to the protection and non-disclosure of PHI.

- Protect against non-permitted uses or disclosure of PHI using no less than a reasonable amount of care.

- Report any non-compliance of which we become aware.

- At the request and direction of the customer and if feasible, make such PHI as was generated by the patient or end-user in the field on behalf of the patient—or to which the patient has explicitly authorized access (for example., by providing authorization to share PHI across a health information exchange or similar interoperability system while enrolling in a post-discharge follow-up program), or to which access is authorized under applicable laws and regulations—available to said customer in a secure manner so as to avoid accidental disclosure, in accordance with HIPAA. This provision shall exclude PHI that was developed by multiple care providers under a BAA.

- Upon reasonable notice and during normal business hours, allow the Secretary of the United States Department of Health and Human Services the right to audit our records and practices related to the use and disclosure of PHI to ensure compliance.

- Upon termination, or upon request in accordance with this Agreement, CONTRACTOR shall destroy, or if feasible, shall return all PHI received or created as a result of this Agreement and retain no copies except as required by regulation. Data that has been duly

de-identified in accordance with HIPAA and HITECH, as set forth below, is exempt from this provision.

- Have named a HIPAA Security Official who creates, maintains, and trains regarding our HIPAA policies and procedures. These duties will initially be performed by CONTRACTOR'S Head of Business Development Compliance and In-House Counsel; or by the company's Chief Executive Officer or his designee.

- Have established that all employees with access to PHI receive training on our policies and procedures according to HIPAA mandates.

CONTRACTOR will implement the following measures to protect against unintentional or unlawful disclosure of or access to PHI have been adopted and implemented by CONTRACTOR:

- **De-identification of the following data** as required by HIPAA and HITECH. The following list of data that are required under these Acts to be protected is cited from an reliable authority on duties to protect PHI:

    - *all geographic subdivisions smaller than a state, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code if, according to the current publicly available data from the Bureau of the Census: the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and [t]he initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000.*

    - *all elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older;*

    - *voice and fax telephone numbers;*

    - *electronic mail addresses;*

    - *medical record numbers, health plan beneficiary numbers, or other health plan account numbers;*

    - *certificate/license numbers;*

    - *vehicle identifiers and serial numbers, including license plate numbers;*

    - *device identifiers and serial numbers;*

- *Internet Protocol (IP) address numbers and Universal Resource Locators (URLs);*

- *biometric identifiers, including finger and voice prints;*

- *full face photographic images and any comparable images; and*

- *any other unique identifying number, characteristic, or code.*

- *Under HIPAA's "safe harbor" standard, information is considered de-identified if all of the above have been removed, and there is no reasonable basis to believe that the remaining information could be used to identify a person.*

- *The covered entity may assign a code or other means of record identification to allow de-identified information to be re-identified, if the code is not derived from, or related to, the removed identifiers. (Only the covered entity will have the re-linking information.*

- *Alternatively, under the "statistical" standard, a covered entity may determine that health information is not individually identifiable (and thus protected) health information if:*

- *A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable, [a]pplying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and [that person] documents the methods and results of the analysis that justify such determination.*

- *As an alternative to using fully de-identified information, HIPAA makes provisions for a limited data set from which direct identifiers (like name and address) have been removed, but not indirect ones (such as age). Limited data sets require a data use agreement with the party to which/whom it is provided.*

- Separate passwords required for hardware boot (customers using hard disk encryption), Windows system login, and MEDIVIEW™ application login, with report access permissions restricted to levels level pre-identified and modifiable by the system administrator.

- PHI is automatically removed from any hardware on which CONTRACTOR is running locally after a pre-defined amount of time, as set by the agency administrator. However, this can only be performed when the MEDIVIEW™ application is running and logged-in, a protocol designed to protect against unauthorized hacking, exposure, and/or erasure of PHI.

- All Personally Identifiable information in the MEDIVIEW ™ database is encrypted with multiple levels and styles of encryption, and restricted by CONTRACTOR-internal password access.

- Transmission: PHI and other stored data is encrypted before transmission from a remote client to the cloud, from the cloud to receiving organizations and between applications. An encrypted buffer has been adopted as well.

- Cloud: The cloud-based server for the MEDIVIEW™ application platform runs on an encrypted database. Information may also be stored on a "cloud" server operated by a commercial entity (including, but not limited to, Amazon, Microsoft, Dell, and other providers). Each provider utilizes its own encryption and protection protocols that CONTRACTOR cannot control and which it may be unable to modify, and for which it therefore accepts no claim of responsibility or liability. CONTRACTOR will make reasonable efforts to redact and/or de-identify all PHI in accordance with HIPAA, HITECH, and this Agreement, to the extent permitted by the server provider. Permission to access information on the cloud server shall require a username and password, the use of administrative programs and services that are controlled by CONTRACTOR, and can be rescinded by CONTRACTOR at any time in its sole discretion.

- Access: Logging onto the CONTRACTOR and/or MEDIVIEW™ servers using a licensed username and password combination provides access to a server. Data access permissions are specific to each user access level, user type, and/or physical location. For example: hospitals and receiving agencies can see only reports pertaining to agencies that transport to them; transport agencies can see only reports belonging to employees of said agency; regional chiefs (where applicable) shall have broader oversight permissions.

- Portal: A web-based portal shall require login with username and password. Encryption has been implemented between this portal and the storage server. Data access is limited to authorized agencies, as well as to said agency's own generated reports and records.

- New entities and users must be authenticated. A Licensed Agency is required to appoint an administrator, whose responsibility it is to authorize new users of the system. CONTRACTOR issues a license to use software, but beyond restricting what that license can access, CONTRACTOR can exercise no reasonable control over the actions of the Licensed Agency, beyond revoking the license.

- Internet crash or hardware crash: Users will lose information that has not been saved, but the system is designed to auto-save regularly, and transmit new information when it finds an Internet connection, thereby mitigating lost information.

- Access to passwords. Before submission, a record can be accessed by the provider/personnel at any time. The exposure time of that record is dictated by the Licensed Agency's policy of requiring the closure of records after treatment. After the expiration of that time, MEDIVIEW™ removes all collected record data from the hardware.

EXHIBIT E

BUSINESS ASSOCIATE AGREEMENT

This Exhibit shall constitute the Business Associate Agreement (the "Agreement") between _Beyond Lucid **Technologies**, (the "Business Associate") and Napa County (the "Covered Entity"), and applies to the functions Business Associate will perform on behalf of Covered Entity (collectively, "Services"), that are identified in the Master Agreement (as defined below).

1.   **Purpose.** This Agreement is intended to ensure that the Business Associate will establish and implement appropriate privacy and security safeguards with respect to "Protected Health Information" (as defined below) that the Business Associate may create, receive, maintain, transmit, use, or disclose in connection with the Services to be provided by the Business Associate to the Covered Entity, and that such safeguards will be consistent with the standards set forth in regulations promulgated under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") as amended by the Health Information Technology for Economic and Clinical Health Act as set forth in Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 ("HITECH Act").

2.   **Regulatory References.** All references to regulatory Sections, Parts and Subparts in this Agreement are to Title 45 of the Code of Federal Regulations as in effect or as amended, and for which compliance is required, unless otherwise specified.

3.   **Definitions.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in Sections 160.103, 164.304 and 164.501.

(a) Business Associate. "Business Associate" shall mean the party identified above as the "Business Associate".

(b) Breach. "Breach" shall have the same meaning as the term "breach" in Section 164.402.

(c) Covered Entity. "Covered Entity" shall mean the County of Napa, a hybrid entity, and its designated covered components, which are subject to the HIPAA Rules.

(d) Designated Record Set. "Designated Record Set" shall have the same meaning as the term "designated record set" in Section 164.501.

(e) Electronic Media. "Electronic Media" shall have the same meaning as the term is defined in Section 160.103.

(f) Electronic Protected Health Information. "Electronic Protected Health Information" ("EPHI") is a subset of Protected Health Information and means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.

(g) HIPAA Rules. "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

(h) Individual. "Individual" shall have the same meaning as the term "Individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).

(i) Master Agreement. "Master Agreement" shall mean the contract or other agreement

to which this Exhibit is attached and made a part of.

(j) <u>Minimum Necessary</u>. "Minimum Necessary" shall mean the minimum amount of Protected Health Information necessary for the intended purpose, as set forth at Sections 164.502(b) & 164.514(d): *Standard: Minimum Necessary.*

(k) <u>Privacy Rule</u>. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at Part 160 and Part 164, Subparts A and E.

(l) <u>Protected Health Information.</u> "Protected Health Information" shall have the same meaning as the term "protected health information" in Section 160.103, limited to the information received from Covered Entity or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity.

(m) <u>Required By Law.</u> "Required by law" shall have the same meaning as the term "required by law" in Section 164.103.

(n) <u>Secretary</u>. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services ("DHHS") or his/her designee.

(o) <u>Security Incident.</u> "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of personally identifiable information. A Security Incident includes the attempted or successful unauthorized access, use, disclosure, modification, or destruction of or interference with systems operations in an information system which processes Protected Health Information that is under the control of Covered Entity, or Business Associate of Covered Entity, but does not include minor incidents that occur on a daily basis, such as scans, "pings", or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate.

(p) <u>Security Rule.</u> "Security Rule" shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

(q) <u>Subcontractor.</u> "Subcontractor" means a subcontractor of Business Associate that creates, receives, maintains, or transmits Protected Health Information on behalf of the Business Associate.

(r) <u>Unsecured Protected Health Information</u>. "Unsecured Protected Health Information" shall have the same meaning as the term "unsecured protected health information" in Section 164.402, limited to the information received from Covered Entity or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity.

4. **Business Associate's Obligations and Compliance with the HIPAA Privacy and Security Rules.**

(a) Business Associate acknowledges that it is directly required to comply with the HIPAA Rules and that Business Associate (including its subcontractors) may be held directly liable and subject to penalties for failure to comply. To the extent the Business Associate is to carry out one or more of Covered Entity's obligations under Subpart E of 45 CFR Part 164 of the Privacy Rule, Business Associate agrees to comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligations.

(b) Business Associate agrees not to use or further disclose Protected Health Information other than as permitted or required by this Agreement, or as required by law.

(c) Business Associate shall not sell Protected Health Information.

5. **Permitted Uses and Disclosures.**

(a) Except as otherwise limited in this Agreement, Business Associate may use or

disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity for the purposes specified in Attachment 1 to this Exhibit, which if completed and attached hereto is incorporated by reference, or as otherwise specified in the Master Agreement, subject to limiting use and disclosure to applicable minimum necessary rules, regulations and statutes and provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity. Business Associate must make reasonable efforts to limit Protected Health Information to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request.

(b) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

(c) Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(d) Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by Section 164.504(e)(2)(i)(B).

(e) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities consistent with Section 164.502(j).

(f) Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 of the Privacy Rule if done by Covered Entity, except for the specific uses and disclosures set forth herein.

6. **Appropriate Safeguards.**

(a) Business Associate agrees to use appropriate safeguards to prevent the use or disclosure of Protected Health Information other than as provided for by this Agreement. Appropriate safeguards shall include implementing administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Protected Health Information that is created, received, maintained or transmitted on behalf of the Covered Entity and limiting use and disclosure to the Minimum Necessary.

(b) Safeguarding Electronic Protected Health Information. Business Associate agrees to comply with Subpart C of 45 CFR Part 164 with respect to Electronic Protected Health Information. Business Associate must secure all Electronic Protected Health Information by technological means that render such information unusable, unreadable, or indecipherable to unauthorized individuals and in accordance with the National Institute of Standards Technology (NIST) Standards and Federal Information Processing Standards (FIPS) as applicable, Should Business Associate fail to comply with this provision, it agrees to hold harmless, defend at its own expense and indemnify Covered Entity in accordance with the terms of Section 9 of the Agreement, "Indemnification".

(c) Business Associate shall not store or transfer Napa County data outside of the United States. This includes backup data and disaster recovery locations.

(c) Destruction of Protected Health Information on paper, film, or other hard copy media must involve either shredding or otherwise destroying the Protected Health Information so that it cannot be read or reconstructed.

(d) Should any employee or subcontractor of Business Associate have direct, authorized access to computer systems of Covered Entity that contain Protected Health Information, Business Associate shall immediately notify Covered Entity of any change of such personnel (e.g. employee or subcontractor termination, or change in assignment where such access is no longer necessary) in order for Covered Entity to disable the previously authorized access.

7.   **Reporting Unauthorized Uses and Disclosures.**

(a) Business Associate agrees to notify Covered Entity of any access, use or disclosure of Protected Health Information not permitted or provided for by the Agreement of which it becomes aware, including any breach as required at Section 164.410, or security incident,. Such notification will be made immediately after discovery by telephone call at 707.259.8349], plus e-mail at Privacy.Officer@countyofnapa.org, and will include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed, a description of the Protected Health Information involved, the nature of the unauthorized access, use or disclosure, the date of occurrence, and a description of any remedial action taken or proposed to be taken by Business Associate. Business Associate will also provide to Covered Entity any other available information that the Covered Entity is required to include in its notification to the Individual under Section 164.404(c) at the time of the initial report or promptly thereafter as the information becomes available.

(b) In the event of a request by law enforcement under Section 164.412, Business Associate may delay notifying Covered Entity for the applicable timeframe.

(c) A breach or unauthorized access, use, or disclosure shall be treated as discovered by the Business Associate on the first day on which such unauthorized access, use, or disclosure is known, or should reasonably have been known, to the Business Associate or to any person, other than the individual committing the unauthorized disclosure, that is an employee, officer, subcontractor, agent or other representative of the Business Associate.

(d) In meeting its obligations under this section, it is understood that Business Associate is not acting as the Covered Entity's agent. In performance of the work, duties, and obligations and in the exercise of the rights granted under this Agreement, it is understood and agreed that Business Associate is at all times acting as an independent contractor in providing services pursuant to this Agreement and the Master Agreement.

8.   **Mitigating the Effect of a Breach, Security Incident, or Unauthorized Access, Use or Disclosure of Unsecured Protected Health Information.**

(a) Business Associate agrees to mitigate, to the greatest extent possible, any harm that results from the breach, security incident, or unauthorized access, use or disclosure of Unsecured Protected Health Information by Business Associate or its employees, officers, subcontractors, agents, or other representatives.

(b) Following a breach, security incident, or any unauthorized access, use or disclosure of Unsecured Protected Health Information, Business Associate agrees to take any and all corrective action necessary to prevent recurrence, to document any such action, and to make this documentation available to Covered Entity.

(c) Except as required by law, Business Associate agrees that it will not inform any third party of a breach or unauthorized access, use or disclosure of Unsecured Protected Health Information without obtaining the Covered Entity's prior written consent. Covered Entity hereby reserves the sole right to determine whether and how such notice is to be provided to any Individuals, regulatory agencies, or others as may be required by law, regulation or contract terms, as well as the contents of such notice. When applicable law requires the breach be reported to a federal or state agency or that notice be given to media outlets, Business Associate shall cooperate with and coordinate with Covered Entity to ensure such reporting is in compliance with applicable law and to prevent duplicate reporting, and to determine responsibilities for reporting.

9. Indemnification.

(a) Business Associate agrees to hold harmless, defend at its own expense, and indemnify Covered Entity for the costs of any mitigation undertaken by Business Associate pursuant to Section 8, above.

(b) Business Associate agrees to assume responsibility for any and all costs associated with the Covered Entity's notification of Individuals affected by a breach or unauthorized access, use or disclosure by Business Associate or its employees, officers, subcontractors, agents or other representatives when such notification is required by any state or federal law or regulation, or under any applicable contract to which Covered Entity is a party.

(c) Business Associate agrees to hold harmless, defend at its own expense and indemnify Covered Entity, including Covered Entity's employees, directors, officers, subcontractors, agents or other members of its workforce (each of the foregoing hereinafter referred to as "Indemnified Party"), against all actual and direct losses suffered by the Indemnified Party and all liability to third parties arising from or in connection with any breach of this Agreement or from any acts or omissions related to this Agreement by Business Associate or its employees, directors, officers, subcontractors, agents or other members of its workforce. Accordingly, on demand, Business Associate shall reimburse any Indemnified Party for any and all actual and direct losses, liabilities, lost profits, fines, penalties, costs or expenses (including reasonable attorneys' fees) which may for any reason be imposed upon any Indemnified Party by reason of any suit, claim, action, proceeding or demand by any third party which results from the Business Associate's acts or omissions hereunder. Business Associate's obligation to indemnify any Indemnified Party shall survive the expiration or termination of this Agreement.

(d) Survival. The obligations of Business Associate under this Section 9 shall survive this Agreement.

10. Individuals' Rights.

(a) Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner designated by the Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under Section 164.524.

(b) Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to make

pursuant to Section 164.526, at the request of Covered Entity or an Individual, and in the time and manner designated by the Covered Entity.

(c) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(d) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section 10(c) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

(e) Business Associate agrees to comply with any restriction to the use or disclosure of Protected Health Information that Covered Entity agrees to in accordance with Section 164.522.

11. Obligations of Covered Entity.

(a) Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with Section 164.520, as well as any changes to such notice.

(b) Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with Section 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

12. Agents and Subcontractors of Business Associate.

(a) Business Associate agrees to enter into written agreements with any agent, subcontractor or vendor, to whom it provides Protected Health Information received from Covered Entity or created, received, maintained or transmitted by Business Associate on behalf of Covered Entity, that impose the same restrictions, conditions and requirements that apply through this Agreement to Business Associate with respect to such information, including the requirement to immediately notify the Business Associate of any instances of any breach, security incident, intrusion, or unauthorized access to or use or disclosure of Protected Health Information of which it becomes aware. Upon request, Business Associate shall provide copies of such agreements to Covered Entity.

(b) Business Associate shall implement and maintain sanctions against any agent, subcontractor or other representative that violates such restrictions, conditions or requirements and shall mitigate the effects of any such violation.

13. Audit, Inspection, and Enforcement.

(a) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from Covered Entity or created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, available to any state or federal agency, including the Secretary, for the purposes of determining compliance with HIPAA and any related regulations or official guidance.

(b) With reasonable notice, Covered Entity and its authorized agents or contractors may audit and/or examine Business Associate's facilities, systems, policies, procedures, and documentation relating to the security and privacy of Protected Health Information to determine compliance with the terms of this Agreement. Business Associate shall promptly correct any violation of this Agreement found by Covered Entity and shall certify in writing that the correction has been made. Covered Entity's failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Covered Entity's enforcement rights under this Agreement.

14.   **Permissible Requests by Covered Entity**. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

15.   **Term and Termination.**
(a) The terms of this Agreement shall remain in effect for the duration of all services provided by Business Associate under the Master Agreement and for so long as Business Associate remains in possession of any Protected Health Information received from Covered Entity, or created, received, maintained or transmitted by Business Associate on behalf of Covered Entity unless Covered Entity has agreed in accordance with this Section 15 that it is not feasible to return or destroy all Protected Health Information.
(b) Upon termination of the Master Agreement, Business Associate shall recover any Protected Health Information relating to the Master Agreement and this Agreement in its possession and in the possession of its subcontractors, agents or representatives. Business Associate shall return to Covered Entity, or destroy with the consent of Covered Entity, all such Protected Health Information, in any form, in its possession and shall retain no copies.
(c) If Business Associate believes it is not feasible to return or destroy the Protected Health Information, Business Associate shall so notify Covered Entity in writing. The notification shall include: (1) a statement that the Business Associate has determined that it is not feasible to return or destroy the Protected Health Information in its possession, and (2) the specific reasons for such determination. Business Associate may retain only that Protected Health Information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities. If Covered Entity agrees in its sole discretion that Business Associate cannot feasibly return or destroy the Protected Health Information, Business Associate shall ensure that any and all protections, requirements and restrictions contained in the Master Agreement and this Agreement shall be extended to any Protected Health Information for so long as Business Associate maintains such Protected Health Information, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the Protected Health Information infeasible.
(d) Covered entity may immediately terminate the Master Agreement if it determines that Business Associate has violated a material term of this Agreement.
(e) Survival. The obligations of Business Associate under this Section 15 shall survive this Agreement.

16.   **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of the HIPAA Rules.

17. **Entire Agreement.** This Exhibit constitutes the entire HIPAA Business Associate Agreement between the parties, and supersedes any and all prior HIPAA Business Associate Agreements between them.

18. **Notices.**
(a) All notices required or authorized by this Agreement shall be in writing and shall be delivered in person or by deposit in the United States mail, by certified mail, postage prepaid, return receipt requested. Any notice sent by mail in the manner prescribed by this paragraph shall be deemed to have been received on the date noted on the return receipt or five days following the date of deposit, whichever is earlier.
(b) Any mailed notice, demand, request, consent, approval or communication that Covered Entity desires to give to Business Associate shall be addressed to Business Associate at the mailing address set forth in the Master Agreement.
(c) Any mailed notice, demand, request, consent, approval or communication that Business Associate desires to give to Covered Entity shall be addressed to Covered Entity at the following address:

> Napa County Privacy Officer
> Office of County Counsel
> 1195 Third Street, Suite 301
> Napa, CA 94559
>
> 707.253.4523

(d) For purposes of subparagraphs (b) and (c) above, either party may change its address by notifying the other party of the change of address.

19. **Lost Revenues; Penalties/Fines.**
(a) Lost Revenues. Business Associate shall make Covered Entity whole for any revenues lost arising from an act or omission in billing practices by Business Associate.
(b) Penalties/Fines for Failure to Comply with HIPAA. Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with the obligations imposed by HIPAA.
(c) Penalties/Fines (other). Business Associate shall pay any penalty or fine assessed against Covered Entity arising from Business Associate's failure to comply with all applicable Federal or State Health Care Program Requirements, including, but not limited to any penalties or fines which may be assessed under a Federal or State False Claims Act provision.

EXHIBIT "B"

COSTS

1. Annual Payment. The Participating Jurisdictions shall pay to the County, the jurisdictions share of proportional cost of the ePCR system no later than June 30th of each calendar year.

2. Costs of Hardware and Integration. The Participating Jurisdictions shall be solely responsible for the costs of integrating the use of the ePCR software. This includes staffing costs for training and oversight, hardware costs associated with using ePCR software, and all other software integration costs that may present when making connections between ePCR software and other systems (Computer Aided Dispatch systems, billing systems, etc.) Any and all hardware provided by the COUNTY to the Participating Jurisdictions through grant funding shall be maintained by the Participating Jurisdictions. The Participating Jurisdictions agree to monitor the inventory, tracking and distribution of grant funded hardware during the duration of its serviceable life. Any grant funded hardware that is lost, stolen or broken is the responsibility of the Participating Jurisdictions to replace within 30 days.

3. Funding. Some funding for use of ePCR software will be paid by EMS provider agencies not represented by this agreement.
    a. American Medical Response will pay 50% of total ePCR software costs up to a total of $30,000.
    b. After American Medical Response funding is provided, the COUNTY will pay 50% of the remaining non-device, non-setup costs of the ePCR software.
    c. As a condition to the use of ePCR software, all other participating entities not covered by this agreement will be required to pay for their own agency setup costs, device costs, and a proportional amount of ePCR software costs based on the number of patient care records created by their organization.

4. First Year Implementation Costs.

    a. One Time Agency Setup Cost. The COUNTY will be charged a $1,000 fee for each Participating Jurisdiction that uses the system. Upon procurement of the ePCR software, each Participating Jurisdiction will be responsible for a one time agency setup cost of $1,000 Paid directly to the COUNTY.

5. Device Costs. Each Participating Jurisdiction will be responsible for an annual cost of $500 per device that is licensed to use the ePCR software. The number of software licenses issued to a Participating Jurisdiction may be increased or decreased with written approval from the COUNTY. The number of software licenses requested by each Participating Jurisdiction for initial deployment:
    a. American Canyon Fire Protection District: 3
    b. Napa City Fire Department: 12
    c. California Department of State Hospitals, Napa: 6

6. Annual ePCR Software Costs.

    a. Proportional ePCR Software Costs. Each Participating Jurisdiction will be responsible for a share of the annual non-device, non-setup cost of the ePCR software after funding is provided by American Medical Response and the COUNTY. The share of costs is proportional based on the total number of patient care records created by each agency in the previous year. Proportional costs during the first year of the agreement will be based on the below calculations:
        i.   American Canyon Fire Protection District: 18.69%
        ii. Angwin Community Ambulance (not part of this agreement): 2.52%
        iii. Napa City Fire Department: 71.95%
        iv. Department of State Hospitals, Napa: 6.84%

    b. Anticipated Software Costs. The anticipated annual non-device, non-setup cost of the ePCR software after funding is provided by American Medical Response and the COUNTY is identified for the first five years of the agreement:
        i.   Year One: $6,350
        ii. Year Two: $4,600
        iii. Year Three: $4,780
        iv. Year Four: $5,000
        v.   Year Five: $5,240
        Software costs vary each year based on support costs and number of patient care reports created. Any variation greater than 20% of the Anticipated Software Costs will require an amendment to this agreement.