

Contract # Y14-158-DG

This Contract is made as of the 31st day of July, 2014 by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware corporation [] an individual, [] a partnership, [X] a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT and/or CONTRACTOR, whose Federal I.D. is 22-3875190.

In consideration of the mutual promises contained herein, the COUNTY and the CONSULTANT agree as follows:

ARTICLE 1 - SERVICES

The CONSULTANT'S responsibility under this Contract is to provide professional services in the area of medical transportation billing and collection services, as more specifically set forth in the Scope of Work detailed in Attachment "A" and made a part hereof, and in compliance with the Business Associate Agreement provided in Attachment "C" and made a part hereof.

The COUNTY'S representative/liaison during the performance of this Contract shall be Alex Morales, telephone no. (407) 836-9015.

ARTICLE 2 - SCHEDULE

The CONSULTANT shall commence services on July 31, 2014 ("Effective Date") and complete all services by July 30, 2017 ("Initial Term").

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Attachment "A".

This Contract may be renewed, by mutual agreement, for additional periods up to a cumulative total of two (2) years ("Renewal Term") at the same prices, terms and conditions. Any change in price, terms or conditions shall be accomplished by written amendment to this Contract.

Any order issued during the Initial Term or Renewal Term of this Contract, but not completed within that period, shall be completed by the CONSULTANT within the time specified in the order. The Contract shall govern the CONSULTANT and the COUNTY'S rights and obligations with respect to the extent as if the order were completed during this Contract's performance period.

ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. The total amount to be paid by the COUNTY under this Contract for services during the Initial Term shall not exceed three million, one hundred eighty six thousand dollars (\$3,186,000) and may be subject to change, upon mutual agreement, should the County's demographics, transport fees, and/or transport volumes change. The CONSULTANT will notify the COUNTY, in writing, when 90% of the estimated Contract amount has been reached. The CONSULTANT

will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Attachment "B" for services rendered toward the completion of the Scope of Work.

Where incremental billing for partially completed items is permitted, the total incremental billings shall not exceed the percentage of estimated completion as of the billing date.

- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the initiating County Department, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices must reference this contract number. Invoices will be paid in accordance with the State of Florida Prompt Payment Act.
- C. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "final invoice" on the CONSULTANT'S final/last billing to the COUNTY for the current term. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any and other further charges if not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 - TRUTH IN NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall act as the execution of the truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its right under this "Certificate" within one (1) year following final payment.

ARTICLE 5 - TERMINATION

A. Termination for Default:

The COUNTY may, by written notice to the CONSULTANT, terminate this Contract for default in whole or in part (delivery orders, if applicable) if the CONSULTANT fails to:

1. Provide products or services that comply with the specifications herein or fails to meet the COUNTY'S performance standards
2. Deliver the supplies or to perform the services within the time specified in this Contract or any extension.

3. Make progress so as to endanger performance of this Contract
4. Perform any of the other provisions of this Contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONSULTANT through the Manager, Purchasing and Contracts, affording him/her the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within thirty (30) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONSULTANT in accordance with the County's Procurement Ordinance. The CONSULTANT and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONSULTANT's default of this Contract. This liability includes any increased costs incurred by the COUNTY in completing Contract performance.

In the event of termination by the COUNTY for any cause, the CONSULTANT will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:

1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4. Continue and complete all parts of that work that have not been terminated.

Neither CONSULTANT nor COUNTY shall be liable, nor may cancel this Contract for default, when delays arise out of causes beyond the control of CONSULTANT or COUNTY. Such causes may include but are not restricted to acts of God, acts of COUNTY in sovereign capacity, fires, floods, lightning strikes, epidemics, quarantine restrictions, strikes, freight embargoes, wars, civil disturbances, work stoppage, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof, and unusually severe weather. In every case, the delay must be beyond the control of the claiming party. If CONSULTANT is delayed in its performance as a result of the above causes, COUNTY, shall upon written request of CONSULTANT, agree to equitably adjust the provisions of this Contract, including price and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit COUNTY'S right to terminate for convenience.

B. Termination for Convenience

The COUNTY, by written notice, may terminate this Contract, in whole or in part, when it is in the County's interest. If this Contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the CONSULTANT thirty (30) days' prior

notice before it becomes effective. **A termination for convenience may apply to individual delivery orders, purchase orders or to this Contract in its entirety.**

CONSULTANT may terminate this Contract, by providing the County sixty (60) days' written notice.

ARTICLE 6 - PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereafter shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in Attachment "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. The COUNTY may require, in writing, that the CONSULTANT remove from this Contract any employee the COUNTY deems incompetent, careless, or otherwise objectionable.

ARTICLE 7 – SUBCONTRACTING AND MINORITY/WOMEN EMPLOYMENT PARTICIPATION

- A. The CONSULTANT shall be responsible for reporting Minority/Women Business Enterprise (M/WBE) sub-CONSULTANT contract dollar amount(s) for the M/WBE sub-consultant(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the Business Development Division. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the COUNTY. Quarterly updated M/WBE utilization reports and Employment Data, Schedule of Minorities and Women reports are to be submitted every quarter during the term of this Contract. Additionally, the CONSULTANT shall ensure that the M/WBE participation percentage proposed in the Consultant's Proposal submitted for this Contract is accomplished.
- B. Subsequent amendments to this Contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the Business Development Division, with a copy to the COUNTY'S designated representative, within ten (10) days after COUNTY'S execution.

- C. The CONSULTANT shall be responsible for reporting local minority/women employment percentage levels within the firm and the minority/women employment percentage levels that the firm anticipates utilizing to fulfill the obligations of this Contract. The report(s) shall be submitted to the Business Development Division, on a quarterly basis during the life of the Contract.
- D. The awarded prime CONSULTANT shall furnish written documentation evidencing actual dollars paid to **all sub-consultants** utilized by the prime CONSULTANT on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual MWBE participation achieved by the prime CONSULTANT prior to the issuance of final payment.
- E. In the event a certified M/WBE sub-consultant's subcontract is terminated for convenience, the CONSULTANT shall submit a letter to the Business Development Division from the terminated sub-consultant evidencing their concurrence with the termination. In the event a certified M/WBE sub-consultant's subcontract is terminated for cause, the CONSULTANT shall justify the replacement of that sub-consultant, in writing to the Business Development Division, accompanied by the Project Manager's recommendation or consent to termination.
- F. It is the intent of the COUNTY to insure prompt payment of all sub-consultants working on COUNTY projects. The CONSULTANT shall:
1. Submit copies of executed contracts between the CONSULTANT and all of its M/WBE sub-consultants to the Business Development Division.
 2. The COUNTY may at its discretion require copies of subcontracts/purchase orders for the non-M/WBE's listed on **SCHEDULE OF SUBCONTRACTING - M/WBE PARTICIPATION FORM** and or utilized on the project. However, if this option is not exercised the awarded Proposer shall provide a list of all non-M/WBE sub-consultants certifying that a prompt payment clause has been included in that contract or purchase order.
 3. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONSULTANT and sub-consultants (including those with non-M/WBE's) stating that payment will be made to the sub-CONSULTANT within 72 hours of receipt of payment from the COUNTY. The CONSULTANT shall pay each sub-CONSULTANT for all work covered under an invoice within the 72 hour time frame.
- G. By entering into this Contract, the CONSULTANT affirmatively commits to comply with the M/WBE subcontracting requirements submitted with his/her Proposal. The failure of the CONSULTANT/CONTRACTOR to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

The COUNTY may take action up to and including termination for default if this condition is not remedied within the time period specified by the Manager, Procurement Division.

ARTICLE 8 – SERVICE-DISABLED VETERAN (SDV) REPORTING

If applicable to this Contract the prime CONSULTANT/CONTRACTOR shall be responsible for reporting (SDV) sub-consultant contract dollar amount(s) for the SDV firms(s) listed in the document by submitting appropriate documents evidencing contract award of work to the Business Development Division (BDD). The report(s) shall be submitted in the (BDD) with a copy to the representative within ten (10) days after issuance of individual assignments or task authorizations.

- A. The CONSULTANT shall be responsible for reporting SDV sub-CONSULTANT contract dollar amount(s) for the SDV sub-consultant(s) listed in this document, by submitting the appropriate documents, which shall include but not limited to fully executed sub-contract agreements and/or purchase orders evidencing contract award of work, to the BDD. Submittal of these sub-contract agreements/purchase orders is a condition precedent to execution of the prime contract with the COUNTY. Quarterly updated utilization report shall be submitted every quarter during the term of this Contract.
- B. Subsequent amendments to this Contract shall be submitted with the appropriate documentation evidencing contractual change or assignment of work to the BDD, with a copy to the COUNTY'S designated representative, within ten (10) calendar days after COUNTY'S execution.

The awarded prime CONSULTANT shall furnish written documentation evidencing actual dollars paid to **all sub-consultants** utilized by the CONSULTANT on the project. This will include, but not limited to: copies of cancelled checks, approved invoices, and signed affidavits certifying the accuracy of payments so that the COUNTY may determine actual SDV participation achieved by the CONSULTANT prior to the issuance of final payment.

- C. In the event a registered SDV sub-consultant's subcontract is terminated for convenience, the CONSULTANT shall call and submit a letter to the BDD from the terminated sub-consultant evidencing their concurrence with the termination. In the event a registered SDV sub-consultant's subcontract is terminated for cause, the CONSULTANT shall justify the replacement of that sub-consultant, in writing to the BDD, accompanied by the Project Manager's recommendation or consent to termination.
- D. It is the intent of the COUNTY to insure prompt payment of all sub-consultants working on COUNTY projects. The CONSULTANT shall:
 - 1. Submit copies of executed contracts between the CONSULTANT and all of its SDV sub-consultants to the BDD.
 - 2. Incorporate a prompt payment assurance provision and payment schedule in all contracts between the CONSULTANT and SDV sub-consultants (stating that payment will be made to the sub-CONSULTANT within 72

hours of receipt of payment from the COUNTY. The CONSULTANT shall pay each sub-CONSULTANT for all work covered under an invoice within the 72 hour time frame.

- E. By entering into this Contract, the CONSULTANT affirmatively commits to comply with the SDV requirements submitted with his/her Proposal. The failure of the CONSULTANT/CONTRACTOR to comply with this commitment during the Contract's performance period may be considered a breach of Contract.

ARTICLE 9 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Contract.

ARTICLE 10 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

ARTICLE 11 - INSURANCE REQUIREMENTS:

Contractor agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this Contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor/Agency under this Contract.

The Contractor shall require and ensure that each of its sub-contractors/consultants providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via www.floir.com/companysearch/ and A.M. Best Ratings are available at www.ambest.com)

Required Coverage:

- A. Workers' Compensation - The Contractor shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 each incident of bodily injury or disease for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the County. **Elective exemptions as**

defined in Florida Statute 440 will be considered on a case-by-case basis. Any Contractor using an employee leasing company shall complete the Leased Employee Affidavit (Exhibit A).

- B. Commercial General Liability - The Contractor shall maintain coverage issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with a limit of liability of not less than \$500,000 per occurrence. Contractor further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit.
- C. Business Automobile Liability - The Contractor shall maintain coverage for all owned; non-owned and hired vehicles issued on **the most recent version of the ISO form as filed for use in Florida or its equivalent**, with limits of not less than \$500,000 per accident. In the event the Contractor does not own automobiles the Contractor shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- D. Professional Liability (if applicable) - The Contractor shall maintain professional liability (errors and omissions or medical malpractice) coverage with limits of not less than \$1,000,000 per occurrence.

The County uses Ebix BPO to manage its insurance certificates and related documentation. Upon insurance expiration, Ebix BPO staff will notify the Contractor to request updated insurance certificate(s) and endorsement(s). The Contractor agrees that should a valid Insurance Certification be on file with Ebix, this contract will be added to that certification.

By entering into this Contract, Contractor agrees to provide a waiver of subrogation in favor of the County for the workers' compensation and a waiver of transfer of rights of recovery in favor of the County for general liability policies as required herein. When required by the insurer or should a policy condition not permit the Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Contractor agrees to endorse the County as an Additional Insured with a CG 20 26 Additional Insured – Designated Person or Organization endorsement, or its equivalent to all commercial general liability policies. The additional insured shall be listed in the name of Orange County Board of County Commissioners.

Any request for an exception to these insurance requirements must be submitted in writing to the County for approval.

Prior to execution and commencement of any operations/services provided under this Contract the Contractor shall provide the County with current certificates of insurance evidencing all required coverage. **In addition to the certificate(s) of insurance the Contractor shall also provide a blanket (Exhibit B) or specific (Exhibit C)**

Additional Insured Endorsement and all Waiver of Subrogation (Exhibit D) or Waiver of Transfer of Rights of Recovery (Exhibit E) endorsements for each policy as required above.

For continuing service contracts renewal certificates shall be submitted upon request by either the County or its certificate management representative. The certificates shall clearly indicate that the Contractor has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. No material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Certificates shall specifically reference the respective contract number.

The certificate holder shall read:

Orange County Board of County Commissioners
Procurement Division
400 E. South Street
Orlando, Florida 32801

ARTICLE 12 - INDEMNIFICATION

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONTRACTOR or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONSULTANT.

ARTICLE 14 - REMEDIES

This Contract shall be governed by the laws of the State of Florida. Venue for any litigation involving this Contract shall be the Circuit Court in and for Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 15 - UNIFORM COMMERCIAL CODE

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the CONSULTANT and the COUNTY for any terms and conditions not specifically stated in this Contract.

ARTICLE 16 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONSULTANT further represents that no person having any interest shall be employed for said performance.

The CONSULTANT shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of the notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONSULTANT under the terms of this Contract.

ARTICLE 17 - EXCUSABLE DELAYS

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its sub-consultants and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its sub-consultant's fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all work at any time.

ARTICLE 18 - ARREARS

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment or any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

All oral and written information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the COUNTY, or at its expense, will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense ("Work for Hire") shall be and remain the COUNTY'S property and may be reproduced at the discretion of the COUNTY. For the purposes of this Contract, "Work for Hire" shall not include any software, source or object code, maintenance releases, software updates, software documentation, training materials, process guidelines or other data developed by CONSULTANT ("Consultant Property") at CONSULTANT's expense and outside the scope of this Contract, even if used or delivered to support work. The provision of such CONSULTANT Property is subject to the terms of the End User License Agreement (or Software use/SaaS) accepted by COUNTY at time software was licensed.

The COUNTY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 20 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than as specifically provided for in this Agreement.

ARTICLE 21 - CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retrained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 22 - ACCESS AND AUDITS

The CONSULTANT shall establish and maintain a reasonable accounting system, which enables ready identification of CONSULTANT'S cost of goods and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods for at least five (5) years after completion of this Contract. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the CONSULTANT or its sub-consultants relative to this Contract to comply with this section for the purpose of inspection or audit anytime during normal business hours at the CONSULTANT'S place of business. This right to audit shall include the CONSULTANT'S sub-consultants used to procure goods or services under this Contract with the COUNTY. CONSULTANT shall ensure the COUNTY has these same rights with sub-consultant(s) and suppliers.

ARTICLE 23 – EQUAL OPPORTUNITY

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONSULTANT shall abide by the following provisions:

- A. The CONSULTANT shall represent that the CONSULTANT has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this Contract.
- B. The CONSULTANT shall allow reasonable access to business and employment records relative to this Contract for the purpose of ascertaining compliance with the non-discrimination provision of this Contract.
- C. The provisions of the prime contract shall be incorporate by the CONSULTANT into the contracts of any applicable subcontractors.

ARTICLE 24 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONSULTANT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

ARTICLE 25 - ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including applicable taxes) (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 26 - AUTHORITY TO PRACTICE

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to, conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY upon request.

ARTICLE 27 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 28 - MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT shall (1) if requested by COUNTY, provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY in writing if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall issue a Contract Amendment or Change Order and the CONSULTANT shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the parties.

ARTICLE 29 - REQUIREMENTS CONTRACT

This is a Requirements Contract and the COUNTY shall order from the CONSULTANT all of the supplies and/or services specified in this Contract's price schedule that are required to be purchased by the COUNTY. If the COUNTY urgently requires delivery of goods or services before the earliest date that delivery may be required under this Contract, and if the CONSULTANT will not accept an order providing for accelerated delivery, the COUNTY may acquire the goods or services from another source.

Except as this Contract may otherwise provide, if the COUNTY'S requirements do not result in orders in the quantities described as "estimated" in the Contract's price schedule, that fact shall not constitute the basis for an equitable adjustment.

ARTICLE 30 - CONTRACT CLAIMS

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of this Contract terms, or other relief arising under or relating to this Contract.

Claims made by a Contractor/Consultant against the County relating to a particular contract shall be submitted to the Purchasing and Contracts Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Contractor also shall provide with the claim a certification as follows:

"I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor/Consultant believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor/Consultant."

Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract. The decision of the Purchasing and Contracts Manager shall be issued in writing and shall be furnished to the Contractor/Consultant. The decision shall state the reasons for the decision reached. The Purchasing and Contracts Manager shall render the final decision within sixty (60) days after receipt of Contractor's/Consultant's written request for a final decision. The Purchasing and Contracts Manager's decision shall be final and conclusive.

The Contractor/Consultant shall proceed diligently with performance of this Contract pending final resolution of any request for relief, claim, appeal or action arising under this Contract and shall comply with any final decision rendered by the Manager of Purchasing and Contracts.

ARTICLE 31 - TOBACCO FREE CAMPUS

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during Contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or Contract enforcement remedies.

ARTICLE 32 – VERIFICATION OF EMPLOYMENT STATUS

Prior to the employment of any person under this Contract, the contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of (a) all persons employed during this Contract Initial Term or Renewal Term by the contractor to perform employment duties within Florida and (b) all persons, including subcontractors, assigned by the contractor to perform work pursuant to this Contract with Orange County. Please refer to USCIS.gov for more information on this process.

Only those employees determined eligible to work within the United States shall be employed under the contract.

Therefore, by submission of a bid or proposal in response to this solicitation, the contractor confirms that all employees in the above categories will undergo e-verification before placement on this Contract. The contractor further confirms its commitment to comply with this requirement by completing the E- Verification certification.

ARTICLE 33 – LAWS AND REGULATIONS

All applicable Federal and State laws, municipal and County ordinances shall apply to the solicitation and this Contract.

ARTICLE 34 – ADDENDA

All requirements contained in any addenda to the solicitation for this procurement are part of and hereby incorporated into this Contract.

ARTICLE 35 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

Orange County Fire Rescue
Attention: Alex Morales, Fiscal & Operational Support Manager
P. O. Box 5879
Winter Park, Florida 32793-5879

and if sent to the CONSULTANT shall be mailed to:

Intermedix Corporation
6451 N. Federal Hwy., Suite 1000
Ft. Lauderdale, FL 33308
Attn: Brad Williams, VP & CAO

IN WITNESS WHEREOF, the Board of County Commissioners of Orange County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

CONSULTANT: ADVANCED DATA ORANGE COUNTY, FLORIDA:
PROCESSING, INC., A
SUBSIDIARY OF INTERMEDIX
CORPORATION, A DELAWARE
CORPORATION

Advanced Data Processing, Inc.
Company Name

Johnny Richardson, CPPO, CFCM
Procurement Division Manager

Signature

Date

Michael Wallace
Typed Name

EVP & CFO
Title

6-4-14
Date

ATTACHMENT A

SCOPE OF SERVICES

The Contractor shall provide services for billing patients transported by ground by the Orange County Fire Rescue Department, with an emphasis on an accelerated turnaround between services provided and payment received. Required services are specified below.

BACKGROUND

The Fire Rescue Department (OCFRD) has been providing Basic Life Support (BLS) and Advanced Life Support (ALS) services to the citizens and visitors of Orange County since October 21, 1996.

The Fire Rescue Department currently charges a four-tier rate of \$447 for Basic Life Support, \$750 for Advance Life Support, \$702 for Advance Life Support II, and \$750 for Specialty Care Transport services. In addition, the Fire Department currently charges \$12.00 per mile for each transport as required. These rates increase every fiscal year based on the Consumer Price Index.

SCOPE OF SERVICES

- A. Invoice patient, or other third party, responsible for payment of services rendered in accordance with time frames stated herein.
- B. Provide Fire Rescue Department all monthly financial, billing and receivable reports as stated herein.
- C. Provide a Customer Service Representative to assist patients and/or other third party payees in all billing inquiries in a timely fashion as specified herein. Customer calls will be facilitated through an "800" exchange.
- D. Conduct any follow-up required to obtain the necessary insurance information to process invoices for payment. Record of telephone calls and contact shall be maintained and any payment on an account shall be recorded per account.
- E. The Contractor shall accept the hard copy or electronic information pertaining to patients' pay or billing documentation from the County for all patients transported by Orange County Fire Rescue Department.
- F. The Contractor shall be responsible for the invoicing, collection, and generation of any and all insurance forms and filings, record maintenance and reports.
- G. The Contractor shall provide:
 - (1) All invoices and related insurance forms with remittance advice.
 - a. The invoices for services rendered shall contain the following information:
 - (1) Account number

- (2) Invoice number
- (3) Invoice date
- (4) Name of Patient
- (5) Name of responsible person if different from patient
- (6) Complete address
- (7) Date of transport
- (8) Cost of transport (including cost breakdown, if necessary)
- (9) Incident number
- (10) Transport from and to including ZIP Code Number
- (11) Insurance coverage and instructions (if applicable)
- (12) Billing inquiry telephone number

b. The invoice shall also contain a message stating "all checks must be made payable to the "Fire Rescue Department." And that OCFRD accepts all major credit cards.

c. All invoicing and reporting systems shall be automated.

(2) Return envelope with the address to be designated by the Orange County Fire Rescue.

(3) Postage for the mailing of all invoices, forms and citizen surveys.

H. Mail bill (including a return envelope) to the patient/debtor within five (5) days of receiving the transport information from OCFRD. The address specified on the bill and return envelope will be specified by OCFRD.

I. The Contractor shall send a second notice at thirty (30) days and a third notice at sixty (60) days. If new information is obtained by billing company, two new notices (within 30 days of each other) shall be mailed out again and this process shall continue as long as new or different information is obtained. This will ensure that patient/debtor is kept informed on the account balance and what is going on with the account.

J. If patient/debtor makes monthly payments, a statement shall be mailed out monthly, showing the balance still due.

K. If an account shows no activity (i.e. new insurance information, payment, updated patient data, etc) for six (6) consecutive months, a final notice/letter shall be sent out to the latest address or the address on the account (notice/letter format must be pre-approved by OCFRD). If no payment or insurance information is received within 30 days from the notice mail out, the account shall be sent to the collection agency contracted with OCFRD.

- L. The accounts sent to collection shall be electronically transferred to the collection agency contracted with OCFRD, in order to expedite the transfer and avoid paper usage. Transferring files to the collection agency on paper will not be an acceptable format. The format to be transferred must be as a text document (.txt) that meets the ANSI (American National Standards Institute) so that it can be uploaded to the collection agency system.
- M. Provide Electronic Claims Processing for Medicare and Medicaid and any private insurance, which accepts electronic claims, in order to expedite payment.
- N. Mail proper insurance forms and/or submit claims on a daily basis via electronic transmissions where feasible, to Medicare, Medicaid, and Commercial insurance as required or requested by the patient.
- O. Post all payments as received.
- P. Respond to all patient requests and inquiries, either written or verbal.
- Q. Comply with all applicable Federal, State and local laws as they apply to the services being provided, such as, but not limited to, the Federal Debt Collection Practices Law. This further includes all requirements to maintain confidentiality for all medical and patient information as related to insurance and local laws or rules and regulations, such as, but not limited to, the Health Insurance Portability and Accountability Act (HIPAA).
- R. Agree to negotiate and arrange modified payment schedules for those individuals unable to pay the full amount when billed, subject to such policy guidelines as the County may establish.
- S. Maintain all documentation, records and patient information in a safe and secure manner that will allow inspection and audit by the Orange County Fire Rescue Department or its agents upon proper notification.
- T. Provide and furnish all materials and personnel required for the performance of the Agreement.
- U. Make every effort to locate and correct any incorrect billing address for billable patients.
- V. Maintain a working arrangement with all of the Fire Rescue Department serviced hospitals and request that hospitals provide a copy of patient fact sheets or be provided with demographic and insurance information.
- W. Provide training to appropriate Fire Rescue personnel regarding the gathering of necessary information and proper completion of run tickets.
- X. The Contractor shall limit the use of confidential records of care or treatment of patients solely for the purpose of processing and collecting claims and shall not release any such information in any legal action, business dispute or competitive bidding process other than disputes with the County over billing services.

- Y. Procedures described in this scope of services represent a minimum effort required by the County of the Contractor. It shall not be construed to limit the Contractor's use of its proprietary accounts receivable and billing and collections systems.
- Z. The Contractor shall have ultimate responsibility for determining the level of service rendered as it relates to billing for BLS, ALSI, ALSII and/or SCT and shall make the final determination for the miles traveled based on documentation and narrative that is provided to them in the transport report (via electronic and/or paper).

RESPONSIBILITIES OF ORANGE COUNTY FIRE RESCUE DEPARTMENT:

- A. From each person who receives EMS from COUNTY ("Patient"), COUNTY shall use its best efforts to obtain and forward the following information ("Patient Information") to CONTRACTOR:
 - (i) the Patient's full name and date of birth;
 - (ii) other party responsible for payment ("Guarantor");
 - (iii) the Patient's social security number;
 - (iv) the name and address of the Patient's health insurance carrier, name of policyholder or primary covered party, and any applicable group and identification numbers;
 - (v) the auto insurance carrier address and/or agent's name and phone number if an automobile is involved;
 - (vi) the employer's name, address and Workers Compensation Insurance information if the incident is work related;
 - (vii) the Patient's Medicare or Medicaid HIC numbers if applicable;
 - (viii) the Patient's or other responsible party's signed payment authorization and release of medical authorization form or other documentation sufficient to comply with applicable signature requirements;
 - (ix) the call times, transporting unit, and crew members with their license level, i.e. EMT-B, EMT-I, or EMT-P;
 - (x) odometer readings or actual loaded miles flown such that loaded miles may be calculated;
 - (xi) physician certification statements (PCS) for non-emergency transports that are to be billed to Medicare pursuant to CMS regulations; and
 - (xi) any other information that CONTRACTOR may reasonably require to bill the Patient or other Payor.
- B. The CONTRACTOR will assist the COUNTY in filling out all of the necessary documents required by third parties to allow for the electronic filing of claims by CONTRACTOR on COUNTY's behalf.
- C. COUNTY will provide CONTRACTOR with its dispatch protocols and fee schedule.
- D. COUNTY will cooperate with CONTRACTOR in all matters to ensure proper compliance with laws and regulations.

- E. COUNTY represents and warrants that all of its employees, personnel and independent contractors involved in the delivery of EMS or otherwise performing services for COUNTY: (i) hold the licensure or certification required to perform such services, (ii) have not been convicted of a criminal offense related to health care or been listed as debarred, excluded or otherwise ineligible for participation in a Federal health care program and (iii) are not excluded persons listed on any of the following: (a) the Office of the Inspector General List of Excluded Individuals and Entities; (b) the General Services Administration's Excluded Parties List; and (c) the Office of Foreign Asset Control's Specially Designated Nationals List.
- F. COUNTY agrees that it will forward to CONTRACTOR copies of checks, or other payment documentation requested by CONTRACTOR relating to the subject matter of this Agreement, within 10 days of the date of receipt of those payments.
- G. COUNTY agrees to notify CONTRACTOR in the event that their Electronic Patient Care Reporting (ePCR) vendor performs any system upgrades. Notification may be made in writing to support@CONTRACTOR.com.
- H. The Fire Rescue Department will comply with all Federal, State and local laws, rules and regulations as applicable to the services being contracted for.

WORK PRODUCTS REQUIRED:

The following work products shall be submitted monthly as a part of the end of the month reports:

- A. Schedule of Transport Charges & Collections – This report shall list in summary amounts each month/year and provide total number of transports, gross charges, adjustments, net charges, receipts, net balance due, percentage of gross collections, percentage of net collections, percentage of paying patients, and dollar amount returned/sent to collections.
- B. Monthly Billing and Collections Summary – This report shall list in summary amounts each month/year and provide total gross billings, subtract adjustments, collections for the month, collections to date, and collections gross amount over 50%. This report shall also provide the figure for collected for Medicaid, which should be subtracted from the collections for the month to figure how much is owed to the billing company.
- C. Insurance Receivable Report – This report shall list by month/year the type of insurance (i.e. Medicaid, Medicare, or Insurance), the number of accounts in each type of insurance, and the balances for each type per month/year.
- D. Payment Report – This report shall list in detail for the current month patient account number, patient name, address, incident date, check number, check amount, payment type, and name of payer. This is summarized by batch group/deposit amounts, with a grand total at the end. Any refunds would also be listed in this report at the end or any other detail transaction occurring to the accounts for the current month.

- E. New Billing Report – This report shall provide a listing of all patients received for the month. It shall list the patient account number, patient name, incident date, base fee amount, mileage amount, total billed, and the type of transport (i.e., BLS, ALS I, or ALS II).
- F. Rescue Unit Report – This report shall provide a listing of all rescues who transported, the number of transports related to each rescue, and the gross billing amount per rescue.
- G. Collection By Financial Class – This report shall list by month/year total billed for each month, breaking down by type (i.e. self pay, Medicaid, Medicare, insurance) and then providing total collected by type and percentage collected for each type. It shall also list the number of accounts for each of those months, to include if any are not billable, and the dollar figure for those non-billable accounts.
- H. Report of Accounts Receivable – This report shall summarize all other reports and include in total gross billed, since inception, total number of accounts, subtracts the accounts removed (sent to collections) and the number of accounts removed, less payments received, less adjustments and write-offs, less reversals, and finally the balance of the A/R. The grouping of removed from A/R shall have a separate breakdown of that figure which includes the payments associated with those removed accounts and the adjustments/write-offs with those accounts.
- I. Report of Accounts Receivable Removed from A/R (sent to collections) – This report shall provide a detail listing of all accounts removed from the A/R for the current month. It shall list patient account number, patient name, address, zip code, incident date, amount billed, amounts paid, adjustment amounts, balance, and hospital code.
- J. Billing Adjustment Report (write offs / reversals) – This report shall maintain a running balance of all adjustments/write offs and reversals. It shall list the patient account number, patient name, incident date, adjustment amount, and type of adjustment (i.e. Medicare, Medicaid, and Insurance).
- K. Audit Report of Accounts Changed (BLS to ALS or ALS to ALS II, etc.) – This report shall track changes in type of transport for the current month to balance against what was supposed to be billed. If an account is changed from BLS to ALS, it shall be listed on this report, showing patient account number, patient name, original amount, new amount, difference, and the date of change.
- L. Provide any additional custom reports required by the Orange County Fire Department during the contractual period.

INFORMATION SYSTEMS:

Contractor must be able to access Orange County's network and download files provided by the Orange County Fire Rescue Department containing patient data and billing information. Contractor shall provide a secure website so that Orange County Fire Rescue may upload files containing patient data and billing information and download files from the billing company. Field data provided by Orange County Fire Rescue Department via electronic transfer shall have an agreed upon encryption scheme to protect that data from casual interception and inspection by unauthorized person(s).

The Fire Rescue Department networking infrastructure is as follows:

1. A wide area network covering 42 different locations with approximately 400 workstations on the network and 150 Wireless Mobile data computers and Laptops.
2. Network Operating Systems (NOS) - Server Operating System is Windows 2003 and AIX Unix.
3. Communications Protocol - The only communications protocol supported is TCP/IP.
4. User workstations operating system and software - Currently running Windows XP with Service Pack 2. The workstations are running Office 2000 Professional or Office 2003 Professional, based on user needs.
5. User workstations hardware – Small form factor **Pentium 4 550/3.40GHz 1M, 800FSB with 1.0GB, Non-ECC, 400MHz DDR2 2x512.**

STATEMENTS/BILLINGS:

All text, format, and color of printing and stock subject to approval by the Orange County Fire Rescue Department. Statements/Billings shall be at intervals of initial billing, 30, 60, 90 days etc.

REFUNDS:

Contractor shall provide the Orange County Fire Rescue Department with a monthly refund request including all pertinent information relating "to refund payment to patients and/or insurance company".

ACCESS TO BILLING SYSTEM:

1. Right to Use. During the Term of this Agreement, CONTRACTOR grants to COUNTY, access to CONTRACTOR billing system solely to view COUNTY's accounts, run various reports, and access to all data associated with the billing and collection process which is wholly owned by COUNTY ("Billing Service"). During the Term of this Agreement, CONTRACTOR will not in any way transfer

to any third party or use in direct or indirect competition with COUNTY any information or data posted by or for the benefit of COUNTY on CONTRACTOR's website and acknowledges that all such information is confidential ("Confidential Information"). CONTRACTOR further acknowledges that its handling of information on behalf of COUNTY is or may be subject to federal, state or local laws, rules, regulation and restrictions regarding the privacy of consumer information. CONTRACTOR agrees to comply with all of such laws, rules and regulations and restrictions, as is commercially reasonably possible, at its sole cost and expense. This Access to Billing System Section and all obligations contained therein will survive any termination or expiration of this Agreement.

2. User Restrictions. COUNTY shall not, and shall not permit others to, without the express written consent of CONTRACTOR: (i) use, receive, reproduce, copy, market, sell, distribute, license, sublicense, lease, timeshare, or rent the Billing Service, any other Service or any component thereof; (ii) modify, alter, translate or prepare derivative works based on the Billing Service or Documentation is permitted; (iii) disassemble, decompile, decrypt or reverse engineer the Billing Service or in any way attempt to discover or reproduce source code for the Billing Service, or any portion thereof; or (iv) develop or license any third party programs, applications, tools or other products which interface or interact with the Billing Service. COUNTY agrees not to remove the copyright, trade secret or other proprietary protection legends or notices which appear on or in the Billing Service, any other Service or the Documentation.
3. Internet Access. COUNTY shall be responsible for providing its own Internet access necessary to provide the Billing Service, and in no event shall COUNTY be provided with direct access (by modem or otherwise) to the Billing Service server, other than access that is available to third parties generally through the Internet. The parties acknowledge that, since the Internet is neither owned nor controlled by any one entity, CONTRACTOR makes no guarantee that any given user will be able to access the Billing Services at any given time. There are no assurances that access will be available at all times and uninterrupted, and CONTRACTOR shall not be liable to COUNTY for its inability to access the Billing Service.
4. Reporting. Operational and financial data reports for COUNTY will be available on the Billing Services when the Billing Service is available. The format and content of the data will be established and defined by CONTRACTOR and such reports may be added, modified or deleted without notice to COUNTY. Notwithstanding the foregoing, COUNTY may request that specific, custom reports be made available to it.
5. Acknowledgement with Respect to Reports. With respect to each report generated for COUNTY as part of the Billing Service, COUNTY acknowledges and agrees: (i) such report represents a "snapshot" of a moment in time, and as such, the snapshot may not be accurate with respect to financial results on the whole; (ii) the underlying data may be subject to correction from time-to-time, which may change the results of the report or its interpretation; and (iii) the data represented in the report constitutes only a limited portion of all data available

regarding COUNTY's business. Accordingly, any particular report may not accurately represent the COUNTY's then-current or future financial condition.

6. Intellectual Property. COUNTY agrees that the equipment, computer hardware and software, billing and collection processing, Services, Billing Service and other related systems and equipment are the property and trade secrets of CONTRACTOR, and that COUNTY will not release any information regarding such Confidential Information (as such term is defined in Section 11.01) and/or trade secrets of CONTRACTOR to any third party without the prior written consent of CONTRACTOR. COUNTY further agrees that, in connection with the use of certain data entry devices, COUNTY may gain access to the intellectual property of third parties. COUNTY understands and agrees that it may be required to enter into agreements with respect to such intellectual property in order to use such equipment. COUNTY agrees to enter into such arrangements at CONTRACTOR's request.

ATTACHMENT B

FEE SCHEDULE

The Contractor shall provide all labor, equipment, manpower and other resources necessary to provide the supplies, equipment and services in strict accordance with the scope of services defined in this Contract for the amounts specified in this Price Proposal Form. The fees shall include all costs, including profit, overhead and any other costs necessary to deliver the services.

Pricing for services shall be

1. A fixed percentage of all monies collected in the previous month **less** Medicaid claims:

<u>ESTIMATED AMOUNT OF ANNUAL COLLECTIONS</u>		<u>PERCENTAGE FEE</u>		<u>SUB- TOTAL</u>		<u>TOTAL ESTIMATED AMOUNT</u>
\$18,000,000	X	4.00%	=	\$ 720,000	x 3 yrs. =	\$ 2,160,000

2. A firm fixed fee per claim for Medicaid claims:

<u>ESTIMATED NUMBER OF ANNUAL MEDICAID COLLECTIONS</u>		<u>FIXED FEE PER CLAIM</u>		
30,000	X	\$ 11.40	=	\$ 342,000 x 3 yrs. = \$ 1,026,000

TOTAL ESTIMATED PROPOSAL \$ 3, 186,000

ATTACHMENT C

BUSINESS ASSOCIATE AGREEMENT

RECITALS

This Business Associate Agreement supplements and is made part of the Underlying Agreement (as defined below).

This BA Agreement is entered into between **Orange County** ("Covered Entity") and **Advanced Data Processing, Inc., a subsidiary of Intermedix Corporation, a Delaware Corporation** ("Business Associate"), effective as of the Effective Date of the Underlying Agreement.

WHEREAS, Covered Entity and Business Associate have entered into, or plan to enter into, a separate agreement, entitled Contract # Y14-158-DG for medical transportation billing and collection services, as of the Effective Date, or other documented arrangement (the "Underlying Agreement"), pursuant to which Business Associate may provide services for Covered Entity that require Business Associate to access, create and/or use Protected Health Information ("PHI") that is confidential under state and/or federal law; and

WHEREAS, Orange County meets the definitions of a hybrid entity 45 CFR § 164.10.

WHEREAS, Orange County has been designated as a hybrid entity under the HIPAA Privacy and Security Rules 45 CFR § 164.105.

WHEREAS, Orange County, as a hybrid entity, pursuant to 45 CFR § 164.105(a)(2)(iii)(D) has documented that Health Services Department is a health care component of the County and as such will be treated as a Covered Entity.

WHEREAS, in connection with providing services to the Covered Entity ("Services") by the Business Associate, the Covered Entity discloses to the Business Associate certain Protected Health Information ("PHI") that is subject to protection under the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164.

WHEREAS, the HIPAA Privacy and Security Rules requires that Covered Entity receive adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received in the course of providing Services to or on behalf of Covered Entity; and

WHEREAS, the purpose of this Agreement is to comply with the requirements of the HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164 ("HIPAA Regulations"); the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009, and its implementing regulations and guidance issued by the Secretary of the Department of Health and Human Services (the "Secretary") (the "HITECH Act"); and other applicable state and federal laws, all as amended from time to time, including as amended by the Final Rule issued by the Secretary on January 17, 2013 titled "Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules under the Health Attachment C
Y14-158-DG

Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules”.

NOW, THEREFORE, in consideration of the terms, conditions, covenants, agreements and obligations herein stated, the Parties agree as follows:

DEFINITIONS

- 1.1 **Terms.** Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR §§ 160.103, 162.103, 164.103, 164.402, and 164.501.
- 1.2 **Designated Record Set.** A group of records maintained by or for a covered entity that is: A group of records maintained by or for a covered entity that is: (A) The medical records and billing records about individuals maintained by or for a covered health care provider; (B) The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (C) Used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.
- 1.3 **Disclosure.** The release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
- 1.4 **HIPAA Privacy and Security Rules.** Standards for Privacy, Security, Breach, Notification, and Enforcement at 45 CFR Parts 160, 162 and 164.
- 1.5 **Individual.** The person who is the subject of PHI, and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- 1.6 **Individually Identifiable Health Information.** Information that is a subset of health information, including demographic information collected from an individual, and: (A) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and (B) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (i) that identifies the individual; or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
- 1.7 **Privacy Officer.** The individual designated by the County or Covered Entity, pursuant to 45 CFR § 164.530, who is responsible for the development and implementation of the Covered Entity's policies and procedures as they related to the HIPAA Privacy and Security Rules.

- 1.8 **Protected Health Information.** Protected Health Information ("PHI") is individual identifiable health information that is or has been created, received, transmitted or maintained in any form or medium, on or behalf of the Covered Entity, with the exception of education records covered by the Family Educational Rights and Privacy Act, as amend, 20 U.S.C. 1232g, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student's request.
- 1.9 **Required by law.** Required by law shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
- 1.10 **Secretary of HHS.** Secretary of Health and Human Services or any other officer or employee of Health and Human Services ("HHS") to whom the authority involved has been delegated.
- 1.11 **Security Incident or Incident.** Security Incident or Incident means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI contained in any form or interference with system operations in an information system that contains PHI.
- 1.12 **Use.** With respect to individually identifiable health information, the sharing, employment, application, utilization, examination, or analysis of such information within an entity that maintains such information.

SCOPE OF AGREEMENT

- 2.1 **INDEPENDENT STATUS OF PARTIES.** The Parties agree that they are and shall be independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security Rules as it may be amended from time to time. The Parties further agree that they are and shall be responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. The Parties agree that they are and shall independently maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- 2.2 Business Associate acknowledges that the confidentiality requirements herein apply to all its employees, agents and representatives. Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions, the County, including costs and attorneys' fees, resulting from the breach by Business Associate of the confidentiality requirements of this Agreement.

PRIVACY OF PROTECTED HEALTH INFORMATION.

- 3.1 **Permitted Uses and Disclosures of PHI by Business Associate.** Business Associate may use or disclosure PHI received from Covered Entity to its officers and employee. Business associate may disclose PHI to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI on its behalf if the business associate obtains satisfactory assurances in accordance with 45 CFR §164.504(e)(1)(i) that the subcontractor will appropriately safeguard the information. All other uses or disclosures not authorized by this Agreement or otherwise governed by law are prohibited.
- 3.2 **Responsibilities of Business Associate.** Regarding the use or disclosure of PHI, Business Associate agrees to:
- 3.2.1. Only use or further disclose the PHI as allowable under this Agreement or applicable law.
 - 3.2.2. Only use or further disclosure PHI in a manner that would not violate the HIPAA Privacy and Security Rules if done so by the Covered Entity.
 - 3.2.3. Establish and implement appropriate procedure, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and procedures for mitigating to the greatest extents possible under the circumstances any deleterious effects from any improper access, use, or disclosure of PHI that Business Associate reports to Covered Entity. Safeguards shall include, but are not limited to, the implementation and use of electronic security measures to safeguard electronic data, requiring employees to agree to access, use, or disclose PHI only as permitted or required by this Agreement and taking related disciplinary action for inappropriate access, use or disclosure as necessary.
 - 3.2.4. Report to Covered Entity's Privacy Officer, in writing, any access, use or disclosure of the PHI not permitted or required by this Agreement of which Business Associate becomes aware within two (2) days of Business Associate's discovery of such unauthorized use or disclosure.
 - 3.2.5. Ensure that Business Associate's subcontractors or agents to whom Business Associate provides PHI, received from, created, or received by the Business Associate on behalf of the Covered Entity, agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the

confidentiality, integrity, and availability of the PHI that it creates receives, maintains, or transmits on behalf of Covered Entity.

- 3.2.6. Make Business Associate's records, books, accounts, agreements, and policies, and procedures relating to the use and disclosure of PHI received from, created, received by Business Associate on behalf of Covered Entity, available to the Secretary of HHS for purposes of determining Covered Entity's compliance with the regulation.
- 3.2.7. Use or disclosure to its subcontractors, agents, other third parties, and Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder.
- 3.2.8. Provide information to Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from Covered Entity, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.
- 3.2.9. At the request, of, and in the time and manner designated by Covered Entity, provide access to the PHI maintained by Business Associate to Covered Entity or individual, if Business Associate maintains a Designated Records Set on behalf of Covered Entity.
- 3.2.10. At the request, of and in the time and manner designated by Covered Entity, make any amendment(s) to the PHI when directed by Covered Entity, if business Associate maintains a Designated Record Set on behalf of Covered Entity.
- 3.2.11. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI Business Associate creates, receives, maintains or transmits on behalf of Covered Entity.
- 3.2.12. Report to Covered Entity any Security Incident involving PHI that Business Associate discovers.
- 3.3 **Compliance with Covered Entity's Policies.** Business Associate hereby agrees to abide by Covered Entity's policies and practices relating to the confidentiality, privacy, and security of PHI.
- 3.4 **Use of PHI for Management and Administration or Legal Responsibilities of Business Associate.** The Business Associate may use

PHI received by the Covered Entity pursuant to this Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

- 3.5 However, Business Associate will only be allowed to use PHI for the aforementioned uses if (A) the disclosure is required by law; or (b) the Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, AND the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI.

Data Aggregation Services. With respect to PHI created or received by the Business Associate in its capacity as the Business Associate of the Covered Entity, Business Associate may combine such PHI it has received from the Covered Entity with the PHI received by the Business Associate in its capacity as a Business Associate of another Covered Entity to permit data analysis that relate to the health care operation of the respective Covered Entity, if data analyses is part of the Services that Business Associate is to provide to Covered Entity.

- 3.6 **Compliance.** Business Associate agrees to keep all PHI confidential and secure in compliance with the provisions of this Agreement and according to current state and federal laws.

CONFIDENTIALITY

- 4.1 In the course of performing under this Agreement, each Party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential ("Confidential Information") of the other Party.
- 4.2 For purposes of this Agreement, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Agreement. The Parties including their employees, agents, or representatives shall (A) not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Agreement, (B) only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under this Agreement, and (c) advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.
- 4.3 This provision shall not apply to Confidential Information: (A) after it becomes publically available through **no fault** of either Party; (B) which is later publically released by either Party in writing; (C) which is lawfully obtained

from third parties without restrictions; or (D) which can be shown to be previously known or developed by either Party independently of the other Party.

SECURITY

- 5.1 **Security of Electronic Protected Health Information.** Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI (as defined in 45 C.F.R. §160.103) that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity consistent with the HIPAA Privacy and Security Rules.
- 5.2 **Reporting Security Incidents.** Business Associate will report to the Covered Entity and County's Privacy Officer any Incident of which Business Associate becomes aware that is (1) a successful unauthorized access, use or disclosure of Electronic PHI; or (2) (a) modification or destruction of Electronic PHI or (b) interference with system operations in an information system containing Electronic PHI.

REPORTING REQUIREMENTS

- 6.1 **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Agreement.
- 6.2 **To Covered Entity.** The Business Associate will report to the Covered Entity and the County's Privacy Officer, within (2) business days of discovery, any use or disclosure of PHI not provided for in this Agreement of which the Business Associate is aware. The Business Associate will report to the Covered Entity and the County's Privacy Officer within forty-eight (48) hours of discovery, any Security Incident of which the Business Associate is aware. A violation of this paragraph shall be a material violation of this Agreement. Such notice shall include the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.

Title: Orange County's Privacy Officer,
Health Services Department
Telephone: (407)836-7611
Fax: (407)246-5343
Address: 2002 A. E. Michigan Street, Orlando, FL 32806
E-Mail: randy.lewis@ocfl.net

- 6.2.1. Reports of Security Incidents shall include a detailed description of each Incident(at a minimum to include the date of the Incident, the nature of the Incident, the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc., and the identities of the individual(s) and their relationship to the Business Associate, a description of the Business's response to each Incident, and the name and title of the individual the Covered Entity should contact for additional information.
 - 6.2.2 Business Associate will conduct such further investigation as is reasonably required by the Covered Entity and promptly advise the Covered Entity of additional information pertinent to the Incident.
 - 6.2.3 Business Associate will cooperate with Covered Entity in conducting any required risk analysis related to such Security Incident(s).
 - 6.2.4 Business Associate will cooperate with Covered Entity in complying with any applicable notification requirements pursuant to the Breach Notification Rule and/or pursuant to Florida law (including but not limited to Florida Statutes Section 817.5681), and in taking steps determined by Covered Entity to be necessary to mitigate any potential harm caused by a Security Incident. Business Associate will pay and/or reimburse Covered Entity for any reasonable expenses Covered Entity incurs in notifying individuals of, and /or mitigating potential harm caused by a Security Incident caused by Business Associate and/or its subcontractors or agents.
- 6.3 **To Individuals.** In the case of a breach of PHI discovered by the Business Associate, the Business Associate shall first notify the Covered Entity and the County's Privacy Officer of the pertinent details of the breach and upon prior approval of the County's Privacy Officer shall notify each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient, or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the web site of the Business Associate involved or notice in major print of broadcast media, including major media in the geographic areas where

the individuals affected by the breach likely reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

- 6.4 **To Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the Covered Entity, the Business Associate shall provide notice to prominent media outlets serving the State or relevant portion of the State involved.
- 6.5 **To HHS.** The Business Associate shall cooperate with the Covered Entity to provide notice to the Secretary of HHS of unsecured PHI that has been acquired or disclosed in a breach. If the breach was with respect to five hundred (500) or more individuals, such notice must be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate may maintain a log of such breach occurring and annually submit such log to the Covered Entity so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.
- 6.6 **Content of Notices.** All notices required under this Attachment shall include the content set forth 45 C.F.R § 164.404. Notification to individuals except that references therein to a "covered entity" shall be read as references to the Business Associate.

Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following: (1) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; (2) a description of the types of unsecured PHI that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code); (3) the steps individuals should take to protect themselves from potential harm resulting from the breach; (4) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; (5) contact procedures for individuals to ask questions or learn additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.

- 6.7 **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required by this Section.

- 6.8. **Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effects that is known to the Business Associate of use or disclosure of PHI in violation of this Agreement and the HIPAA Privacy and Rules

TERMINATION

- 7.1 **Automatic Termination.** Covered Entity is authorized to automatically terminate this Agreement, if it determines that the Business Associate has violated a material term of the Agreement.
- 7.2 **Opportunity to Cure or Terminate.** At the Covered Entity's sole discretion, Covered Entity may either (a) provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this Agreement if Business Associate does not cure the breach, or end the violation within the reasonable time specified by Covered Entity, or (b) immediately terminate this Agreement if business Associate has breached a material term of this Agreement and cure is not possible.
- 7.3 **Effects of Termination.** Termination of this Agreement shall not affect any claim or rights that arise based on the acts or omissions of the parties prior to the effective date of termination.
- 7.4 **Duties of Business Associate Upon Termination.**
- 7.4.1 When this Agreement is terminated, the PHI that Business Associate received from, created, or received on behalf of Covered Entity must be destroyed or returned to Covered Entity, at the Business Associate's expense, including all PHI in the possession of Business Associate's subcontractors or agents. However, if Business Associate determines that returning or destroying PHI is not feasible, Business Associate must maintain the privacy protections under this Agreement and according to applicable law for as long as Business Associate retains the PHI, and Business Associate may only use or disclose the PHI for specific uses or disclosures that make it necessary for Business Associate to retain the PHI.

7.4.2 If Business Associate determines that it is not feasible for Business Associate to return PHI in the subcontractor's or agent's possession, Business Associate must provide a written explanation to covered Entity of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Agreement to the subcontractor's or agent's use or disclosure of any PHI retained after the termination of this Agreement, and to limit any further uses or disclosures for the purposes that make the return or destruction of the PHI not feasible.

MISCELLANEOUS

- 8.1 **Agreement Subject to All Applicable Laws.** The Parties recognize and agree that this Agreement and their activities are governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security Rules and its accompanying regulations. The parties further recognize and agree that this Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Agreement accordingly.
- 8.2 **No Third party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties any rights, remedies, obligations, or liabilities whatsoever.
- 8.3 **Survival.** The rights and obligations of the Parties in Articles III, IV, V, VI and Sections 7.4, 8.6, 8.8, 8.9 shall survive termination of this Agreement indefinitely.
- 8.4 **Amendment.** This Agreement may be revoked, amended, changed, or modified only by a written amended executed by both Parties.
- 8.5 **Assignment.** This Agreement, including each and every right and obligation referenced herein, shall not be assigned by the Business Associate without the express prior written consent of the County.
- 8.6 **Enforcement Costs.** If any legal action or other proceedings, including arbitration, is brought for the enforcement of this Agreement or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Agreement, the successful or prevailing Party or Parties shall be entitled to recover reasonable court costs and all expenses, if not taxable as court costs, incurred in that action or proceeding, including all appeals, in addition to any other relief to which such Party or Parties may

be entitled. Such enforcement costs shall not be dischargeable in bankruptcy.

- 8.7 **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules.
- 8.8 **Indemnification.** Business Associate agrees to defend, indemnify and hold harmless Covered Entity, its officials and employees from all claims, actions, losses, suits, judgments, fines, liabilities, costs and expenses (including attorney's fees) attributable to its negligent acts or omissions, or those of its officials and employees acting within the scope of their employment, or arising out of or resulting from the indemnifying party's negligent performance under this Agreement. Nothing contained herein shall constitute a waiver of sovereign immunity or the provisions of Section 768.28, Florida Statutes. The foregoing shall not constitute an agreement by either party to assume any liability for the acts, omissions and/or negligence of the other party.
- 8.9 **Execution/Authority.** Each signatory to this Agreement represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.
- 8.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Florida to the extent not preempted by the Privacy Rules or other applicable federal law.
- 8.11 **Inconsistencies.** In the event of any inconsistency or the more stringent provision shall apply to Business Associate.

Notice. All notices and other communications under this Agreement shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the Parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other Party(ies)

Health Services Department

Director, Health Services/EMS
2002 A E Michigan St
Orlando, FL 32806
(407) 836-7611

Copy to:

Orange County Administrator
Administration Building, 5th Floor
201 S Rosalind Avenue
Orlando, FL 32801

To Business Associate:
Intermedix Corporation
6451 N. Federal Hwy., Suite 1000
Ft. Lauderdale, FL 33308
Attn: Chief Compliance Officer

- 8.12 **Severability.** If any provision of this Agreement or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the Parties that if any provision of this Agreement were capable of two constructions, one that rendered the provision void and one that renders the provision valid, then the provision shall have the meaning that renders it valid.
- 8.13 **Successors and Assigns.** Business Associate shall not assign either its obligations or benefits under this Agreement without the expressed written consent of the Covered Entity, which shall be at the sole discretion of the Covered Entity. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.

- 8.14 **Venue.** Any action or proceeding seeking to enforce any provision, or based on any right arising out of this Agreement shall be brought against any of the Parties in the courts of the State of Florida, County of Orange and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Process in any action or proceeding referred to in the proceeding sentence may be served on any Party anywhere.
- 8.15 **Waiver and Breach.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term, or condition of this Agreement shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any party may waive compliance by the other Party with any of the provisions of this Agreement if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.