

STATE OF TEXAS

§ 55

COUNTY OF FORT BEND

AMENDMENT TO SERVICE AGREEMENT (LUMINARE SOFTWARE)

THIS AMENDMENT ("Amendment") is entered into by and between Fort Bend County, ("County"), a body corporate and politic under the laws of the State of Texas, and Luminare Inc., ("Luminare"), a company authorized to conduct business in the State of Texas with a place of business at 2450 Holcombe Blvd., Suite X, Houston, Texas 77021, (collectively referred to as the "parties").

WITNESSETH:

WHEREAS, the parties previously entered into the Service Agreement, on or January 25, 2021, (the “Agreement”), attached hereto as Exhibit “I” and incorporated herein for all purposes, concerning the purchase of specified software services (the “Services”); and

WHEREAS, the County seeks to renew this Agreement and continue to receive Services from Luminare; and

WHEREAS, Luminaire represents that it is qualified and desires to perform such Services;
and

WHEREAS, Luminare is the sole source provider of the Services, as indicated by the letter attached hereto as Exhibit "II" and incorporated fully by reference; and

NOW, THEREFORE, County and Luminare desire to amend said Agreement as set forth below:

I. Amendments

1. **Scope of Services.** Luminare shall continue to provide Services to County, as described in Luminare's Invoice # 1274, attached as Exhibit "III" and incorporated fully by reference.
2. **Term.** This Agreement shall renew and is effective as of January 25, 2022, and shall expire no later than January 24, 2023, unless terminated sooner pursuant to this Agreement. This Agreement shall not automatically renew, but may renew upon written agreement of the parties.
3. **Limit of Appropriation.** Luminare's fees shall be calculated at the rates set forth in the attached Exhibit III. The Maximum Compensation for the performance of services within the Scope of Services as described in Exhibit III is \$230,000.00. In no case shall the amount paid by County under this Agreement exceed the Maximum Compensation without an approved change order. Luminare clearly understands and agrees, such understanding and agreement being of the absolute essence of this Agreement, that County shall have available the total maximum sum of \$230,000.00.

specifically allocated to fully discharge any and all liabilities County may incur. Luminare does further understand and agree, said understanding and agreement also being of the absolute essence of this Agreement, that the total maximum compensation that Luminare may become entitled to and the total maximum sum that County may become liable to pay to Luminare shall not under any conditions, circumstances, or interpretations thereof exceed \$230,000.00.

4. **Certain State Law Requirements for Contracts.** The contents of this Section are required by Texas Law and are included by County regardless of content. For purposes of Sections 2252.152, 2271.002, and 2274.002, Texas Government Code, as amended, Luminare hereby verifies that Luminare and any parent company, wholly owned subsidiary, majority-owned subsidiary, and affiliate:
 - a. Unless affirmatively declared by the United States government to be excluded from its federal sanctions regime relating to Sudan or Iran or any federal sanctions regime relating to a foreign terrorist organization, is not identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under Section 806.051, 807.051, or 2252.153 of the Texas Government Code.
 - b. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Luminare does not boycott Israel and is authorized to agree in such contracts not to boycott Israel during the term of such contracts. "Boycott Israel" has the meaning provided in § 808.001 of the Texas Government Code.
 - c. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Luminare does not boycott energy companies and is authorized to agree in such contracts not to boycott energy companies during the term of such contracts. "Boycott energy company" has the meaning provided in § 809.001 of the Texas Government Code.
 - d. If employing ten (10) or more full-time employees and this Agreement has a value of \$100,000.00 or more, Luminare does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and is authorized to agree in such contracts not to discriminate against a firearm entity or firearm trade association during the term of such contracts. "Discriminate against a firearm entity or firearm trade association" has the meaning provided in § 2274.001(3) of the Texas Government Code. "Firearm entity" and "firearm trade association" have the meanings provided in § 2274.001(6) and (7) of the Texas Government Code.
5. **Remote Access.** If Luminare requires remote access to County Systems for support, installation, integrations, configurations, and/or maintenance, except as otherwise agreed by the parties and approved by the County's Information Technology Director in writing, the below requirements must be met before Luminare is granted remote access to County Systems:
 - a. Luminare will adhere to the restricted and monitored channels that are provided by the County, or other technologies approved in advanced in writing by the County's Information Technology Security Manager or the Assistant Information Technology Manager.
 - b. Luminare will neither implement nor deploy a remote access solution which bypasses and/or is designed to bypass County provided or approved controls. Luminare will not access County Systems via unauthorized methods.

- c. Luminare's remote access to County Systems will only be requested and activated on as-needed basis and disabled when not in use.
- d. Remote access is restricted only to County Systems necessary for Luminare to provide Services to County pursuant to this Agreement.
- e. Luminare will allow only its Workforce approved in advance by County to access County Systems. Luminare will promptly notify County whenever an individual member of Luminare's Workforce who has access to County Systems leaves its employ or no longer requires access to County Systems. Luminare will keep a log of access when its Workforce remotely accesses County Systems. Luminare will supply County with evidence of access logs concerning remote access to County Systems upon written request from County. Such access logs will be provided to County, within three business days from the date of County's request. These requests may be used to confirm compliance with these terms and/or to investigate a security incident.
- f. If any member(s) of Luminare's Workforce is provided with remote access to County Systems, then Luminare's workforce will not remotely log-in to County Systems from a public internet access device (e.g., airport computer terminal, or Internet café). This is due to the possibility of sensitive information being monitored by video or computer surveillance in public areas.
- g. Failure of Luminare to comply with this Section may result in Luminare and/or Luminare's Workforce losing remote access to County Systems. County reserves the right at any time to disable remote access to protect County Systems.
- h. For purposes of this Section, "Workforce" means employees, agents, subcontractors (where permitted), and/or other persons whose conduct, in the performance of work for Luminare, is under the direct control of Luminare, whether or not they are paid by Luminare and who have direct or incidental access to County Systems.
- i. For purposes of this Section, "Systems" means any: (i.) computer programs, including, but not limited to, software, firmware, application programs, operating systems, files and utilities; (ii.) supporting documentation for such computer programs, including, without limitation, input and output formats, program listings, narrative descriptions and operating instructions; (iii.) data and/or media; (iv.) equipment, hardware, servers, and/or devices; and/or (v.) network(s).
- 6. **Grant Funding.** Luminare understands that and acknowledges that this Agreement may be totally or partially funded with federal funds. Luminare represents and warrants that it is and will remain in compliance with all applicable federal provisions, including those attached as Exhibit "IV" attached hereto and incorporated herein for all purposes.
- 7. **Modifications.** Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- 8. **Conflict.** If there is a conflict among documents, the most recently executed document will prevail with regard to the conflict.
- 9. **Understanding, Fair Construction.** By execution of this Amendment, the parties acknowledge that they have read and understood each provision, term and obligation contained in this Amendment. This Amendment, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the nondrafting party.

10. **Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.


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IN WITNESS WHEREOF, this Amendment is signed, accepted, and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties hereby acknowledge that they have read and understood this Amendment and the attachments and exhibits hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.

FORT BEND COUNTY

LUMINARE INC.



KP George, County Judge

Authorized Agent – Signature

Date

Sarma Velamuri

Authorized Agent- Printed Name

ATTEST:

CEO

Title

Laura Richard, County Clerk

3/8/2022

Date

REVIEWED:



Information Technology Office

AUDITOR'S CERTIFICATE

I hereby certify that funds are available in the amount of \$_____ to accomplish and pay the obligation of Fort Bend County under this Agreement.

Robert Ed Sturdivant, County Auditor

Exhibit I: Service Agreement, executed by the parties on or January 25, 2021, for specified software services;
Exhibit II: Sole Source Letter;
Exhibit III: Luminare's Invoice # 1274; and
Exhibit IV: Federal Clauses

EXHIBIT I

SERVICE AGREEMENT
(LUMINARE SOFTWARE)

This Service Agreement (“**Agreement**”), dated as of January 25th 2021 (“**Effective Date**”), is made by and between Luminare Inc., with a place of business at TMC Innovation Institute, 2450 Holcombe Blvd., Suite X, Houston, Texas 77021 (“**Luminare**”), and Fort Bend County with a place of business at 301 Jackson St Richmond, TX 77469 (“**Company**”) (hereinafter collectively referred to as the “parties”).

WHEREAS, extraordinary measures are being taken by Fort Bend County to contain the novel coronavirus disease, now designated as COVID-19, and prevent its spread throughout the County, including a declaration of a local state of disaster for public health emergency pursuant to Section 418.108(a) of the Texas Government Code; and

WHEREAS, under Texas Government Code Section 418.1015, the County Judge as the County’s Emergency Management Director, serves as the Governor’s designated agent in the administration and supervision of duties under Chapter 418; and

WHEREAS, the County Judge, under the authority granted to the Governor pursuant to Section 418.016 of the Texas Government Code, and Annex M, Section IV. A. 5 (a) of the County’s Basic Emergency Operations Plan, may use all available local government resources to respond to the disaster and temporarily suspend statutes and rules, including those relating to purchasing and contracting, if compliance would hinder or delay actions necessary to cope with a disaster; and

WHEREAS, the County Judge finds his execution of this Agreement under Section 418.016 of the Texas Government Code, and Annex M, Section IV. A. 5 (a) of the County’s Basic Emergency Operations Plan is required for action necessary to cope with the COVID-19 pandemic for which compliance with the usual County process would hinder and delay; and

WHEREAS, in response to the COVID-19 public health emergency, the County Judge hereby temporarily suspends the following purchasing and contracting requirements: (1) that power and jurisdiction over all County business be exercised by Commissioners Court per the Texas Constitution Article 5, Section 18 (b) and (2) that an agreement be presented to Commissioners Court for approval as required by Section 9.2.12 of the Fort Bend County Purchasing Manual which was last amended March 5, 2019; and

WHEREAS the County Judge finds that this Agreement is necessary to preserve or protect the public health or safety of the residents of the county as described in Texas Local Government Code Section Sec. 262.024 (2) and therefore grants exemption from competitive bidding as would otherwise be required under Section 262.023; and

WHEREAS, Luminare is the sole source provider of Luminare’s software services referenced in Exhibit B, as indicated by the letter attached hereto as Exhibit C and incorporated by reference; and

The parties agree as follows:

1. **Service.** The parties intend for Company to use Luminare’s software services identified in Exhibit B, which is attached hereto and incorporated herein by reference, which services are will be provided to

Company as a hosted, software-as-a-service application (collectively, the “**Service**”). This agreement is specifically for the product and scope as described in Exhibit B. Subject to the terms and conditions of this Agreement, Luminare grants to Company a nonexclusive and nontransferable license to use the Service for the term of this Agreement. Company’s use of the Service will be solely for its own internal purposes of the Company, by its employees and any healthcare providers, pharmacists or other employees who are involved either in patient care or quality management related to patient care and who are authorized by the Company to use the Service at the Company’s facility. Company and Luminare shall each comply with their respective obligations that are set forth on Exhibit A, which is attached hereto and incorporated herein by reference.

2. **Payment.** Company will pay to Luminare the fees and other amounts set forth on Exhibit B or as may be specified in any mutually agreed upon SOW that is signed by both parties and incorporated by reference into this Agreement. All fees and other amounts are exclusive of any sales use or other similar taxes or charges, and Company is responsible for all taxes or charges assessed by any governmental authority in connection with the provision and use of the Service under this Agreement, except for income taxes payable by Luminare. Fees shall be invoiced as set forth in Exhibit B or in the applicable SOW. Unless otherwise specified in Exhibit B or in the applicable SOW, any amount invoiced is due and payable no later than 30 days after the date of invoice.

It is expressly understood and agreed that Company has available the total maximum sum of funds hereinafter certified available by the County Auditor of Fort Bend County for the purpose of satisfying Company’s obligations under the terms and provisions of this Agreement; that notwithstanding anything to the contrary, or that may be construed to the contrary, the liability of Company as to payment under the terms and provisions of this Agreement is limited to this sum, plus additional amounts of funds from time to time certified available pursuant to Sections 111.061 through 111.073 of the Local Government Code, as amended, for the purpose of satisfying Company’s obligations under the terms and provisions of this Agreement; and that when and if all the funds so certified are expended for the purpose of satisfying Company’s obligations under the terms and provisions of this Agreement, the sole and exclusive remedy of Luminare is to terminate this Agreement.

Company is a body corporate and politic under the laws of the State of Texas and claims exemption from sales and use taxes. A copy of a tax-exempt certificate will be furnished upon request.

3. **Term; Termination.** This Agreement commences on the Effective Date and will remain in effect for the term set forth on Exhibit A. This Agreement shall not automatically renew. The parties may extend this term by executing a signed modification to this Agreement. Either party may terminate this Agreement if the other Party materially breaches the terms and conditions set forth herein, provided however, that such breaching Party is provided no less than thirty (30) days in which to cure such alleged material breach following actual receipt of the written notice from the non-breaching Party describing the alleged breach in reasonable detail. The Company may terminate this Agreement at any time for convenience upon forty-five (45) days written notice to Luminare. Upon termination of this Agreement, Company shall compensate Luminare in accordance with Section 2 above, for services which were provided under this Agreement prior to its termination and which have not been previously invoiced to Company. No refunds will be given or prorated for termination due to convenience. Sections 4 through 13 of this Agreement shall survive expiration or termination of this Agreement.
4. **Ownership of Service IP.** As between Company and Luminare, Company acknowledges and agrees that the software and other intellectual property underlying the Service, as well as any Service user materials, are the property of Luminare and are protected under U.S. and international intellectual property laws, including copyrights, trademarks, service marks, patents, trade secrets or other

proprietary rights and laws. Luminare reserves all rights not expressly granted in this Agreement. Luminare has the right, but not the obligation, to monitor the Service, Input Data (as defined herein) and Service reports.

5. **Ownership of Input Data; Permitted Use.** “Input Data” means all information and data input into the Luminare Solution purchased in Exhibit B. As between Company and Luminare, Luminare acknowledges and agrees that any Input Data is proprietary to Company and/or third parties, and not proprietary to Luminare. Company represents and warrants that it has all necessary consents, or owns or otherwise controls all necessary rights, to supply Input Data in connection with the Service and that use of Input Data for such purpose will not violate any applicable law or infringe or violate the rights of any third party. Luminare will have no liability under this Agreement for any failure of the foregoing Company representation and warranty. In addition, Company grants Luminare a nonexclusive license to use de-identified and/or aggregated data uploaded to the Service and/or produced from Company’s use of the Service, for the purposes of evaluating effectiveness of the Service, making improvements to the Service, and generating statistics regarding (i) any of the results of use of the Service or (ii) the general effectiveness of medications and other treatments, individually and in concert, on disease states. Upon request and/or termination of this Agreement, Company may retrieve a copy of its Input Data in a standard industry format from Luminare at no additional cost. Nothing in this Agreement will be construed to waive the requirements of § 205.009 of the Texas Local Government Code.
6. **Limitations of Liability.** Except for any breaches of a party’s obligations relating to confidentiality or Company’s obligations concerning its use of Luminare’s intellectual property, in no event will either party’s aggregate liability hereunder to the other party exceed the total fees paid by Company to Luminare for the twelve-month period preceding the date on which the subject liability arose. EXCEPT FOR ANY BREACHES OF A PARTY’S OBLIGATIONS RELATING TO CONFIDENTIALITY OR COMPANY’S OBLIGATIONS CONCERNING ITS USE OF LUMINARE’S INTELLECTUAL PROPERTY HEREUNDER, IN NO EVENT SHALL EITHER PARTY BE LIABLE, UNDER ANY LEGAL OR EQUITABLE THEORY OF LIABILITY, WITH RESPECT TO THE SERVICE (EXCEPT TO THE EXTENT OTHERWISE REQUIRED BY APPLICABLE LAW OR BY ANOTHER AGREEMENT BETWEEN THE PARTIES HERETO) FOR ANY LOST DATA, LOST PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER REGARDLESS OF WHETHER SUCH LOSS WAS FORESEEABLE OR THE PARTY SUFFERING THE LOSS OR DAMAGE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
7. **Disclaimers.** Company’s access to and use of the Service is at Company’s sole risk. Company understands and agrees that the Service is provided to you on an “AS IS” and “AS AVAILABLE” basis. Without limiting the foregoing, to the maximum extent permitted under applicable law, LUMINARE DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND WITH RESPECT TO THE SERVICE, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT
8. **USE WARNINGS. THE COMPANY DOES NOT OFFER MEDICAL ADVICE, DIAGNOSES OR OTHER HEALTH MANAGEMENT SERVICES OR ENGAGE IN THE PRACTICE OF MEDICINE. THE SERVICE IS NOT INTENDED TO BE, AND DOES NOT CONSTITUTE, A SUBSTITUTE FOR PROFESSIONAL MEDICAL ADVICE BY PHYSICIANS OR LICENSED INDEPENDENT PRACTITIONERS, OR A SUBSTITUTE FOR DIAGNOSIS, TREATMENT OR HEALTH MANAGEMENT AND IS OFFERED FOR INFORMATIONAL PURPOSES ONLY. FURTHERMORE, THE INFORMATION PRODUCED BY THE SERVICE IS ONLY USEFUL TO THE EXTENT THAT THE INPUT DATA IS ACCURATE.**

END USERS SHOULD ALWAYS RELY ON THEIR CLINICAL JUDGMENT WHEN MAKING DECISIONS REGARDING PATIENT CARE. AT ALL TIMES, IT IS THE RESPONSIBILITY OF COMPANY AND ITS END USERS TO ACCESS, REVIEW AND RESPOND TO ALL RESULTS FROM USE OF THE SERVICE, INCLUDING WITHOUT LIMITATION ANY ALERTS MADE AVAILABLE BY THE SERVICE (COLLECTIVELY, *SERVICE RESULTS*), IN A TIMELY AND CLINICALLY APPROPRIATE MANNER, AND LUMINARE WILL HAVE NO LIABILITY TO COMPANY, ANY END USER OR ANY THIRD PARTY FOR ANY FAILURE OF COMPANY, ANY END USER OR ANY OTHER CLINICIAN TO APPROPRIATELY RESPOND TO ANY SERVICE RESULTS.

9. **BUSINESS ASSOCIATE AGREEMENT:** EXECUTION OF THIS CONTRACT WILL ALSO RESULT IN EXECUTION OF THE ATTACHED BUSINESS ASSOCIATE AGREEMENT AND THE TERMS INCLUDED THERE.
10. Any feedback provided by the Company regarding the Service (“**Feedback**”) is the proprietary and confidential information of Luminare, and the Company hereby assigns all right, title and interest in and to such Feedback, including all intellectual property rights therein, to Luminare. To the extent permitted by law, the Company agrees not to disclose or provide such Feedback to any third party.
11. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas exclusively, excluding its conflicts of laws principles. Both the Uniform Computer Information Transactions Act and the United Nations Convention on Contracts for the International Sale of Goods (1980) are excluded in their entirety from application to this Agreement. The parties consent to the exclusive jurisdiction of and venue in the state courts for Harris County, Texas, for all claims arising out of or relating to this Agreement or the Company’s use of the Service. Notwithstanding any law, rule or regulation to the contrary, the Company agrees that any claim or cause of action it may have arising out of this Agreement or the Company’s use of the Service must be filed within one (1) year after such claim or cause of action arose or be forever barred. Nothing in the Agreement shall be construed to waive the County’s sovereign immunity.
12. This Agreement, including all documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Any additional or different terms in any purchase order or other response by the Company shall be deemed objected to by Luminare without need of further notice of objection, and shall be of no effect or in any way binding upon Luminare.
13. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Once signed, any reproduction of this Agreement made by reliable means (e.g., photocopy, PDF) is considered an original. This Agreement may be changed only by a written document signed by authorized representatives of both parties.
14. Human Trafficking. BY ACCEPTANCE OF CONTRACT, LUMINARE ACKNOWLEDGES THAT FORT BEND COUNTY IS OPPOSED TO HUMAN TRAFFICKING AND THAT NO COUNTY FUNDS WILL BE USED IN SUPPORT OF SERVICES OR ACTIVITIES THAT VIOLATE HUMAN TRAFFICKING LAWS.
15. Luminare expressly acknowledges that Company is subject to the Texas Public Information Act, TEX. GOV’T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, Company will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to Company by Luminare shall not

be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed. The terms and conditions of the Agreement are not proprietary or confidential information.

16. Luminare represents and warrants that its hardware, software and any related systems and/or services related to its software and/or hardware (collectively, the "Product") furnished by Luminare to Company will not infringe upon or violate any patent, copyright, trademark, trade secret, or any other proprietary right of any third party. Luminare will, at its expense, defend any suit brought against Company and will indemnify Company against an award of damages and costs (including reasonable attorney fees, court costs and appeals), made against Company by settlement or final judgment of a court that is based on a claim that the use of Luminare's Product infringes an intellectual property right of a third party. Such defense and indemnity shall survive termination or expiration of the Agreement and Luminare's liability for the above is not limited by any limitation of liability clauses that may appear in any document executed by the parties.
17. Luminare understands that and acknowledges that this Agreement may be totally or partially funded with federal funds. Luminare represents and warrants that it is and will remain in compliance with all applicable federal provisions, including those attached as Exhibit D attached hereto and incorporated herein for all purposes.
18. The parties may not amend or waive this Agreement, except by a written agreement executed by both parties. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. The rights and remedies of the parties set forth in this Agreement are not exclusive of, but are cumulative to, any rights or remedies now or subsequently existing at law, in equity, or by statute.
19. Certain State Law Requirements for Contracts. The contents of this Section are required by Texas Law and are included by Company regardless of content.
 - a. Agreement to Not Boycott Israel Chapter 2271 Texas Government Code: By signature below, Luminare verifies that if Luminare employs ten (10) or more full-time employees and this Agreement has a value of \$100,000 or more, Luminare does not boycott Israel and will not boycott Israel during the term of this Agreement.
 - b. Texas Government Code § 2252.152 Acknowledgment: By signature below, Luminare represents pursuant to § 2252.152 of the Texas Government Code, that Luminare is not listed on the website of the Comptroller of the State of Texas concerning the listing of companies that are identified under § 806.051, § 807.051, or § 2252.153

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IN WITNESS WHEREOF, the parties have caused their duly authorized officers to execute this Agreement.

LUMINARE INC.

CLIENT: FT BEND COUNTY, TX

By: 

Name: Sarma N. Velamuri, M.D.
Title: Chief Executive Officer

By: 

Name: KP George
Title: Emergency Management
Director/ County Judge

AUDITOR'S CERTIFICATE

I hereby certify that funds in the amount of \$ 237,500.00 are available to pay the obligation of Fort Bend County within the foregoing Agreement.



Robert Ed Sturdivant, County Auditor

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Attachments: BUSINESS ASSOCIATE AGREEMENT

EXHIBIT A
to Service Agreement
Service Use Requirements; Service Specifications

Part 1 – Current Data Input and similar Technical Requirements

Company shall provide or supply, as applicable, the following: Administrative oversight to ensure adequate overview of the use of the Luminare solution purchased in Exhibit B for the Company.

Part 2 - Security Matters Concerning Use of Service

Input Data will be supplied to Luminare either by Company or on Company's behalf. In addition, in order to access reports generated by the Service, Company will have access to certain Service web page(s). Company will be responsible for maintaining the security and confidentiality of all activity (i) to supply Input Data to the Service and (ii) to access reports generated for Company by the Service. Company will take reasonable steps, including no less than industry standard security measures, to prevent unauthorized use of the Service, and Company will immediately notify Luminare in writing of any unauthorized use of any of its users' login names or passwords of which such user, or other Company party, becomes aware. Luminare may suspend the Service (in whole or in part), including without limitation suspending access for certain previously authorized users, in the event of the potential or actual compromise or unauthorized use of the Service.

Part 3 – Compliance with Applicable Law

Each party agrees to comply with all applicable federal, state and local laws, orders, regulations and regulatory standards with respect to its respective obligations and performance under this Agreement and, in the case of Company, with respect to Company's use of the Service.

Part 4 – Error Reporting

Company will follow Luminare's reasonable procedures and instructions to report any errors and difficulties it encounters with regard to the Service so as to permit Luminare to recreate and evaluate same.

Part 5 – Additional Restrictions on Company's Use of Service

Company will not (a) use the Service or any documentation, know-how or other information received from Luminare or its representatives or licensors (the "***Evaluation Materials***") to create any similar application or service, (b) decompile, disassemble or otherwise reverse engineer any technology employed by the Service, or use any similar means to discover the source code or trade secrets embodied in the Service, or otherwise circumvent any technical measure that controls access to the Service or (c) permit any third party use the Service to do any of the foregoing. Except for the limited rights and licenses expressly granted in this Agreement, no other license is granted, no other use is permitted and Luminare and its licensors will retain all right, title and interest (including patents, copyrights, trade secrets and trademarks) in and to the Service, Evaluation Materials and any underlying intellectual property (acknowledging that none of the foregoing includes any Input Data). Company will not take any action inconsistent with such ownership.

EXHIBIT B
to Service Agreement
Fee Schedule and Product Services

Solution Purchased: Luminare's Innoculate Covid Vaccine Management Solution

Contract term: Initially 12 Month term. Contract can be renewed in 12 month increments.

Total amount invoiced at time of signing contract: \$237,500.

Proposal items	12 Month
Innoculate for Covid -19	\$450,000
Early adopter Discount (press and reference)	<u>\$225,000</u>
Subtotal	<u>\$225,000</u>
One time systems set up fee	\$1,500
<i>One time Integration and API set up</i>	\$5,000
Proposal Totals	<u>\$231,500</u>
<i>Optional Fees texting: \$0.015 cents per text</i>	
<i>Optional Texting bundle 400,000 texts</i>	\$6,000

Notes:

Minimum Contract length is 12 month

Annual fee includes reasonable modifications

Innoculate annual fee includes data retention for all vaccinated individuals

Additional discounts available for multiyear Contract

Pricing valid until January 30,2021 (agreements and PO)

Special Fees and conditions:

- Customization and/or special project work beyond reasonable scope may be charged at an hourly rate through December 31, 2022, with estimates provided for approval prior to proceeding.

BUSINESS ASSOCIATE AGREEMENT (FOR HIPAA)

If a Customer is a Covered Entity or a Business Associate and includes Protected Health Information in Customer

Data (as such terms are defined below), execution of a license agreement that includes Luminaire's Terms of use

("Agreement") will incorporate the terms of this HIPAA Business Associate Agreement ("BAA") into that agreement. If

there is any conflict between a provision in this BAA and a provision in the Agreement, this BAA will control.

WHEREAS, Covered Entity and Business Associate have executed the Agreement pursuant to which Business Associate provides services (the "Agreement Services") for Covered Entity that may require Business Associate to access or create health information that is protected by state and/or federal law;

WHEREAS, Business Associate and Covered Entity desire that Business Associate obtain access to such information in accordance with the terms specified herein; and

NOW THEREFORE, in consideration of the mutual promises set forth in this BAA and other good and valuable consideration, the sufficiency and receipt of which are hereby severally acknowledged, the parties agree as follows:

1. Definitions. Unless otherwise specified in this BAA, all capitalized terms not otherwise defined shall have the meanings established in Title 45, Parts 160 and 164, of the United States Code of Federal Regulations, as amended from time to time, and/or in the American Recovery and Reinvestment Act of 2009 ("ARRA"). For purposes of clarification, the following terms shall have the definitions set forth below:

1.1 "Privacy Standards" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in 45 C.F.R. Parts 160 and 164.

1.2 "Security Standards" shall mean the Security Standards for the Protection of Electronic Protected Health Information as set forth in 45 C.F.R. Parts 160 and 164.

2. Business Associate Obligations. Business Associate may receive from Covered Entity health information that is protected under applicable state and/or federal law, including without limitation, Protected Health Information ("PHI"). Business Associate agrees not to Use or Disclose (or permit the Use or Disclosure of) PHI in a manner that would violate the requirements of the Privacy Standards or the Security Standards if the PHI were used or disclosed by Covered Entity in the same manner. Business Associate shall use appropriate safeguards to prevent the Use or Disclosure of PHI other than as expressly permitted under this BAA.

3. Use of PHI. Business Associate may use PHI as necessary (i) for performing the Agreement Services, (ii) for the proper management and administration of the Business Associate, or (iii) for carrying out its legal responsibilities, provided in each case that such Uses are permitted under federal and state law. Covered Entity shall retain all rights in the PHI not granted herein.

4. Disclosure of PHI. Business Associate may Disclose PHI as necessary (i) to perform the Agreement Services, (ii) for the proper management and administration of the Business Associate, or (iii) to carry out its legal responsibilities, provided that either (a) the Disclosure is Required by Law or (b) the Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that the information will be held confidential and further Used and Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and such person agrees to immediately notify the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.

5. Reports. Business Associate agrees to report to Covered Entity:

5.1 Any Use or Disclosure of PHI not authorized by this BAA within five (5) days of the Business Associate becoming aware of such unauthorized Use or Disclosure;

5.2 Any Security Incident within five (5) days of the Business Associate becoming aware of the Security Incident; and

5.3 Each report of a Breach of Unsecured PHI Discovered by Business Associate, to the extent Business Associate accesses, maintains, retains, modifies, records, stores, destroys or otherwise holds, Uses or Discloses Unsecured PHI, unless delayed for law enforcement purposes, shall be made without delay and in no case later than thirty (30) calendar days after Discovery of the Breach, and shall include the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired or Disclosed during such Breach. Notwithstanding

anything herein to the contrary, the provisions of this Section 5.3 shall only be applicable to Breaches that are Discovered on or after the date that is thirty (30) days after the date of publication of interim final regulations promulgated by the Secretary that address notifications of Breaches of Unsecured PHI.

5.4 Business Associate agrees to indemnify and hold harmless, Covered Entity, its Officers, directors, shareholders, agents, and employees against all liability claims, damages, suits, demands, expenses, and civil monetary penalties (including but not limited to, court costs and reasonable attorneys' fees) of every kind arising out of the negligent errors and omissions or willful misconduct of Business Associate, its agents, servants, employees and independent contractors (excluding Covered Entity) in the performance of or conduct relating to this Section 5.

6. Agents and Subcontractors. If Business Associate discloses PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, to agents, including a subcontractor (collectively, "Recipients"), Business Associate shall require Recipients to agree in writing to the same restrictions and conditions that apply to the Business Associate under this BAA.

7. Individual Rights to Access and Amendment.

7.1 *Access.* If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate shall permit an Individual to inspect or copy PHI contained in that set about the Individual in accordance with the Privacy Standards set forth in 45 C.F.R. § 164.524, as it may be amended from time to time, unless excepted or a basis for denial exists under 45 C.F.R. § 164.524, as determined by the Covered Entity. In the event a Business Associate uses or maintains an Electronic Health Record on behalf of Covered Entity, then, as of the date required by ARRA, an Individual's right of access under 45 C.F.R. § 164.524 shall include the right to obtain a copy of the PHI in an electronic format and, if the Individual chooses in a clear, conspicuous and specific manner, to direct the Business Associate to transmit such copy to any person designated by the Individual. Business Associate shall respond to any request from Covered Entity for access by an Individual within five (5) days of such request unless otherwise agreed to by Covered Entity. The information shall be provided in the form or format requested, if it is readily producible in such form or format, or in summary, if the Individual has agreed in advance to accept the information in summary form. A reasonable, cost based fee may be charged for copying PHI or providing a summary of PHI in accordance with 45 C.F.R. § 164.524(c)(4), provided that any such fee relating to a copy or summary of PHI provided in an electronic form may not be greater than the labor costs incurred in response to the request for the copy or summary.

7.2 *Amendment.* Business Associate shall accommodate an Individual's right to amend PHI or a record about the Individual in a Designated Record Set in accordance with the Privacy Standards set forth at 45 C.F.R. § 164.526, as it may be amended from time to time, unless excepted or a basis for denial exists under 45 C.F.R. § 164.526, as determined by the Covered Entity. Covered Entity shall determine whether a denial to an amendment request is appropriate or an exception applies. Business Associate shall notify Covered Entity within five (5) days of receipt of any request for amendment by an Individual and shall make any amendment requested by Covered Entity within ten (10) days of such request. Business Associate shall have a process in place for requests for amendments and for appending such requests to the Designated Record Set.

8. Accounting of Disclosures.

8.1 *General Accounting Provisions.* Business Associate shall make available to Covered Entity in response to a request from an Individual, information required for an accounting of Disclosures of PHI with respect to the Individual, in accordance with 45 C.F.R. § 164.528, as it may be amended from time to time, unless an exception to such Accounting exists under 45 C.F.R. § 164.528. Such Accounting is limited to Disclosures that were made in the six (6) years prior to the request and shall not include any Disclosures that were made prior to the compliance date of the Privacy Standards. Business Associate shall provide such information necessary to provide an accounting within thirty (30) days of Covered Entity's request.

8.2 *Special Provisions for Disclosures made through an Electronic Health Record.* As of the date required by ARRA, if Covered Entity uses or maintains an Electronic Health Record with respect to PHI and if Business Associate makes Disclosures of PHI for Treatment, Payment or Health Care Operations purposes through such Electronic Health Record, Business Associate will provide an accounting of Disclosures that Covered Entity has determined were for Covered Entity's Treatment, Payment and/or Health Care Operations purposes to Individuals who request an accounting directly from Business Associate. Any accounting made pursuant to this Section 8.2 shall be limited to Disclosures made in the three (3) years prior to the Individual's request for the accounting. The content of the accounting shall be in accordance with 45 C.F.R. § 164.528, as it may be amended from time to time.

8.3 *Fees for an Accounting.* Any accounting provided under Section 8.1 or Section 8.2 must be provided without cost to the Individual or to Covered Entity if it is the first accounting requested by an Individual within any twelve

(12) month period; however, a reasonable, cost based fee may be charged for subsequent accountings if Business Associate informs the Covered Entity and the Covered Entity informs the Individual in advance of the fee, and the Individual is afforded an opportunity to withdraw or modify the request.

9. Withdrawal of Consent or Authorization. If the use or disclosure of PHI in this BAA is based upon an Individual's specific consent or authorization for the use of his or her PHI, and (i) the Individual revokes such consent or authorization in writing, (ii) the effective date of such authorization has expired, or (iii) the consent or authorization is found to be defective in any manner that renders it invalid, Business Associate agrees, if it has notice of such revocation or invalidity, to cease the Use and Disclosure of any such Individual's PHI except to the extent it has relied on such Use or Disclosure, or where an exception under the Privacy Standards expressly applies.

10. Records and Audit. Business Associate shall make available to Covered Entity and to the Secretary or her agents, its internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity for the purpose of determining Covered Entity's compliance with the Privacy Standards and the Security Standards or any other health oversight agency, in a timely a manner designated by Covered Entity or the Secretary. Except to the extent prohibited by law, Business Associate agrees to notify Covered Entity immediately upon receipt by Business Associate of any and all requests served upon Business Associate by or on behalf of any and all government authorities relating to PHI received from, or created or received by, Business Associate on behalf of Covered Entity.

11. Notice of Privacy Practices. Covered Entity shall provide to Business Associate its Notice of Privacy Practices ("Notice"), including any amendments to the Notice. Business Associate agrees that it will abide by any limitations set forth in the Notice, as it may be amended from time to time, of which it has knowledge. An amended Notice shall not affect permitted Uses and Disclosures on which Business Associate has relied prior to receipt of such Notice.

12. Security. Business Associate will (i) implement Administrative, Physical and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity; and (ii) ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information agrees to implement reasonable and appropriate safeguards to protect such information. Further, as of the date required by ARRA, Business Associate shall comply with the standards and implementation specifications set forth in 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 with respect to such Administrative, Physical and Technical Safeguards.

13. Term and Termination.

13.1 This BAA shall commence on the effective date of the Agreement and shall remain in effect until terminated in accordance with the terms of this Section 13, provided, however, that any termination shall not affect the respective obligations or rights of the parties arising under this BAA prior to the effective date of termination, all of which shall continue in accordance with their terms.

13.2 Covered Entity shall have the right to terminate this BAA for any reason upon thirty (30) days written notice to Business Associate.

13.3 Covered Entity, at its sole discretion, may immediately terminate this BAA and shall have no further obligations to Business Associate hereunder if any of the following events shall have occurred and be continuing:

(i) Business Associate shall fail to observe or perform any material covenant or agreement contained in this BAA for ten (10) days after written notice thereof has been given to Business Associate by Covered Entity; or

(ii) A violation by Business Associate of any provision of the Privacy Standards, Security Standards, or other applicable federal or state privacy law.

13.4 Upon the termination of the Agreement, this BAA shall terminate simultaneously without additional notice.

13.5 Upon termination of this BAA for any reason, Business Associate agrees either to return to Covered Entity or to destroy all PHI received from Covered Entity or otherwise created through the performance of the Agreement Services for Covered Entity, that is in the possession or control of Business Associate or its agents. In the case of information for which it is not feasible to "return or destroy," Business Associate shall continue to comply with the covenants in this BAA with respect to such PHI and shall comply with other applicable state or federal law, which may require a specific period of retention, redaction, or other treatment. Termination of this BAA shall be cause for Covered Entity to terminate the Agreement.

14. Compliance with Red Flag Policies. Covered Entity shall provide to Business Associate any policies and procedures adopted by the Covered Entity to detect, prevent and mitigate the risk of identity theft in accordance with the "Red Flag

Rules” promulgated by the Federal Trade Commission, as well as any amendments to such policies and procedures. Business Associate agrees that it will abide by such policies and procedures, and any amendments to such policies and procedures of which it is aware, in rendering the Agreement Services to Covered Entity.

15. Miscellaneous.

15.1 *Notice.* Customer hereby agrees that any reports, notification or other notice by Luminare pursuant to this BAA may be made electronically. Customer shall provide contact information to support@luminaremed.com or such other location or method of updating contact information as Luminare may specify from time to time and shall ensure that Customer’s contact information remains up to date during the term of this BAA. Contact information must include name of individual(s) to be contacted, title of individual(s) to be contacted, e-mail address of individual(s) to be contacted, name of Customer organization and if available, either contract number or customer identification number.

15.2 *Waiver.* No provision of this BAA or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.

15.3 *Assignment.* Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this BAA without the prior written consent of the other party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.

15.4 *Compliance with ARRA; Agreement to Amend BAA.* The parties agree that it is their intention (i) to comply with the privacy and security provisions contained in Title XIII of ARRA and (ii) to incorporate those provisions into this BAA to the extent required by ARRA. The parties further agree to amend this BAA to the extent necessary to comply with state and federal laws, including without limitation, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and ARRA, and any regulations promulgated or other guidance issued pursuant to HIPAA and ARRA.

15.5 *Entire Agreement.* This BAA constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this BAA, and supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this BAA and the terms of the Agreement or any such later agreement(s), the terms of this BAA shall control unless the terms of such Agreement or later agreement comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this BAA shall be binding on either party. This BAA is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third party beneficiary under this BAA, nor shall any third party have any rights as a result of this BAA.

15.6 *Governing Law.* This BAA shall be governed by and interpreted in accordance with the laws of the State of Texas.

EXHIBIT C

To Service Agreement

Sole Source Letter



LUMINARE

January 13, 2021

To Whom It May Concern:

This letter is to confirm that Innoculate™ by Luminare (a Delaware C-corp) is a sole source product, manufactured, sold and distributed exclusively by Luminare. No other company, makes a similar or competing product that can also be used for syndromic surveillance, integration to COVID testing and modules for at home monitoring of patients if required through additional hardware.

This product must be purchased directly by institutions from Luminare with offices at 2450 Holcombe blvd, Suite X, Houston, Tx 77021.

Additionally, competition is precluded as the software is invented and developed in-house at Luminare is copyright by Luminare.

There is no other like item(s) or product(s) available for purchase that would serve the same purpose or function and there is only one price for the above name(s) item(s) or product(s).

If you desire additional information, don't hesitate to contact me at (832) 693-7075 at any time or visit our website at luminaremed.com

Thank you for your interest in our product.

Sincerely,

Sarma Velamuri, M.D.
CEO | President
Luminare Inc.

EXHIBIT D

To Service Agreement

Grant Provisions

EXHIBIT D

To Service Agreement

Grant Provisions

Luminare, Inc., (hereinafter “Contractor”), understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds from the Federal Emergency Management Agency (FEMA). As a condition of receiving these funds, Contractor represents that it is and will remain in compliance with all federal and or state terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. The Contractor shall require that these clauses shall be included in each covered transaction at any tier.

1. Rights to Inventions Made Under a Contract or Agreement.

Contractor must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA.

2. Clean Air Act and the Federal Water Pollution Control Act.

a. Clean Air Act

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County, will in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

b. Federal Water Pollution Control Act.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

3. Energy Policy and Conservation Act.

Contractor agrees to comply with the Energy Policy and Conservation Act (42 U.S.C. Section 6201).

4. Debarment and Suspension.

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

"The Certification in this clause is a material representation of fact relied upon by the County. If it is later determined by the County that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

5. Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

6. Political Activities.

Contractors are prohibited from using federal funds directly or indirectly for political purposes, including polling, lobbying or advocating for legislative programs or changes; campaigning for, endorsing, contributing to, or otherwise supporting political candidates or parties; and voter registration or get-out-the-vote campaigns. Generally, organizations or entities which receive federal funds by way of grants, contracts, or cooperative agreements do not lose their rights as organizations to use their own, private, non-federal resources for "political" activities because of or as a consequence of receiving such federal funds. These recipient organizations must thus use private or other non-federal money, receipts, contributions, or dues for their political activities, and may not charge off to or be reimbursed from federal contracts or grants for the costs of such activities.

7. Procurement of Recovered Materials.

In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired: (i) Competitively within a timeframe providing for compliance with the contract performance schedule; (ii) Meeting contract performance requirements; or (iii) At a reasonable price. (2) Information about this requirement, along with the list of EPA designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program>. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act

8. Access to Records.

(1) The Contractor agrees to provide County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. (4) In compliance with the Disaster Recovery Act of 2018, the County and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. DHS Seal, Logo, and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

10. Compliance with Federal Law, Regulations, and Executive Orders.

The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11. No Obligation by Federal Government.

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, Contractor, or any other party pertaining to any matter resulting from the contract.

12. Program Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

13. Civil Rights and Non-Discrimination.

During the performance of this contract, the Contractor agrees as follows:

a) Nondiscrimination on the Basis of Race, Color, and National Origin.

Contractor will comply with state and federal anti-discrimination laws including Title VI of The Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*), FEMA's implementing regulations at 44 C.F.R. Part 7 (*Nondiscrimination in Federally Assisted Programs*), and the Department's implementing regulations at 6 C.F.R. Part 21 (*Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance*) which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

b) Nondiscrimination on the Basis of Sex.

Contractor will comply with Title IX of the Education Amendments of 1972 (codified as amended at 20 U.S.C. § 1681 *et seq.*), FEMA's implementing regulations at 44 C.F.R. Part 19 (*Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*), and the Department's implementing regulations at 6 C.F.R. Part 15 (*Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance*) prohibit discrimination on the basis of sex in any education program or activity receiving Federal financial assistance.

c) Nondiscrimination on the Basis of Disability.

Contractor will comply with The Americans with Disability Act of 1990 (codified as amended at 42 U.S.C. §§ 12101-12213) prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private public and private entities. Contractors must comply with the responsibilities under Titles I, II, III, IV, and V of the Americans with Disability Act of 1990 in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

d) Nondiscrimination on the Basis of Handicap.

Contractor will comply with Section 504 of the Rehabilitation Act of 1973 (codified as amended at 29 U.S.C. § 794) and FEMA's implementing regulations at 44 C.F.R. Part 16 (*Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Federal Emergency Management Agency*) provide that no otherwise qualified handicapped individual in the United States will, solely by reason of handicap, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving Federal financial assistance.

e) Nondiscrimination on the Basis of Age.

Contractor will comply with the Age Discrimination Act of 1975 (codified as amended at 42 U.S.C. § 6101 *et seq.*), and Department of Health and Human Services implementing regulations at 45 C.F.R. Part 90 (*Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance*) prohibit discrimination against individuals on the basis of age in any program or activity receiving Federal financial assistance.

f) Nondiscrimination on the Basis of Limited English Proficiency.

Contractor will comply with Title VI of the Civil Rights Act of 1964 prohibition against discrimination on the basis of national origin which requires that recipients and subrecipients of FEMA assistance take reasonable steps to provide meaningful access to persons with limited English proficiency.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, English proficiency, or disability. Contractor shall not, on the grounds of race, color, creed, national origin, sex, age, English proficiency, or disability, exclude a person from participation in, deny him/her benefits, or subject him/her to discrimination. Contractor shall adhere to any Federal implementing regulations and other requirements that the Department and the FEMA have with respect to nondiscrimination.

14. Contracting with Small, Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms:

Contractor will take all necessary, affirmative steps to assure that qualified small and minority businesses, women's business enterprises, and labor area surplus firms are used when possible by:

- a) Placing small and minority businesses and women's business enterprises on solicitation lists;
- b) Assuring that it solicits small and minority businesses and women's business enterprises whenever they are potential sources;
- c) Dividing total requirements, *when economically feasible*, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;
- d) Establishing delivery schedules, *where the requirement permits*, which encourage participation by small and minority businesses and women's business enterprises;
- e) Utilizing the assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce;
- f) Contractor must require subcontractors to take the five affirmative steps described in a-e above.

15. Disaster Reservists.

Contractor may not in the performance of this Agreement utilize employees who are also Disaster Reservists. Disaster Reservists are personnel authorized by the special hiring authority in the

Stafford Act that are not full-time employees, but rather work on an on-call, intermittent basis to perform disaster response and recovery activities.

16. False Statements Act.

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

Contractor understands that in the event County becomes aware of any allegation or a finding of fraud, waste, or misuse of funds received from FEMA or the Office of the Governor, the County is required to immediately notify OOG of said allegation or finding and to continue to inform OOG of the status of any such on-going investigations. The County must also promptly refer to OOG any credible evidence that a principal, employee, agent, Contractor, subcontractor, or other person has -- (1) submitted a claim for award funds that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving award funds. County must also immediately notify OOG in writing of any misappropriation of funds, fraud, theft, embezzlement, forgery, or any other serious irregularities indicating noncompliance with grant requirements. County must notify the local prosecutor's office of any possible criminal violations.

17. Prompt Payment

The Contractor is required to pay its subcontractors performing work related to the Underlying Agreement for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from County. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work is satisfactorily completed.

18. Retention of Records.

The Contractor agrees to maintain fiscal records and supporting documentation for all expenditures related to this Agreement pursuant to 2 CFR 200.333, UGMS, and state law. Contractor must retain, and will require its subcontractors of all tiers to retain, these records and any supporting documentation for a minimum period of not less than seven (7) years after the date of termination or expiration of the Agreement or any litigation, dispute, or audit arising from the performance of the Agreement. Records related to real property and equipment acquired with grant funds shall be retained for seven (7) years after final disposition.

19. Prohibited Telecommunications and Video Surveillance Services and Equipment.

In the performance of this Agreement, Contractor certifies that they are in compliance with the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY 2019 NDAA\)](#), Pub. L. No. 115-232 (2018) and that no part equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system will include any covered equipment or services as defined by section 889(f)(2)-(3) of the FY 2019 NDAA. "Covered equipment or services"

shall include:

- i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- ii. For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or
- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the People's Republic of China.

EXHIBIT II



February 2022

To Whom It May Concern:

This letter is to confirm that Innoculate™ by Luminare (a Delaware C-corp) is a sole source product, manufactured, sold and distributed exclusively by Luminare. No other company, makes a similar or competing product that can also be used for syndromic surveillance, vaccine management and qualification, with plugins to multi-agency response event management, predictive analytics for sepsis screening, integration to COVID testing and modules for at-home monitoring of patients if required through additional hardware.

This product must be purchased directly by institutions from Luminare with offices at 2450 Holcombe blvd, Suite X, Houston, Tx 77021.

Additionally, competition is precluded as the software is invented and developed in-house at Luminare is copyright by Luminare.

There is no other like item(s) or product(s) available for purchase that would serve the same purpose or function and there is only one price for the above name(s) item(s) or product(s). If you desire additional information, don't hesitate to contact me at (832) 693-7075 at any time or visit our website at luminaremed.com

Thank you for your interest in our product.

Sincerely,

Sarma Velamuri M.D.
CEO / President
Luminare

EXHIBIT III

Luminare Incorporated
2450 Holcombe Blvd Suite X
Houston, TX 77021 US
meghan.wittorf@luminaremed.com
luminaremed.com



INVOICE

BILL TO

Fort Bend County, TX
County Auditor
301 Jackson
Richmond, TX 77469 USA

SHIP TO

Fort Bend County, TX
Health and Human Services
4520 reading Road, Suite A
A-100
Rosenberg, TX 77471 USA

INVOICE # 1274**DATE** 01/24/2022**DUE DATE** 02/23/2022**TERMS** Net 30**PO NUMBER**

197168

ACTIVITY	QTY	RATE	AMOUNT
Module:QuickScreen COVID Inoculate module Innoculate for COVID 19	1	450,000.00	450,000.00
Discount:QS Annual Prepayment Discount Early adopter discount	1	-225,000.00	-225,000.00
Module:QuickScreen API Integration One Time Annual Immtrac Integration Fee	1	5,000.00	5,000.00

Annual subscription: 1/25/22 - 1/24/23

SUBTOTAL	230,000.00
TAX	0.00
TOTAL	230,000.00
BALANCE DUE	\$230,000.00

EXHIBIT IV

Federal Clauses

Luminare Inc., (hereinafter “Contractor”) understands and acknowledges that this Agreement may be totally or partially funded with federal and or state funds. If any federal or state funds are used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with all terms as stated below. These terms flow down to all third party contractors and their subcontracts at every tier and subrecipients and their subcontracts at every tier that exceed the simplified acquisition threshold, unless a particular award term or condition specifically indicates otherwise. Recipients include all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier that exceed the simplified acquisition threshold. Herein, “System Agency” shall refer to Texas Department of State Health Services, “Grantee” shall refer to Fort Bend County.

1. Access to records, books, and documents

In addition to any right of access arising by operation of law, Contractor will permit the System Agency or any of its duly authorized representatives, as well as duly authorized federal, state or local authorities, unrestricted access to and the right to examine any site where business is conducted or Services are performed, and all records, which includes but is not limited to financial, client and patient records, books, papers or documents related to this Contract. If the Contract includes federal funds, federal agencies that will have a right of access to records as described in this section include: the federal agency providing the funds, the Comptroller General of the United States, the General Accounting Office, the Office of the Inspector General, and any of their authorized representatives. In addition, agencies of the State of Texas that will have a right of access to records as described in this section include: the System Agency, HHSC, HHSC's contracted examiners, the State Auditor's Office, the Texas Attorney General's Office, and any successor agencies. Each of these entities may be a duly authorized authority. If deemed necessary by the System Agency or any duly authorized authority, for the purpose of investigation or hearing, Grantee will produce original documents related to this Contract. The System Agency and any duly authorized authority will have the right to audit billings both before and after payment, and all documentation that substantiates the billings.

2. Child Support (Texas Requirement)

Per Texas Family Code 231.006, a child support obligor or business entity remains ineligible to receive payments from state funds under a contract to provide property, materials, or services; or a state funded loan until: (1) All arrearages have been paid; (2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or (3) the court of continuing jurisdiction over the child support order has granted the obligor an exemption from ineligibility as part of a court-supervised effort to improve earnings and child support payments.

Before payment can be released, Contractor will supply County with the name and social security number of the individual or sole proprietor and each partner, shareholder, or owner with an ownership interest of at least 25 percent of the business entity.

Under Section 231.006, Family Code, the Contractor certifies that the individual or business entity named in this Agreement or (bid application) is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

3. *Civil Rights*

Contractor agrees to comply with state and federal anti-discrimination laws, including: Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d *et seq.*); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794); Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*); Age Discrimination Act of 1975 (42 U.S.C. §§6101-6107); Title IX of the Education Amendments of 1972 (20 U.S.C. §§1681-1688); Food and Nutrition Act of 2008 (7 U.S.C. §2011 *et seq.*); and the System Agency's administrative rules, as set forth in the Texas Administrative Code, to the extent applicable to this Agreement.

Contractor agrees to comply with all amendments to the above-referenced laws, and all requirements imposed by the regulations issued pursuant to these laws. These laws provide in part that no persons in the United States may, on the grounds of race, color, national origin, sex, age, disability, political beliefs, or religion, be excluded from participation in or denied any aid, care, service or other benefits provided by Federal or State funding, or otherwise be subjected to discrimination. Contractor agrees to comply with Title VI of the Civil Rights Act of 1964, and its implementing regulations at 45 C.F.R. Part 80 or 7 C.F.R. Part 15, prohibiting a contractor from adopting and implementing policies and procedures that exclude or have the effect of excluding or limiting the participation of clients in its programs, benefits, or activities on the basis of national origin. State and federal civil rights laws require contractors to provide alternative methods for ensuring access to services for applicants and recipients who cannot express themselves fluently in English. Contractor agrees to take reasonable steps to provide services and information, both orally and in writing, in appropriate languages other than English, in order to ensure that persons with limited English proficiency are effectively informed and can have meaningful access to programs, benefits, and activities.

Contractor agrees to post applicable civil rights posters in areas open to the public informing clients of their civil rights and including contact information for the HHS Civil Rights Office. The posters are available on the HHS website at:

http://www.hhsc.state.tx.us/about_hhsc/civil-rights/brochures-posters.shtml

Contractor agrees to comply with Executive Order 13279, and its implementing regulations at 45 C.F.R. Part 87 or 7 C.F.R. Part 16. These provide in part that any organization that participates in programs funded by direct financial assistance from the United States Department of Agriculture or the United States Department of Health and Human Services

shall not discriminate against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief.

4. *Clean Air*

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the System Agency and the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. It will report violations of use of prohibited facilities to the System Agency and to the U.S. E.P.A. The Contractor also agrees to include these requirements in each subAgreement exceeding \$150,000 financed in whole or in part with Federal assistance provided by HHS or TX DSHS

5. *Clean Water*

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the System Agency and the appropriate EPA Regional Office. The Contractor agrees it will not use any violating facilities. It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. It will report violations of use of prohibited facilities to the System Agency and to the U.S. E.P.A. The Contractor also agrees to include these requirements in each subAgreement exceeding \$150,000 financed in whole or in part with Federal assistance provided by HHS or TX DSHS

6. *Compliance with Audit of Inspection Findings*

Contractor understands and must ensure its compliance with all corrections necessary to address any finding of noncompliance with any law, regulation, audit requirement, or generally accepted accounting principle, or any other deficiency identified in any audit, review, or inspection of this contract and the goods or services provided hereunder. Any such correction related to the Contractor's actions shall be at the Contractor's expense. Whether Contractor's action corrects the noncompliance will be solely the decision of the County.

As part of the Services, Contractor must provide to County upon request a copy of those portions of Contractors' internal audit reports relating to the Services and deliverables provided to the County under this contract.

7. *Consent to Medical Care of a Minor (Texas Requirement)*

Consent to Medical Care of a Minor. If Contractor provides medical or psychological treatment to a minor under this Contract, either directly or through contracts with subcontractors, the treatment of a minor shall be provided only if informed consent to treatment is obtained

pursuant to Title 25, Part 7, Chapter 601 regarding informed consent and Texas Family Code Chapter 32, relating to consent to treatment of a child by a non-parent or child. If requirements of federal law relating to consent directly conflict with Texas Family Code Chapter 32, federal law shall supersede state law.

8. *Contract Work Hours and Safety Standards.*

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the DHS and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job. The Contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

9. *Debarred Subcontractors-Licenses*

Contractors shall further require that subcontractors certify that they have not voluntarily surrendered within the past three (3) years any license issued by DSHS.

10. *Debarment and Suspension*

Contractor certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the General Services Administration. This certification is made pursuant to the regulations implementing Executive Order 12549 and Executive Order 12689, Debarment and Suspension, 2 C.F.R. Part 376, and any relevant regulations promulgated by the Department or Agency funding this project. This provision shall be included in its entirety in Contractor’s subcontracts, if any, if payment in whole or in part is from federal funds.

11. Disputes and Resolutions

The parties shall attempt in good faith to resolve promptly any dispute arising out of or relating to the Agreement by negotiation between the parties. Disputes arising in the performance of this Agreement that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the County. This decision shall be final and conclusive unless within ten [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the County. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the County shall be binding upon the Contractor and the Contractor shall abide by the decision.

12. Destruction of Confidential Information

When required, Contractor will provide HHS periodic written certifications of compliance with controls and provisions relating to information privacy, security and breach notification, including without limitation information related to data transfers and the handling and disposal of Confidential Information. 45 CFR 164.308; 164.530(c); 1 TAC 202.

13. Eligible Expenses

Contractor ensures that Services will not include entertainment expenses or fund Sectarian worship, instruction, or proselytization.

14. Employment Verification

Contractor will confirm the eligibility of all persons employed during the contract term to perform duties within Texas and all persons, including subcontractors, assigned by the contractor to perform work pursuant to the Contract.

15. Historically Underutilized Businesses (HUBs)

Contractor shall make a good faith effort to locate and consider HUBs, as defined in Texas Gov't Code §2161.001(2) and Title 34 TAC §20.12, when subcontracting any portion of this Contract, in accordance with Contractor's DSHS-approved HUB Subcontracting Plan. Contractor shall report HUB subcontract activity to the Department's HUB Coordinator in accordance with Title 34 TAC §20.16(c), which requires Contractor to report the identity and amount paid to each HUB subcontractor for payments made by Contractor to the HUB subcontractor in the previous month.

16. Insurance

Any and all insurance requirements set forth in this Agreement also apply to both Contractor and its Subcontractors, if any.

17. Lobbying

Contractors who apply or bid for an award of \$100,000 or more certify that to the best of his or her knowledge and belief, that (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions. (3) Contractor shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

18. No Waiver of State's Sovereign Immunity

Nothing in this Agreement will be construed as a waiver of sovereign immunity by the TxDSHS.

19. Permitting and Licenses

Contractor ensures that each of its employees, agents, or Subcontractors who provide Services or deliverables under this Agreement are properly licensed, certified, or have proper permits to perform any activity related to the Scope of Services.

20. Prohibited Marketing or Sale of Confidential Information

Contractor will not engage in prohibited marketing or sale of Confidential Information. 45 CFR 164.501, 164.508(a)(3) and (4); Texas Health & Safety Code Ch. 181.002.

21. Reporting of Criminal Offense

Contractor certifies that it shall not permit any person who engaged, or was alleged to have engaged, in (1) any activity that could constitute a criminal offense equal to or greater than a Class A misdemeanor or grounds for disciplinary action by a state or federal regulatory

authority; or (2) been placed on community supervision, received deferred adjudication, or been indicted for or convicted of a criminal offense relating to involvement in any financial matter, federal or state program or felony sex crime to perform direct client services or have direct contact with clients, unless otherwise directed in writing by the County.

22. SAO Audit

Contractor understands that acceptance of funds acts as acceptance of the authority of the State Auditor's Office (SAO), or any successor agency, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the SAO must provide the SAO with access to any information the SAO considers relevant to the investigation or audit. Contractor agrees to cooperate fully with the SAO or its successor in the conduct of the audit or investigation, including providing all records requested.

23. Prior Disaster Relief Contract Violation

Under Sections 2155.006 and 2261.053 of the Texas Government Code (relating to convictions and penalties regarding Hurricane Rita, Hurricane Katrina, and other disasters), the Contractor certifies that the individual or business entity named in this Contract and any related Solicitation Response is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

24. Foreign Terrorist Organizations

Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

25. Executive Head of a State Agency

In accordance with Section 669.003 of the Texas Government Code, relating to contracting with the executive head of a state agency, Contractor certifies that it is not (1) the executive head of an HHS agency, (2) a person who at any time during the four years before the date of this Contract was the executive head of an HHS agency, or (3) a person who employs a current or former executive head of an HHS agency

26. Disclosure of Prior State Employment – Consulting Services

In accordance with Section 2254.033 of the Texas Government Code, a Contractor providing consulting services who has been employed by, or employs an individual who has been employed by, System Agency or another State of Texas agency at any time during the two years preceding the submission of Contractor's offer to provide services must disclose the following information in its offer to provide services.

Contractor hereby certifies that this information was provided and remains true, correct, and complete:

1. Name of individual(s) (Contractor or employee(s));
2. Status;

3. The nature of the previous employment with HHSC or the other State of Texas agency;
4. The date the employment was terminated and the reason for the termination; and
5. The annual rate of compensation for the employment at the time of its termination.

27. Equal Employment Opportunity

Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.

28. Subcontractors

Contractor shall ensure that all written agreements with subcontractors incorporate the applicable terms of this Contract. Contractor shall ensure that all written agreements with the subcontractor include a provision that the subcontractor is solely responsible for paying its employees, subcontractors, joint venture participants, and agents. Subcontracts shall be in compliance with Title 25, TAC, Chapter 412, Subchapter B.

29. Franchise Tax Status

Contractor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.

30. Compliance with Federal Law, Regulations, and Executive Orders

Contractor's attention is called to the fact that this Agreement between County and Contractor will be subject to financial assistance contracts between the County and various State or Federal agencies. The Agreement to be awarded, therefore, is subject to the terms of these agreements and will not proceed without these agreements having been duly executed. The Contractor will be required to comply with, in addition to other provisions of the agreement, the conditions required by applicable federal regulations. Contractor will comply with all applicable federal law, regulations, executive orders, policies, procedures, and directives.

31. Ownership and Intellectual Property

Contractor hereby assigns to the System Agency, all right, title, and interest in all Deliverables.

The Contractor will retain ownership, all rights, title, and interest in and to, their respective pre-existing Intellectual Property. A license to either Party's pre-existing Intellectual Property must be agreed to under this or another contract.

Contractor grants to the System Agency and the State of Texas a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any Intellectual Property invented or created by Grantee, or Grantee's Contractor in the performance of the Project.

32. Buy Texas

Contractor agrees to comply with Section 2155.4441 of the Texas Government Code, requiring the purchase of products and materials produced in the State of Texas in performing service contracts.

33. Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, Contractor shall to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products procured with federal funds. For purposes of this clause, (1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. (2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

34. Prohibited Telecommunications and Video Surveillance Services and Equipment

Contractor certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract or funding pursuant to 2 CFR 200.216.