

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
OFFICE OF THE GENERAL COUNSEL

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO

1111 Franklin Street, 8th Floor • Oakland, California 94607



SANTA BARBARA • SANTA CRUZ

Charles F. Robinson
VICE PRESIDENT AND GENERAL COUNSEL

Writer's direct line: (510) 987-9407
E-mail: rachel.nosowsky@ucop.edu

Re: Retention for Health Affairs, Research & Technology Law Matters

Dear _____ :

As you know, the General Counsel has established a Health Affairs and Technology Law (“HATL”) Section within UC Legal, which is comprised of the Office of the General Counsel in Oakland, California (“OGC”) and Offices of Legal Affairs at individual University locations (“OLAs”). The HATL Section is divided into a Health Law Group and a Research & Technology Group. The health law practice group primarily supports UC’s clinical and related research and teaching operations (collectively known as “UC Health”) located throughout the UC System – see <http://health.universityofcalifornia.edu/>. UC Health includes five full-service academic health systems at the Davis, Irvine, Los Angeles, San Diego, and San Francisco campuses comprised of hospitals, medical schools, faculty practice plans, and other facilities and providers, an additional medical school at the Riverside campus, and other health professions schools throughout the State of California. The health law practice group also supports the University’s student health and counseling centers. The research and technology law practice group supports academic research operations and handles privacy, cybersecurity, and other technology matters across the UC system. We also support advocacy and litigation efforts on behalf of the University within these practice areas.

The Health Affairs & Technology Law Group works continuously to secure high-quality, cost-effective legal services to complement the University’s expert in-house team; and to streamline our processes for choosing and retaining counsel and for payment of legal services in connection with individual transactions, regulatory matters, government investigations, certain litigation, and other matters. _____’s team has demonstrated requisite expertise and experience in one or more applicable subfields. Specifically, _____ (“Firm”) is a member of the HATL Preferred Provider Panel, effective _____, 202_, as follows: _____.

This letter will serve as the master retention for your firm’s legal services during the course of your engagement or engagements on UC Health, Research, and Technology matters, including matters for Children’s Hospital & Research Center at Oakland d/b/a UCSF Benioff Children’s Hospital Oakland d/b/a UCSF Benioff Children’s Hospitals (“BCHO”) and its

research subdivision, Children’s Hospital Oakland Research Institute (“CHORI”). An individual HATL matter may be initiated only by completion and execution of the form appended to this letter as [Attachment 1-Health, Research, & Technology Law Matter Retention Schedule](#) (a “Retention Schedule”).

Nothing contained in these guidelines is intended, nor shall they be interpreted, to restrict any attorney’s independent exercise of professional judgment in rendering legal services to the University, or otherwise to interfere with any ethical obligation governing the conduct of an attorney.

Compliance with Outside Counsel Guidelines and University Contacts

Firm’s retention on any individual matter is made on behalf of The Regents of the University of California by an authorized UC Legal attorney, typically a Deputy General Counsel. That or another attorney – a “UC Legal Monitor” resident in the Oakland Office (“Oakland Monitor”), and/or at a campus or medical center (“Local Monitor”), is responsible for day-to-day work and oversight of the matter, subject to supervision by the Chief Campus Counsel and/or Deputy General Counsel (“Supervising Attorney(s)”). Firm may communicate directly with internal clients to facilitate a representation, but UC Legal maintains exclusive authority to direct Firm in the handling of the matter and must be kept apprised of all significant developments and advice given.

Firm’s services will be performed consistent with this letter, the University’s outside billing guidelines, as amended from time to time, included here in their current form as [Attachment 2-University of California Outside Counsel Billing Guidelines](#); and, if and to the extent applicable to a given matter, the Business Associate Agreement included here as [Attachment 3-Business Associate Agreement](#), as well as other guidelines and directives issued by UC Legal or HATL from time to time (collectively the “Guidelines”). The Guidelines are available online, currently at <https://www.ucop.edu/uc-legal/hatl-rfp.html>.

Participating Attorneys, Rates, and Budgets

As the Relationship Partner(s) for the Health Affairs & Technology Law Group, you will be primarily responsible for the overall relationship between Firm and UC with respect to matters initiated under this master retention letter, and to assure Firm’s compliance with the Guidelines in connection with any representation. You are also expected to familiarize yourself – at your cost – with the governance structure, principal policies, and core values of the University and to assure that Firm’s legal services are delivered consistent with these and with the business or operational objectives set for a given matter. The UC Legal Monitors will be most happy to facilitate your efforts in this regard, as will I.

Your firm’s work on a matter may be assigned to you or to other attorneys, consultants, and paraprofessionals in your firm listed on [Attachment 4-Approved Timekeepers Schedule](#) and on the matter-specific Retention Schedule. ***Absent prior written approval by me or by a UC Legal Monitor, work performed by timekeepers not listed on the Approved Timekeepers Schedule and the matter-specific Retention Schedule may not be reimbursed.***

Communications with University Counsel

We view open and continuous communication between outside and in-house counsel as essential to ensuring efficient handling of a matter and the best possible results for the University. Accordingly, the UC Legal Monitor must be fully apprised and kept current on all developments and participate in all decisions concerning legal tactics and strategy. Make sure to provide the UC Legal Monitor or designee with copies of all legal opinions and advice, as well as major correspondence, preferably in electronic form. Drafts of significant documents (agency submissions, definitive agreements, advice memoranda and formal opinions, etc.) should be provided in time for thorough review and discussion. Copies of all significant documents (e.g., filed briefs, formal opinions, definitive agreements) must be provided to the UC Monitor and to me. Failure to provide this work product to a UC Monitor may result in non-payment.

Use of Name; Media Communications

Firm acknowledges that use of the University's name is governed by Cal. Ed. Code 92000. Firm will not initiate or respond to media communications related to University matters for any purpose without the University's prior authorization. If media exposure or contact is anticipated or occurs, Firm will immediately notify the UC Legal Monitor(s) and Supervising Attorney(s) so that appropriate stakeholders may be notified and preparations may be made.

Philosophy on Conflicts and Conflict Waivers

To request a conflict waiver, simply contact my Executive Assistant, Brigid Saulny (brigid.saulny@ucop.edu or 510-987-9945) and provide the relevant information. We aim to respond expeditiously. Please note that the University does *not* approve advance or blanket waivers of future conflicts, whether client-specific or otherwise, except under extraordinary circumstances and subject to specially designed protections developed to protect the University's interests. Our view is that, as a general matter, it is impossible for a firm to adequately disclose the relevant circumstances and actual and reasonably foreseeable adverse consequences of conflicts that have not yet materialized. *See, e.g., Shepard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc.* (Cal 2018); *Concat LP v. Unilever, PLC*, 350 F. Supp. 2d 796 (N.D. Cal. 2004). Although no advance waivers are approved pursuant to these Guidelines, we do make every effort to promptly respond to individual waiver requests and we routinely waive conflicts, particularly with respect to transactional work.

Political Reform Act

University employees are subject to certain transparency requirements and related restrictions imposed by the California Political Reform Act ("CPRA"). Among other things, CPRA requires annual disclosures by certain public officials, including all UC Legal attorneys, and disqualifies any officials who have defined financial interests from making, participating in, or otherwise influencing certain governmental decisions. UC Legal attorneys may attend firm-sponsored functions and events, but may be required to disclose any resulting gifts on an annual statement that is subject to public disclosure, and depending on the total value of gifts or other

income received in a given year by an attorney and her immediate family from Firm, may be disqualified from engaging Firm on a matter or even making a recommendation regarding an engagement during the subsequent twelve-month period.

Consultants; Firm Work on “Non-Legal” Projects

We recognize that many law firms have created internal consulting practices or have affiliated formally or informally with external consulting firms and that they market this work to health system and higher education executives nationally and locally. Others are occasionally retained by a University Locally Designated Official (“LDO”) to perform a whistleblower or retaliation investigation pursuant to the University’s whistleblower and whistleblower protection policies. Nothing in this Master Retention prohibits Firm from performing such work for University clients; provided, however, that: (1) Firm explicitly and in writing notifies the client(s) that its work for them is non-legal (even if performed by lawyers), and is not protected as attorney-client communications or by the attorney work product doctrine and, accordingly, resulting work product may be subject to discovery or public records requests to the same extent it would have been had the work been performed by an external consulting company; and (2) Firm acknowledges, by signing this master retention letter, that only the General Counsel or a Supervising Attorney is authorized to waive any conflicts of interest that Firm may have or later develop with the University. Regardless, we trust that when Firm attaches its name to the work of such consultants, it will assure that such work is high quality and always consistent with applicable law.

Notification of Noncompliance or Misconduct

The University has adopted a [Statement of Ethical Values and Standards of Ethical Conduct](#) committing us to integrity, excellence, accountability, and respect in all of our work and dealings. Firm shall immediately report to the Local Monitor (or, if none is identified on a Retention Schedule or in case of a conflict of interest, the Oakland Monitor) any other improper governmental activities (“IGAs”), as defined in the University’s [Whistleblower Policy](#), of which Firm becomes aware, regardless of whether such noncompliance or misconduct is the subject of Firm’s retention. In the event of professional misconduct involving the UC Monitor, Firm shall report it to the Supervising Attorney. In the event of professional misconduct involving the Supervising Attorney, Firm shall report it to the General Counsel. Firm may also report any IGAs directly to the University’s [Whistleblower Hotline](#).

Professionalism; Licensure; Insurance

Commitment to Dignity and Respect. Be nice. We place a high value on treatment of our clients, our leaders, our regulators, our partners, and all of the members of our legal team with compassion, dignity and respect – and expect the same of outside counsel. Incivility, in all of its forms, is demotivating, creates dysfunction, weakens performance, stifles creativity, and substantially increases the risks of errors in judgment and action – for victims of incivility and even for witnesses. Accordingly, rude, disrespectful, and other uncivil behaviors simply will not be tolerated and could result in exclusion of an individual or a Firm from the HATL Panel. If a

Firm partner or employee is the victim of such behavior in connection with a University engagement, we want to know that and are committed to taking action to respond appropriately.

Licensure. Firm certifies that all attorneys working on University matters are duly licensed to practice law and are not, and have not previously been, the subject of disciplinary proceedings in any state. Firm shall notify UC Legal promptly of any change in the licensure or certification of any approved time-keeper with any state bar, licensing, or other oversight agency.

Insurance. Firm shall maintain at all times insurance coverage or a self-insurance program appropriate to the nature and scope of its activities including, at a minimum, Errors and Omissions coverage with limits of at least \$1 million per claim and \$3 million aggregate per attorney. Any deviation from this mandate requires advance written approval from the Supervising Attorney in consultation with the Chief Risk Officer or her designee. Firm shall provide the University with proof of such insurance upon the University's request.

Budgets, Billing Procedures and Reimbursement

Most matters will proceed under value-based fee arrangements. Any work performed on an hourly basis requires a budget or retainer. A fee arrangement, budget, or retainer is required for each matter in which Firm has been retained. Although budgets are intended to be estimates of the scope, cost and duration of a given matter, the University will rely on the information provided in planning and funding each matter. We do appreciate that a budget may need to be revised due to circumstances beyond a firm's control, for example unexpectedly difficult opposing counsel or significant changes in the expected scope of a transaction or investigation. It is critical to communicate proactively regarding any anticipated budget overruns. ***The University will not reimburse any fees or costs prior to receipt and approval of a budget nor, thereafter, incurred in excess of the approved budget, except to the extent approved in advance by the UC Legal Monitor and, depending on the scope of the matter, the Deputy General Counsel.***

We expect any attorney, paraprofessional or consultant assuming responsibility for a matter – or for any component of a matter – to have relevant subject matter expertise, training and experience consistent with his or her specialty and rank (e.g., partner, counsel, associate, paralegal, consultant) at Firm; and for Firm as a whole to efficiently and effectively pursue the matter to its conclusion. Basic research on non-novel questions of law should be unnecessary in most cases. The University will not reimburse the costs of researching or preparing legal memoranda, opinions, or similar documents that were not requested or otherwise approved in advance by the UC Legal Monitor, nor those that Firm fails to distribute to the UC Legal Monitor and/or Supervising Attorney (internal memos developed for a firm's benefit are never billable to the University). ***Billing entries for an attorney who allocates significant time to a matter but does not display to the UC Monitor a mastery of the facts and understanding of the applicable law will require justification and may be rejected.***

Fees and other expenses must be charged consistent with the rates specified in the Approved Timekeepers Schedule, approved budgets, and the Guidelines. Invoices must exclude non-reimbursable charges, and must be submitted electronically as provided below. ***Failure to***

comply with these requirements may result in delay of payment or non-payment and other corrective action.

Final invoices must be submitted within 30 days from receipt of settlement or other termination of a matter. If the final bill cannot be submitted within 30 days, Firm must advise the UC Legal Monitor as soon as may be practical. It is Firm's responsibility to obtain all outstanding invoices from outside vendors, including consultants and experts, before submitting the final bill. Absent exigent circumstances, bills submitted after the final bill will not be paid.

Any questions concerning billing procedures should be directed to legalbilling@ucop.edu. Requests for invoice payment status should be directed to the applicable UC Legal Monitor with a copy to Brigid Saulny (brigid.saulny@ucop.edu or 510-987-9945).

Information Security

Firm acknowledges that, in the course of its work, it will receive and produce client confidences. Firm may also receive information protected by federal or state laws or University policies, including without limitation, the Information Practices Act, Cal. Civ. Code 1798 *et seq.* Collectively, these laws and standards require, at a minimum, the adoption of physical, technical, and administrative safeguards sufficient to protect confidential information against unauthorized use, access or disclosure. Firm shall protect all information received, maintained, created, or otherwise collected in the course of its representation of the University consistent with the requirements of the [California Rules of Professional Conduct](#) and other applicable law. Firm acknowledges that the California Attorney General has issued guidance on basic measures companies should adopt to secure their records. *See, e.g.,* [Cybersecurity in the Golden State \(2014\)](#) and [California Data Breach Report \(2016\)](#).

* * * * *

We very much appreciate your willingness to represent the University on health law, research, and technology matters and look forward to a long and productive working relationship.

Sincerely,

Rachel Nosowsky, Esq.
Deputy General Counsel,
Health Affairs, Research & Technology Law

RN/bs
Agreed and Accepted:

By:

Health, Research & Technology Law Matter Retention Schedule

The firm referenced below (“Firm”) is retained to provide legal services to The Regents of the University of California (“UC”) and specifically to provide services in connection with the matter described below (“Matter”), subject to the previously executed retention letter and the then-current Guidelines, available online at <https://www.ucop.edu/uc-legal/hatl-rfp.html>

Campus/Medical Center: **<Choose One>** _____

Firm Name: _____ Partner in Charge: _____

Matter Name: _____ Matter Number: _____

Matter Type: **<Choose One>** _____ Matter Category (iVos): **<Choose One>** _____

eBilling Submission System: **<Choose One>** _____

Matter Description:

Oakland Monitor: _____ Local Monitor: _____
Bill Approval? Yes No | Budget Approval? Yes No | Lead Counsel? Yes No N/A

Other Key Attorneys (Information/Updates Only): _____

FAU #: _____ FAU Contact Name/Number: _____

Client/Sponsor Name: _____

Assigned Timekeepers:

Note: UC will not reimburse fees incurred in connection with the Matter by or on behalf of any attorney, consultant, paraprofessional, or other timekeeper who is not listed on the Approved Timekeepers Schedule and on this HATL Retention Schedule, except as approved in advance and in writing by a UC Monitor.

Budget: _____

Please attach details – a written justification and breakdown is required for any budget over \$25,000. UC will not reimburse unbudgeted work, nor work performed in excess of the budget. Budget revisions must be approved in advance and in writing by a UC Monitor with budget approval authority, following consultation with the Client/Sponsor.

Accepted and Approved:

Name: _____ (“Supervising Attorney”)
Title: Chief Campus Counsel Deputy General Counsel
The Regents of the University of California - **Office of the President**

Name: _____
Title: _____
Firm: _____

University of California Outside Counsel Billing Guidelines

Contents

Alternative Fee Arrangements..... 8

Hourly Arrangements..... 8

UC will not pay for 8

Expenses..... 9

Disallowed expenses 9

Travel 10

Audits 10

All invoices need to be submitted electronically. Physical invoices will not be accepted.

A penalty of 5 percent of the invoice’s total value will be applied to all invoices submitted 60 days after the due date. An additional 5 percent will be applied to invoices submitted between 90 and 120 days after the due date. Invoices submitted 120 or more days after the due date will not be accepted.

Alternative Fee Arrangements

University of California (UC) cannot process payment without an invoice. Therefore, firms will still need to submit invoices for alternative fee arrangements, even when the arrangement appears on its face to be self-executing.

Hourly Arrangements

Absent an alternative invoicing schedule approved in writing by the monitoring UC attorney, invoices for work completed during a calendar month are due by the end of the following calendar month, including final invoices. All invoices for work performed during UC’s fiscal year (July 1st through June 30th) must be received no later than July 15th.

UC will not pay for the following:

- A. Timekeepers that are not:
 - a. Approved by the monitoring UC attorney *before* they begin work (in exceptional circumstances documented in writing, the monitoring UC attorney may provide post-hoc approval).
 - b. Direct employees of the firm (i.e., subcontractors). Work of non-employees may only be billed as expenses.
- B. Unapproved rate increases
 - a. Increase requests must be submitted to our billing department for review with a business justification at least 60 days before they are proposed to be effective.

- b. Approved rate increases are *not retroactive*. New rates are only applicable to future retentions, not existing or panel retentions, unless specified in the applicable retention letter.
- C. Time spent due to staffing inefficiencies caused by a change or departure of a firm's personnel
- D. Consistent billing of more than eight hours in a day, or more than 150 hours per month, for a timekeeper without justification (trial and immediate pretrial preparation excluded)
- E. Overtime charges
- F. Commuting time or any other travel time not spent performing University business
- G. Clerical, secretarial, and administrative work, regardless of who performs it, including but not limited to: case administration, scheduling, budget preparation, conflicts clearance procedures, data organization
- H. Multiple billers for a single task or event
- I. Basic legal research – please indicate in the line item description when research is requested by the monitoring UC attorney.
- J. Development or drafting of internal research memos or other material attorney work product that is not requested, approved by, or produced to the monitoring UC attorney or other supervising attorney(s)
- K. Vague line item descriptions like “attend meeting”, “participate in client call”, “trial preparation”, “research”, etc. – Required level of description: “Telephone call with J. Smith and J. Doe re: oral argument preparation”.
- L. Time spent working with UC or state auditors

Expenses

UC will only pay the actual cost of expenses. Markups are prohibited and will not be reimbursed.

Firms must have the monitoring UC attorney’s written approval before retaining a third party vendor or consultant (e.g., experts, mediators, court reporters, subcontractors, eDiscovery vendor). Third party vendor invoices less than or equal to \$5,000 will be paid by the law firm and rebilled to UC.

All expenses over \$75 require a receipt or invoice copy directly from the vendor attached to the invoice submission. Credit card statements will *not* be accepted.

UC will pay for new technology when it is installed and utilized expressly and solely for UC’s benefit. Prior written approval from the monitoring UC attorney is required, along with a certification that the purchase will be made consistent with applicable law and UC policy governing procurement and competitive bidding processes.

Disallowed expenses

- A. Overhead expenses
- B. Routine postage expenses – Any necessary postage charges (certified mail, overnight service, or oversized packages) must include an explanation and to/from addresses.
- C. Any library related expense, including but not limited to LexisNexis, Westlaw, AI-assisted legal practice tools, or other database legal research expenses
- D. Billing more than once for documents which are reproduced for multiple witnesses, such as subpoenas

- E. Expenses derived from overtime (i.e., transportation or meals)
- F. Photocopying (B&W and color)
- G. Billing software charges
- H. Meals unrelated to overnight travel
- I. Private car services or taxi fares (including rideshare services) when more economical options are possible
- J. Interest charges

Travel

The following is in accordance with UC's travel guidelines ([Policy G-28](#)). Please be as frugal as possible. UC reserves the right to adjust any travel expenses in excess of UC's travel guidelines.

- A. All travel (local or out of town) must be preapproved by the monitoring UC attorney. Out-of-town travel requests must be accompanied by justification, including an explanation of why videoconferencing or other telecommunications options are not feasible or appropriate.
- B. UC will only pay for time spent explicitly working on UC business during out of town travel.
- C. Travel expenses should identify the person who traveled and the reason for the travel (e.g. "Airline ticket to San Diego for Jane Smith to attend 12/02 court hearing").
- D. Mileage will be reimbursed at the current IRS rate. Please indicate the number of miles driven.
- E. UC will not pay for rental car and airfare higher than economy or coach rates. Basic baggage and ticketing fees are permitted when accompanied by appropriate justification.
- F. The following overnight travel expenses are disallowed:
 - a. Nightly hotel rate greater than \$275 before taxes and mandatory hotel fees
 - b. In flight, hotel, or other third party WiFi charges
 - c. Meal costs exceeding the then-current UC travel meal allowance
 - d. Alcohol or any other entertainment expenses

Audits

UC retains the right to audit all files related to any past invoice. Within reason, the firm will produce any documentation that would support invoices submitted and provide contact information for any individual who submitted invoices on behalf of the firm, would have knowledge regarding any billing, or could answer any or all questions regarding invoices. UC may utilize its own personnel or a UC designated third party to perform such audits. Firms should expect the possibility of the California State Auditor contacting them for audit related questions.

Any billing questions, including payment statuses or short pay inquiries, should be directed to legalbilling@ucop.edu for all other matters.

The monitoring UC attorney must be included on all correspondence with campus departments and aware of all tasks being completed.



UNIVERSITY OF CALIFORNIA

Appendix – Business Associate Agreement

This Appendix - Business Associate Agreement ("Appendix BAA") supplements and is made a part of any and all agreements entered into by and between The Regents of the University of California, a California corporation ("UC"), on behalf of its University of California Health System and **Firm Name** ("BA").

RECITALS

- A. UC is a "Covered Entity" as defined under 45 C.F.R. § 160.103
- B. UC and BA are entering into or have entered into, and may in the future enter into, one or more agreements (each an "Underlying Agreement") under which BA performs functions or activities for or on behalf of, or provides services to UC ("Services") that involve receiving, creating, maintaining and/or transmitting Protected Health Information ("PHI") of UC as a "Business Associate" of UC as defined under 45 C.F.R. § 160.103. This Appendix BAA shall only be operative in the event and to the extent this Appendix BAA is incorporated into an Underlying Agreement between UC and BA.
- C. UC and BA desire to protect the privacy and provide for the security of PHI used by or disclosed to BA in compliance with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the regulations promulgated thereunder by the U.S. Department of Health and Human Services (45 C.F.R. Parts 160, 162 and 164) (the "HIPAA Regulations"), the Health Information Technology for Economic and Clinical Health Act of 2009 (the "HITECH Act"), California Civil Code § 56 et seq., §§1798.82 and 1798.29, and other applicable laws and regulations. The purpose of this BA Agreement is to satisfy certain standards and requirements of HIPAA, the HIPAA Regulations, including 45 CFR § 164.504(e), the HITECH Act, including Subtitle D, part 1, as they may be amended from time to time, and similar requirements under California law.
- D. UC wishes to disclose PHI to BA. UC has designated all of its HIPAA health care components as a single component of its hybrid entity and therefore this BA Agreement is binding on all other UC health care components (collectively, the Single Health Care Component or the SHCC). This BA Agreement is effective on the date of the Underlying Agreement under which BA provides Services to UC ("Effective Date").

1. DEFINITIONS

Except for PHI, all capitalized terms in this Appendix BAA shall have the same meaning as those terms in the HIPAA Regulations.

PHI shall have the same meaning as "protected health information" in the HIPAA Regulations that is created, received, maintained, or transmitted by Business Associate or any Subcontractor on behalf of UC and shall also include "medical information" as defined at Cal. Civ. Code § 56.05.

2. OBLIGATIONS OF BA

BA agrees to:

- A. Comply with the requirements of the Privacy Rule that apply to UC in carrying out such obligations, to the extent BA carries out any obligations of UC under the Privacy Rule. BA also agrees to comply with the requirements of California state privacy laws and regulations that apply to UC in carrying out such obligations, to the extent BA carries out any obligations of UC under California Civil Code § 1798 et seq., California Civil Code § 56 et seq., and California Health & Safety Code §§ 1280.15 and 1280.18, as applicable, unless otherwise mutually agreed to by BA and UC.
- B. Not Use or Disclose PHI other than as permitted or required by the Underlying Agreement or as required by law.
- C. Use appropriate safeguards, and comply, where applicable, with 45 C.F.R. § 164 Subpart C with respect to ePHI, to prevent the Use or Disclosure of PHI other than as provided for by the Underlying Agreement(s) and the Appendix BAA.
- D. Notify UC in writing as soon as possible, but in no event more than five (5) calendar days, after BA becomes aware of any Use or Disclosure of the PHI not provided for by the Appendix BAA or Underlying Agreement(s), including Breaches of unsecured PHI as required by 45 C.F.R. § 164.410 and potential compromises of UC PHI, including potential inappropriate access, acquisition, use or disclosure of UC PHI (each, collectively an “Incident”). BA shall be deemed to be aware of any such Incident, as of the first day on which it becomes aware of it, or by exercising reasonable diligence, should have been known to its officers, employees, agents or sub-suppliers. The notification to UC shall include, to the extent possible, each individual whose unsecured PHI has been, or is reasonably believed by BA to have been, accessed, acquired, used or disclosed during such Incident. BA shall further provide UC with any other available information that UC is required to include in a notification to affected individuals at the time of the notification to UC, or promptly thereafter as information becomes available. BA shall take prompt corrective action to remedy any such Incident, and, as soon as possible, shall provide to UC in writing: (i) the actions initiated by the BA to mitigate, to the extent practicable, any harmful effect of such Incident; and (ii) the corrective action BA has initiated or plans to initiate to prevent future similar Incidents.
- E. Ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of the BA agree to the same restrictions, conditions, and requirements that apply to the BA with respect to such information.
- F. If BA maintains PHI in a Designated Record Set, BA shall make the PHI in the Designated Record Set available to UC, or if directed by UC to the Individual or the Individual’s designee, as necessary to satisfy UC’s obligations under 45 C.F.R. § 164.524.
- G. If BA maintains PHI in a Designated Record Set, BA shall make any amendments directed or agreed to by UC pursuant to 45 C.F.R. § 164.526, or take other measures as necessary to satisfy UC’s obligations under 45 C.F.R. § 164.526.
- H. Maintain and make available the information required to provide an accounting of disclosures to UC, or if directed by UC to the Individual, as necessary to satisfy UC’s obligations under 45 C.F.R. § 164.528;

- I. Make its internal practices, books, and records, relating to the Use and Disclosure of PHI available to UC, and to the Secretary for purposes of determining UC’s compliance with HIPAA, HITECH and their implementing regulations.

3. PERMITTED USES AND DISCLOSURES BY BA

BA may only Use or Disclose the Minimum Necessary PHI to perform the services set forth in the Underlying Agreement.

4. TERM AND TERMINATION

- A. Termination for Cause. UC may terminate this Appendix BAA, if UC determines BA has violated a material term of the Appendix BAA.
- B. Upon termination of this Appendix BAA for any reason, with respect to PHI received from UC, or created, maintained, or received by BA on behalf of UC, BA shall return to UC, or if agreed to by UC, destroy, all such PHI that BA still maintains in any form, and retain no copies of such information.

To the extent return or destruction of UC PHI is not feasible, BA shall (1) retain only that PHI which is necessary for BA to continue its proper management and administration or to carry out its legal responsibilities; and (2) continue to use appropriate safeguards for such UC PHI and comply with Subpart C of 45 C.F.R. Part 164 with respect to ePHI to prevent Use or Disclosure of the PHI, other than as provided for in this Section, for as long as BA retains the PHI.

- C. Survival. The obligations of BA under this Section shall survive the termination of this Appendix BAA and any Underlying Agreement(s).

The Appendix BAA is signed below by the parties’ duly authorized representatives.

**THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA**

BUSINESS ASSOCIATE

Firm Name

(Signature)

(Signature)

Name, Title

Name, Title

(Date)

(Date)

Attachment 4 **Approved Timekeepers Schedule**

The following rates are effective through December 31, 2024 for matters billed on an hourly basis. Only those individuals listed or otherwise referenced below and listed on a matter-specific Retention Schedule may bill time or services to any individual matter.

Please note: all timekeepers must be registered in advance in the University's eCounsel system. For instructions or assistance with this process, please contact legalbilling@ucop.edu.

Contract/Temporary/Staff Attorneys or Other Personnel:

Contract, temporary, or "staff" attorneys and other professionals are not eligible to perform work according to the above fee schedule but may be approved by a UC Monitor to work on any matter where their participation will make the retention as a whole more cost effective than would otherwise be the case (for example to facilitate diligence or discovery activities); provided, however, that: (i) Firm shall remain responsible for their oversight and work product; and (ii) any mark-up over the hourly rate at which they are being paid accurately reflects associated administrative and overhead costs, is approved in advance by the UC Monitor, and in any event does not exceed twenty percent (20%).