



DEPARTMENT OF MENTAL HEALTH
hope. recovery. wellbeing.

JONATHAN E. SHERIN, M.D., Ph.D.
Director

Gregory C. Polk, M.P.A.
Chief Deputy Director

Curley L. Bonds, M.D.
Chief Medical Officer

July 14, 2020

APPROVED BY THE CEO

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

JUL 14 2020

BY DELEGATED AUTHORITY

Dear Supervisors:

**APPROVAL OF SOLE SOURCE AMENDMENT NUMBER FIVE
TO AGREEMENT NUMBER 77676 WITH NETSMART TECHNOLOGIES, INC.,
FOR POST-IMPLEMENTATION SYSTEM OPERATIONS WORK AND TO ADD
CLARIFICATION TO SERVICE LEVEL REQUIREMENTS
FOR THE INTEGRATED BEHAVIORAL HEALTH INFORMATION SYSTEM**

**(3 VOTES)
(ALL SUPERVISORIAL DISTRICTS)**

CIO RECOMMENDATION: APPROVE (X)

SUBJECT

Request approval of Sole source amendment Number Five to Agreement Number 77676 with Netsmart Technologies, Inc., to add \$5.8 million in Pool Dollars for County-requested Other Professional Services/Change Notices needed for post-implementation System operations work, and add clarification to Service Level Requirements.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and authorize the Director of Mental Health (Director), or his designee, to prepare, sign, and execute Sole source amendment Number Five, substantially similar in format to Attachment I, to the existing Department of Mental Health (DMH or Department) Integrated Behavioral Health Information System (IBHIS or System) Agreement Number 77676 with Netsmart Technologies, Inc. (Netsmart), effective upon Board approval to: a) increase the Contract Sum by \$5.8 million Pool Dollars, fully funded by 2011 Realignment revenue, for Other Professional Services/Change Notices for post-implementation System operations work, for a total Contract Sum of \$114,516,793; and b) add clarification in the Service Level Requirements for Level I, Level II, and Level III Priority issues.

2. Delegate authority to the Director, or his designee, to prepare, sign, and execute future sole source amendments to the IBHIS or System Agreement described in Recommendation 1 to increase the Contract Sum; add, delete, modify or replace Other Professional Services/Change Notices and Service Level Requirements; and/or reflect federal, State, and County regulatory and/or policy changes provided that: 1) the increase does not exceed 10 percent of the last Board approved contract sum; and 2) sufficient funds are available. The sole source amendments will be subject to prior review and approval as to form by County Counsel and County Chief Information Officer (CCIO), if applicable, with written notice to the Board and the Chief Executive Officer (CEO).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTIONS

IBHIS is a fully integrated, web-enabled software system that supports multiple simultaneous users and securely interfaces with several County information systems and other healthcare organizations. IBHIS provides clinical, administrative, financial, and secure data sharing functionality to support the State of California Department of Health Care Services Medi-Cal and Federal Medicare programs.

Board approval of the Recommendation 1 will allow DMH to increase Pool dollars by \$5.8 million from \$19,056,378 to \$24,856,378 for County-requested Other Professional Services/Change Notices for post-implementation System operations work. This funding will allow DMH to maintain ongoing System operations, and implement limited essential System modifications.

Board approval of Recommendation 2 will allow DMH to amend the agreement to add, delete, modify, or replace Other Professional Services/Change Notices and Service Level Requirements; reflect federal, State, and County regulatory and/or policy changes; and/or increase the contract sum not to exceed 10 percent of the Board adopted contract sum.

Key reasons to increase Operational Cost are as follows:

➤ **Maintain Ongoing System Operations (estimated \$4.8 million)**

Continue the Hosting, Maintenance, and Support Services for Meaningful Use (MU) certified software modules purchased after the initial implementation of the System:

- CareConnect: Enables IBHIS to securely exchange Continuity of Care Documents (CCD) with external MU certified Electronic Health Record (EHR) systems.
- OrderConnect: Provides e-Prescribing and lab Order Entry.
- Diagnosis Service: Provides licensing for International Classification of Diseases Tenth Revision (ICD-10 codes).

- Web Services: Supports electronic data exchange between IBHIS and DMH Contract Providers.
- InterSystems Caché Enterprise Licenses: Maintains 500 concurrent IBHIS Database User licenses recently added due to organic growth.

➤ **Implement System Modifications to Meet Current Needs (estimated \$1 million)**

DMH conducts ongoing evaluations of its policies and workflows to identify areas for improvements. As part of that process, DMH considers IBHIS improvements that may require customizations as defined in the Agreement. Examples of identified improvements include:

Interoperability

- RevConnect: Implement Netsmart’s clearinghouse services to improve insurance eligibility checks for any DMH client who uses Medicare and/or other healthcare insurance. This solution directly integrates with IBHIS allowing both mass batch eligibility checks, as well as single real time eligibility.
- Integration Platform as a Service (iPaaS via Azure): Continue to transform how DMH electronically exchanges information with its Contract Providers. DMH will transition from its current use of web services technologies to specific Health Level Seven International (HL7) Fast Healthcare Interoperability Resources (FHIR) web service technologies between the Netsmart solution and the new Microsoft Azure middleware.
- CareQuality Interoperability Framework: Implement the nationwide platform neutral framework for connecting health data networks to promote trusted exchange of clinical information. Netsmart is an approved implementer of the CareQuality Interoperability Framework, enabled through the CareConnect module in IBHIS.

Risk Management

- Active Directory (AD) Integration: Identify, authenticate, and authorize individuals to have access to IBHIS by associating user rights and restrictions with established County Information Technology (IT) policies.
- Azure Multi-Factor Authentication (MFA): Implement computer access control in which users will be able to access IBHIS only after successfully presenting at least two separate pieces of evidence to an authentication mechanism.

These modifications will further improve DMH's ability to realize additional revenue, enhance care coordination with non-government agencies, and reduce risk.

Lastly, the DMH and Netsmart have agreed to update the review process for Level I, Level II, and Level III Priority issues described in Exhibit D – Service Level Requirements. The following additional activities have been agreed upon: produce monthly reports showing issues, meet on a regular basis to review possible credits owed to the County, and refine the mechanism for identifying System Component Deficiencies that were not timely resolved by the Contractor. This action will enable DMH to more readily receive potential Service Credits if owed to the County.

Implementation of Strategic Plan Goals

The recommended actions are consistent with County Strategic Plan Goal 3, “Realize Tomorrow’s Government Today.”

- Strategy III.2 – Embrace Digital Government for the Benefit of our Internal Customers and Communities: Implement technological business solutions to enable County departments to meet their core mission, transform how we share information, and protect the privacy rights of individuals.
- Sole source amendment Number Five is also consistent with CCIO IT Strategic Goals and DMH IT Initiatives.

FISCAL IMPACT/FINANCING

This Board action increases the total Contract Sum by \$5.8 million for Pool Dollars, with a revised total Contract Sum of \$114,516,793. The increase of \$5.8 million is fully funded by 2011 Realignment revenue. Funding for this increase is included in DMH’s FY 2020-21 Recommended budget.

Funding for future fiscal years will be included in DMH’s annual budget request process.

There is no net County cost impact associated with the recommended actions.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

On October 18, 2011, your Board approved Agreement Number 77676 with Netsmart to provide DMH with an IBHIS, as well as ongoing Maintenance and Support Services, Hosting Services, application management, and other related services for an 11-year term and a total Contract Sum of \$93,316,793. IBHIS provides clinical, administrative, financial, and data sharing functionality to support the State of California Department of Health Care Services Medi-Cal and Federal Medicare programs.

On September 23, 2013, your Board approved Amendment Number One to revise standard County language regarding Contractor’s Obligations as a Business Associate under the Health Insurance Portability and Accountability Act (HIPAA).

On December 17, 2013, your Board approved Amendment Number Two to add an additional \$6 million in Pool Dollars for Other Professional Services/Change Notices in support of requirements introduced by the Affordable Care Act (ACA) and the Health Information Technology for Economic and Clinical Health Act (HITECH), and to address requirements unique to the complexity and scale of the County; increase the Contract Sum by \$6 million, from \$93,316,793 to \$99,316,793; exclude certain Deliverables from the holdback provision; redistribute \$1,856,750 into a new Deliverable (Pilot 1 Production Use), originally tied to Final System Acceptance; modify Maintenance and Support Services and Hosting Services provisions to reflect that such services shall commence upon Production Use of the System; and add/update certain other County-required provisions of the Agreement.

On April 7, 2015, your Board approved Amendment Number Three to add an additional \$4,400,000 in Pool Dollars for Other Professional Services/Change Notices; and to increase the Contract Sum by \$4,400,000, from \$99,316,793 to \$103,716,793 to provide necessary software changes and additional technical and go-live support resources for DMH's implementation and roll-out of IBHIS for Directly-Operated clinics and Contract Providers.

On December 11, 2015, Final System Acceptance was achieved contingent upon Netsmart's completion of the following: a) assistance with and resolution of Levels I and II Priority Deficiencies during County's transition of one rollout of Contract Providers to IBHIS; b) support for County during one monthly claim submission and remittance for a new Contract Provider; and c) support for County during the transition of 50 Contract Providers to IBHIS. As a result, County released the remaining Holdback Amount of \$500,000.

On December 15, 2017, your Board approved Amendment Number Four to add an additional \$5,000,000 in Pool Dollars for Other Professional Services/Change Notices; and to increase the Contract Sum by \$5,000,000, from \$103,716,793 to \$108,716,793 to provide necessary software changes and additional technical and go-live support resources for DMH's implementation and roll-out of IBHIS for Directly-Operated clinics and Contract Providers.

This Sole source amendment adds updated exhibits, and new Board policy language, and Board-mandated provisions, including Workers Compensation and Employers' Liability, Assignment and Delegation/Mergers or Acquisitions, Compliance with Fair Chance Employment Practices, County Policy of Equity, and Default Method of Payment: Direct Deposit or Electronic Funds Transfer.

The Sole source amendment has been reviewed and approved as to form by County Counsel.

The CIO has reviewed this Board Letter and recommends approval. The CIO further determined that a CIO Analysis is not required for the recommended action.

Except as expressly provided in the Sole source amendment, all other provisions and conditions of the Agreement will remain the same and in full force and effect.

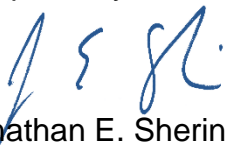
Under the Board Policy, No. 5.100 (Sole Source Contracts) adopted on March 31, 2020, this amendment qualifies as a Sole Source action. Due to timing of this policy, DMH did not submit the six month advance notification as required under the policy. This contract action is necessary as the pool dollars provide Additional Professional Services that are required due to regulatory program changes that must be made in a timely fashion to ensure County reimbursement. In addition, due to COVID 19 budget issues, it took longer than anticipated to secure and confirm the funding amount. The contract was competitively procured and is currently in year seven of an eleven-year term.

The required Sole Source Checklist (Attachment II), approved by the CEO, is also attached.

IMPACT ON CURRENT SERVICES

Board approval of the recommended Sole source amendment will enable the continuation of the maintenance and support of CareConnect and electronic care coordination communication and interoperability activities with other healthcare information systems (e.g., County Providers' EHRs, OrderConnect, Probation Electronic Medical Records System (PEMRS), E-Prescribing Substance Control (EPSC), Los Angeles Network for Enhanced Services (LANES), eConsult, etc.), while meeting MU certification requirements and supporting federal and state mandates standards for health information exchange under the HITECH Act. Approval of the recommended Sole source amendment will also allow DMH to improve workflow processes to support the growing number of Contract Providers.

Respectfully submitted,



Jonathan E. Sherin, M.D., Ph.D.
Director

Reviewed by:



William S. Kehoe
Chief Information Officer

JES:MA:KVS:VS:rlr

Attachments

- c: Executive Office, Board of Supervisors
- Chief Executive Office
- County Counsel
- Chairperson, Mental Health Commission

ATTACHMENT I

DEPARTMENT OF MENTAL HEALTH



**AMENDMENT NUMBER FIVE TO
COUNTY AGREEMENT NUMBER 77676
BY AND BETWEEN
THE COUNTY OF LOS ANGELES
AND
NETSMART TECHNOLOGIES, INC.
FOR AN
INTEGRATED BEHAVIORAL HEALTH
INFORMATION SYSTEM (IBHIS)**

July 14, 2020

**AMENDMENT NUMBER FIVE TO COUNTY AGREEMENT NO. 77676
BY AND BETWEEN COUNTY OF LOS ANGELES
AND
NETSMART TECHNOLOGIES, INC.
FOR THE PROVISION OF THE INTEGRATED BEHAVIORAL HEALTH
INFORMATION SYSTEM (IBHIS)**

This Amendment Number Five ("Amendment Number Five") is entered into by and between the County of Los Angeles (hereafter "County") and Netsmart Technologies, Inc., a Delaware corporation (hereafter "Contractor"), and amends that certain County Agreement Number 77676, dated October 18, 2011, and captioned "Agreement By and Between County of Los Angeles and Netsmart Technologies, Inc., for an Integrated Behavioral Health Information System (IBHIS), including Amendments One through four, and Change Notice Numbers One through Eighty-Nine (hereafter collectively "Agreement").

WHEREAS, County and Contractor entered into the Agreement as of October 2011 for the development, implementation, maintenance and support, and hosting of the IBHIS;

WHEREAS, on September 23, 2013, County and Contractor entered into Amendment Number One for the purpose of implementing federally mandated changes to Exhibit M-1 (Business Associate Agreement) Contractor's Obligations as a "Business Associate" Under the Health Insurance Portability and Accountability Act of 1996 and Health Information Technology for Economic and Clinical Health Act, effective as of February 17, 2010, to incorporate the increased privacy and security requirements applicable to business associates;

WHEREAS, on December 17, 2013, County and Contractor entered into Amendment Number Two for the purpose of adding \$6,000,000 in Pool Dollars for Other Professional Services/Change Notices increasing the Contract Sum by \$6,000,000, from \$93,316,793 to \$99,316,793; excluding certain Deliverables from the holdback provision; redistributing \$1,856,750 into a new Deliverable (Pilot 1 Production Use), originally tied to Final System Acceptance (FSA); modifying Maintenance and Support Services and Hosting Services provisions to reflect that such services shall commence upon Production Use of the System; and adding/updating certain other County-required provisions of the Agreement;

WHEREAS, on April 7, 2015, County and Contractor entered into Amendment Number Three for the purpose of adding \$4,400,000 in Pool Dollars for Other Professional Services/Change Notices; and increasing the Contract Sum by \$4,400,000, from \$99,316,793 to \$103,716,793, to support the DMH in its implementation of the IBHIS;

WHEREAS, on December 1, 2016, Netsmart LLC made and executed a Netsmart Affiliate Guaranty as a guarantor on behalf of Netsmart as it relates to the performance of its obligations pursuant to the Agreement and any Amendments thereto. This Netsmart Affiliate Guaranty became effective November 1, 2016;

WHEREAS, on December 15, 2017, County and Contractor entered into Amendment Number Four for the purpose of adding \$5,000,000 in Pool Dollars for Other Professional Services/Change Notices; and to increase the Contract Sum by \$5,000,000, from \$103,716,793 to \$108,716,793 to provide needed for post-implementation System operations work and to update and add to the Agreement certain other Board required provisions;

WHEREAS, County and Contractor intend (i) to increase the Contract Sum by \$5,800,000 in Pool Dollars for a total of \$114,516,793 for Other Professional Services/Change Notices needed for post-implementation System operations work; (ii) to amend Exhibit D (Service Level Requirements); and (iii) to update and add to the Agreement certain other Board required provisions;

NOW, THEREFORE, in consideration of the foregoing and pursuant to Paragraph 6 (Change Orders and Amendments) of the Agreement, Contractor and County hereby agree to amend the

Agreement as follows:

1. CONSTRUCTION

- 1.1 Capitalized terms used in this Amendment Number Five without further definition shall be the meaning ascribed to them in the Agreement.
- 1.2 As used in this Amendment Number Five, words, and phrases such as ‘including,’ ‘for example,’ ‘e.g.,” and “such as,” are intended to be descriptive and not limited.

2. AMENDMENTS TO THE BASE DOCUMENT

The Agreement is amended as follows:

- 2.1 Definitions. Paragraph 1.4 (Definitions) is hereby amended by adding the following definitions thereto in the appropriate alphabetical order:

- 2.1.1 “Amendment Number Five” means that certain Amendment Number Five to County Agreement Number 77676, dated as of the date of approval by County’s Board of Supervisors, by and between County and Contractor.”

- 2.1.2 “Amendment Number Five Effective Date” means the date on which Amendment Number Five becomes effective in accordance with its terms.”

- 2.2 Paragraph 2.1 (County’s Project Director) of Paragraph 2 (ADMINISTRATION OF AGREEMENT - COUNTY) is hereby amended by deleting it in its entirety and replacing it with Exhibit W County’s Administration hereby added to the Agreement in the form and substance attached hereto as Attachment 9.

- 2.3 Paragraph 2.2 (County’s Project Manager) of Paragraph 2 (ADMINISTRATION OF AGREEMENT – COUNTY) is hereby amended by deleting it in its entirety and replacing it with Exhibit W County’s Administration hereby added to the Agreement in the form and substance attached hereto as Attachment 9.

- 2.4 Paragraph 3.1 (Contractor’s Project Director) of Paragraph 3 (ADMINISTRATION OF AGREEMENT - CONTRACTOR) is hereby amended by deleting it in its entirety and replacing it with Exhibit X Contractors Administration hereby added to the Agreement in the form and substance attached hereto as Attachment 10.

- 2.5 Paragraph 3.2 (Contractor’s Project Manager) of Paragraph 3 (ADMINISTRATION OF AGREEMENT - CONTRACTOR) is hereby amended by deleting it in its entirety and replacing it with Exhibit X Contractors Administration hereby added to the Agreement in the form and substance attached hereto as Attachment 10.

- 2.6 Paragraphs 7.1 (Contract Sum – General) and 7.2 (Pool Dollars) of Paragraph 7 (CONTRACT SUM) are hereby amended by deleting them in their entirety and replacing it with the following:

- “7.1 Contract Sum – General

- The “Contract Sum” under this Agreement shall be the total monetary amount that may be payable by County to Contractor for supplying all the Work requested, specified and Accepted by County under this Agreement. The Contract Sum (excepting the Pool Dollars set forth in Paragraph 7.2) and schedule of payments in respect of the Work provided hereunder shall be as set forth in Exhibit C (Price and Schedule of Payments), which payments shall be paid in accordance with and upon satisfaction of, the terms and

conditions of this Agreement, including the Exhibits and Attachments hereto. The Contract Sum, including all applicable taxes, authorized by County hereunder shall not exceed One Hundred Fourteen Million, Five Hundred Sixteen Thousand, Seven Hundred Ninety-Three Dollars (\$114,516,793), unless the Contract Sum is modified pursuant to a duly approved amendment to this Agreement executed by County's Board of Supervisors or designee and Contractor pursuant to Paragraph 6 (Change Notices and Amendments). Notwithstanding any provision of this Paragraph 7.1, Contractor shall fully perform and complete all Work required of Contractor by this Agreement in exchange for the amounts to be paid to Contractor as set forth in this Agreement.

7.2 Pool Dollars

The aggregate amount of Pool Dollars available under this Agreement shall not exceed Twenty-Four Million, Eight Hundred Fifty-Six Thousand, Three Hundred Seventy-Eight Dollars (\$24,856,378), plus any net reduction in the total price of all System Software, Maintenance and Support Fees, and Hosting Services Fees under the Agreement resulting from Change Notices executed in accordance with Paragraph 6 (Change Notices and Amendments), plus any net surplus remaining after the completion of budgeted professional services for less total expenditure than what was budgeted."

- 2.7 Paragraph 8 (INVOICES AND PAYMENTS) is hereby amended by adding Paragraph 8.10 (Default Method of Payment: Direct Deposit or Electronic Funds Transfer) to the agreement as follows:

"8.10 Default Method of Payment: Direct Deposit or Electronic Funds Transfer

8.10.1 The County, at its sole discretion, has determined that the most efficient and secure default form of payment for goods and/or services provided under an agreement/contract with the County shall be Electronic Funds Transfer (EFT) or direct deposit, unless an alternative method of payment is deemed appropriate by the Auditor-Controller (A-C).

8.10.2 The Contractor shall submit a direct deposit authorization request via the website <https://directdeposit.lacounty.gov> with banking and vendor information, and any other information that the A-C determines is reasonably necessary to process the payment and comply with all accounting, record keeping, and tax reporting requirements.

8.10.3 Any provision of law, grant, or funding agreement requiring a specific form or method of payment other than EFT or direct deposit shall supersede this requirement with respect to those payments."

8.10.4 At any time during the duration of the agreement/contract, a Contractor may submit a written request for an exemption to this requirement. Such request must be based on specific legal, business or operational needs and explain why the payment method designated by the A-C is not feasible and an alternative is necessary. The A-C, in consultation with the contracting department(s), shall decide whether to approve exemption requests.

- 2.8 Paragraph 11 (PROHIBITION AGAINST DELEGATION AND ASSIGNMENT; CONTINUOUS PRODUCT SUPPORT) is hereby amended by deleting it in its entirety and replacing it with the following:

"11. **ASSIGNMENT AND DELEGATION/MERGERS OR ACQUISITIONS; CONTINUOUS PRODUCT SUPPORT**

11.1 Notification of Acquisition. The Contractor shall notify the County of any

pending acquisitions/mergers of its company that could reasonably be determined to have a material impact on the contract unless otherwise legally prohibited from doing so. If the Contractor is restricted from legally notifying the County of pending acquisitions/mergers, then it should notify the County of the actual acquisitions/mergers as soon as the law allows and provide to the County the legal framework that restricted it from notifying the County prior to the actual acquisitions/mergers.

11.2 Limitation on Assignment. The Contractor shall not assign its rights or delegate its duties under this Contract, or both, whether in whole or in part, without the prior written consent of County, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, County consent shall require a written Amendment to the Contract, which is formally approved and executed by the parties. Any payments by the County to any approved delegatee or assignee on any claim under this Contract shall be deductible, at County's sole discretion, against the claims, which the Contractor may have against the County.

11.3 Change of Control. Shareholders, partners, members, or other equity holders of Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is effected in such a way as to give majority control of Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of County, which shall not be unreasonably withheld or delayed, in accordance with applicable provisions of this Contract.

11.4 County's Written Approval. Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any person or entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other similar mechanism, with or without consideration for any reason whatsoever without County's express written approval, which shall not be unreasonably withheld or delayed, shall provide the County with the right to terminate this Contract if in its reasonable discretion, the party assuming the obligations under the Contract is not capable of fulfilling Contractor's obligations under the Contract.

11.5 Continuous Product Support. If (i) Contractor assigns this Agreement in accordance with Paragraph 11 (Prohibition Against Delegation and Assignment; Continuous Product Support), or (ii) Contractor sells, assigns, or transfers its interest in the System in accordance with Paragraph 9.4 (Further Warranties), and in either case, subsequent to such event, the System is not supported to at least the same level that Contractor supported the System as determined by County's Project Director (because, for example, Contractor's assignee chooses to support other products with similar functions), or, (iii) Contractor markets a successor software product which replaces the System Software, and with the consent of County in its sole discretion, and upon Contractor's twenty-four (24) months written request to County, ceases to provide Maintenance and Support Services for such System Software during the Term (each of conditions (i), (ii), and (iii) referred to as a "Successor Event"), then County, at its sole option, may elect to transfer the License to another similar product ("Replacement Product") within Contractor's or its assignee's or successor's product offering. County will receive a credit towards the purchase of new licensed software in the amount of the license fee paid by Licensee, reduced by one sixtieth (1/60) for each full month from the date of Final System Acceptance of the Licensed Programs, until the date of termination. The assignee or successor, if applicable, by taking benefit (including acceptance of any payment under this Agreement) shall be deemed to have ratified this Agreement. All terms and conditions of this Agreement shall continue in full force and effect for the Replacement Product, including Contractor's obligations in respect of warranties and Maintenance and Support Services. In addition,

the following terms and conditions shall apply if County elects to transfer the License to a Replacement Product:

11.5.1 Any prepaid Maintenance and Support Fees for the System shall transfer in full force and effect for the balance of the Replacement Product's Maintenance and Support Services term (or equivalent service) at no additional cost. If the prepaid moneys are greater than the Replacement Product's Maintenance and Support Fee for the same term, the credit balance shall be applied to future Maintenance and Support Fees or returned to County, at County's option. Under no circumstances is County obligated to pay Maintenance and Support Fees in excess of the amounts expressly agreed hereunder and set forth in Schedule D.2 (Maintenance and Support Fee Schedule) to Exhibit D (Service Level Requirements);

11.5.2 Any and all modules offered separately, and needed to match the original System Software level of functionality, as determined by County's Project Director shall be supplied by Contractor's assignee or successor without additional cost or penalty, and shall not affect the calculation of any Maintenance and Support Fees;

11.5.3 Contractor will provide at no additional cost to the County up to a maximum of one hundred (100) Working Day(s) of training on any replacement product. The County understands that additional implementation and training services may be required;

11.5.4 All License terms and conditions shall remain as granted herein with no additional fees imposed on County; and

11.5.5 The definition of System Software shall then mean the Replacement Product."

- 2.9 Paragraph 15.5.3 (Workers Compensation and Employers' Liability) of Paragraph 15.5 (Insurance Coverage Requirements) is hereby amended by deleting it in its entirety and replacing it with the following:

"15.5.3 **Workers Compensation and Employers' Liability** insurance or qualified self- insurance satisfying statutory requirements, which includes Employers' Liability coverage with limits of not less than \$1 million per accident. If Contractor will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage also shall include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the County as the Alternate Employer. The written notice shall be provided to County at least ten (10) days in advance of cancellation for non-payment of premium and thirty (30) days in advance for any other cancellation or policy change. If applicable to Contractor's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law."

- 2.10 Paragraph 61 (NOTICES) is hereby amended by deleting it in its entirety and replacing it with the following:

"61. NOTICES

All notices or demands required or permitted to be given or made under this Agreement shall include the Agreement number as assigned by the County and, unless otherwise specified, shall be in writing and delivered (1) by hand with signed receipt, or (2) by first-class registered or certified mail, postage prepaid, or (3) by facsimile or electronic mail transmission followed within twenty-four (24) hours by a confirmation copy mailed by first-class registered or certified mail, postage prepaid and shall be addressed to the parties as

identified in Exhibits W – County’s Administration and X - Contractor’s Administration. Notices shall be deemed given at the time of signed receipt in the case of hand delivery, three (3) days after deposit in the United States mail as set forth above, or on the date of facsimile or electronic mail transmission if followed by timely confirmation mailing. Addresses may be changed by either party giving ten (10) days prior written notice thereof to the other party.

Director or his Designee shall have the authority to issue all notices or demands which are required or permitted by County under this Agreement.

- 2.11 Paragraph 93 (COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES), Paragraph 94 (COMPLIANCE WITH THE COUNTY POLICY OF EQUITY), and Paragraph 95 (PROHIBITION FROM PARTICIPATION IN FUTURE SOLICITATION(S)) are hereby added to the agreement as follows:

“93. COMPLIANCE WITH FAIR CHANCE EMPLOYMENT PRACTICES

Contractor shall comply with fair chance employment hiring practices set forth in California Government Code Section 12952, Employment Discrimination: Conviction History. Contractor’s violation of this paragraph of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

94. COMPLIANCE WITH THE COUNTY POLICY OF EQUITY

The contractor acknowledges that the County takes its commitment to preserving the dignity and professionalism of the workplace very seriously, as set forth in the County Policy of Equity (CPOE) (<https://ceop.lacounty.gov/>). The contractor further acknowledges that the County strives to provide a workplace free from discrimination, harassment, retaliation and inappropriate conduct based on a protected characteristic, and which may violate the CPOE. The contractor, its employees and subcontractors acknowledge and certify receipt and understanding of the CPOE. Failure of the contractor, its employees or its subcontractors to uphold the County's expectations of a workplace free from harassment and discrimination, including inappropriate conduct based on a protected characteristic, may subject the contractor to termination of contractual agreements as well as civil liability.

95. PROHIBITION FROM PARTICIPATION IN FUTURE SOLICITATION(S)

A Proposer, or a Contractor or its subsidiary or Subcontractor ("Proposer/Contractor"), is prohibited from submitting a bid or proposal in a County solicitation if the Proposer/Contractor has provided advice or consultation for the solicitation. A Proposer/Contractor is also prohibited from submitting a bid or proposal in a County solicitation if the Proposer/Contractor has developed or prepared any of the solicitation materials on behalf of the County. A violation of this provision shall result in the disqualification of the Contractor/Proposer from participation in the County solicitation or the termination or cancellation of any resultant County contract. This provision shall survive the expiration, or other termination of this Agreement."

3. AMENDMENT TO EXHIBIT C (PRICE AND SCHEDULE OF PAYMENTS)

Exhibit C (Price and Schedule of Payments) to the Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit C (Price and Schedule of Payments), each page dated February 27, 2020, which is attached hereto as Attachment 1 (Exhibit C (Price and Schedule of Payments)) and incorporated herein by reference.

4. AMENDMENT TO EXHIBIT D (SERVICE LEVEL REQUIREMENTS)

Exhibit D (Service Level Requirements) to the Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit D (Service Level Requirements), each page dated June 19, 2020, which is attached hereto as Attachment 2 (Exhibit D (Service Level Requirements)) and incorporated herein by reference.

5. AMENDMENT TO SCHEDULE D.7 (INFORMATION SECURITY AND PRIVACY REQUIREMENTS)

Schedule D.7 (Information Security and Privacy Requirements) to the Agreement is hereby amended by deleting it in its entirety and replaced it with the revised Schedule D.7 (Information Security Contract/Agreement Requirements), each page dated June 19, 2020, which is attached hereto as Attachment 3 (Schedule D.7 (Information Security and Privacy Requirements)) and incorporated herein by reference.

6. AMENDMENT TO SCHEDULE D.8 (CONTRACTOR'S COMPLIANCE WITH ENCRYPTION REQUIREMENTS)

Schedule D.8 (Contractor's Compliance with Encryption Requirements) to the Agreement is hereby amended by deleting it in its entirety and replaced it with the revised Schedule D.8 (Contractor's Compliance with Information Security Requirements), each page dated June 19, 2020 which is attached hereto as Attachment 4 (Schedule D.8 (Contractor's Compliance with Encryption Requirements)) and incorporated herein by reference.

7. ADDITION OF SCHEDULE D.9 (ACCEPTABLE USE AND CONFIDENTIALITY OF COUNTY INFORMATION ASSETS)

Schedule D.9 (Acceptable Use and Confidentiality of County Information Assets) is hereby added to the Agreement in the form and substance attached hereto as Attachment 5 (Schedule D.9 (Acceptable Use and Confidentiality of County Information Assets)).

8. ADDITION OF SCHEDULE D.10 (CONFIDENTIALITY OATH)

Schedule D.10 (Confidentiality Oath) is hereby added to the Agreement in the form and substance attached hereto as Attachment 6 (Schedule D.10 (Confidentiality Oath)).

9. AMENDMENT TO EXHIBIT M-2 (BUSINESS ASSOCIATE AGREEMENT)

Exhibit M (Business Associate Agreement) to the Agreement is hereby amended by deleting it in its entirety and replaced it with the revised Exhibit M-2 (Business Associate Agreement), each page dated June 19, 2020, which is attached hereto as Attachment 7 (Exhibit M-2 (Business Associate Agreement)) and incorporated herein by reference.

10. AMENDMENT TO EXHIBIT P (IRS NOTICE 1015)

Exhibit P (IRS Notice 1015) to the Agreement is hereby amended by deleting it in its entirety and replacing it with the revised Exhibit P (IRS Notice 1015), dated December 12, 2019, which is attached hereto as Attachment 8 (Exhibit P (IRS Notice 1015)) and incorporated herein by reference.

11. ADDITION OF EXHIBIT W (COUNTY'S ADMINISTRATION)

Exhibit W (County's Administration) is hereby added to the Agreement in the form and substance attached hereto as Attachment 9 (Exhibit W (County's Administration)).

12. ADDITION OF EXHIBIT X (CONTRACTOR'S ADMINISTRATION)

Exhibit X (Contractor's Administration) is hereby added to the Agreement in the form and substance attached hereto as Attachment 10 (Exhibit X (Contractor's Administration)).

13. AMENDMENT NUMBER FIVE EFFECTIVE DATE

This Amendment Number Five is effective upon Board approval and execution by the Director of the Department of Mental Health, or his Designee on behalf of the Board of Supervisors.

14. INCORPORATION OF 'WHEREAS' CLAUSES

Contractor and County agree that the "Whereas" clauses in this Amendment Number Five are hereby incorporated into this Amendment Number Five as though fully set forth hereat.

15. OTHER AGREEMENT PROVISIONS

Except as expressly provided in this Amendment Number Five, all other terms and conditions of the Agreement shall remain in full force and effect.

16. AUTHORITY

Contractor and the person executing this Amendment Number Five on behalf of Contractor hereby represent and warrant that the person executing this Amendment Number Five for Contractor is an authorized agent who has actual authority to bind Contractor to each and every item, condition, and obligation of the Agreement and that all requirements of Contractor have been fulfilled to provide such actual authority.

17. ARM'S LENGTH NEGOTIATIONS

This Amendment Number Five is the product of arm's length negotiation between Contractor and County. Each party has had at all times the opportunity to receive advice from independent counsel of its own choosing. This Amendment Number Five is to be interpreted fairly as between the parties, and not strictly construed as against either party as drafter or creator.

18. ENTIRE AGREEMENT

This Amendment Number Five together with the Agreement and exhibits and attachments hereto and thereto and Change Notice Numbers One through Eighty-Nine constitutes the entire agreement of County and Contractor as of the date of approval of this Amendment Number Five by County's Board of Supervisors, superseding any and all prior understandings, arrangements and agreements between County and Contractor, whether oral or written, in respect of the terms and conditions hereof.

**AMENDMENT NUMBER FIVE TO COUNTY AGREEMENT NO. 77676
BY AND BETWEEN COUNTY OF LOS ANGELES
AND
NETSMART TECHNOLOGIES, INC.
FOR THE PROVISION OF THE INTEGRATED BEHAVIORAL HEALTH
INFORMATION SYSTEM (IBHIS)**

IN WITNESS WHEREOF, the County of Los Angeles Board of Supervisors has caused this Amendment Number Five to County Agreement Number 77676 to be subscribed by County's Director of Mental Health, or his Designee, and Contractor has caused this Amendment Number Five to be subscribed on its behalf by its duly authorized officer, this _____ day of _____, 2020.

COUNTY OF LOS ANGELES

By: _____
Jonathan E. Sherin M.D., Ph.D.
Director of Mental Health

CONTRACTOR

NETSMART TECHNOLOGIES, INC.

By: _____
Signature

Joe McGovern

Print Name

Executive Vice President

Title

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By: Patrice Salseda
Patrice Salseda
Principal Deputy County Counsel

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 1

Exhibit C (Price and Schedule of Payments) -
(Replaced in its entirety by revised Exhibit C
under Amendment Number Five of Agreement)

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

Contractor will be paid on a fixed-price basis for completed and accepted Deliverables as set forth below. Each Deliverable is subject to a thirty percent (30%) Holdback Amount as set forth in Paragraph 8.4 (Holdbacks) of this Agreement unless otherwise noted.

I. DELIVERABLES

DELIVERABLE DESCRIPTION	DELIVERABLE AMOUNT ⁽¹⁾	PAYMENT AMOUNT DUE UPON DELIVERABLE ACCEPTANCE	30% HOLDBACK AMOUNT UNTIL FINAL SYSTEM ACCEPTANCE
Deliverable 1.1 - Project Planning ⁽³⁰⁾	\$40,200	\$40,200	
Deliverable 1.2 - Contractor Staff ⁽³⁰⁾	\$153,360	\$153,360	
Deliverable 1.3 - Detailed Work Plan ⁽³⁰⁾	\$95,322	\$95,322	
Deliverable 2.0 - Project Status Reports M1 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M2 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M3 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M4 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M5 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M6 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M7 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M8 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M9 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M10 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M11 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M12 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M13 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M14 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M15 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M16 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M17 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M18 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M19 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M20 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M21 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M22 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M23 ⁽³⁰⁾	\$47,089	\$47,089	
Deliverable 2.0 - Project Status Reports M24 ⁽³⁰⁾	\$47,089	\$47,089	

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

DELIVERABLE DESCRIPTION	DELIVERABLE AMOUNT ⁽¹⁾	PAYMENT AMOUNT DUE UPON DELIVERABLE ACCEPTANCE	30% HOLDBACK AMOUNT UNTIL FINAL SYSTEM ACCEPTANCE
Deliverable 3.1.1 - Prepare Data Center ⁽⁵⁾	\$55,493	\$55,493	
Deliverable 3.1.2 - Provide Dedicated Network ⁽¹²⁾⁽⁵⁾	\$180,084	\$180,084	
Deliverable 3.1.3 - Provide System Administration Portal ⁽⁵⁾	\$437,326	\$437,326	
Deliverable 3.1.4 - Confirm Hosting Environment is Established ⁽¹³⁾⁽⁵⁾	\$411,605	\$411,605	
Deliverable 3.1.5 - Provide Monthly Hosting Services M4 ⁽⁵⁾	\$92,748	\$92,748	
Deliverable 3.1.5 - Provide Monthly Hosting Services M5 ⁽⁵⁾	\$92,748	\$92,748	
Deliverable 3.1.5 - Provide Monthly Hosting Services M6 ⁽⁵⁾	\$92,748	\$92,748	
Deliverable 3.1.5 - Provide Monthly Hosting Services M7 ⁽⁵⁾	\$92,748	\$92,748	
Deliverable 3.1.5 - Provide Monthly Hosting Services M8 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M9 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M10 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M11 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M12 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M13 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M14 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M15 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M16 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M17 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M18 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M19 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M20 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M21 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M22 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M23 ⁽⁵⁾	\$148,292	\$148,292	
Deliverable 3.1.5 - Provide Monthly Hosting Services M24 ⁽⁵⁾	\$148,288	\$148,288	
Deliverable 3.2 - Application Software Delivery ⁽⁹⁵⁾⁽¹⁰⁰⁾	\$10,123,467	\$7,338,877	\$2,784,590
Deliverable 3.2.1 - Early Project Development Environment ⁽⁵⁾	\$28,290	\$28,290	
Deliverable 3.2.2 - Three Additional Project Development Environments ⁽⁵⁾⁽⁴⁴⁾	\$75,051	\$75,051	
Deliverable 3.3 - Load Baseline Application Software	\$1,523,040	\$1,165,804	\$357,236
Deliverable 3.4 - Synchronize for Application and Database Replication ⁽³⁰⁾	\$96,348	\$96,348	

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

DELIVERABLE DESCRIPTION	DELIVERABLE AMOUNT ⁽¹⁾	PAYMENT AMOUNT DUE UPON DELIVERABLE ACCEPTANCE	30% HOLDBACK AMOUNT UNTIL FINAL SYSTEM ACCEPTANCE
Deliverable 4.1 - Training Plan ⁽³⁰⁾	\$88,787	\$88,787	
Deliverable 4.2 - Training ⁽⁵⁾	\$647,688	\$647,688	
Deliverable 4.3 - Training Materials ⁽⁵⁾	\$259,440	\$259,440	
Deliverable 5.0 - Configure System ⁽³⁰⁾	\$3,990,938	\$3,730,718	\$260,220
Deliverable 6.1 - Integration ⁽⁵⁾⁽¹⁴⁾⁽²³⁾⁽⁴²⁾	\$562,170	\$562,170	
Deliverable 7.0 - Custom Programming Modifications <small>(2)(5)(15)(17)(18)(19)(20)(21)(24)(25)(27)(28)(32)(34)(35)(36)(37)(38)(39)(40)(41)(43)(46)(47)(56)(58)(59)(60)(61)(62)(63)(64)(65)(67)(68)(69)(70)(71)(72)(73)(74)(75) (76)(77)(78)(79)(80)(81)(82)(85)(86)(87)(88)(89)(96)(98)(99)(102)</small>	\$3,838,302	\$3,772,644	
Deliverable 8.1 - System Test Plan	\$123,799	\$86,659	\$37,140
Deliverable 8.2 - Module Tests	\$847,152	\$847,152	
Deliverable 8.3 - Reporting Tool Tests ⁽³⁰⁾	\$212,400	\$212,400	
Deliverable 8.4 - System Integration Test ⁽⁵⁾	\$101,280	\$101,280	
Deliverable 8.5 - System Performance Test ⁽⁵⁾	\$116,604	\$116,604	
Deliverable 9.1 - Data Conversion Plan ⁽³⁰⁾	\$69,645	\$69,645	
Deliverable 9.2 - Data Conversion Programs	\$56,400	\$39,480	\$16,920
Deliverable 9.3 - Data Conversion Test ⁽⁵⁾	\$478,188	\$478,188	
Deliverable 9.4 - Conversion ⁽⁵⁾	\$61,047	\$61,047	
Deliverable 10.1 - System Cutover Plan ⁽¹⁶⁾⁽²⁶⁾⁽³¹⁾⁽⁵⁴⁾⁽⁵⁷⁾⁽⁹³⁾⁽⁹⁴⁾	\$4,732,095	\$4,712,439	\$19,656
Deliverable 10.1.1 - Pilot 1 Production Use ⁽⁵⁾⁽³⁰⁾	\$0	\$0	
Deliverable 10.2 - Pilot Tests ⁽⁵⁾⁽³³⁾	\$3,087,942	\$3,087,942	
Deliverable 10.2.1 - Pilot Test System as Part of DMH Service Delivery for Directly Operated ⁽⁴⁸⁾	\$0	\$0	
Deliverable 10.3 - Final System Acceptance ⁽³⁾⁽⁵⁾⁽⁶⁶⁾			
Deliverable 11.1 - Close-Out Plan ⁽²⁾			
Deliverable 11.2 - Data Files ⁽²⁾			
Deliverable 11.3 - Claims Run-Out Services ⁽²⁾			
Deliverable 11.4 - Audit Requests ⁽²⁾			
AMENDMENT NUMBER TWO AND CHANGE NOTICE NUMBERS FORTY-TWO, FORTY-FOUR, FORTY-FIVE, FORTY-SIX, FORTY-SEVEN, FORTY-EIGHT, FORTY-NINE, FIFTY, FIFTY-ONE, FIFTY-TWO, FIFTY-THREE, FIFTY-FIVE, FIFTY-SIX, FIFTY-SEVEN, FIFTY-EIGHT, FIFTY-NINE, SIXTY, SIXTY-ONE, SIXTY-TWO, SIXTY-THREE, SIXTY-FOUR, SIXTY-FIVE, SIXTY-SIX, SIXTY-SEVEN, SIXTY-EIGHT, SIXTY-NINE, SEVENTY, SEVENTY-ONE, SEVENTY-TWO, SEVENTY-THREE, SEVENTY-FOUR, SEVENTY-FIVE, SEVENTY-SIX, SEVENTY-SEVEN, SEVENTY-EIGHT, EIGHTY, EIGHTY-ONE, EIGHTY-TWO, EIGHTY-THREE, EIGHTY-FOUR, EIGHTY-FIVE, EIGHTY-SIX, EIGHTY-SEVEN AND EIGHTY-EIGHT SUB-TOTAL	\$36,515,551	\$32,974,131	\$3,475,762

EXHIBIT C
PRICE AND SCHEDULE OF PAYMENTS

DELIVERABLE DESCRIPTION	DELIVERABLE AMOUNT ⁽¹⁾	PAYMENT AMOUNT DUE UPON DELIVERABLE ACCEPTANCE	30% HOLDBACK AMOUNT UNTIL FINAL SYSTEM ACCEPTANCE
Deliverable 12.1 - Resource Plan for OrderConnect ⁽⁷⁾	\$2,268	\$1,588	\$680
Deliverable 12.2 - Update Detailed Work Plan for OrderConnect ⁽⁷⁾	\$2,722	\$1,905	\$817
Deliverable 13.1 - Delivery of OrderConnect and Documentation ⁽⁷⁾	\$1,512	\$1,058	\$454
Deliverable 14.1 - Training Plan for OrderConnect ⁽⁷⁾	\$4,494	\$3,146	\$1,348
Deliverable 14.2 - Training for OrderConnect ⁽⁷⁾	\$36,851	\$25,796	\$11,055
Deliverable 14.3 - Training Materials for OrderConnect ⁽⁷⁾	\$3,595	\$2,516	\$1,079
Deliverable 15.0 - Configure OrderConnect ⁽⁷⁾	\$4,536	\$3,175	\$1,361
Deliverable 16.1 - Provide BackChannel File Interface (Data Warehouse) ⁽⁷⁾	\$32,700	\$22,890	\$9,810
Deliverable 16.2 - Provide BackChannel File Interface (System) for OrderConnect ⁽⁷⁾⁽¹⁰⁾	(10)	(10)	
Deliverable 16.3 - Provide InfoChannel File Interface (from County) for OrderConnect ⁽⁷⁾	\$39,000	\$27,300	\$11,700
Deliverable 16.4 - Provide InfoChannel File Interface (System) for OrderConnect ⁽⁷⁾⁽¹⁰⁾	(10)	(10)	
Deliverable 17.0 - Custom Programming Modifications ⁽⁷⁾	\$34,848	\$24,394	\$10,454
Deliverable 18.1- System Test Plan for OrderConnect ⁽⁷⁾	\$2,268	\$1,588	\$680
Deliverable 18.2 - Module Tests for OrderConnect ⁽⁷⁾	\$5,686	\$3,980	\$1,706
Deliverable 19.1 - Data Conversion Plan for OrderConnect ⁽⁷⁾	\$12,384	\$8,669	\$3,715
Deliverable 19.2 - Data Conversion Test for OrderConnect ⁽⁷⁾	\$20,640	\$14,448	\$6,192
Deliverable 20.1 - Cutover Plan for OrderConnect ⁽⁷⁾⁽⁵⁵⁾	\$134,501	\$131,304	\$3,197
Deliverable 20.2 - Pilot for OrderConnect ⁽⁷⁾	\$16,000	\$11,200	\$4,800
Deliverable 20.3 - Final Acceptance of OrderConnect ⁽⁷⁾⁽⁹⁾	(9)	(9)	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M17 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,393	\$16,393	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M18 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,393	\$16,393	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M19 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,393	\$16,393	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M20 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,884	\$16,884	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M21 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,884	\$16,884	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M22 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,884	\$16,884	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M23 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,884	\$16,884	
Deliverable 20.3.1 - Provide Monthly OrderConnect Services M24 ⁽⁵⁾⁽⁷⁾⁽⁸⁾	\$16,884	\$16,884	
CHANGE NOTICE NUMBERS THREE AND FORTY-THREE FOR THE ORDERCONNECT MODULE SUB-TOTAL	\$487,604	\$418,556	\$69,048
CHANGE NOTICE NUMBERS THREE, FORTY-TWO, FORTY-THREE, FORTY-FOUR, FORTY-FIVE, FORTY-SIX, FORTY-SEVEN, FORTY-EIGHT, FORTY-NINE, FIFTY, FIFTY-ONE, FIFTY-TWO-FIFTY-THREE, FIFTY-FIVE, FIFTY-SIX, FIFTY-SEVEN, FIFTY-EIGHT, FIFTY-NINE, SIXTY, SIXTY-ONE, SIXTY-TWO, SIXTY-THREE, SIXTY-FOUR, SIXTY-FIVE, SIXTY-SIX, SIXTY-SEVEN, SIXTY-EIGHT, SIXTY-NINE, SEVENTY, SEVENTY-THREE, SEVENTY-FOUR, SEVENTY-FIVE, SEVENTY-SIX, SEVENTY-SEVEN, SEVENTY-NINE, EIGHTY, EIGHTY-ONE, EIGHTY-TWO, EIGHTY-THREE, EIGHTY-FOUR, EIGHTY-FIVE, EIGHTYSIX, EIGHTY-SEVEN AND EIGHTY-EIGHT	\$37,003,155	\$33,392,687	\$3,544,810
CHANGE NOTICE NUMBER THIRTY-NINE SUB-TOTAL	\$0	\$0	(\$3,044,810)
CHANGE NOTICE NUMBER FIFTY-FOUR SUB-TOTAL	\$0	\$0	(\$500,000)
TOTAL SCHEDULE OF PAYMENTS	\$37,003,155	\$33,392,687	\$0

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

II. CONTRACT SUM

Category	Total Cost
Implementation Services	\$37,003,155
Fixed One-Time Set-Up Fee⁽⁴⁾	\$3,504,428
Maintenance and Support Services⁽⁵³⁾⁽⁸³⁾⁽⁹²⁾⁽⁹³⁾⁽⁹⁴⁾⁽⁹⁵⁾⁽⁹⁷⁾⁽¹⁰⁰⁾⁽¹⁰³⁾⁽¹⁰⁴⁾	\$36,879,997
Hosting Services⁽⁴⁵⁾⁽¹⁰¹⁾	\$30,697,521
Contractor's On-Site Transitional Application Administrator⁽⁶⁾⁽⁴⁹⁾	\$170,544
Peripheral Hardware⁽¹¹⁾⁽²²⁾⁽⁹³⁾⁽⁹⁴⁾⁽⁹⁷⁾	\$42,418
Pool Dollars⁽²⁹⁾⁽⁵⁰⁾⁽⁵¹⁾⁽⁵²⁾⁽⁹¹⁾⁽⁹⁶⁾⁽⁹⁷⁾⁽⁹⁸⁾⁽⁹⁹⁾⁽¹⁰⁰⁾⁽¹⁰¹⁾⁽¹⁰²⁾⁽¹⁰³⁾⁽¹⁰⁵⁾	\$6,218,730
CONTRACT SUM	\$114,516,793

⁽¹⁾ Deliverable amounts are inclusive of all applicable taxes pursuant to Paragraph 8.5 (Delivery of System Software; Taxes) of this Agreement.

⁽²⁾ County shall make payment for this Deliverable as Other Professional Services out of Pool Dollars pursuant to Paragraph 4.5 (Other Professional Services) and will require the application of a form of Change Notice or an Amendment under Paragraph 6 (Change Notices and Amendments) of the Agreement.

⁽³⁾ County shall release Holdback Amount and make payment for this Deliverable pursuant to Deliverable 10.3 (Final System Acceptance) of Exhibit A (Statement of Work).

⁽⁴⁾ Fixed One-Time Set-up Fee will be due Contractor for the purchase of hardware, software, and software licenses for Contractor's Primary and Secondary Data Centers identified in Schedule D.6 (Schedule of Contractor's Primary and Secondary Data Center Hardware and Software for Hosting Services). Upon delivery of such equipment, Contractor shall submit to County a written inventory of hardware, software, and software licenses with corresponding County costs.

⁽⁵⁾ Deliverable is not subject to thirty percent (30%) Holdback.

⁽⁶⁾ Contractor shall provide on-site Transitional Application Administrator for Maintenance and Support Services for Years 1 and 2 pursuant to Deliverable 10.3 (Final System Acceptance) of Exhibit A (Statement of Work). Contractor shall invoice County on a monthly basis pursuant to Paragraph 8 (Invoices and Payments) of this Agreement.

⁽⁷⁾ County acquired the OrderConnect module under Change Notice Number Three, dated June 29, 2012, pursuant to Paragraph 6.8 of the Agreement, and County will make payment for this Deliverable as Other Professional Services out of Pool Dollars pursuant to Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁾ Notwithstanding any other provision of this Agreement, the OrderConnect module which is part of the Connect Suite is provided under a non-exclusive usage license fee and is not provided as a perpetual license. Monthly OrderConnect services costs are licensed for 250 prescribers and 250 non-prescribers for Years 1 through 5.

⁽⁹⁾ County shall release Holdback Amount and make payment for this Deliverable pursuant to Deliverable 20.3 (Final Acceptance of OrderConnect) of Exhibit A (Statement of Work).

⁽¹⁰⁾ Cost for this Deliverable is included in and will be paid pursuant to Deliverable 6.1 (Integration) to Exhibit A (Statement of Work).

⁽¹¹⁾ County acquired and previously made payment for Peripheral Hardware under Change Notice Number Two, dated May 10, 2012, pursuant to Section II (Contract Sum) of this Exhibit C.

⁽¹²⁾ Upon the effective date of Change Notice Number Four, dated November 9, 2012, County will make payment for Deliverable 3.1.2 (Provide Dedicated Network) to Exhibit A (Statement of Work) pursuant to the completion date of February 28, 2013, as set forth in the revised Detailed Work Plan.

⁽¹³⁾ Upon the effective date of Change Notice Number Four, dated November 9, 2012, County will make payment for this Deliverable pursuant to Deliverable 3.1.4 (Confirm Hosting Environment is Established) to Exhibit A (Statement of Work) and this Exhibit C.

⁽¹⁴⁾ Upon the effective date of Change Notice Number Five, dated December 21, 2012, the cost for this Deliverable includes Other Professional Services for an Integration Professional in the amount of \$169,920, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽¹⁵⁾ Upon the effective date of Change Notice Number Seven, dated February 21, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$60,024, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽¹⁶⁾ Upon the effective date of Change Notice Number Eight, dated March 29, 2013, the cost for this Deliverable includes Other Professional Services to establish a Central Billing Office in the amount of \$680,220 [\$75,000 for the base Documentation License and \$605,220 for Other Professional Services], and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽¹⁷⁾ Upon the effective date of Change Notice Number Nine, dated April 2, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$16,675, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽¹⁸⁾ Upon the effective date of Change Notice Number Ten, dated June 28, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$438,346 ((\$228,690 for the Enhanced Web Services License, which includes \$39,690 for the first year annual Maintenance and Support Fee) and \$209,656 for Other Professional Services), and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽¹⁹⁾ Upon the effective date of Change Notice Number Eleven, dated August 15, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$18,288, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁰⁾ Upon the effective date of Change Notice Number Twelve, dated August 16, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$17,600, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback. Change Notice Number Twelve is a cost-share agreement between Los Angeles County and San Francisco County. County's obligation under this Change Notice Number Twelve is \$17,600.

⁽²¹⁾ Upon the effective date of Change Notice Number Thirteen, dated August 16, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$23,526, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²²⁾ County acquired and made payment for Peripheral Hardware under Change Notice Number Fourteen, dated August 16, 2013, pursuant to Paragraph 6.9 of Agreement and Section II (Contract Sum) of this Exhibit C.

⁽²³⁾ Upon the effective date of Change Notice Number Fifteen, dated August 16, 2013, the cost for this Deliverable includes Other Professional Services for an Integration Professional in the amount of \$164,280, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁴⁾ Upon the effective date of Change Notice Number Sixteen, dated August 16, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$25,479, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁵⁾ Upon the effective date of Change Notice Number Seventeen, dated August 16, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$36,168, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁶⁾ Upon the effective date of Change Notice Number Nineteen, dated November 20, 2013, the cost for this Deliverable includes Other Professional Services to provide transitional services for a Central Billing Office and a Provider Services Office in the amount of \$445,820, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁷⁾ Upon the effective date of Change Notice Number Twenty, dated November 20, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$38,431, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁸⁾ Upon the effective date of Change Notice Number Twenty-One, dated November 20, 2013, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$63,462, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽²⁹⁾ Upon the Effective Date of Amendment Number Two, dated December 17, 2013, \$6,000,000 in Pool Dollars was allocated for County-requested Other Professional Services/Change Notices in accordance with Paragraph 4.5 (Other Professional Services) and Paragraph 6 (Change Notices and Amendments).

⁽³⁰⁾ Upon the Effective Date of Amendment Number Two, dated December 17, 2013, \$1,856,750 in Holdback Amount was reallocated for a new Deliverable 10.1.1 (Pilot 1 Production Use) to allow a \$1,856,750 payment upon first Production Use, with the remainder of the original Holdback Amount paid at Final System Acceptance.

⁽³¹⁾ Upon the effective date of Change Notice Number Twenty-Two, dated December 27, 2013, the cost for this Deliverable includes Other Professional Services to provide additional transitional operational services in the amount of \$2,175,480, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽³²⁾ Upon the effective date of Change Notice Number Twenty-Three, dated February 05, 2014, Contractor shall modify the Avatar Application Software identified in Change Notice Number Twenty-Three, at no additional cost to County, pursuant to the requirements in Attachment B.1 (Functional Requirements) of Exhibit B (Technical Solution Requirements) of the Agreement.

⁽³³⁾ Upon the effective date of Change Notice Number Twenty-Four, dated March 03, 2014, the cost for this Deliverable includes Other Professional Services to provide temporary staffing to support IBHIS Roll-Outs in the amount of \$2,124,640, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽³⁴⁾ Upon the effective date of Change Notice Number Twenty-Five, dated April 17, 2014, Contractor shall modify the Avatar Application Software identified in Change Notice Number Twenty-Five, at no additional cost to County, pursuant to the requirement in Attachment B.1 (Functional Requirements) of Exhibit B (Technical Solution Requirements) of the Agreement.

⁽³⁵⁾ Upon the effective date of Change Notice Number Twenty-Six, dated May 12, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$88,694, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽³⁶⁾ Upon the effective date of Change Notice Number Twenty-Seven, dated July 10, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$328,035, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽³⁷⁾ Upon the effective date of Change Notice Number Twenty-Eight, dated July 10, 2014, the cost for this Deliverable includes Other Professional Services to provide up to four (4) temporary claims certification staff, in addition to the programming and project support staff, to assist in the IBHIS Contract Provider Claims Certification in the amount of \$468,456, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽³⁸⁾ Upon the effective date of Change Notice Number Thirty, dated September 30, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$24,698, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽³⁹⁾ Upon the effective date of Change Notice Number Thirty-One, dated September 30, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$26,984, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁴⁰⁾ Upon the effective date of Change Notice Number Thirty-Two, dated October 8, 2014, Contractor shall modify the Avatar Application Software identified in Change Notice Number Thirty-Two, at no additional cost to County, pursuant to the requirement in Attachment B.1 (Functional Requirements) of Exhibit B (Technical Solution Requirements) of the Agreement.

⁽⁴¹⁾ Upon the effective date of Change Notice Number Thirty-Three, dated October 8, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$34,221, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁴²⁾ Upon the effective date of Change Notice Number Thirty-Four, dated October 8, 2014, County has requested, and Contractor has agreed to defer Contractor's development of the Checkwrite File Interface pursuant to Task 6.1.1 (Develop Checkwrite File Interface) and Attachment A.1 (Auditor-Controller eCAPS Interfaces) and the Credentialing Interfaces pursuant to Task 6.1.3 (Develop Credentialing Interfaces) to Exhibit A (Statement of Work) of the Agreement. The development of such Interfaces will be completed at a later date at County's sole discretion.

⁽⁴³⁾ Upon the effective date of Change Notice Number Thirty-Five, dated October 8, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$33,842, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁴⁴⁾ Upon the effective date of Change Notice Number Thirty-Six, dated October 8, 2014, the cost for this Deliverable includes Other Professional Services to perform infrastructure Updates to the existing Hosting Environment in the amount of \$75,051, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁴⁵⁾ Upon the effective date of Change Notice Number Thirty-Six, dated October 8, 2014, 2014, the Monthly Hosting Services Fee of \$6,450, set forth in Schedule D.3 (Hosting Services Fee Schedule) to Exhibit D (Service Level Requirements,) shall commence only after month 8th of Year 1 and continue through Years 2 -5 for a Maximum Total of \$335,400, and County will make payment for such Hosting Services out of Pool Dollars pursuant to Paragraph 6.3 of the Agreement.

⁽⁴⁶⁾ Upon the effective date of Change Notice Number Thirty-Seven, dated October 8, 2014, Contractor shall modify the Avatar Application Software identified in Change Notice Number Thirty-Seven, at no additional cost to County, pursuant to the requirement in Attachment B.1 (Functional Requirements) of Exhibit B (Technical Solution Requirements) of the Agreement.

⁽⁴⁷⁾ Upon the effective date of Change Notice Number Thirty-Eight, dated October 8, 2014, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$142,242, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁴⁸⁾ Upon the effective date of Change Notice Number Thirty-Nine, dated December 19, 2014, County will make payment to Contractor for this new Deliverable in the amount \$3,044,810, originally tied to Final System Acceptance, for DMH Directly Operated functionality.

⁽⁴⁹⁾ Upon the effective date of Change Notice Number Thirty-Nine, dated December 19, 2014, Contractor shall provide on-site Transitional Application Administrator for Maintenance and Support Services pursuant to Task 10.2.1 (Pilot test System Mental Health Service Delivery Under Change Notice Number Thirty-Nine) of Exhibit A (Statement of Work) of the Agreement.

⁽⁵⁰⁾ Upon the Effective Date of Amendment Number Three, dated March 31, 2015, \$4,400,000 in Pool Dollars was allocated for County-requested Other Professional Services/Change Notices in accordance with Paragraph 4.5 (Other Professional Services) and Paragraph 6 (Change Notices and Amendments).

⁽⁵¹⁾ County acquired the CarePathways-CareGuidance Measures services as part of Connect Suite under Change Notice Number Forty-One, dated June 3, 2015, pursuant to Paragraph 6.8 and County made payment for this Items out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement.

⁽⁵²⁾ County acquired CareConnect services under Change Notice Forty-One, dated June 3, 2015, pursuant to Paragraph 6.3 of the Agreement. Such services are required to exchange information for Meaningful Use reporting. County made payment of services out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement.

⁽⁵³⁾ Upon the effective date of Change Notice Number Forty-One, dated June 3, 2015, Maintenance and Support Services have been increased to add CarePathways-CareGuidance Measures and CareConnect services in the amount of \$879,700. This is for a 19-month term.

⁽⁵⁴⁾ Upon the effective date of Change Notice Number Forty-Two, dated June 3, 2015, the cost for this Deliverable includes Other Professional Services to assist County with the setup, configuration, and testing of the myHealthPointe, CarePathways-CareGuidance, CareConnect, OrderConnect and Avatar Application Software required to meet Meaningful Use criteria under the HITECH Act in the amount of \$245,387, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽⁵⁵⁾ Upon the effective date of Change Notice Number Forty-Three, dated June 3, 2015, Contractor shall implement the OrderConnect Formulary as part of the Meaningful Use (MU) stage 2 certification criteria to allow the County to qualify for MU incentive payments under the HITECH Act pursuant to Paragraph 4.5 (Other Professional Services) of the Agreement. Contractor provided twenty-two (22) additional prescriber usage Licenses under the OrderConnect module for a total of two hundred, seventy-two (272) prescribers pursuant to Paragraph 6.8 of the Agreement. County made payment for these Licenses out of Pool Dollars pursuant to Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁵⁶⁾ Upon the effective date of Change Notice Number Forty-Four, dated June 10, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$176,844, to assist DMH with the implementation of ICD-10 and to subscribe to Contractor's Diagnostic Content service, which will ensure compliance with HIPAA standards and implementation guides pursuant to the requirements of the Agreement. County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁵⁷⁾ Upon the effective date of Change Notice Number Forty-Five, dated June 10, 2015, the cost for this Deliverable includes Other Professional Services to provide additional transitional operational services to the CBO and/or PSO in the amount of \$1,077,070, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁵⁸⁾ Upon the effective date of Change Notice Number Forty-Six, dated July 1, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications of the Avatar Cal-PM to allow for the exclusion of certain services from the Interim Batch process in the amount of \$32,762, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁵⁹⁾ Upon the effective date of Change Notice Number Forty-Seven, dated July 7, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications of the Avatar Application Software in order to add two (2) new fields, "Data Entry From Date" and "Data Entry Through Date" to the Create Interim Billing Batch File form in the amount of \$26,151, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁰⁾ Upon the effective date of Change Notice Number Forty-Eight, dated August 10, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications of the Avatar MSO in the amount of \$62,767 to add a new registry setting that will allow a global Fiscal Year (FY) Date to define and refine for each Contract Provider, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶¹⁾ Upon the effective date of Change Notice Number Forty-Nine, dated August 10, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications of the Avatar MSO in the amount of \$50,263 to expedite the processing of denied services to Contract Providers and allow vouchers Emergency Outreach Bureaus (EOBs) to be created in Avatar MSO that contain only denied services, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶²⁾ Upon the effective date of Change Notice Number Fifty, dated August 25, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications of the Avatar CalPM in the amount of \$67,304 to add new functionality to the Guarantor/Program Billing Defaults form, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶³⁾ Upon the effective date of the Rapid Response Change Notice Number Fifty-One, dated August 18, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$6,565, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁴⁾ Upon the effective date of the Change Notice Number Fifty-Two, dated September 4, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$65,501, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁵⁾ Upon the effective date of the Change Notice Number Fifty-Three, dated September 4, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$52,164, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁶⁾ Upon the effective date of Change Notice Number Fifty-Four, dated December 9, 2015, County will release the Holdback Amount of \$500,000 to Contractor for this Deliverable pursuant to County's Acceptance of the Work associated with Task (10.3 Final System Acceptance Under Change Notice Number Fifty-Four) of Exhibit A (Statement of Work) of the Agreement.

⁽⁶⁷⁾ Upon the effective date of the Change Notice Number Fifty-Five, dated December 10, 2015, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$15,284, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁸⁾ Upon the effective date of the Change Notice Number Fifty-Six, dated January 19, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$9,747, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁶⁹⁾ Upon the effective date of the Change Notice Number Fifty-Seven, dated January 19, 2016, Contractor shall provide Other Professional Services to conduct an assessment and develop Specifications of County-requested custom software modifications to 837 file names for the purpose of fulfilling State reporting format requirements and claim reconciliation, at no additional cost to County, pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁷⁰⁾ Upon the effective date of the Change Notice Number Fifty-Eight, dated February 29, 2016, Contractor shall provide Other Professional Services to conduct an assessment and develop Specifications of County-requested custom software modifications to 835 file names for the purpose of fulfilling State reporting format requirements and claim reconciliation, at no additional cost to County, pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁷¹⁾ Upon the effective date of the Change Notice Number Fifty-Nine, dated March 9, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$54,525, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽⁷²⁾ Upon the effective date of the Change Notice Number Sixty, dated March 18, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$254,375, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷³⁾ Upon the effective date of the Change Notice Number Sixty-One, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$12,458, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁴⁾ Upon the effective date of the Change Notice Number Sixty-Two, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$5,893, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁵⁾ Upon the effective date of the Change Notice Number Sixty-Three, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$10,419, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁶⁾ Upon the effective date of the Change Notice Number Sixty-Four, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$5,198, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁷⁾ Upon the effective date of the Change Notice Number Sixty-Five, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$16,651, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁸⁾ Upon the effective date of the Change Notice Number Sixty-Six, dated July 14, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$9,345, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁷⁹⁾ Upon the effective date of the Change Notice Number Sixty-Seven, dated November 21, 2016, Contractor shall provide Other Professional Services to develop software modifications to the Avatar Managed Services Operations (MSO) registry setting, at no additional cost to County, pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁰⁾ Upon the effective date of the Change Notice Number Sixty-Eight, dated November 21, 2016, Contractor shall provide Other Professional Services to develop software modifications to the Avatar Managed Services Operations (MSO) registry setting, at no additional cost to County, pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁸¹⁾ Upon the effective date of the Change Notice Number Sixty-Nine, dated November 21, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$207,632, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁸²⁾ Upon the effective date of the Change Notice Number Seventy, dated November 21, 2016, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$152,079, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁸³⁾ Upon the effective date of Change Notice Number Seventy-One, dated December 28, 2016, Contractor shall provide County with an additional one-year extension of Maintenance and Support Services for the subscription of CareConnect Services and CarePathways-CareGuidance Measures in the amount of \$555,600 out of Pool Dollars pursuant to Paragraph 6.8 of Paragraph 6 (Change Notices and Amendments) and at the rates set forth in Schedule D.2 (Maintenance and Support Fee Schedule) to Exhibit D (Service Level Requirements) of the Agreement.

⁽⁸⁴⁾ Upon the effective date of Change Notice Number Seventy-Two, dated May 2, 2017, Contractor shall provide to County CarePOV Clinician Application Software module (formerly known as "MobileConnect") under Connect Suite, at no additional cost to County. Notwithstanding any other provision of the Agreement, CarePOV Clinician shall constitute Application Software under the Agreement and is provided under a usage License fee and not provided as a perpetual License. Monthly Maintenance and Support Fees provided for this Item herein remain unchanged based on prior pricing for the formerly MobileConnect as set forth in Schedule D.2. Footnote (84) is included in this Exhibit C for the purpose of memorializing Change Notice Number Seventy-Two.

⁽⁸⁵⁾ Upon the effective date of Change Notice Number Seventy-Three, dated May 4, 2017, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$83,025, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁶⁾ Upon the effective date of Change Notice Number Seventy-Four, dated May 4, 2017, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$38,678, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁷⁾ Upon the effective date of Change Notice Number Seventy-Five, dated July 6, 2017, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$84,363, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁸⁾ Upon the effective date of Change Notice Number Seventy-Six, dated July 6, 2017, the cost for this Deliverable includes Other Professional Services for Training/Implementation Services of CareConnect Inbox in the amount of \$57,784, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽⁸⁹⁾ Upon the effective date of the Change Notice Number Seventy-Seven, dated July 18, 2017, Contractor shall provide Other Professional Services to conduct an assessment and develop Specifications of County-requested custom software modifications in order to address the issue of client demographic data being overwritten by Directly Operated and Legal Entity staff/web services operations in the amount of \$5,007, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽⁹⁰⁾ Upon the effective date of Change Notice Number Seventy-Eight, dated July 19, 2017, the eRx license for Order Entry under Avatar EHR is being added to the Agreement at no additional cost to the County pursuant to Paragraph 6.8 of the Agreement. Notwithstanding any other provision of the Agreement, eRx for Order Entry shall constitute Application Software under the Agreement. Footnote (90) is included in this Exhibit C for the purpose of memorializing Change Notice Number Seventy-Eight.

⁽⁹¹⁾ Upon the Effective Date of Amendment Number Four, dated December 12, 2017, \$5,000,000 in Pool Dollars was allocated for County-requested Other Professional Services/Change Notices in accordance with Paragraph 4.5 (Other Professional Services) and Paragraph 6 (Change Notices and Amendments).

⁽⁹²⁾ Upon the effective date of Amendment Number Three to Change Notice Number Seventy-One, dated December 27, 2017, Contractor shall provide County with an additional two-year extension of Maintenance and Support Services for the subscription of CareConnect Services and CarePathways-CareGuidance Measures in the amount of \$1,127,868 pursuant to Paragraph 6 (Change Notices and Amendments) and at the rates set forth in Schedule D.2 (Maintenance and Support Fee Schedule) to Exhibit D (Service Level Requirements) of the Agreement. County made payment for Maintenance and Support Services out of Pool Dollars as set forth in this Exhibit C (Price and Schedule of Payments) of the Agreement.

⁽⁹³⁾ Upon the effective date of Change Notice Number Seventy-Nine, dated April 10, 2018, County acquired Contractor's certified OrderConnect e-Prescribing EPCS for 100 prescribers in the amount of \$65,398 [(\$42,598 for Other Professional Services), (\$7,600 for one-time cost of software/hardware tokens), and (\$15,200 for subscription services)] to use the software from June 1, 2018 through December 31, 2019, and County will make payment for such Application Software out of Pool Dollars pursuant to Paragraph 6.8 of the Agreement. Notwithstanding any other provision of the Agreement, OrderConnect ePrescribing EPCS shall constitute Application Software under the Agreement.

⁽⁹⁴⁾ Upon the effective date of Amendment Number One to Change Notice Number Seventy-Nine, dated August 16, 2018, and pursuant to Paragraph 6 of the Agreement, Exhibit C is being amended to correct an inadvertent error to the Implementation Services, Maintenance and Support Services, and Peripheral Hardware in Exhibit C of Amendment Number Three to Change Notice Number Seventy-One and Change Notice Number Seventy-Nine; and Schedule D.2 is being amended to correct an inadvertent error to the Maintenance and Support fees for years 5 through 7 of the Connect Suite Software Component in Schedule D.2 of Change Notice Number Seventy-Nine. Footnote (94) is included in this Exhibit C for the purpose of memorializing Amendment Number One to Change Notice Number Seventy-Nine.

⁽⁹⁵⁾ Upon the effective date of Change Notice Number Eighty, dated September 11, 2018, County acquired 250 additional InterSystems Cache' Enterprise Platform Specific Multi-server Licenses for a total of 1,750 concurrent Users in the amount of \$649,506 [\$228,756 for Maintenance and Support Services and \$420,750 for Application Software Delivery] pursuant to Paragraphs 6.8 and 4.5 (Other Professional Services) of the Agreement. County made payment for such Licenses and Maintenance and Support Services for years 5 through 7 out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement. The cost for Other Professional Services is not subject to thirty percent (30%) Holdback.

⁽⁹⁶⁾ Upon the effective date of Change Notice Number Eighty-One, dated October 25, 2018, the cost for this Deliverable includes Other Professional Services for Custom Programming Modifications in the amount of \$134,988, and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽⁹⁷⁾ Upon the effective date of Change Notice Number Eighty-Two, dated December 14, 2018, Extension of two hundred, seventy-two (272) OrderConnect Prescriber Subscriptions and two hundred, fifty (250) non-Prescriber Subscriptions, OrderConnect Customer Formulary Subscriptions, Diagnostic Content Subscriptions for year six (6), December 24, 2018 through December 23, 2019, and Contractor shall provide twenty-eight (28) additional prescriber usage Subscriptions under the OrderConnect module, and access to two hundred (200) additional certified OrderConnect e-Prescribing EPCS in the amount of \$341,489 [(\$15,200 for one-time cost of software/hardware tokens), and (\$326,289 for Maintenance and Support Services)] to use the software from December 24, 2018 through December 23, 2019, and County will make payment for such Application Software out of Pool Dollars pursuant to Paragraph 6.8 of the Agreement. Notwithstanding any other provision of the Agreement, OrderConnect e-Prescribing EPCS shall constitute Application Software under the Agreement. County made payment for such Licenses and Maintenance and Support Services for year 6 out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement.

⁽⁹⁸⁾ Upon the effective date of Change Notice Number Eighty-Three, dated March 13, 2019, Contractor shall provide Other Professional Services to develop custom software modifications in order to enhance claim adjudication rules in the amount of \$50,497 (\$40,655 for Software Development and \$9,842 for Project management) pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽⁹⁹⁾ Upon the effective date of Change Notice Number Eighty-four, dated April 04, 2019, Contractor shall provide Other Professional Services for Custom Programming Modifications in order to add capability to make modification to the CCD's current core functionality in the amount of \$139,204 (\$104,105 for Software Development, \$6,216 for Interface Development, \$25,123 for Project management and \$3,760 for system administration) pursuant to Task 7.0 (Develop Custom Programming Modifications) to Exhibit A (Statement of Work) and Paragraph 4.5 (Other Professional Services) of the Agreement.

⁽¹⁰⁰⁾ Upon the effective date of Change Notice Number Eighty-five, dated October 2, 2019, County acquired 250 additional InterSystems Cache' Enterprise Platform Specific Multi-server Licenses for a total of 2,000 concurrent Users in the amount of \$975,417 [\$420,750 for Application Software Delivery and \$554,667 for Maintenance and Support Services from August 23, 2019 through December 23, 2024] pursuant to Paragraphs 6.8 and 4.5 (Other Professional Services) of the Agreement. County made payment for such Licenses and Maintenance and Support Services for years 5 through 7 out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement.

⁽¹⁰¹⁾ Upon the effective date of the Change Notice Number Eighty-six, dated January 9, 2020, the cost for this Deliverable includes extending the subscription of the ScriptLink Web Server infrastructure and Hosting Environments in the amount of \$277,621 and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽¹⁰²⁾ Upon the effective date of the Change Notice Number Eighty-seven, dated January 27, 2020, the cost for this Deliverable includes contractor providing other professional services to develop software modifications to the Avatar software in order to Inhibit Billing Import Process in the amount of \$65,658 and County will make payment for such Other Professional Services out of Pool Dollars pursuant to Paragraphs 6.4 and 4.5 (Other Professional Services) of the Agreement.

⁽¹⁰³⁾ Upon the effective date of the Change Notice Number Eighty-eight, dated February 27, 2020, Extension of three hundred (300) OrderConnect Prescriber Subscriptions and two hundred, fifty (250) non-Prescriber Subscriptions, OrderConnect Customer Formulary Subscriptions, Diagnostic Content Subscriptions and three hundred (300) additional certified OrderConnect e-Prescribing EPCS for year seven (7), December 24, 2019 through December 23, 2020, in the amount of \$336,067 for Maintenance and Support Services, and County will make payment for such Application Software out of Pool Dollars pursuant to Paragraph 6.8 of the Agreement. Notwithstanding any other provision of the Agreement, OrderConnect e-Prescribing EPCS shall constitute Application Software under the Agreement. County made payment for such Licenses and Maintenance and Support Services for year 7 out of Pool Dollars as set forth in Exhibit C (Price and Schedule of Payments) of the Agreement.

EXHIBIT C

PRICE AND SCHEDULE OF PAYMENTS

⁽¹⁰⁴⁾ Upon the effective date of Change Notice Number Eighty-Nine, dated February 27, 2020, Contractor shall provide County with an additional one-year extension of Maintenance and Support Services for the subscription of CareConnect Services in the amount of \$534,696 out of Pool Dollars pursuant to Paragraph 6.8 of Paragraph 6 (Change Notices and Amendments) and at the rates set forth in Schedule D.2 (Maintenance and Support Fee Schedule) to Exhibit D (Service Level Requirements) of the Agreement.

⁽¹⁰⁵⁾ Upon the Effective Date of Amendment Number Five, dated July 14, 2020, \$5,800,000 in Pool Dollars was allocated for County-requested Other Professional Services/Change Notices in accordance with Paragraph 4.5 (Other Professional Services) and Paragraph 6 (Change Notices and Amendments).

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 2

Exhibit D (Service Level Requirements) –
(Replaced in its entirety by revised Exhibit D
under Amendment Number Five of Agreement)



EXHIBIT D

SERVICE LEVEL REQUIREMENTS



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1 This Exhibit D sets forth Contractor's service level commitment with respect to the System
2 provided by Contractor under the Agreement. Capitalized terms used in this Exhibit D without
3 definition herein shall have the meanings given to such terms elsewhere in the Agreement or
4 Exhibit A (Statement of Work).

5 **I. SCOPE OF SERVICES**

6 Without limiting the more detailed descriptions set forth in the subsequent sections of
7 this Exhibit D and otherwise in the Agreement, Contractor shall provide and maintain the
8 System and shall provide all other Work necessary to host the System Software such
9 that the System shall perform as defined herein, and in accordance with the
10 Specifications, Response Time Requirements, and otherwise with the Agreement.

11 Throughout the Term of the Agreement, Contractor shall provide Maintenance and
12 Support Services and Hosting Services for the System as further set forth below, 24
13 hours per day, seven (7) days per week. County Staff must have the ability to submit a
14 service request 24 hours per day, seven (7) days per week for Maintenance and Support
15 Services and Hosting Services via telephone, mail, and web based Service Request
16 Tracking System (SRTS) or any other reasonable means. Service requests may be
17 submitted in person during normal working hours Monday through Friday 6:00 AM – 6:00
18 PM Pacific Standard Time (PST). County will telephone support for any Level I Priority
19 service requests outside of normal working hours. Contractor response outside normal
20 working hours will be by return telephone call for Level I Priority service requests only.

21 All other service requests will be provided during normal working hours. Maintenance
22 and Support Services and Hosting Services shall include Contractor performing all Work
23 outlined in this Exhibit D, at no additional cost beyond the Maintenance and Support
24 Fees and Hosting Services Fees expressly set forth in the Agreement. Contractor's
25 Work hereunder shall include, in each case in full accordance with the Agreement, this
26 Exhibit D, the Statement of Work and otherwise with the Specifications.

27 **II. GENERAL**

28 (1) Maintenance and Support Services and Hosting Services shall commence in
29 accordance with Paragraph 4.4 (Maintenance and Support Services and Hosting
30 Services) of the Agreement and shall continue for the Term hereof, if so elected
31 by County. Contractor shall support all System Software in the version(s) and
32 the Hosting Environment then-existing as of the Effective Date at Contractor's
33 Primary and Secondary Data Centers. As new releases of the System Software
34 are introduced, Contractor shall support at least the most recent and prior two (2)
35 major version releases for the Term of the Agreement.

36 (2) "Contractor's Primary Data Center" shall mean the principal data center facility in
37 which the Hosting Environment shall operate throughout the Term of the
38 Agreement and as described in this Exhibit D.

39 (3) "Contractor's Secondary Data Center" shall mean a fail-over recovery data center
40 facility in which the Hosting Environment shall operate and provide Business
41 Continuity services throughout the Term of the Agreement and as described in
42 this Exhibit D.

43 (4) For Maintenance and Support Services and Hosting Services, County's primary
44 contacts shall be the County's Project Manager and County Staff who have been
45 delegated responsibility for each major Component or group of Components of

- 46 the System. Once identified, County shall provide written notification to
47 Contractor within a reasonable time of any change to the identified contacts for
48 County.
- 49 (5) Contractor shall respond to and resolve Deficiencies as described in this Exhibit
50 D.
- 51 (6) Contractor shall provide and install Updates to the System Software as mutually
52 agreed upon in advance by County and Contractor. Contractor shall notify
53 County's Project Manager or his/her designee of any scheduled or unscheduled
54 installation of Updates that would affect access to the System Software.
55 Installation of Updates shall be completed by the date and time as agreed upon
56 between Contractor and County.
- 57 (7) Contractor shall host the System Software and facilitate the provision of business
58 continuity and disaster recovery as further set forth in this Exhibit D.
- 59 (8) County will provide Contractor with information and assistance reasonably
60 requested by Contractor as necessary to detect, simulate, and correct any
61 Deficiency or other failure of the System to operate in accordance with
62 Specifications. Notwithstanding the foregoing, without limiting County's rights
63 pursuant to Paragraph 36 (Notice of Delays) of the Agreement and regardless of
64 the level of assistance provided by County, Contractor is solely responsible for
65 timely correction of all Deficiencies in accordance with Section VIII.B (Corrective
66 Maintenance) of this Exhibit D.
- 67 (9) Contractor will be expected to and agrees to respond and reasonably assist
68 County when there are System problems which may or may not be the direct
69 fault of Contractor at no additional cost to County. These possible problems
70 include without limitation, potential incompatibilities or security related problems
71 that may arise due to hardware, software or other product integration issues, and
72 which may impact System performance.
- 73 (10) Any Updates or Enhancements required in order for the System Software to
74 remain compliant with applicable Federal and State laws, regulations (and, in the
75 case of local laws and regulations, in order to meet Specifications and System
76 Performance Requirements), rules, ordinances, directives, guidelines, policies
77 and procedures relating to County operations including, without limitation, MHSA
78 Capital Facilities and Technological Needs Guidelines and regulations issued by
79 Federal agencies including but not limited to the IRS, CMS, FDA, Department of
80 Health and Human Services (HHS), Federal Trade Commission (FTC) and
81 Department of Defense (DOD), shall be provided to County at no additional cost
82 over the monthly Maintenance and Support Fees set forth in Schedule D.2
83 (Maintenance and Support Fee Schedule) and shall be limited to the functionality
84 of the System Software.
- 85 (11) Any Update to the Hosting Environment is expected to comply with Federal and
86 State laws and regulations at no additional cost over the monthly Hosting
87 Services Fees set forth in Schedule D.3 (Hosting Services Fee Schedule).
- 88 (12) Contractor shall provide County with System Software Updates, revised related
89 Documentation and, if necessary, modified procedures, to correct any failure of
90 the System to operate in accordance with Specifications.

- 91 (13) Contractor will provide current, comprehensive Documentation for all System
92 Software in printable electronic format. Contractor shall maintain all
93 Documentation for Application Software so as to include all Enhancements and
94 procedural changes and shall ensure that it is up-to-date and available at all
95 times throughout the Term. Contractor shall update and disseminate to County,
96 Documentation simultaneous with the delivery to County of any Enhancement or
97 addition to the System or change in applicable procedure.
- 98 (14) Contractor shall provide Maintenance and Support Services for Custom
99 Programming Modifications (including all reports designed under Custom
100 Program Modifications), Interfaces, and Conversions provided by Contractor
101 (including Updates to all of the foregoing), and all other Work required to
102 maintain compatibility of data, Interfaces, Conversions, and other Custom
103 Programming Modifications with any Enhancements provided in accordance with
104 this Agreement, in each case at no additional cost to County.
- 105 (15) Contractor shall provide County with physical access to the Contractor's Primary
106 and Secondary Data Centers upon County's request as mutually agreed upon in
107 advance by County and Contractor.
- 108 (16) County shall provide appropriate access through its network by which Contractor
109 may, in each case with the prior written permission of County's Project Manager
110 or his/her designee, remotely access the System for the purpose of remote
111 diagnostics and support. Contractor shall furthermore provide any required on-
112 site support, as reasonably determined by County, to ensure timely Maintenance
113 and Support Services. Contractor shall be responsible for all costs and
114 expenses, including travel expenses, incurred in the provision of on-site support.

115 **III. OPERATIONS AND HOSTING SERVICES**

116 Without limiting the Contractor's responsibilities described herein or otherwise in the
117 Agreement, Maintenance and Support Services and Hosting Services shall include the
118 provision of all Work necessary for the System Software to perform in accordance with
119 the Specifications, Hosting Environment, and System Performance Requirements and
120 shall include the following:

121 **A. System Monitoring and Reporting:**

- 122 (1) Contractor shall continually monitor the System in order to detect and
123 prevent issues causing the System to perform other than in accordance
124 with the System Performance Requirements and Specifications.
- 125 (2) Contractor shall maintain County's ability to monitor the Hosting
126 Environment network connectivity and key performance metrics through a
127 System administration portal provided by Contractor.
- 128 (3) Contractor shall create a delivery schedule and either deliver monitoring
129 reports to be defined by County or shall provide County with access to a
130 method by which to generate such reports.

131 **B. System Backup:**

- 132 (1) Contractor shall maintain a full back up of County data environments
133 stored onto tape systems, with a rotating tape schedule. Should tape
134 backup become obsolete, other storage media as mutually agreed upon
135 in advance by County and Contractor shall be used. A daily encrypted

136 backup shall be kept off-site in a secure, vault location. Weekly, monthly,
137 and yearly encrypted backups shall be maintained by Contractor, stored
138 off-site, and rotated on a periodic basis consistent with the period being
139 stored.

140 (2) Contractor shall perform back-up and recovery testing pursuant to its
141 internal testing and security protocols, which shall include testing of not
142 less than the following systems and procedures: (i) secondary site failover
143 testing; (ii) firewall redundancy tests; (iii) web server tests; (iv) recovery
144 testing with tape backups of the application data; and (v) database
145 failover testing.

146 (3) Contractor shall perform backup activities prior to the installation of
147 System Components, Updates, Workarounds, and Custom Programming
148 Modifications.

149 (4) Contractor shall perform backup activities prior to the installation of
150 Application Software to correct a Deficiency.

151 (5) Contractor shall periodically review and validate Contractor's Application
152 Software backup procedures, and periodically validate the accuracy and
153 integrity of the backup data. Contractor shall provide a written report of
154 any inaccuracies and inconsistencies in a format approved by County.

155 C. Hardware Maintenance:

156 (1) Contractor shall schedule and perform maintenance, including preventive
157 maintenance of Application Software, including, but not be limited to, the
158 repair or replacement of all non-functioning or under-performing hardware
159 or hardware no longer supported by its manufacturer and used by
160 Contractor for hosting the Application Software, in order to maintain
161 County's System Performance Requirements.

162 (2) Contractor shall repair, upgrade or replace non-functioning or under-
163 performing hardware or hardware no longer supported by its
164 manufacturer, and used by Contractor for hosting the Application
165 Software as is necessary for the System to perform in accordance with
166 Specifications and System Performance Requirements to support and be
167 compatible with any Updates, Custom Programming Modifications, and/or
168 Interfaces.

169 (3) Based on hardware platforms recommended by Contractor, Contractor
170 shall maintain compatibility of the System Software with new hardware,
171 firmware, operating system software versions, database software
172 versions, Third Party Software, and configurations. Contractor shall
173 provide quality assurance, testing processes, and Corrective
174 Maintenance in collaboration with County Staff to ensure any Custom
175 Program Modification or Enhancement is suitable for release.

176 D. Updates, Patches, and Version Releases:

177 (1) Contractor shall provide System Software modifications, Updates,
178 Enhancements, corrections, security and application patches, fixes,
179 improvements, and new releases, including without limitation all generally
180 available commercial releases and Updates of any System Software
181 (collectively, "Enhancements") to County on a regular basis and promptly

182 after Contractor's creation or receipt thereof. Enhancements shall
183 include, but shall not be limited to, Updates, improvements, fixes, security
184 patches, and new version releases as to all Third Party Software.
185 Contractor shall certify that all Enhancements are compatible with the
186 System prior to their installation in Production Use.

187 (2) Contractor shall create and provide all Updates to Application Software
188 necessary to keep current with industry standards in accordance with this
189 Exhibit D; provided, however, that any Updates that are required for a
190 proprietary function of County, not required for Contractor's other
191 customers in the State of California, or any change required by a County
192 level ordinance or regulation, and not required by State of California or
193 Federal requirements will be subject to mutual agreement by County and
194 Contractor as to cost and development timetable. Without limiting the
195 other provisions of the Agreement, such Updates shall be provided to
196 County at least once every year unless otherwise agreed upon by County
197 and Contractor. In addition, County shall notify Contractor in writing
198 within (45) days of the adoption or modification of any County technology
199 or security standard affecting the Application Software. With regard to
200 any required Updates in respect of such new County technology or
201 security standards, Contractor and County shall mutually agree on cost
202 and the timetable for Contractor to provide this functionality to County.

203 Except to the extent otherwise approved in writing by County's Project
204 Manager, Contractor shall notify County of all such Updates to the
205 Application Software prior to the anticipated installation date. Contractor's
206 provision to County of such Updates to the Application Software shall be
207 at no additional cost to County beyond the Maintenance and Support
208 Fees.

209 (3) Contractor will provide appropriate training for County Staff with respect
210 to annual Updates, major software releases or any other System
211 Software Enhancement that involves significant new or different
212 functionality or procedures.

213 (4) In the event that a Third Party Software vendor whose software (including
214 successor or replacement software) is specified in Attachment B.3
215 (Schedule of Peripheral Hardware, System Software, and Third Party
216 Software) to Exhibit B (Technical Solution Requirements) changes its
217 licensing structure in a subsequent product version in a manner which
218 changes the number of required licenses (e.g., concurrent Users
219 becomes named Users), Contractor shall promptly provide to County,
220 licenses sufficient to provide County with the same level of use that
221 County enjoyed under the previous licensing structure, at no additional
222 cost to County.

223 (5) Contractor shall provide all Maintenance and Support Services for Third
224 Party Software that is part of the System Software as specified in
225 Attachment B.3 (Schedule of Peripheral Hardware, System Software, and
226 Third Party Software) to Exhibit B (Technical Solution Requirements),
227 including all Updates and other Enhancements. Third Party Software
228 versions installed as part of the System shall be versions currently
229 supported by the Third Party Software vendor.

- 230 (6) In the event it is determined by County, Contractor or a third party that
231 any Update to Third Party Software, as specified in Attachment B.3
232 (Schedule of Peripheral Hardware, System Software, and Third Party
233 Software) to Exhibit B (Technical Solution Requirements), is required in
234 order to maintain support from the Third Party Software vendor or to
235 maintain compatibility with the Application Software or operating system
236 or to resolve a Deficiency, Contractor, at no additional cost to County,
237 shall provide County with an automated Workaround (as defined in
238 Section VIII.B(5)(e)) to protect the integrity of the Application Software
239 and related data until such time as the Deficiency is corrected.
240 Compatibility issues with Third Party Software specified in Attachment B.3
241 (Schedule of Peripheral Hardware, System Software, and Third Party
242 Software) to Exhibit B (Technical Solution Requirements) will be subject
243 to Section VIII.B (Corrective Maintenance).
- 244 (7) Contractor shall provide Maintenance and Support Services for Custom
245 Programming Modifications (including all reports designed under Custom
246 Program Modifications), Interfaces, and Conversions provided by
247 Contractor (including Updates to all of the foregoing), and all other Work
248 required to maintain compatibility of data, Interfaces, Conversions, and
249 other Custom Programming Modifications with any Enhancements
250 provided in accordance with this Agreement, in each case at no additional
251 cost to County.
- 252 (8) Any Updates or Enhancements required in order for the System Software
253 to remain compliant with applicable Federal and State laws shall be
254 provided to County in accordance with Section II.10 (General).

255 E. Preventive Maintenance:

- 256 (1) Contractor shall create a schedule of required preventative maintenance
257 Tasks for the System to ensure that the System and all Components
258 thereof are functioning in accordance with this Agreement. Such
259 preventative maintenance Tasks include, but are not limited to, the
260 following:
- 261 (a) Updates for Application Software, Interfaces, and other System
262 Software;
 - 263 (b) Application communication configuration for System Software; and
 - 264 (c) Review of error and other logs to ensure any required Corrective
265 Maintenance needed is detected in a timely manner to the extent
266 possible and in any event a correction shall be performed.
- 267 (2) Contractor shall use its best efforts to assure unscheduled preventive
268 maintenance shall not disrupt System functioning in accordance with this
269 Agreement. However, County recognizes that regularly scheduled routine
270 preventive maintenance may be needed which will require scheduled
271 System downtime. Scheduled maintenance shall be conducted between
272 the hours of 10:00 PM and 6:00 AM PST. Contractor shall provide seven
273 (7) Working Days advance notice to County thereof, except for
274 emergency/critical maintenance events requiring immediate attention.
275 Any deviation from scheduled maintenance hours as stated herein shall
276 be only upon written approval from County.

277 Contractor agrees that the combined System unavailability due to such
278 routine scheduled maintenance shall not exceed an average of four (4)
279 hours per month and not more than six (6) hours in any single month
280 during any calendar month. Any excess scheduled downtime not agreed
281 in writing in advance by County in accordance with this Section, or
282 pursuant to Section X (System Reliability) as to non-routine maintenance,
283 shall be treated as Downtime in accordance with Section X.A.

284 (3) The System shall be available to Users for not less than 99.95% of the
285 hours in a month, twenty-four (24) hours per day, and seven (7) days per
286 week, except for the time periods attributable to:

287 (a) Circumstances beyond Contractor's reasonable control, including,
288 without limitation, acts of any governmental body, war,
289 insurrection, sabotage, armed conflict, embargo, fire, flood,
290 interruption of or delay in transportation;

291 (b) County's inability to access the Contractor's network, solely as a
292 result of County-provided infrastructure;

293 (c) Scheduled maintenance, scheduled backups, scheduled restores,
294 and emergency maintenance and upgrades; and

295 (d) County acts or omissions (or acts or omissions of others engaged
296 or authorized by County), including, without limitation, custom
297 scripting or coding (e.g., CGI, Perl, Java, HTML, ASP, etc), any
298 negligence, willful misconduct, or use of the services in breach of
299 the Agreement and acceptable use as provided in writing to
300 County.

301 **IV. HOSTING ENVIRONMENT**

302 Without limiting the Contractor's responsibilities described herein or otherwise in the
303 Agreement, Maintenance and Support Services and Hosting Services shall include the
304 provision of a Hosting Environment to perform in accordance with the Specifications and
305 System Performance Requirements and shall include the following:

306 **A. Environmental Details:**

307 Contractor shall securely maintain, preserve, and exchange consumer data in a
308 database running on commercially available hardware servers. Contractor's
309 servers shall be housed and secured in Contractor's Primary and Secondary
310 Data Centers in compliance with current HIPAA security rulings. Prior to any
311 relocation of Contractor's Primary or Secondary Data Center site(s) Contractor
312 shall obtain written approval by the County, which shall not be unreasonably
313 withheld.

314 Contractor shall maintain and preserve all data on County's database schema
315 and shall manage in full compliance with current HIPAA regulations for data
316 security, confidentiality, and authorized access. County shall exclusively own all
317 data held within the County's database schema on Contractor's system.

318 **B. Physical Environment:**

319 (1) Contractor shall maintain County's Hosting Environment facilities with:

320 (a) Redundant power, cooling, and Internet connections into
321 dedicated cage environments, accessible to only Contractor staff
322 and authorized Hosting Environment contractors; and

323 (b) Emergency battery power sufficient to support the System's
324 operation until a generator is online, in the event of a power issue.

325 C. Technical Environment:

326 (1) Contractor shall implement the technical solution for the County with
327 redundant System Components. County's Hosting Environment shall
328 include:

329 (a) Network load balancers, web servers, application servers, and
330 database servers in a redundant configuration;

331 (b) Fully redundant Storage Area Network (SAN) using Redundant
332 Array of Independent Disk (RAID) and multiple data paths for
333 storing County's data; and

334 (c) Maintenance of fully separate development, test, training, and
335 production environments.

336 D. Physical Security Environment:

337 (1) Contractor shall maintain County's Hosting Environment in Statement on
338 Standards for Attestation Engagements (SSAE) 16 certified facilities, or
339 facilities of successor certification, with:

340 (a) Access controlled through documented procedures;

341 (b) 24/7/365 security and technical engineering staff;

342 (c) Physical access which requires government-issued picture
343 identifications for access validation and multi-factor authentication
344 for floor access; and

345 (d) Video surveillance monitoring 24/7/365.

346 (2) Contractor's physical cage environments shall be governed by strict
347 Access Control Lists (ACL) for physical access to the environments. All
348 data and storage cabinets shall be secured with locks, requiring proximity
349 cards for physical access. All cage access and cabinet access shall be
350 monitored through internal management and logging systems.

351 (3) Contractor shall maintain comprehensive security policies, procedures,
352 and controls to govern, support, and secure the Hosting Environment.
353 Security policies and procedures shall be reviewed and updated on a
354 regular basis. Contractor's security management controls shall be
355 reviewed by an independent third party firm, on an annual basis, following
356 SSAE16 or successor certification, guidelines and format.

357 E. System Security:

358 Contractor shall use secure technology to protect County's data and
359 transmissions between the Internet browser, client desktops and the Hosting
360 Environment which shall include the following:

- 361 (1) Industry standard products to protect customer data when transmitting
362 across public networks, including 128/256-bit Secure Socket Layer (SSL)
363 certificates signed by mutually agreed upon certificate authority and 168-
364 bit Triple Data Encryption Standard (DES) Internet Protocol Security
365 (IPsec) Virtual Private Network (VPN) connections.
- 366 (2) A network structure protected by redundant clustered firewalls and
367 monitored with intrusion prevention systems. All security systems shall
368 be from leading security industry vendors, implemented in conjunction
369 with Contractor's third party security firms, and validated by Contractor's
370 separate third party vulnerability/penetration testing firms. The firewall
371 logs shall be reviewed weekly and analyzed proactively by enterprise
372 security management systems to identify security threats. The System
373 shall be safeguarded using Network Address Translation (NAT), Internet
374 Protocol (IP) masquerading, port redirection, non-routable IP addressing
375 and ACL's, multi-factor authentication, and management network
376 segregation.
- 377 (3) Background checks, employment checks, and education checks for all
378 Contractor staff prior to being offered employment. All Contractor's
379 support staff shall go through extensive security, and privacy training prior
380 to being provided physical access.
- 381 (4) Multi-factor devices to access managerial functionality within the
382 environment for administrative access. All User access shall be monitored
383 and managed by the Contractor's Security/Compliance Department. All
384 servers, hardware devices, software applications, User accounts, security
385 devices, and technical services shall be fully audited and managed in real
386 time by enterprise management and notification systems. Any account,
387 physical, environmental or security change shall be immediately identified
388 and trigger a notification to all Contractor hosting and security staff.
389 Contractor's enterprise management systems shall immediately provide
390 an ISO compliance dashboard showing full compliance status with all
391 applicable environmental controls.
- 392 (5) The maintenance of security by restricting access points to all production
393 environments. Strong password rules shall be enforced and all Systems
394 shall be constantly updated to the vendor recommended patch levels for
395 security. Systems shall be hardened by disabling any non-critical ports,
396 users, protocols, and processes, following vendor's "best practice"
397 recommendations for security. All environmental operating systems
398 access shall require multi-factor authentication.
- 399 (6) Operations to identify and manage risks and vulnerabilities that could
400 affect the Contractor's ability to provide reliable Hosting Services to the
401 County. These processes shall require Contractor management to assign
402 a risk profile to all assets within the Hosting Environment, including
403 hardware, software, services, staff, and client data. Each asset and its
404 applicable risk and vulnerabilities shall be tracked, monitored, and
405 reviewed on a regular basis. Any new assets shall be evaluated based
406 upon a risk rating formula. The hosting operations executives shall meet
407 periodically to discuss the risks Contractor is facing. These shall include
408 various aspects of financial and technological risks, including risks

409 introduced by changes in the nature of services provided and processing
410 when applicable. In addition, Contractor's department managers shall
411 meet with its staff on a regular basis to discuss any outstanding issues
412 pertaining to their function within Contractor's organization.

413 (7) Extensive change management policies, procedures, and controls. All
414 non-routine environment changes shall require approvals, extensive
415 testing, and full documentation prior to being implemented within the
416 Hosting Environment.

417 (8) Extensive incident management and monitoring procedures for the
418 Hosting Environment. Contractor shall notify County of any security
419 breach into the System in accordance with Exhibit M (Business Associate
420 Agreement).

421 F. Data Back-up and Recovery Services:

422 Contractor shall provide back-up and recovery services. Data shall be stored on
423 redundant application and database hardware in Contractor's Primary Data
424 Center and replicated to Contractor's Secondary Data Center. Data security shall
425 be provided by SSL encryption, IPsec encryption, multiple levels of virus
426 protection, intrusion prevention systems, multi-factor management
427 authentication, enterprise firewalls, and filtering routers. Hosting Environment
428 shall provide redundancy at all tiers of the environment, redundant clustered
429 firewalls with redundant Internet connections, running industry standard secure
430 inspection, and analysis software. There shall be no data loss due to
431 environmental failures or catastrophic disk failures, except for un-replicated/un-
432 committed transactions. Contractor shall utilize replication, shadowing, and snap-
433 shot technologies between physical systems and Hosting Environment. In the
434 event of a significant Primary Data Center failure, a failover to the Contractor's
435 Secondary Data Center shall be completed. A restoration to the primary
436 environment shall occur at a mutually agreeable time between the Contractor
437 and County.

438 **V. CHANGE MANAGEMENT**

439 Contractor shall utilize the change management process approved by County to manage
440 all changes to the System. All changes related to the System shall require prior written
441 approval from County's Project Director or County's Project Manager and Contractor
442 shall provide appropriate Documentation.

443 **VI. SECURITY MONITORING AND REPORTING**

444 In addition to the other monitoring and reporting requirements of the Agreement, the
445 Contractor shall perform the following services for security monitoring and reporting:

446 A. In the event of any security problem(s) (e.g., discovery of "back door", database
447 or other Application Software vulnerabilities, or other intrusion-related problems)
448 relating to System Software, whether identified by Contractor, County or a third
449 party, Contractor shall work with County and third parties, as appropriate, to
450 identify such vulnerabilities, coordinate resolution, and promptly validate any
451 required System patches, unless otherwise agreed by County as specified
452 herein.

- 453 B. In the event of breach of any security when sharing Protected Health Information,
454 Contractor shall comply with all provisions set forth in Exhibit M (Business
455 Associate Agreement).
- 456 C. Contractor shall provide a written report to Departmental Information Security
457 Officer (DISO) or his/her designee and County's Project Director of repeated
458 attempts to gain unauthorized access to the System. The report should include
459 the capture of the location identification/address where the attempt was made,
460 and the type of access that was being attempted.
- 461 D. Contractor shall perform security scanning and penetration testing from the
462 Internet and internally at least annually. Such testing shall be performed using
463 industry-recognized tools. Testing results must be provided via a report to DISO
464 or his/her designee and County's Project Director.
- 465 E. Contractor shall provide reasonable assistance to County in generating security
466 audit reports related to Contractor's Hosting Environment and Hosting Services
467 as requested by Federal, State or County auditors, and/or County-approved third
468 party.
- 469 F. Contractor shall provide a third party independent security assessment to DISO
470 or his/her designee which minimally addresses:
- 471 (1) Regulatory compliance.
- 472 (2) Web application and data security.
- 473 (3) Identity management and access control.
- 474 (4) System and network vulnerability and penetration tests.
- 475 (5) Incident response and digital forensics.
- 476 (6) Business continuity and disaster recovery (as further set forth below).
- 477 The Contractor will notify County before running vulnerability scans on the
478 System in the production environments.
- 479 G. All System, application, transaction and access logs, audit trails, and reports will
480 be made available to DISO or his/her designee and County's Project Director
481 within three (3) Working Days, upon County's request.

482 VII. BUSINESS CONTINUITY AND DISASTER RECOVERY

- 483 A. Business Continuity:
- 484 (1) "Business Continuity" shall mean the provision of services to Users for
485 mission critical System Software for both Production Use and Business
486 Continuity environments with the inclusion of high availability as defined
487 below.
- 488 (2) "High Availability" shall mean the availability of a hot site, as defined
489 below, whereby the Contractor's Secondary Data Center is utilized in the
490 event the Contractor's Primary Data Center becomes unavailable, is
491 malfunctioning or otherwise fails to meet Specifications.
- 492 (3) "Hot Site" shall mean:
- 493 (a) Contractor's Secondary Data Center becomes available in one (1)
494 hour or less in the event the Contractor's Primary Data Center

495 becomes unavailable, is malfunctioning or otherwise fails to meet
496 Specifications. This System performance measure is also known
497 as Recovery Time Objective (RTO).

498 (b) Contractor's Secondary Data Center will become available for
499 Production Use with loss of data submitted by User limited to five
500 (5) minutes or less, for transactions that have not been committed
501 to the database at the time of failure in the Contractor's Primary
502 Data Center. This System performance measure is also known as
503 Recovery Point Objective (RPO).

504 Contractor shall provide Business Continuity for the System through the Hosting
505 Environment throughout the Term of the Agreement in accordance with Exhibit A
506 (Statement of Work). As a part of Business Continuity, Contractor shall provide disaster
507 recovery services as further set forth below.

508 B. Disaster Recovery:

509 "Disaster Recovery" shall mean the process, policies, and procedures maintained
510 and executed by Contractor for the purposes of preparing for recovery and
511 continuation of the System after a catastrophic event that resulted in significant
512 or potentially significant System downtime or disruption of the production
513 environment which requires Contractor to invoke its Disaster Recovery plan.

514 Contractor shall:

515 (a) Submit a Disaster Recovery plan in printable electronic format for
516 County's review and County's Project Director's approval as
517 specified in the Exhibit A (Statement of Work).

518 (b) Notify County of changes to the Disaster Recovery plan within ten
519 (10) Working Days.

520 (c) Keep the Disaster Recovery plan up-to-date and available at all
521 times throughout the Term.

522 (d) In collaboration with County, conduct annual testing for validity of
523 data and operations availability should the Disaster Recovery plan
524 need to be activated.

525 (e) Provide County, with a printable electronic format copy of the
526 annual Disaster Recovery test results within 30 days of completion
527 of such test.

528 (f) Upon occurrence of a disaster affecting Contractor's Primary Data
529 Center, provide the following Disaster Recovery services:

530 (i) Invoke the Disaster Recovery plan within 30 minutes of the
531 disruption of Production Use or a precipitating event at
532 Contractor's Primary Data Center; and

533 (ii) Provide a Disaster Recovery report, in a mutually agreed
534 upon format, to County's Project Director or his/her
535 designee within 30 days after declaring the closure of each
536 Disaster Recovery incident.

537 Contractor's failure to maintain the RTO and RPO shall be deemed unscheduled
538 Downtime.

539 **VIII. MAINTENANCE AND SERVICE REQUESTS**

540 County will provide Contractor with information and assistance reasonably requested by
541 Contractor as necessary to detect, simulate, and correct any Deficiency or other failure
542 of the System to operate in accordance with Specifications. Notwithstanding the
543 foregoing, and without limiting County's rights pursuant to Paragraph 36 (Notice of
544 Delays) of the Agreement and regardless of the level of assistance provided by County,
545 Contractor is solely responsible for timely correction of all Deficiencies in accordance
546 with Section VIII.B (Corrective Maintenance) of this Exhibit D.

547 A. Service Request Tracking System (SRTS):

548
549 (1) For use in responding to County's maintenance and service requests,
550 Contractor shall maintain an automated Service Request Tracking
551 System (SRTS) with a description of each service request, response, and
552 status. Contractor shall regularly review and update all open service
553 requests and follow up on unresolved service requests. Contractor will
554 provide County "read only" access to the SRTS for County's separate
555 review of all open and closed County service requests. Each service
556 request shall be detailed in an Internet accessible service request report,
557 in an exportable format agreed upon by County, and shall include the
558 following information:

559 (a) Identification Number: An automatically assigned unique
560 identification number, which shall be used to track, document and
561 respond to inquiries relating to a specific service request;

562 (b) Date and Time: The date and time the service request was
563 initiated, which shall be used to document and/or monitor overall
564 response and resolution time;

565 (c) Person Initiating Service Request: The name, title, and telephone
566 number of the person initiating the service request, who shall be
567 the primary point of contact used for inquiries regarding the
568 request, unless otherwise assigned by County's Project Manager;

569 (d) Call Taker: The name of Contractor personnel taking the call or
570 first receiving an electronically submitted service request;

571 (e) Contractor Employee Currently Assigned: The name and title of
572 the Contractor's employee currently managing the resolution;

573 (f) Location: Facility and/or physical location where the problem
574 occurred;

575 (g) Problem Priority Level: The problem priority level as indicated by
576 the reporting County Staff and as further defined in Section
577 VIII.B(5) of this Exhibit D and in Section 1.9.1 of Exhibit A
578 (Statement of Work);

579 (h) Product Family/Product Name: Each service request when
580 created in the SRTS by the County will have a specific name of

- 581 the product where the problem occurred and which product family
582 it belongs to (e.g., CareConnect-HIE, myAvatar-ProviderConnect,
583 etc.)
- 584 (i) Reference Number: The County-assigned reference number, if
585 applicable;
- 586 (j) Service Request Description: A detailed description of the
587 problem or Deficiency encountered or service requested;
- 588 (k) Attached Documentation: The identification or description of, and,
589 if available, copies of, documentation submitted by County with
590 the service request to clarify the request, including screen prints,
591 logs, report samples, etc.;
- 592 (l) Service Request Type: The service request type (e.g., software
593 change, Deficiency, report request, etc.), as assigned by County
594 which categorizes and specifies the type of request;
- 595 (m) Service Request Subtype: The service request subtype (e.g.,
596 specific function to be changed, specific function that is deficient,
597 type of report change requested, etc.), as assigned by County, as
598 a subcategory of the Service Request Type defined above in
599 Section VIII.A(1)(k) of this Exhibit D;
- 600 (n) Resolution Description: The Contractor's analysis of the problem,
601 and the proposed resolution (e.g., Update or other Enhancement);
- 602 (o) Resolution Activity: The Contractor's resolution activities and
603 activity dates to monitor resolution time (e.g., description of calls
604 to and from Contractor and County, referrals to Contractor's staff
605 for correction or investigation, referrals to Third Party Software
606 vendor, coordination of Update or Enhancement releases,
607 validation of correction prior to release to County, etc.);
- 608 (p) Estimated Fix Date: The estimated date for Contractor to
609 complete the service request;
- 610 (q) Correction Applied Date: The date Contractor applied the
611 correction; and
- 612 (r) Resolution Status: The current status of the service request (e.g.,
613 open or closed).
- 614 (2) Contractor shall maintain a historical knowledge base of System-related
615 problems to identify patterns and facilitate timely resolution in accordance
616 with Contractor's then current data retention policy (12 months for closed
617 service requests with PHI related data and 24 months for closed service
618 requests with no PHI data).
- 619 (3) Contractor shall make available technically qualified personnel (i.e., a
620 help desk) to respond by telephone to all reasonable questions by County
621 relating to the System during the Working Day. Contractor personnel
622 shall document all such calls for assistance from County personnel in the
623 SRTS referenced in Section VIII.A(1) above. Without limiting Contractor's
624 obligations in respect of web based SRTS, such telephone support shall
625 be provided via a toll-free telephone number, and for ninety-five percent

626 (95%) of all telephone calls from County to Contractor, County Staff shall
627 not be kept on hold for more than two (2) minutes awaiting the initial
628 substantive conversation with a Contractor help desk employee regarding
629 the details of the service request. If the inquiry cannot immediately be
630 resolved with an available, qualified Contractor technician, for calls of
631 Level II, III or IV Priority as defined in Section VIII.B(5), a qualified
632 Contractor technician shall return the telephone inquiry within one (1)
633 Working Day. At County's option, County may also submit System-
634 related issues of Level II, III, or IV Priority as defined in Section VIII.B(5)
635 to Contractor via Contractor's web site, and a qualified Contractor
636 technician shall respond to the inquiry within one (1) Working Day.

637 Without limiting the foregoing obligations and to avoid disruption to the
638 provision of care to County's clients, Contractor shall make available
639 technically qualified personnel and shall include for escalation purposes
640 access to technical management personnel all of whom shall respond by
641 telephone to Level I Priority as defined in Section VIII.B(5), 24 hours per
642 day, seven (7) days per week.

643 Contractor's first level point of contact for Maintenance and Support
644 Services through the help desk, including without limitation as further set
645 forth in Sections VIII.A(1) and this item three (3) as noted below, shall be
646 as follows:

647 Web Site: <http://www.ntst.com>

648 Telephone: (888) 782-2615

649 (4) County shall be responsible for determining the severity level assigned to
650 each service request or Deficiency discovered by County or Contractor.
651 Without limiting Contractor's obligations in respect of Deficiencies
652 discovered by Contractor, County shall be responsible for initiating
653 service requests by contacting Contractor in accordance with Section I
654 (Scope of Services) of this Exhibit D for any County-discovered
655 Deficiencies.

656 (5) After the completion of the requested Work, County's Project Manager or
657 his/her designee shall be solely responsible for approval of Work provided
658 in response to service requests.

659 B. Corrective Maintenance:

660 (1) Should Contractor determine based upon Contractor's written
661 documentation (e.g., logs, reports, statistics, etc.) that County personnel
662 are consistently inquiring about non-Deficiency related matters, or
663 consistently miscategorizing the Priority Level of reported service
664 requests, Contractor shall promptly contact County's Project Manager or
665 his/her designee and the parties shall, in good faith, cooperate in an effort
666 to avoid or reduce inquiries with respect to such matters. In the event
667 that the parties are unable to reach a resolution, the issues shall be
668 addressed pursuant to the procedures set forth in Paragraph 59 (Dispute
669 Resolution Procedure) of the Agreement.

670 (2) As part of Maintenance and Support Services, Contractor shall perform
671 corrective maintenance to correct any failure of the System and to

672 remedy all Deficiencies (collectively, "Corrective Maintenance") such that
673 the System will operate in full accordance with the Specifications and/or
674 to restore County to normal business operations in the event of any
675 disruption.

676 (3) In the event that a need for Corrective Maintenance by Contractor is
677 discovered by County before Contractor's discovery thereof, County will
678 notify Contractor of the need for Corrective Maintenance. In the event
679 that Contractor discovers the need for Corrective Maintenance on any
680 Component of the System, Contractor will notify County of such discovery
681 immediately. Contractor shall utilize the SRTS described in Section
682 VIII.A(1) of this Exhibit D to log, track, maintain, and report all Corrective
683 Maintenance performed as it pertains to its respective incident.

684 (4) In the event that a service request requiring Corrective Maintenance is
685 not remedied by Contractor in an expedient manner, County's Project
686 Manager or his/her designee, in County's sole judgment, may escalate
687 the Corrective Maintenance service request within Contractor's service
688 management levels and, if necessary, application or contract
689 management levels. Contractor shall provide County with a complete
690 organizational chart for all Contractor personnel in the escalation
691 hierarchy or otherwise involved in the provision of Maintenance and
692 Support Services Work hereunder. The organizational chart shall include
693 staff name, position, telephone, and e-mail address. Contractor shall
694 provide County with an updated organizational chart as support or
695 management changes occur.

696 (5) County's Project Manager or his/her designee, in such person's sole
697 judgment, will determine the severity level of an error, malfunction or
698 other Deficiency and designate it as Level I, Level II, Level III, or Level IV
699 Priority, as defined below (and further subject to modification pursuant to
700 Section VIII.B(6) or Section VIII.B(10)):

701 (a) "Level I Priority" means a Production error, malfunction or other
702 Deficiency, which significantly impairs County's normal business
703 operations (e.g., compromises patient safety, patient care,
704 administrative or claims processing operations) and has no known
705 workaround. By way of example a) patient safety – unable to
706 prescribe medication, failure of allergy indicators b) patient care –
707 impaired functions necessary for clinical decision making,
708 problem/dx inaccessible from any form c) system down – inability
709 to log in or performance degradation significant enough to
710 constitute as system down. Without limitation, this includes a
711 Deficiency that causes the Application Software or any
712 Component thereof to halt processing or is causing data integrity
713 failures, problems or issues, and in each case for which no
714 reasonable Workaround is currently developed, implemented and
715 Accepted.

716 (b) "Level II Priority" means a error, malfunction or other Deficiency,
717 which causes substantial inconsistencies or irregularities, but does
718 not significantly impair County's normal business operations and
719 for which no reasonable Workaround is currently developed,

720 implemented and Accepted. By way of example and without
721 limitation, Level II Priority includes a) issues related to scheduling
722 appointments for all providers, b) issues related to producing an
723 835, c) issues related to progress notes, or treatment plans. A
724 Deficiency that fails to meet the applicable Response Time
725 Requirements as set forth in Schedule D.1 (Response Time
726 Requirements) by fifty percent (50%) or more, as measured during
727 any contiguous eight (8) hour period as mutually agreed upon by
728 County and Contractor, but not so much as to render the System
729 materially unusable.

730 (c) "Level III Priority" means an error, malfunction or other Deficiency,
731 previously classified as a Level I or Level II, for which a
732 Workaround has been implemented and Accepted, but such error
733 or malfunction is continuing to persist. Level III Priority
734 additionally includes any deviation from applicable Response
735 Time Requirements of less than fifty percent (50%).

736 (d) "Level IV Priority" means an error, malfunction or Deficiency,
737 regardless if a Workaround exists, which has little or no
738 consequence on County's normal business operations including
739 all questions or inquiries related to system functionality or
740 cosmetic changes.

741 (e) "Workaround" means, for purposes of this Exhibit D, an alternative
742 System procedure made available by Contractor to County to
743 provide alternative functional operation so as to render a
744 Deficiency categorized as a Level I or Level II Priority to be
745 classified as a Level III Priority by causing it to no longer
746 significantly impair County's normal business operations or cause
747 substantial inconsistencies or irregularities. The determination of
748 whether any proposed or actual Corrective Maintenance
749 comprises a Workaround or final resolution of the applicable
750 Deficiency shall be at the sole discretion of County's Project
751 Director.

752 (6) Upon the second and subsequent reported recurrence of the same
753 Deficiency within any three (3) month period, such Deficiency shall be
754 escalated one level in priority and such recurrence added to the historical
755 knowledge base as set forth in Section VIII.A(2). By way of example, a
756 Level III Priority Deficiency that recurs and is reported within 30 days
757 following the prior occurrence shall be treated on the second occurrence
758 as a Level II Priority; provided, however, that those Deficiencies which by
759 their nature are repeated on numerous occasions shall not be escalated
760 in such manner unless either the Deficiency itself or the nature of the
761 effect on County's business operations changes, cumulatively or
762 otherwise, in the judgment of County's Project Manager.

763 (7) Contractor shall provide Corrective Maintenance in accordance with this
764 Section VIII.B (Corrective Maintenance), as described below. The time
765 periods described shall begin with the earlier of (i) the first notification by
766 County of a Level I Priority Service Request, as further defined below, or
767 (ii) first discovery by Contractor of a Deficiency that constitutes a Level I

768 Priority Service Request. For service requests of Level II Priority, Level III
769 Priority, and Level IV Priority, if the first notification by County or
770 discovery by Contractor is not during the Working Day, the time period
771 shall begin at the start of the next Working Day; otherwise it shall occur at
772 the first notification by County. Within one (1) hour upon discovery of a
773 Deficiency, Contractor shall issue a service request at the appropriate
774 priority level.

775 (a) For a Level I Priority Service Request, Contractor shall provide
776 action directed towards resolution within one (1) hour of first
777 contact by County (which must be followed up or provided by
778 telephone from County outside of normal working hours) regarding
779 or discovery by Contractor of such Deficiency, and use continuous
780 best effort until the problem is resolved. If not corrected or if a
781 reasonable Workaround is not provided within four (4) hours, then
782 without limiting County's other rights or remedies hereunder,
783 Service Credits may be applied pursuant to Section XI (Service
784 Credits) of this Exhibit D.

785 (b) For a Level II Priority Service Request, Contractor shall provide
786 ongoing and diligent action to correct the failure of the System to
787 operate in accordance with Specifications. If not corrected or if a
788 reasonable Workaround is not provided within 24 hours of first
789 contact within normal working hours or the first normal working
790 hour following any first contact outside of normal working hours by
791 County regarding or discovery by Contractor of such Deficiency,
792 then without limiting County's other rights or remedies hereunder,
793 Service Credits may be applied pursuant to Section XI (Service
794 Credits) of this Exhibit D.

795 (c) For a Level III Priority Service Request, Contractor shall provide
796 ongoing and diligent action to correct the failure or provide a
797 mutually acceptable plan to correct the failure of the System to
798 operate in accordance with Specifications. If not corrected or no
799 mutually acceptable correction plan is provided with the service
800 request within 72 hours of first contact within normal working
801 hours or the first normal working hour following any first contact
802 outside of normal working hours by County regarding or discovery
803 by Contractor of such Deficiency, then without limiting County's
804 other rights or remedies hereunder, Service Credits may be
805 applied pursuant to Section XI (Service Credits) of this Exhibit D.

806 (d) For a Level IV Priority Service Request, commencing with first
807 contact by County regarding or discovery by Contractor of such
808 Deficiency, Contractor shall provide ongoing and diligent action to
809 correct the failure of the System to operate in accordance with
810 Specifications. If not corrected within a reasonable and agreed-
811 upon time period, then without limiting County's other rights or
812 remedies hereunder, withholds may be applied in respect of such
813 failure pursuant to Paragraph 8.8 (County's Right to Withhold
814 Payments) of the Agreement.

- 815 (8) County will install and test proposed corrections to Deficiencies in
816 accordance with its procedure for installing and testing Updates to be
817 completed not less than 30 days of being provided by Contractor to
818 County, so long as Updates are error/bug free and all respective
819 dependencies also do not present any issues. Updates shall operate in
820 Production Use for not less than 15 days without recurrence of the
821 Deficiency in question prior to any Acceptance of such Update.
- 822 (9) Contractor shall not deem closed or remedied a reported Deficiency until
823 the root cause is documented and the County has Accepted a correction
824 in accordance herewith.
- 825 (10) County, in its sole discretion, may escalate or downgrade the severity
826 level of a Deficiency (provided that, if escalated, the Deficiency meets the
827 requirement of the new level so selected as set forth in Section VIII.B(5),
828 or the escalation is otherwise expressly provided for in this Section VIII.B.
829 At the time the Deficiency is escalated or downgraded, upon notification
830 of Contractor of such change in severity level, a new appropriate timeline
831 will be applied for resolution of such Deficiency in accordance with this
832 Section VIII.B.
- 833 (11) Any attempted repair, reconfiguration of or other Enhancement to the
834 System in order to resolve a Deficiency shall be deemed effective only if
835 the System thereafter complies with the Specifications hereunder in all
836 respects applicable to such Deficiency, including without limitation any
837 applicable Response Time or volume metrics, for an uninterrupted fifteen
838 (15) day period in full Production Use subsequent to such repair or
839 Enhancement. If the System fails to complete this 15 day period of
840 uninterrupted compliance, such repair or Enhancement shall be deemed
841 to be and treated as if ineffective to cure the original Deficiency, and
842 Service Credits, if any, shall continue to accrue from the date of the
843 originally reported Deficiency in question.

844 **IX. SYSTEM PERFORMANCE REQUIREMENTS**

845 The Response Time Requirements set forth in Schedule D.1 (Response Time
846 Requirements) to this Exhibit D specify the minimum performance requirements for the
847 System Software Components of the System, which will be monitored by County during
848 the Term of this Agreement without limiting Contractor's obligations. For purposes of
849 this Exhibit D and this Agreement generally, the System's failure to meet the System
850 Performance Requirements constitutes a Deficiency (also known as "Response Time
851 Deficiency"). Without limiting Contractor's other obligations hereunder, and subject to
852 and in accordance with Paragraph 9.8 (Response Time Warranty) of the Agreement,
853 Contractor shall correct all Response Time Deficiencies.

854 Schedule D.1 (Response Time Requirements) to this Exhibit D describes each System
855 Performance Requirements category, the definition of each category, the minimum
856 performance level, and method of performance measurement.

- 857 A. Contractor will assist County in troubleshooting and determining the root cause of
858 any failure of the System (including network infrastructure) to comply with the
859 Specifications or the System otherwise fails to meet the System Performance
860 Requirements hereof. The Service Credits listed in the Agreement will only be
861 assessed in cases in which the System Software suffers a Deficiency or

862 Contractor is otherwise determined by County in its reasonable discretion to be
863 at fault or in which the Contractor's Hosting Environment as set forth in Schedule
864 D.4 (Hosting Environment Diagram) to this Exhibit D proves inadequate.

865 B. For the purpose of this Exhibit D and Response Time measurement,
866 "Transaction Processing Response Time" shall be defined as the time period
867 commencing when a request is received by the web server, continuing while
868 processed by the Application Software and database servers, up through
869 sending the result to the web server, and ending when the transaction results are
870 sent from the web server back to the User. Without limiting the foregoing,
871 Transaction Processing Response Time includes any business requirement
872 processing, calculations, User interface preparation, communication between the
873 web servers, application servers, and database servers, and database activity.

874 C. Except as otherwise set forth in Section IX.B of this Exhibit D for Transaction
875 Processing Response Time, the Response Time for a particular operation means
876 the elapsed time for any such operation as measured from the commencement
877 or launch of such functionality until its completion, as evidenced by the
878 completed System response. Response Time measurement for the System will
879 begin concurrent with Task 8.5 (Conduct System Performance Test) of Exhibit A
880 (Statement of Work).

881 D. If Contractor recommends an Update, repair or replacement of any County
882 equipment or Components of the System provided by County in order to remedy
883 a Response Time Deficiency, County shall make such repair or replacement of
884 equipment in accordance with Contractor's recommendation. Contractor will not
885 be responsible for any cost if the Response Time Deficiency is due to defective
886 equipment provided by County or to the performance of third party service
887 providers to County that fall below industry recognized standards among that
888 class of service providers.

889 X. SYSTEM RELIABILITY

890 A. For the purpose of this Exhibit D, "Downtime" shall be defined as System non-
891 availability due to System Software error, malfunction, or Deficiency in the
892 Application Software, or due to System maintenance activity other than in
893 accordance with the scheduling parameters set forth in Section III.E
894 (Preventative Maintenance) and Section X (System Reliability) of this Exhibit D.
895 Examples of Downtime include, without limitation:

896 (1) One (1) or more County Facilities cannot access the System for reasons
897 within Contractor's Control; or

898 (2) Any functional Component of the System or Interface is not available.

899 B. County requires that there be no unscheduled Downtime for routine maintenance
900 of the Application Software with the exception of that granted under Section
901 III.E(2).

902 County will accept occasional scheduled Downtime for significant non-routine
903 Updates and maintenance to be scheduled by Contractor only with County's prior
904 written approval and at County's discretion. Such scheduled Downtime for non-
905 routine maintenance shall not occur more than four (4) times per year and shall
906 not last more than four (4) hours per occurrence. Non-routine maintenance

907 includes such tasks as major System Software version Updates. Contractor shall
908 use best efforts to keep scheduled Downtime for non-routine maintenance to a
909 minimum and if required, any excess scheduled Downtime will be agreed to in
910 writing in advance by County.

911 **XI. SERVICE CREDITS**

912 A. General:

913 (1) Without limiting any other rights and remedies available to County,
914 Service Credits shall accrue under this Exhibit D for Contractor's failure to
915 maintain System reliability, Contractor's failure to provide timely
916 Corrective Maintenance and the System's failure to satisfy Response
917 Time Requirements, all as described in more detail below. The amount of
918 the Service Credit will depend on the extent and duration of Contractor's
919 failures.

920 To the extent Downtime or other Deficiencies result from use of the
921 System by County other than in accordance with the Specifications,
922 County's entitlement to any Service Credits in respect of such
923 Deficiencies shall be accordingly reduced, provided and only to the extent
924 that Contractor notifies County, in writing, of the details of the alleged
925 misuse within 24 hours of Contractor's reasonably timely discovery
926 thereof. County shall review such allegation and shall notify Contractor in
927 writing, within five (5) Working Days, of County's agreement or
928 disagreement therewith. In the event County disagrees with Contractor's
929 allegation(s) of misuse, County shall apply Service Credits in accordance
930 herewith, subject to the provisions of Paragraph 59 (Dispute Resolution
931 Procedure) of the Agreement.

932 (2) County and Contractor shall meet on a regular basis, no less than twice a
933 year to review possible Service Credits owed to the County. This will be
934 a credit review meeting. All closed service requests that had a Level I
935 Priority, Level II Priority, and Level III Priority status as set forth in Section
936 VIII.B.5 above will be evaluated to determine the amount owed to the
937 County as set forth in Section XI.C below. The County and Contractor
938 have agreed on a report that shall be produced by the Contractor on a
939 monthly basis to reflect the possible credits due to the County.

940 (3) The report will include the product name, product family, Contractor
941 working time, and the severity level at time of resolution of the service
942 request which will be used to determine the credit dollar value. The
943 combination of the product family and the product will be used to
944 determine the software component(s). The software component(s) will be
945 used to determine the value of the credit based on the monthly
946 Maintenance and Support Fee Schedule set forth in Schedule D.2
947 (Maintenance and Support Fee Schedule) to this Exhibit D.

948 B. System Reliability:

949 (1) "System Reliability Percentage" shall mean adding up the total amount of
950 unscheduled Downtime, rounded to the nearest minute, which occurs
951 during any calendar month and subtracting that amount from the System
952 maximum operational use time (1440 minutes in a day multiplied by 'x'

953 days in the calendar month = 100%) and dividing the difference by the
 954 System maximum operational use time. The resulting quotient will then
 955 be multiplied by one hundred (100) to determine the reliability percentage.

956 (2) Service Credits shall be accrued for any month during which System
 957 Reliability Percentage is less than 99.95%. The following scale will be
 958 used to determine the percentage of monthly maintenance payment
 959 withheld. This amount shall be in addition to any amounts accrued under
 960 this Section XI.C(1) for Contractor's failure to meet required Corrective
 961 Maintenance response times.

Monthly Uptime	Credit
99.95%	0%
98.5% to up to 99.94%	5%
98.0% to up to 98.4%	10%
97.5% to up to 97.9%	15%
97.4% or below	20%

962
 963 C. Corrective Maintenance Response Time Failures:

964 If Contractor fails to provide Corrective Maintenance on a timely basis in
 965 accordance with Section VIII.B (Corrective Maintenance) of this Exhibit D, then in
 966 each instance Service Credits shall accrue for the benefit of County, calculated
 967 as set forth below:

968 (1) For Level I Priority Service Credit equal to one thirtieth (1/30) of the
 969 monthly Maintenance and Support Fee shall accrue for each four (4)
 970 hours the Deficiency continues without successful and Accepted
 971 completion of either a final resolution through Corrective Maintenance or
 972 a Workaround, beginning four (4) hours after the earlier of the time
 973 Contractor first discovers the Deficiency, or the time Contractor first
 974 receives notice from County thereof.

975 (2) For Level II Priority, Service Credit equal to one forty-fifth (1/45) of the
 976 monthly Maintenance and Support Fee shall accrue for each twenty-four
 977 (24) hours the Deficiency continues without successful and Accepted
 978 completion of either a final resolution through Corrective Maintenance or
 979 a Workaround, beginning 24 hours after the earlier of the time Contractor
 980 first discovers the Deficiency, or the time Contractor first receives notice
 981 from County thereof.

982 (3) For Level III Priority, Service Credit equal to one sixtieth (1/60) of the
 983 monthly Maintenance and Support Fee shall accrue for each five (5)
 984 Working Days one or more Level III Priority errors or malfunctions
 985 continue without an Accepted final resolution through Corrective
 986 Maintenance or a mutually acceptable service request corrective plan or
 987 otherwise beyond: (i) in the case of Deficiencies downgraded from a
 988 Level I Priority with a Workaround, five (5) Working Days from the

989 Accepted implementation of the Workaround; (ii) in the case of
990 Deficiencies downgraded from a Level II Priority with a Workaround, ten
991 (10) Working Days from the Accepted implementation of the Workaround;
992 and (iii) in all other cases, 90 days from the earlier of the time Contractor
993 discovers the Deficiency, or the time Contractor receives notice from
994 County thereof.

995 Any attempted repair, reconfiguration of or other Enhancement to the System
996 Software in order to resolve a Deficiency shall be deemed effective only if the
997 System Software thereafter complies with the Specifications hereunder in all
998 respects applicable to such Deficiency, including without limitation any applicable
999 Response Time or volume metrics, for an uninterrupted fifteen (15) day period in
1000 full Production Use subsequent to such repair or Enhancement. If the System
1001 fails to complete this 15 day period of uninterrupted compliance, such repair or
1002 Enhancement shall be deemed to be and treated as if ineffective to cure the
1003 original Deficiency, and Service Credits, if any, shall continue to accrue from the
1004 date of the originally reported Deficiency in question.

1005
1006 To determine the Service Credit value, the average of the payment amounts
1007 during the months being reviewed will be used to determine the Software
1008 Component(s) amount which is based on the monthly Maintenance and Support
1009 Fees set forth in Schedule D.2 (Maintenance and Support Fee Schedule) to this
1010 Exhibit D and further detailed by month using a detailed workbook maintained by
1011 the County and Contract Project Directors. The Software Component(s) amount
1012 will be multiplied by 1/30th for Level I Priority cases, 1/45th for Level II Priority, and
1013 1/60th for Level III Priority as set forth in Section XI.C above to determine the
1014 appropriate Service Credit value. The final calculation will multiply the mutually
1015 agreed to Service Credit units with the Service Credit value. The sum of all
1016 Service Credit values will determine the overall Service Credits owed to the
1017 County.

1018
1019 The Contractor shall issue Service Credits towards future monthly Maintenance
1020 and Support Fees set forth in Schedule D.2 (Maintenance and Support Fee
1021 Schedule) to this Exhibit D over the next review period where the start date is
1022 after the Service Credit review meeting or mutually agreed to by County and
1023 Contractor. (e.g., if the agreed upon review period is quarterly, the Service
1024 Credit amount will be spread evenly over a three-month period).

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 3

Schedule D.7 (Information Security and Privacy Requirements) -
(Replaced in its entirety by revised Exhibit D.7
under Amendment Number Five of Agreement)



INFORMATION SECURITY CONTRACT/AGREEMENT REQUIREMENTS

This Exhibit sets forth information security requirements and procedures to be established by Contractor/Business Associate before the effective date of the Contract/Agreement and maintained throughout the term of the Contract/Agreement. These requirements and procedures are a minimum standard and are in addition to the requirements of the Contract/Agreement and any other Arrangements between the parties. In the event of a conflict of terms between this Exhibit and the Contract/Agreement between the parties, the terms of the Contract/Agreement shall prevail. However, it is Contractor/Business Associate's sole obligation to: (i) implement appropriate measures to secure its systems and all Information (as defined by County Board of Supervisors Policy 6.104), against internal and external threats and risks; and (ii) continuously review and revise those measures to address ongoing threats and risks. Failure to comply with the minimum requirements and procedures set forth in this Exhibit will constitute a material, non-curable breach of the Contract/Agreement by Contractor/Business Associate, entitling County, in addition to and cumulative of all other remedies available to it at law, in equity, or under the Contract/Agreement, to immediately terminate the Contract/Agreement. Unless specifically defined in this Exhibit, capitalized terms shall have the meanings set forth in the Contract/Agreement

1. NON-EXCLUSIVE EQUITABLE REMEDY

Contractor/Business Associate acknowledges and agrees that due to the unique nature of County Non Public Information (NPI) there may be no adequate remedy at law for any breach of its obligations hereunder, that any such breach may result in irreparable harm to County, and therefore, that upon any such breach, County will be entitled to seek appropriate equitable remedies, and may seek injunctive relief from a court of competent jurisdiction without the necessity of proving actual loss, in addition to whatever remedies either of them might have at law or equity. Any breach of Section 5 (Confidentiality) shall constitute a material breach of this Contract/Agreement and be grounds for immediate termination of this Contract/Agreement in the exclusive discretion of the County.

2. INFORMATION SECURITY PROGRAM

Contractor/Business Associate shall establish and maintain a company-wide Information Security Program (Information Security Management System [ISMS]) designed to evaluate risks to the confidentiality, availability and integrity of the information in their possession.

Contractor/Business Associate's Information Security Program shall include the creation and maintenance of security policies, standards and procedures (collectively "**Information Security Policy**"). The Information Security Policy will be communicated to all Contractor/Business Associate personnel in a relevant, accessible, and understandable form and will be regularly reviewed and evaluated to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats/risks.

3. PROPERTY RIGHTS TO INFORMATION

All Information, as defined by County Board of Supervisors Policy 6.104 - Information Classification Policy, provided by the County or collected by Contractor/Business Associate on behalf of the County, is deemed property of the County and shall remain the property of County and County shall retain exclusive rights and ownership thereto.

The County Information shall not be used by Contractor/Business Associate for any purpose other than as required under this Contract/Agreement, nor shall such information or any part of such information be disclosed, sold, assigned, leased, or otherwise disposed of to third-parties by Contractor/Business Associate or commercially exploited or otherwise used by, or on behalf of, Contractor/Business Associate, its officers, directors, employees, or agents. Contractor/Business Associate may assert no lien on or right to withhold from County, any information it receives from, receives addressed to, or stores on behalf of, County.

Notwithstanding the foregoing, Contractor/Business Associate may aggregate, compile, and use County Information in order to improve, develop or enhance the System Software and/or other services offered, or to be offered, by Contractor/Business Associate ; provided that no County Information in such aggregated or compiled pool is identifiable as originating from, or can be traced back to, County or a County, and such Information cannot be associated or matched with an identifiable profile or personally identifiable information.

Contractor/Business Associate specifically consents to the County's online access to such County Information held, stored, or maintained on any and all devices Contactor owns, leases or possesses.

4. CONTRACTOR/BUSINESS ASSOCIATE'S USE OF INFORMATION

Contractor/Business Associate may use the Information only as necessary to carry out its obligations under this Contract/Agreement, and for no other purpose other than observation and reporting to the County on County's usage of the Information and making recommendations for improved usage.

5. CONFIDENTIALITY

- a) **Non-public Information.** Contractor/Business Associate agrees that all information supplied by its affiliates and agents to the County including, without limitation, (a) any information relating to County's customers, patients, business partners, or personnel; (b) Personally Identifiable Information (as defined below); (c) any non- public information as defined in the Gramm-Leach-Bliley Act or the California Financial Information Privacy Act, and (d) any Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and The Health Information Technology for Economic and Public Health Act (HITECH), will be deemed confidential and proprietary to the County, regardless of whether such information was disclosed intentionally or unintentionally or marked as "confidential". To be deemed "Non-public Information" (NPI) as defined in Board of Supervisors Policy 6.104 – Information Classification Policy, trade secrets and mask works must be plainly and prominently marked with restrictive legends.
- b) **Nondisclosure of NPI.** NPI provided by the County either before or after Contract/Agreement award shall only be used for its intended purpose. Contractor/Business Associate and Subcontractors shall not utilize nor distribute County NPI in any form without the prior express written approval of the County.
- c) **Non-Disclosure Obligation.** While performing work under this Contract/Agreement, the Contractor/Business Associate and Subcontractors may encounter NPI such as personal information, licensed technology, drawings, schematics, manuals, sealed court records, and other materials described as "Internal Use", "Confidential" or "Restricted" as defined in Board of Supervisors Policy 6.104 – Information Classification Policy as NPI. The Contractor/Business Associate shall not disclose or publish any information and material received or used in performance of this Contract/Agreement. This obligation is perpetual. The Contract/Agreement imposes no obligation upon the Contractor/Business Associate with respect to County NPI which the Contractor/Business Associate can establish that: a) was in the possession of, or was rightfully known by the Contractor/Business Associate without an obligation to maintain its confidentiality prior to receipt from the County or a third party; b) is or becomes generally known to the public without violation of this Contract/Agreement; c) is obtained by the Contractor/Business Associate in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by the Contractor/Business Associate without the participation of individuals who have had access to the County's or the third party's NPI. If the Contractor/Business Associate is required by law to disclose NPI the Contractor/Business Associate shall notify the County of such requirement prior to disclosure.
- d) **Personally Identifiable Information.** "Personally Identifiable Information" (PII) shall mean any information about an individual maintained by an organization or other entity, including (1) any information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and (2) any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

In connection with this Contract/Agreement and performance of the services, Contractor/Business Associate may be provided or obtain, from County or otherwise, PII pertaining to County's current and prospective personnel, directors and officers, agents, investors, patients, and customers and may need to process such PII and/or transfer it, all subject to the restrictions set forth in this Contract/Agreement and otherwise in compliance with all applicable domestic privacy and security laws and regulations for the sole purpose of performing the services.

- e) **Treatment of County Non-public Information.** Without limiting any other warranty or obligations specified in this Contract/Agreement, and in particular the Confidentiality provisions of the Contract/Agreement, during the term of this Contract/Agreement and thereafter in perpetuity, Contractor/Business Associate will not gather, store, log, archive, use, or otherwise retain any County NPI

in any manner and will not disclose, distribute, sell, share, rent, or otherwise retain any County NPI to any third-party, except as expressly required to perform its obligations under this Contract/Agreement or as Contractor/Business Associate may be expressly directed in advance in writing by County.

Contractor/Business Associate represents and warrants that Contractor/Business Associate will use and process County NPI only in compliance with (a) this Contract/Agreement, (b) County's then current information security and privacy policies that are applicable to the services being provided by Contractor/Business Associate, and (c) all applicable County state, and federal laws and regulations.

- f) **Retention of County Non-public Information.** Contractor/Business Associate will not retain any County NPI for any period longer than necessary for Contractor/Business Associate to fulfill its obligations under this Contract/Agreement or required by Contractor/Business Associate's records retention policies and applicable law.
- g) **Return of County Non-public Information.** On County's written request or upon expiration or termination of this Contract/Agreement for any reason, Contractor/Business Associate will (a) promptly return or destroy, at County's option, all originals and copies of all documents and materials it has received containing County's NPI; (b) if return or destruction is not permissible under applicable law, continue to protect such information in accordance with the terms of this Contract/Agreement; or (c) deliver or destroy, at County's option, all originals and copies of all summaries, records, descriptions, modifications, negatives, drawings, adoptions and other documents or materials, whether in writing or in machine-readable form, prepared by Contractor/Business Associate, prepared under its direction, or at its request, from the documents and materials referred to in Subsection 5(a) of this Exhibit, and provide a notarized written statement to County certifying that all documents and materials referred to in Subsections 5(a) and (b) of this Exhibit have been delivered to County or destroyed, as requested by County.

On termination or expiration of this Contract/Agreement, County will return or destroy all Contractor/Business Associate's information marked as confidential (excluding items licensed to County hereunder or that provided to County by Contractor/Business Associate hereunder), at County's option.

6. CONTRACTOR/BUSINESS ASSOCIATE PERSONNEL

Within the limitations of law, Contractor/Business Associate shall screen and conduct background investigations on all Contractor/Business Associate personnel, as appropriate to their role, with actual or potential physical or logical access to County's NPI for potential security risks. Such background investigations, based on the individual's role and interaction with NPI, may include criminal and financial history and will be repeated on a regular basis.

Contractor/Business Associate shall require Contractor/Business Associate to sign an appropriate written confidentiality/non-disclosure agreement on behalf of itself and its employees.

All agreements with third-parties involving access to Contractor/Business Associate's systems and Information, including all outsourcing arrangements and maintenance and support agreements (including facilities maintenance), shall specifically address security risks, controls, and procedures for information systems.

Contractor/Business Associate shall supply each of its Contractor/Business Associate personnel with appropriate, ongoing training regarding information security procedures, risks, and threats.

Contractor/Business Associate shall have an established set of procedures to ensure Contractor/Business Associate personnel promptly report actual and/or suspected breaches of security.

7. STORAGE, TRANSMISSION AND DESTRUCTION OF COUNTY NON-PUBLIC INFORMATION

All County NPI shall be rendered unusable, unreadable, or indecipherable to unauthorized individuals. Without limiting the generality of the foregoing, Contractor/Business Associate will encrypt all workstations, portable devices (e.g., mobile, wearables, tablets,) and removable media (portable or removable hard disks, floppy disks, USB memory drives, CDs, DVDs, magnetic tape, and all other removable storage media) that store County's NPI in accordance with Federal Information Processing Standard (FIPS) 140-2 or otherwise approved by the County's Chief Information Security Officer.

8. HARDWARE RETURN

If applicable, upon termination or expiration of the Contract/Agreement or at any time upon County's request, Contractor/Business Associate shall return all hardware, if any, provided by County to County.

The hardware should be physically sealed and returned via a bonded courier or as otherwise directed by County.

9. PHYSICAL AND ENVIRONMENTAL SECURITY

Contractor/Business Associate facilities that process County Information will be housed in secure areas and protected by perimeter security such as barrier access controls (e.g., the use of guards and entry badges) that provide a physically secure environment from unauthorized access, damage, and interference.

Contractor/Business Associate facilities that process County Information will be maintained with physical and environmental controls (temperature and humidity) that meet or exceed hardware manufacturer's specifications.

10. COMMUNICATIONS AND OPERATIONAL MANAGEMENT

Contractor/Business Associate shall: (i) monitor and manage all of its information processing facilities, including, without limitation, implementing operational procedures, change management and incident response procedures; and (ii) deploy adequate anti-malware software and adequate back-up systems to ensure essential business information can be promptly recovered in the event of a disaster or media failure; and (iii) ensure its operating procedures are adequately documented and designed to protect information and computer media from theft and unauthorized access.

11. ACCESS CONTROL

Subject to and without limiting the requirements under Section 7 (Storage, Transmission and Destruction of Information), County's NPI: (i) may only be made available and accessible to those parties explicitly authorized under the Contract/Agreement or otherwise expressly approved by County in writing; (ii) if transferred across the Internet, any wireless network (e.g., cellular, 802.11x, or similar technology), or other public or shared networks, must be protected using appropriate encryption technology as designated or approved by County's Chief Information Security Officer in writing; and (iii) if transferred using Removable Media (as defined above) must be sent via a bonded courier and protected using encryption technology designated by Contractor/Business Associate and approved by County's Chief Information Security Officer in writing. The foregoing requirements shall apply to back-up media stored by Contractor/Business Associate at off-site facilities.

Contractor/Business Associate shall implement formal procedures to control access to County systems, services, and/or data, including, but not limited to, user account management procedures and the following controls:

- a) Network access to both internal and external networked services shall be controlled, including, but not limited to, the use of properly configured firewalls;
- b) Operating systems will be used to enforce access controls to computer resources including, but not limited to, authentication, authorization, and event logging;
- c) Applications will include access control to limit user access to information and application system functions; and
- d) All systems will be monitored to detect deviation from access control policies and identify suspicious activity. Contractor/Business Associate shall record, review and act upon all events in accordance with incident response policies set forth below.

In the event any hardware, storage media, or Removable Media must be disposed of or sent off-site for servicing, Contractor/Business Associate shall ensure all County NPI, has been cleared, purged, or scrubbed from such hardware and/or media using industry best practices as discussed in Section 7 (Storage, Transmission and Destruction of County Non-Public Information).

12. SECURITY INCIDENT

A "Security Incident" shall mean the successful unauthorized access, use, disclosure, or modification of

County NPI or interference with system operations in an information system.

- a) Contractor/Business Associate will promptly notify, within three (3) business days after the detection, the County's Chief Information Security Officer by telephone and subsequently via written letter of any Security Incidents.
- b) The notice shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence. Contractor/Business Associate will provide a quarterly report of all Security Incidents noting the actions taken. This will be provided via a written letter to the County's Chief Information Security Officer on or before the first (1st) week of each calendar quarter (January, March, June and September) for which there was a Security Incident. Netsmart annually conducts an SSAE-18 SOC-2 type II audit by an accredited independent third-party as validation of our data center control environment, providing assurance that administrative, physical, and technical controls are functioning effectively. Upon written request, Contractor/Business Associate will provide an executive summary report to the County.
- c) Notwithstanding any other provisions in this Contract/Agreement, Contractor/Business Associate shall be liable for all fines and penalties assessed against County by a state or federal regulatory agencies, corrective action and legally required notifications arising from a security incident that results in an Unsecured PHI Breach of County Information caused by Contractor/Business Associate's weaknesses, negligence, errors, or lack of information security or privacy controls or provisions hereunder.

13. AUDIT

When not prohibited by regulation, Contractor/Business Associate will provide to County a summary of: (1) the results of any security audits, security reviews, or other relevant audits, conducted by Contractor/Business Associate or a third party; and (2) corrective actions or modifications, if any, Contractor/Business Associate will implement in response to such audits.

During the term of this Contract/Agreement, County or a mutually agreed third-party designee may annually, or more frequently as agreed in writing by the parties, request a security audit of Contractor/Business Associate's Information Security Management System (ISMS), data center, services and/or systems containing or processing County Information in the form of Contractor/Business Associate's SSAE-18 SOC-2 type II report, pursuant to Section 12(b), shall satisfy this requirement.

14. SPECIFIC SOFTWARE AS A SERVICE (SaaS) CONTRACTUAL TERMS AND CONDITIONS

- a) **License.** Subject to the terms and conditions set forth in this Contract/Agreement, including payment of the license fees by County to Contractor/Business Associate, Contractor/Business Associate hereby grants to County a non-exclusive, non-transferable license to use the service during the term of this Contract/Agreement to achieve the purposes stated herein, as well as any documentation and training materials.
- b) **Business Continuity.** In the event that Contractor/Business Associate's infrastructure or Information becomes lost, damaged or destroyed, Contractor/Business Associate shall immediately, and not longer than one (1) business day, implement the Contractor/Business Associate's Business Continuity Plan, in order to continue to provide the service. Contractor/Business Associate's obligation to reimburse the County's actual and direct costs related to lost, damaged or destroyed Information shall be determined by the County.

The plan, at a minimum, shall include the services of a third-party recovery provider for which the County shall be the first in the order of recovery among Contractor/Business Associate's customers. The third-party recovery provider shall provide and assist Contractor/Business Associate in its operations, system management and technical support.

The Contractor/Business Associate shall include in its Business Continuity Plan a service offering, a distributed IT infrastructure and a mirrored critical system, Contractor/Business Associate will assist the County in providing such a system within one (1) Day of the County's notification.

In the event that the service is interrupted, the Information may be accessed and retrieved within two (2) hours at any point in time. Additionally, Contractor/Business Associate shall store a backup of all Information in an off-site "hardened" facility no less than daily, maintaining the security of Information, the security requirements of which are described herein.

- c) **Enhancements, Upgrades, Replacements and New Versions.** The Contractor/Business Associate agrees to Provide to the County, at no cost, prior to, and during installation and implementation of the system any Software/firmware Enhancements, Upgrades and replacements which the Contractor/Business Associate initiates or generates that are within the scope of the products licensed and that are made available at no charge to other Contractor/Business Associate customers.

During the term of this Contract/Agreement, the Contractor/Business Associate shall notify the County of the availability of newer versions of the software and within thirty (30) Days provide the County with this new version.

The Contractor/Business Associate shall provide any Updated Documentation in the form of new revision manuals or changed pages to current manuals consistent with the original Documentation supplied and reflecting the changes included in the new version of the software as they are made available. The Contractor/Business Associate shall also provide installation instructions, procedures and any installation program required by the Enhancement, Upgrade, Replacement or new versions.

During the Contract/Agreement term, Contractor/Business Associate shall not delete or disable a feature or functionality unless the Contractor/Business Associate provides sixty (60) Days advance notice and the County provides written consent to the deleted or disabled feature or functionality. Should there be a replacement feature or functionality, the County shall have the sole discretion whether to accept such replacement. The replacement shall be at no additional cost to the County.

- d) **Contractor/Business Associate's Use of Information.** Contractor/Business Associate may use the Information only as necessary to carry out its obligations under this Contract/Agreement, and for no other purpose other than the following:

- i) May observe and report back to the County on County's usage of the service and make recommendations for improved usage.

- e) **Disposition of Information; Back-up Information.** County retains the right to use the service to access and retrieve County content and data stored on Contractor/Business Associate's infrastructure at its sole discretion.

Contractor/Business Associate shall back up Information once in each 24-hour period.

- f) **Location of Information.** Contractor/Business Associate warrants and represents that it shall store and process County Information and content only in the continental United States and that at no time will County Information traverse the borders of the continental United States in an unencrypted manner.

- g) **Data Center Audit and Certification.** An SOC 3 audit certification shall be conducted annually and a copy of the results provided to the County both during and prior to the commencement of the Contract/Agreement. The results of the SOC 3 audit and Contractor/Business Associate's plan for addressing or resolving the audit findings shall be shared with the County within ten (10) business days of Contractor/Business Associate's receipt of the audit results. Contractor/Business Associate agrees to provide the County with the current SOC 3 audit certification upon the County's request.

At its own expense, the County shall have the right to confirm Contractor/Business Associate's infrastructure and security practices via an onsite inspection at least once a year. In lieu of an on-site audit and upon the County's request, no more than once per year Contractor/Business Associate shall complete an audit questionnaire regarding Contractor/Business Associate's information security program.

- h) **Services Provided by a Subcontractor.** Prior to the use of any Subcontractor for SaaS services under this Contract/Agreement, Contractor/Business Associate shall notify the County of the Subcontractor(s) that will be involved in providing any services to the County and obtain the County's written consent.

In the event that Contractor/Business Associate terminates its agreement with the Subcontractor, Contractor/Business Associate shall first allow the County to assume all of the rights and obligations of Contractor/Business Associate under the agreement and to transfer the agreement to the County, provided there shall be no changes in the services requirement. Contractor/Business Associate shall provide the County with advance written notice of its intent to terminate the Subcontractor agreement and at least thirty (30) Days to respond and indicate whether the County wishes to assume the rights and obligations under the Subcontractor agreement.

- i) **Information Import Requirements at Termination.** Within five (5) business days of notification of termination of this Contract/Agreement, the Contractor/Business Associate shall provide the County with a complete and secure copy of all County Information suitable for import into commercially available database software (e.g. MS-SQL), such as XML format, including all schema and transformation definitions and/or delimited text files with documented, detailed schema definitions along with attachments in their native format. These files will be comprised of data contained in the Contractor/Business Associate's system. The structure of the relational database will be specific to the data and will not be representative of the proprietary Contractor/Business Associate database.

15. Termination Assistance Services. Termination Assistance Services will be provided pursuant to Section 35.2 of the underlying Contract/Agreement. **CERTIFICATION**

The County must receive within ten (10) business days of its request, a certification from Contractor/Business Associate (for itself and any Subcontractors) that certifies and validates compliance with the minimum standard set forth above. In addition, Contractor/Business Associate shall maintain a copy of any validation/attestation reports that its product(s) generate, and such reports shall be subject to audit in accordance with the agreement. Failure on the part of the Contractor/Business Associate to comply with any of the provisions of this Exhibit, Information Security Contract/Agreement Requirements shall constitute a material breach of this arrangement upon which the County may terminate or suspend this agreement.

16. REPORTING REQUIREMENTS FOR SIGNIFICANT CHANGES

During the term of this Contract/Agreement, Contractor/Business Associate must notify the Covered Entity within ten (10) business days of implementation, in writing, about any significant changes such as technology changes, modification in the implemented security safeguards or any major infrastructure changes. Dependent on the adjustment, Contractor/Business Associate may be asked to re-submit the Exhibit R to document the change.

17. COMPLIANCE

Contractor/Business Associate shall provide information about its information security practices by completing Exhibit D.8 "LACDMH Contractor/Business Associate's Compliance with Information Security Requirements" questionnaire. By submitting, Contractor/Business Associate certifies that it will be in compliance with Los Angeles County Board of Supervisors Policies, and the expected minimum standard set forth above at the commencement of this agreement with the County and during the term of any arrangement that may be awarded pursuant to this agreement. The completed forms must be returned to DMH Information Security Officer (DISO) within ten (10) business days and approved to certify compliance.

AMENDMENT NUMBER FIVE TO
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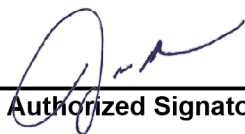
ATTACHMENT 4

Schedule D.8 (Contractor's Compliance with Encryption Requirements) -
(Replaced in its entirety by revised Exhibit D.8
under Amendment Number Five of Agreement)

	YES	NO	N/A	YES	NO
9 Will all endpoints accessing and/or storing County data be physically secured? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Will all security incidents involving County data be promptly reported? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Will all users' access be formally authorized, and users provided with unique logon IDs & complex passwords for accessing County data? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12 Will all users' activities be monitored to ensure they are accessing the minimum information necessary to perform their assignments? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
County system admin define roles and access credentials					
13 Will users' access be modified once their role no longer justifies such access or access promptly suspended upon discharge/termination? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
County system admin define roles and access credentials					
14 Will all endpoints accessing and/or storing County data be regularly patched and updated for known vulnerabilities? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 Will all endpoints accessing and/or storing County data be rendered unreadable and/or unrecoverable, prior to disposition? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
16 Will Business Associate / Contractor inspect and conduct annual risk assessments on its systems involving County data to identify and mitigate weaknesses and vulnerabilities? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17 Does the entity have policies and procedures to ensure continuity and availability of critical business processes during emergencies or disasters and ability to restore/recover data from ransomware attacks? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
18 Will Business Associate / Contractor return or destroy non-public County data upon expiration or termination of their contract? <i>If "NO", or N/A please explain.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Joseph McGovern

Authorized Signatory Name (Print)



Authorized Signatory Signature

EVP

Authorized Signatory Official Title

05 - 21 - 2020

Date

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 5

Exhibit D.9 (Acceptable Use and Confidentiality of County Information Assets) -
(is hereby added under Amendment Number Five of Agreement)



**COUNTY OF LOS ANGELES
AGREEMENT FOR ACCEPTABLE USE
AND CONFIDENTIALITY OF COUNTY INFORMATION ASSETS**

(Note: Authorized signatory must sign at time of contract execution. For employee(s) and non-employee(s), Contractor shall make available within three (3) business days upon DMH request)

ANNUAL

As a County of Los Angeles (County) Workforce Member, and as outlined in Board of Supervisors Policy [6.101](#) "Use of County Information Assets", I understand and agree:

- That I occupy a position of trust, as such I will use County Information Assets in accordance with countywide and Departmental policies, standards, and procedures including, but not limited to, Board of Supervisors Policy [9.015](#) "County Policy of Equity" (CPOE) and Board of Supervisors Policy [9.040](#) "Investigations Of Possible Criminal Activity Within County Government".
- That I am responsible for the security of information and systems to which I have access or to which I may otherwise obtain access even if such access is inadvertent or unintended. I shall maintain the confidentiality of County Information Assets (as defined in Board of Supervisors Policy [6.100](#) – Information Security Policy).
- That County Information Assets must not be used for:
 - Any unlawful purpose;
 - Any purpose detrimental to the County or its interests;
 - Personal financial gain;
 - In any way that undermines or interferes with access to or use of County Information Asset for official County purposes;
 - In any way that hinders productivity, efficiency, customer service, or interferes with other County Workforce Members performance of his/her official job duties.
- That records, files, databases, and systems contain restricted, confidential or internal use information (i.e. non-public information) as well as Public information. I may access, read or handle Non-public information to the extent required to perform my assigned duties. Although I may have access to Non-public information, I agree to not access such information unless it is necessary for the performance of my assigned duties.
- Not to divulge, publish, share, expose or otherwise make known to unauthorized persons, organization or the public any County Non-public Information. I understand that:
 - I may divulge Non-public Information to authorized County staff and managers as necessary to perform my job duties;
 - I may divulge Non-public Information to others only if specifically authorized to do so by federal, state, or local statute, regulation or court order, and with the knowledge of my supervisor or manager;
 - I may not discuss Non-public Information outside of the workplace or outside of my usual work area;
 - To consult my supervisor or manager on any questions I may have concerning whether particular information may be disclosed.
- To report any actual breach of Information Security or a situation that could potentially result in a breach, misuse or crime relating to County Information Assets whether this is on my part or on the part of another person following proper County and Departmental procedures. I understand that I am expected to assist in protecting evidence of crimes

The signed copy of this agreement must be maintained by Business Associate / Contractor

June 1, 2020

relating to Information Assets and will follow the instructions of, and cooperate, with management and any investigative response team.

- I have no expectation of privacy concerning my activities related to the use of, or access to, County Information Assets, including anything I create, store, send, or receive using County Information Assets. My actions may be monitored, logged, stored, made public, and are subject to investigation, audit and review without notice or consent.
- Not possess a County Information Asset without authorization. Although I may be granted authorization to possess and use a County Information Asset for the performance of my duties, I will never be granted any ownership or property rights to County Information Assets. All Information Assets and Information is the property of the County. I must surrender County Information Assets upon request. Any Information Asset retained without authorization will be considered stolen and prosecuted as such.
- Not intentionally, or through negligence, damage or interfere with the operation of County Information Assets.
- To neither, prevent authorized access, nor enable unauthorized access to County Information Assets.
- To not make computer networks or systems available to others unless I have received specific authorization from the Information Owner.
 - Not share my computer identification codes and other authentication mechanisms (e.g., logon identification (ID), computer access codes, account codes, passwords, ID cards/tokens, biometric logons, and smartcards) with any other person or entity. Nor will I keep or maintain any unsecured record of my password(s) to access County Information Assets, whether on paper, in an electronic file.
 - I am accountable for all activities undertaken through my authentication mechanisms (e.g., logon identification (ID), computer access codes, account codes, passwords, ID cards/tokens, biometric logons, and smartcards).
- To not intentionally introduce any malicious software (e.g., computer virus, spyware, worm, key logger, or malicious code), into any County Information Asset or any non-County Information Systems or networks.
- To not subvert or bypass any security measure or system which has been implemented to control or restrict access to County Information Assets and any restricted work areas and facilities.
 - Disable, modify, or delete computer security software (e.g., antivirus, antispyware, firewall, and/or host intrusion prevention software) on County Information Assets. I shall immediately report any indication that a County Information Asset is compromised by malware following proper County and Departmental procedures.
- To not access, create, or distribute (e.g., via email, Instant Messaging or any other means) any offensive materials (e.g., text or images which are defamatory, sexually explicit, racial, harmful, or insensitive) on County Information Assets, unless authorized to do so as a part of my assigned job duties (e.g., law enforcement). I will report any offensive materials observed or received by me on County Information Assets following proper County and Departmental procedures.
- That the Internet is public and uncensored and contains many sites that may be considered offensive in both text and images. I shall use County Internet services in accordance with countywide and Departmental policies and procedures. I understand

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June 1, 2020

that County Internet services may be filtered and that my use of resources provided on the Internet may expose me to offensive materials. I agree to hold County harmless from and against any and all liability and expense should I be inadvertently exposed to such offensive material.

- That County electronic communications (e.g., email, instant messages, etc.) created, sent, and/or stored using County electronic communications services are the property of the County. I will use proper business etiquette when communicating using County electronic communications services.
- Only use County Information Assets to create, exchange, publish, distribute, or disclose in public forums and social media (e.g., blog postings, bulletin boards, chat rooms, Twitter, Instagram, Facebook, MySpace, and other social media services) in accordance with countywide and Departmental policies, standards, and procedures.
- Not store County Non-public Information on any Internet storage site except in accordance with countywide and Departmental policies, standards, and procedures.
- Not copy or otherwise use any copyrighted or other proprietary County Information Assets (e.g., licensed software, documentation, and data), except as permitted by the applicable license agreement and approved by County Department management. Nor will I use County Information Assets to infringe on copyrighted material.
- That noncompliance may result in disciplinary action (e.g., suspension, discharge, denial of access, and termination of contracts) as well as both civil and criminal penalties and that County may seek all possible legal redress.

I HAVE READ AND UNDERSTAND THE ABOVE AGREEMENT:

Executed on behalf of Netsmart Technologies, Inc. and its employees.

Netsmart Technologies, Inc
11100 Nall Avenue
Overland Park, KS 66211

Business Associate / Contractor
Workforce Member's Name



Joseph McGovern
Executive Vice President
Netsmart Technologies, Inc.

06 -01 -2020

Business Associate / Contractor
Workforce Member's Signature

Business Associate / Contractor
Workforce Member's ID Number

Date

Business Associate / Contractor
Manager's Name

Business Associate / Contractor
Manager's Signature

Business Associate / Contractor
Manager's Title

Date

The signed copy of this agreement must be maintained by Business Associate / Contractor

June 1, 2020

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 6

Exhibit D.10 (Confidentiality Oath) -
(is hereby added under Amendment Number Five of Agreement)



COUNTY OF LOS ANGELES
DEPARTMENT OF MENTAL HEALTH
CHIEF INFORMATION OFFICE BUREAU
CONFIDENTIALITY OATH
Non-LACDMH Workforce Members

(Note: Authorized signatory must sign at time of contract execution. For employee(s) and non-employee(s), Contractor shall make available within three (3) business days upon DMH request)

ANNUAL

The intent of this Confidentiality Form is to ensure that all, Business Associates, Contractors, Consultants, Interns, Volunteers, Locum Tenens, Non-Governmental Agencies (NGA), Fee-For-Service Hospitals (FFS1), Fee-For-Service Outpatient (FFS2) and Pharmacy users are aware of their responsibilities and accountability to protect the confidentiality of clients' sensitive information viewed, maintained and/or accessed by any DMH on-line systems.

Further, the Department's Medi-Cal and MEDS access policy has been established in accordance with federal and state laws governing confidentiality.

The California Welfare and Institutions (W&I) Code, Section 14100.2, cites the information to be regarded confidential. This information includes applicant/beneficiary names, addresses, services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data. (See also 22 California Code of Regulations (C.C.R.), Sections 50111 and 51009)

The Medi-Cal Eligibility Manual, Section 2-H, titled "Confidentiality of Medi-Cal Case Records," referring to Section 14100.2, a, b, f, and h, W&I Code, provides in part that:

- “(a) All types of information, whether written or oral, concerning a person, made or kept by any public office or agency in connection with the administration of any provision of this chapter *... shall be confidential, and shall not be open to examination other than for purposes directly connected with administration of the Medi-Cal program.”
- “(b) Except as provided in this section and to the extent permitted by Federal Law or regulation, all information about applicants and recipients as provided for in subdivision (a) to be safeguarded includes, but is not limited to, names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation or personal information, and medical data, including diagnosis and past history of disease or disability.”
- “(f) The State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to the Medi-Cal program **....”
- “(h) Any person who knowingly releases or possesses confidential information concerning persons who have applied for or who have been granted any form of Medi-Cal benefits ***... for which State or Federal funds are made available in violation of this section is guilty of a misdemeanor.”

*, **, *** The State of California's Statute for Medicaid Confidentiality can be found at the following web address:
<http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/Medicaidstatute.aspx>

Please read the agreement and take due time to consider it prior to signing.

I understand that County Departments, Contractors, Consultants, Interns, Volunteers, Locum Tenens, Non-Governmental Agencies (NGA), Fee-For-Service Hospitals (FFS1), Fee-For-Service Outpatient (FFS2) and Pharmacy users are prohibited from sharing their unique logon I.D. and password with anyone.

Further, I understand that data browsing is strictly prohibited and my access to information is restricted to the minimum necessary required to carry out my job responsibilities.

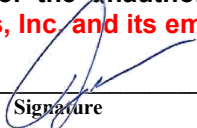
Further, I understand that obtaining, releasing, or using confidential client information from case records or computer records for purposes not specifically related to the administration of services and authorized by the W&I Code (Section 14100.2) is prohibited.

Further, I understand the violation of the confidentiality of records or of these policies which are made for protection of the confidentiality of such records, may cause:

1. A civil action under the provision of the W&I Code 5330 Sections:
 - a) Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him or her in violation of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:
 1. Ten thousand Dollars (\$10,000).
 2. Three times the amount of actual damages, if any sustained by the plaintiff.
 - b) Any person may bring an action against an individual who has negligently released confidential information or records concerning him or her in violation of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for both of the following:
 1. One thousand dollars (\$1,000) in order to recover under this paragraph; it shall not be a prerequisite that the plaintiff suffer or be threatened with actual damages.
 2. The amount of actual damages, if any, sustained by the plaintiff.
 - c) Any person may, in accordance with Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of this chapter, and may in the same action seek damages as provided in this section.
 - d) In addition to the amounts specified in subdivisions (a) and (b), the plaintiff shall recover court costs and reasonable attorney's fees as determined by the court.
2. Disciplinary action including suspension or termination of employment.
3. Further, I understand that the County will not provide legal protection if violations of these policies or procedures occur.

I hereby certify that I have read this form and I hereby certify that I have read this form and I have knowledge of the requirements of State and Federal confidentiality laws and will comply with all applicable provisions of same.

I, the undersigned, hereby agree not to divulge any information or records concerning any client except in accordance with W&I Code, Section 5328 et seq. and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). I acknowledge that the unauthorized release of confidential information as described in this document may result in disciplinary action up to and including termination of any office of employment. I further agree I have read as described in this document that a person may make me subject to a civil action under the provisions of the W&I Code for the unauthorized release of confidential information. **Executed on behalf of Netsmart Technologies, Inc. and its employees.**

User's Name: Joseph McGovern , EVP /  / 06 - 01 - 2020
Print Signature Date

Provider Name: Netsmart Technologies, Inc. / Provider #: n/a / Phone #: () 800.842.1973

Address: 11100 Nall Avenue / Overland Park, KS / 66211 / n/a
City Zip Code Service Area

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 7

Exhibit M-2 (Business Associate Agreement) -
Replaced in its entirety by revised Exhibit M-2
under Amendment Number Five of Agreement)



BUSINESS ASSOCIATE AGREEMENT UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

County is a Covered Entity as defined by, and subject to the requirements and prohibitions of, the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA), and regulations promulgated thereunder, including the Privacy, Security, Breach Notification, and Enforcement Rules at 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164 (collectively, the "HIPAA Rules").

Contractor performs or provides functions, activities or services to County that require Contractor in order to provide such functions, activities or services to create, access, receive, maintain, and/or transmit information that includes or that may include Protected Health Information, as defined by the HIPAA Rules. As such, Contractor is a Business Associate, as defined by the HIPAA Rules, and is therefore subject to those provisions of the HIPAA Rules that are applicable to Business Associates.

The HIPAA Rules require a written agreement ("Business Associate Agreement") between County and Contractor in order to mandate certain protections for the privacy and security of Protected Health Information, and these HIPAA Rules prohibit the disclosure to or use of Protected Health Information by Contractor if such an agreement is not in place.

This Business Associate Agreement and its provisions are intended to protect the privacy and provide for the security of Protected Health Information disclosed to or used by Contractor in compliance with the HIPAA Rules.

Therefore, the parties agree as follows:

1. DEFINITIONS

- 1.1 "Breach" has the same meaning as the term "breach" at 45 C.F.R. § 164.402.
- 1.2 "Business Associate" has the same meaning as the term "business associate" at 45 C.F.R. § 160.103. For the convenience of the parties, a "business associate" is a person or entity, other than a member of the workforce of covered entity, who performs functions or activities on behalf of, or provides certain services to, a covered entity that involve access by the business associate to Protected Health Information. A "business associate" also is a subcontractor that creates, receives, maintains, or transmits Protected Health

Information on behalf of another business associate. And in reference to the party to this Business Associate Agreement "Business Associate" shall mean Contractor.

- 1.3 "Covered Entity" has the same meaning as the term "covered entity" at 45 C.F.R. § 160.103, and in reference to the party to this Business Associate Agreement, "Covered Entity" shall mean County.
- 1.4 "Data Aggregation" has the same meaning as the term "data aggregation" at 45 C.F.R. § 164.501.
- 1.5 "De-identification" refers to the de-identification standard at 45 C.F.R. § 164.514.
- 1.6 "Designated Record Set" has the same meaning as the term "designated record set" at 45 C.F.R. § 164.501.
- 1.7 "Disclose" and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside Business Associate's internal operations or to other than its workforce. (See 45 C.F.R. § 160.103.)
- 1.8 "Electronic Health Record" means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. (See 42 U.S. C. § 17921.)
- 1.9 "Electronic Media" has the same meaning as the term "electronic media" at 45 C.F.R. § 160.103. For the convenience of the parties, electronic media means (1) Electronic storage material on which data is or may be recorded electronically, including, for example, devices in computers (hard drives) and any removable/transportable digital memory medium, such as magnetic tape or disk, optical disk, or digital memory card; (2) Transmission media used to exchange information already in electronic storage media. Transmission media include, for example, the Internet, extranet or intranet, leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media. Certain transmissions, including of paper, via facsimile, and of voice, via telephone, are not considered to be transmissions via electronic media if the information being exchanged did not exist in electronic form immediately before the transmission.
- 1.10 "Electronic Protected Health Information" has the same meaning as the term "electronic protected health information" at 45 C.F.R. § 160.103, limited to Protected Health Information created or received

by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Electronic Protected Health Information means Protected Health Information that is (i) transmitted by electronic media; (ii) maintained in electronic media.

- 1.11 "Health Care Operations" has the same meaning as the term "health care operations" at 45 C.F.R. § 164.501.
- 1.12 "Individual" has the same meaning as the term "individual" at 45 C.F.R. § 160.103. For the convenience of the parties, Individual means the person who is the subject of Protected Health Information and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502 (g).
- 1.13 "Law Enforcement Official" has the same meaning as the term "law enforcement official" at 45 C.F.R. § 164.103.
- 1.14 "Minimum Necessary" refers to the minimum necessary standard at 45 C.F.R. § 164.502 (b).
- 1.15 "Protected Health Information" has the same meaning as the term "protected health information" at 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. For the convenience of the parties, Protected Health Information includes information that (i) relates to the past, present or future physical or mental health or condition of an Individual; the provision of health care to an Individual, or the past, present or future payment for the provision of health care to an Individual; (ii) identifies the Individual (or for which there is a reasonable basis for believing that the information can be used to identify the Individual); and (iii) is created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, and includes Protected Health Information that is made accessible to Business Associate by Covered Entity. "Protected Health Information" includes Electronic Protected Health Information.
- 1.16 "Required by Law" " has the same meaning as the term "required by law" at 45 C.F.R. § 164.103.
- 1.17 "Secretary" has the same meaning as the term "secretary" at 45 C.F.R. § 160.103
- 1.18 "Security Incident" has the same meaning as the term "security incident" at 45 C.F.R. § 164.304.
- 1.19 "Services" means, unless otherwise specified, those functions, activities, or services in the applicable underlying Agreement,

Contract, Master Agreement, Work Order, or Purchase Order or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 1.20 "Subcontractor" has the same meaning as the term "subcontractor" at 45 C.F.R. § 160.103.
- 1.21 "Unsecured Protected Health Information" has the same meaning as the term "unsecured protected health information" at 45 C.F.R. § 164.402.
- 1.22 "Use" or "Uses" means, with respect to Protected Health Information, the sharing, employment, application, utilization, examination or analysis of such Information within Business Associate's internal operations. (See 45 C.F.R § 164.103.)
- 1.23 Terms used, but not otherwise defined in this Business Associate Agreement, have the same meaning as those terms in the HIPAA Rules.

2. PERMITTED AND REQUIRED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 2.1 Business Associate may only Use and/or Disclose Protected Health Information as necessary to perform Services, and/or as necessary to comply with the obligations of this Business Associate Agreement.
- 2.2 Business Associate may Use Protected Health Information for de-identification of the information if de-identification of the information is required to provide Services.
- 2.3 Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 2.4 Business Associate shall make Uses and Disclosures and requests for Protected Health Information consistent with the Covered Entity's applicable Minimum Necessary policies and procedures.
- 2.5 Business Associate may Use Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities.
- 2.6 Business Associate may Disclose Protected Health Information as necessary for the proper management and administration of its business or to carry out its legal responsibilities, provided the Disclosure is Required by Law or Business Associate obtains reasonable assurances from the person to whom the Protected

Health Information is disclosed (i.e., the recipient) that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was disclosed to the recipient and the recipient notifies Business Associate of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

- 2.7 Business Associate may provide Data Aggregation services relating to Covered Entity's Health Care Operations if such Data Aggregation services are necessary in order to provide Services.

3. PROHIBITED USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

- 3.1 Business Associate shall not Use or Disclose Protected Health Information other than as permitted or required by this Business Associate Agreement or as Required by Law.
- 3.2 Business Associate shall not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 2.5 and 2.6.
- 3.3 Business Associate shall not Use or Disclose Protected Health Information for de-identification of the information except as set forth in section 2.2.

4. OBLIGATIONS TO SAFEGUARD PROTECTED HEALTH INFORMATION

- 4.1 Business Associate shall implement, use, and maintain appropriate safeguards to prevent the Use or Disclosure of Protected Health Information other than as provided for by this Business Associate Agreement.
- 4.2 Business Associate shall comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for by this Business Associate Agreement.
- 4.3 Business Associate shall be responsible for the provision of an annual mandatory information security and privacy training, for all staff that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate or the County, at the time of initial employment and on an ongoing basis as required by federal and California State law, including but not limited to Health Insurance Portability and Accountability Act (HIPAA).

4.3.1 Business Associate shall monitor, track, document (e.g., training bulletins/flyers, sign-in sheets specifying name and function of staff, and/or individual certificates of completion, etc.) and make available upon request by the federal, State and/or County government the annual information security and privacy training provided to Business Associate's workforce members, including clerical, administrative/management, clinical, subcontractors, and independent contractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate or the County.

4.4 Business Associate shall ensure that all workforce members, including clerical, administrative, management, clinical, subcontractors, and independent contractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate or the County, sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access sensitive content such as Protected Health Information. The statement must be renewed annually.

4.5 Appropriate sanctions must be applied against workforce members who fail to comply with any provisions of Business Associate's security and privacy policies and procedures, including termination of employment where appropriate.

5. REPORTING NON-PERMITTED USES OR DISCLOSURES, SECURITY INCIDENTS, AND BREACHES OF UNSECURED PROTECTED HEALTH INFORMATION

5.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information not permitted by this Business Associate Agreement, any Security Incident, and/ or any Breach of Unsecured Protected Health Information as further described in Sections 5.1.1, 5.1.2, and 5.1.3. For purposes of this Agreement, "Security Incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by Business Associate.

5.1.1 Business Associate shall report to Covered Entity any Use or Disclosure of Protected Health Information by Business Associate, its employees, representatives, agents or

Subcontractors not provided for by this Agreement of which Business Associate becomes aware.

- 5.1.2 Business Associate shall report to Covered Entity any Security Incident of which Business Associate becomes aware.
- 5.1.3. Business Associate shall report to Covered Entity any Breach by Business Associate, its employees, representatives, agents, workforce members, or Subcontractors of Unsecured Protected Health Information that is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate. Business Associate shall be deemed to have knowledge of a Breach of Unsecured Protected Health Information if the Breach is known, or by exercising reasonable diligence would have been known, to any person, other than the person committing the Breach, who is an employee, officer, or other agent of Business Associate, including a Subcontractor, as determined in accordance with the federal common law of agency.
- 5.2 Except as provided in Section 5.3, for any reporting required by Section 5.1, Business Associate shall provide, to the extent available, all information required by, and within the times frames specified in, Sections 5.2.1 and 5.2.2.
 - 5.2.1 Business Associate shall make an immediate telephonic report upon discovery of the non-permitted Use or Disclosure of Protected Health Information, Security Incident or Breach of Unsecured Protected Health Information to **(562) 940-3335** that minimally includes:
 - (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
 - (b) The number of Individuals whose Protected Health Information is involved;
 - (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth,

home address, account number, diagnosis, disability code or other types of information were involved);

- (d) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach

5.2.2 Business Associate shall make a written report without unreasonable delay and in no event later than three (3) business days from the date of discovery by Business Associate of the non-permitted Use or Disclosure of Protected Health Information, Security Incident, or Breach of Unsecured Protected Health Information and to the **HIPAA Compliance Officer at: Hall of Records, County of Los Angeles, Chief Executive Office, Risk Management Branch-Office of Privacy, 320 W. Temple Street, 7th Floor, Los Angeles, California 90012, PRIVACY@ceo.lacounty.gov**, and DMH HIPAA Privacy Officer at: **County of Los Angeles, Department of Mental Health, HIPAA Privacy Office, 695 S. Vermont Ave., 8th Floor, Los Angeles, California 90005, privacy@dmh.lacounty.gov** that includes, to the extent possible:

- (a) A brief description of what happened, including the date of the non-permitted Use or Disclosure, Security Incident, or Breach and the date of Discovery of the non-permitted Use or Disclosure, Security Incident, or Breach, if known;
- (b) The number of Individuals whose Protected Health Information is involved;
- (c) A description of the specific type of Protected Health Information involved in the non-permitted Use or Disclosure, Security Incident, or Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code or other types of information were involved);
- (d) The identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, Used, or Disclosed;

- (e) Any other information necessary to conduct an assessment of whether notification to the Individual(s) under 45 C.F.R. § 164.404 is required;
- (f) Any steps Business Associate believes that the Individual(s) could take to protect him or herself from potential harm from the non-permitted Use or Disclosure, Security Incident, or Breach;
- (g) A brief description of what Business Associate is doing to investigate, to mitigate harm to the Individual(s), and to protect against any further similar occurrences; and
- (h) The name and contact information for a person highly knowledgeable of the facts and circumstances of the non-permitted Use or Disclosure of PHI, Security Incident, or Breach.

5.2.3 If Business Associate is not able to provide the information specified in Section 5.2.1 or 5.2.2 at the time of the required report, Business Associate shall provide such information promptly thereafter as such information becomes available.

5.3 Business Associate may delay the notification required by Section 5.1.3, if a law enforcement official states to Business Associate that notification would impede a criminal investigation or cause damage to national security.

5.3.1 If the law enforcement official's statement is in writing and specifies the time for which a delay is required, Business Associate shall delay its reporting and/or notification obligation(s) for the time period specified by the official.

5.3.2 If the statement is made orally, Business Associate shall document the statement, including the identity of the official making the statement, and delay its reporting and/or notification obligation(s) temporarily and no longer than 30 days from the date of the oral statement, unless a written statement as described in Section 5.3.1 is submitted during that time.

6. WRITTEN ASSURANCES OF SUBCONTRACTORS

6.1 In accordance with 45 C.F.R. § 164.502 (e)(1)(ii) and § 164.308 (b)(2), if applicable, Business Associate shall ensure that any Subcontractor that creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate is

made aware of its status as a Business Associate with respect to such information and that Subcontractor agrees in writing to the same restrictions, conditions, and requirements that apply to Business Associate with respect to such information.

- 6.2 Business Associate shall take reasonable steps to cure any material breach or violation by Subcontractor of the agreement required by Section 6.1.
- 6.3 If the steps required by Section 6.2 do not cure the breach or end the violation, Contractor shall terminate, if feasible, any arrangement with Subcontractor by which Subcontractor creates, receives, maintains, or transmits Protected Health Information on behalf of Business Associate.
- 6.4 If neither cure nor termination as set forth in Sections 6.2 and 6.3 is feasible, Business Associate shall immediately notify County.
- 6.5 Without limiting the requirements of Section 6.1, the agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall require Subcontractor to contemporaneously notify Covered Entity in the event of a Breach of Unsecured Protected Health Information.
- 6.6 Without limiting the requirements of Section 6.1, agreement required by Section 6.1 (Subcontractor Business Associate Agreement) shall include a provision requiring Subcontractor to destroy, or in the alternative to return to Business Associate, any Protected Health Information created, received, maintained, or transmitted by Subcontractor on behalf of Business Associate so as to enable Business Associate to comply with the provisions of Section 18.4.
- 6.7 Business Associate shall provide to Covered Entity, at Covered Entity's request, a copy of any and all Subcontractor Business Associate Agreements required by Section 6.1.
- 6.8 Sections 6.1 and 6.7 are not intended by the parties to limit in any way the scope of Business Associate's obligations related to Subcontracts or Subcontracting in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

7. ACCESS TO PROTECTED HEALTH INFORMATION

- 7.1 To the extent Covered Entity determines that Protected Health Information is maintained by Business Associate or its agents or

Subcontractors in a Designated Record Set, Business Associate shall, within two (2) business days after receipt of a request from Covered Entity, make the Protected Health Information specified by Covered Entity available to the Individual(s) identified by Covered Entity as being entitled to access and shall provide such Individuals(s) or other person(s) designated by Covered Entity with a copy the specified Protected Health Information, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.524.

- 7.2 If any Individual requests access to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within two (2) days of the receipt of the request. Whether access shall be provided or denied shall be determined by Covered Entity.
- 7.3 To the extent that Business Associate maintains Protected Health Information that is subject to access as set forth above in one or more Designated Record Sets electronically and if the Individual requests an electronic copy of such information, Business Associate shall provide the Individual with access to the Protected Health Information in the electronic form and format requested by the Individual, if it is readily producible in such form and format; or, if not, in a readable electronic form and format as agreed to by Covered Entity and the Individual.

8. AMENDMENT OF PROTECTED HEALTH INFORMATION

- 8.1 To the extent Covered Entity determines that any Protected Health Information is maintained by Business Associate or its agents or Subcontractors in a Designated Record Set, Business Associate shall, within ten (10) business days after receipt of a written request from Covered Entity, make any amendments to such Protected Health Information that are requested by Covered Entity, in order for Covered Entity to meet the requirements of 45 C.F.R. § 164.526.
- 8.2 If any Individual requests an amendment to Protected Health Information directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request. Whether an amendment shall be granted or denied shall be determined by Covered Entity.

9. ACCOUNTING OF DISCLOSURES OF PROTECTED HEALTH INFORMATION

9.1 Business Associate shall maintain an accounting of each Disclosure of Protected Health Information made by Business Associate or its employees, agents, representatives or Subcontractors, as is determined by Covered Entity to be necessary in order to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.

9.1.1 Any accounting of disclosures provided by Business Associate under Section 9.1 shall include:

- (a) The date of the Disclosure;
- (b) The name, and address if known, of the entity or person who received the Protected Health Information;
- (c) A brief description of the Protected Health Information Disclosed; and
- (d) A brief statement of the purpose of the Disclosure.

9.1.2 For each Disclosure that could require an accounting under Section 9.1, Business Associate shall document the information specified in Section 9.1.1 and shall maintain the information for six (6) years from the date of the Disclosure.

9.2 Business Associate shall provide to Covered Entity, within ten (10) business days after receipt of a written request from Covered Entity, information collected in accordance with Section 9.1.1 to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528

9.3 If any Individual requests an accounting of disclosures directly from Business Associate or its agents or Subcontractors, Business Associate shall notify Covered Entity in writing within five (5) days of the receipt of the request, and shall provide the requested accounting of disclosures to the Individual(s) within 30 days. The information provided in the accounting shall be in accordance with 45 C.F.R. § 164.528.

10. COMPLIANCE WITH APPLICABLE HIPAA RULES

10.1 To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity's performance of such obligation(s).

- 10.2 Business Associate shall comply with all HIPAA Rules applicable to Business Associate in the performance of Services.
- 10.3 Business Associate, while performing services onsite and/or handling Covered Entity's data, must demonstrate its compliance with Los Angeles County Board of Supervisors Policies as they apply to this Agreement and the requirements stated in this Exhibit, Business Associate Agreement Under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Business Associate must attest that it has implemented adequate controls to meet the expected baseline set forth in Exhibit D.7, Information Security Contract/Agreement Requirements, at the commencement and during the renewal of this agreement with the County. The completed Exhibit D.8, LACDMH Contractor /Business Associate's Compliance with Information Security Requirements questionnaire must be returned to DMH Information Security Officer (DISO) for approval within ten (10) business days from the signed date of this agreement. Business Associate must be prepared to provide supporting evidence upon request.
- 10.4 During the term of the agreement, Business Associate must notify the Covered Entity within ten (10) days of implementation, in writing, about any significant changes such as technology changes, modification in the implemented security safeguards or any major infrastructure changes that would materially impact the services being performed by Business Associate for Covered Entity. Dependent on the adjustment, Business Associate may be asked to re-submit the Exhibit D.8 to document the change.
- 10.5 Business Associate must ensure that prior to the access by its workforce members including Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate or the County, Business Associate will acknowledge and sign, on behalf of its workforce members, the County of Los Angeles Agreement for Acceptable Use and Confidentiality of County Information Technology Resources, Exhibit D.9 to this agreement. Business Associate must maintain and make available upon request by the federal, State and/or County government.
- 10.6 Business Associate must ensure that prior to the access by its workforce members including Subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate or the County, Business Associate will acknowledge and sign, on behalf of its workforce members, the Confidentiality Oath (Non-LAC-DMH Workforce Members), Exhibit

D.10 to this agreement. Business Associate must maintain and make available upon request by the federal, State and/or County government.

11. AVAILABILITY OF RECORDS

11.1 Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy and Security Regulations.

11.2 Unless prohibited by the Secretary, Business Associate shall immediately notify Covered Entity of any requests made by the Secretary and provide Covered Entity with copies of any documents produced in response to such request.

12. MITIGATION OF HARMFUL EFFECTS

12.1 Business Associate shall mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Business Associate Agreement that is known to Business Associate.

13. BREACH NOTIFICATION TO INDIVIDUALS

13.1 Business Associate shall, to the extent Covered Entity determines that there has been a Breach of Unsecured Protected Health Information by Business Associate, its employees, representatives, agents or Subcontractors, provide breach notification to the Individual in a manner that permits Covered Entity to comply with its obligations under 45 C.F.R. § 164.404.

13.1.1 Business Associate shall notify, subject to the review and approval of Covered Entity, each Individual whose Unsecured Protected Health Information has been, or is reasonably believed to have been, accessed, acquired, Used, or Disclosed as a result of any such Breach.

13.1.2 The notification provided by Business Associate shall be written in plain language, shall be subject to review and approval by Covered Entity, and shall include, to the extent possible:

- (a) A brief description of what happened, including the date of the Breach and the date of the Discovery of the Breach, if known;
- (b) A description of the types of Unsecured Protected Health Information that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);
- (c) Any steps the Individual should take to protect him or herself from potential harm resulting from the Breach;
- (d) A brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individual(s), and to protect against any further Breaches; and
- (e) Contact procedures for Individual(s) to ask questions or learn additional information, which shall include a toll-free telephone number, an e-mail address, Web site, or postal address.

13.2 Covered Entity, in its sole discretion, may elect to provide the notification required by Section 13.1 and/or to establish the contact procedures described in Section 13.1.2.

13.3 Business Associate shall reimburse Covered Entity any and all costs incurred by Covered Entity, in complying with Subpart D of 45 C.F.R. Part 164, including but not limited to costs of notification, internet posting, or media publication, as a result of Business Associate's Breach of Unsecured Protected Health Information; Covered Entity shall not be responsible for any costs incurred by Business Associate in providing the notification required by 13.1 or in establishing the contact procedures required by Section 13.1.2.

14. INDEMNIFICATION

14.1 Business Associate shall indemnify, defend, and hold harmless Covered Entity, its Special Districts, elected and appointed officers, employees, and agents from and against any and all liability, including but not limited to demands, claims, actions, fees, costs, expenses (including attorney and expert witness fees), and penalties and/or fines (including regulatory penalties and/or fines), arising from or connected with Business Associate's acts and/or omissions arising from and/or relating to Business Associate's Breach of

Unsecured Protected Health Information under this Business Associate Agreement, including, but not limited to, compliance and/or enforcement actions and/or activities, whether formal or informal, by the Secretary or by the Attorney General of the State of California.

- 14.2 Section 14.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Insurance and/or Indemnification in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

15. OBLIGATIONS OF COVERED ENTITY

- 15.1 Covered Entity shall notify Business Associate of any current or future restrictions or limitations on the Use or Disclosure of Protected Health Information that would affect Business Associate's performance of the Services, and Business Associate shall thereafter restrict or limit its own Uses and Disclosures accordingly.
- 15.2 Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except to the extent that Business Associate may Use or Disclose Protected Health Information as provided in Sections 2.3, 2.5, and 2.6.

16. TERM

- 16.1 Unless sooner terminated as set forth in Section 17, the term of this Business Associate Agreement shall be the same as the term of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other service arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 16.2 Notwithstanding Section 16.1, Business Associate's obligations under Sections 11, 14, and 18 shall survive the termination or expiration of this Business Associate Agreement.

17. TERMINATION FOR CAUSE

- 17.1 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's

status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and the breaching party has not cured the breach or ended the violation within the time specified by the non-breaching party, which shall be reasonable given the nature of the breach and/or violation, the non-breaching party may terminate this Business Associate Agreement.

- 17.2 In addition to and notwithstanding the termination provisions set forth in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, if either party determines that the other party has violated a material term of this Business Associate Agreement, and cure is not feasible, the non-breaching party may terminate this Business Associate Agreement immediately.

18. DISPOSITION OF PROTECTED HEALTH INFORMATION UPON TERMINATION OR EXPIRATION

- 18.1 Except as provided in Section 18.3, upon termination for any reason or expiration of this Business Associate Agreement, Business Associate shall return or, if agreed to by Covered entity, shall destroy as provided for in Section 18.2, all Protected Health Information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that Business Associate, including any Subcontractor, still maintains in any form. Business Associate shall retain no copies of the Protected Health Information.
- 18.2 Destruction for purposes of Section 18.2 and Section 6.6 shall mean that media on which the Protected Health Information is stored or recorded has been destroyed and/or electronic media have been cleared, purged, or destroyed in accordance with the use of a technology or methodology specified by the Secretary in guidance for rendering Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals.
- 18.3 Notwithstanding Section 18.1, in the event that return or destruction of Protected Health Information is not feasible or Business Associate determines that any such Protected Health Information is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities, Business Associate may retain that Protected Health Information for which destruction or return is infeasible or that Protected Health Information which is necessary for Business Associate to continue its proper

management and administration or to carry out its legal responsibilities and shall return or destroy all other Protected Health Information.

18.3.1 Business Associate shall extend the protections of this Business Associate Agreement to such Protected Health Information, including continuing to use appropriate safeguards and continuing to comply with Subpart C of 45 C.F.R Part 164 with respect to Electronic Protected Health Information, to prevent the Use or Disclosure of such information other than as provided for in Sections 2.5 and 2.6 for so long as such Protected Health Information is retained, and Business Associate shall not Use or Disclose such Protected Health Information other than for the purposes for which such Protected Health Information was retained.

18.3.2 Business Associate shall return or, if agreed to by Covered entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for Business Associate's proper management and administration or to carry out its legal responsibilities.

18.4 Business Associate shall ensure that all Protected Health Information created, maintained, or received by Subcontractors is returned or, if agreed to by Covered entity, destroyed as provided for in Section 18.2.

19. AUDIT, INSPECTION, AND EXAMINATION

19.1 Covered Entity reserves the right to conduct a reasonable inspection of the facilities, systems, information systems, books, records, agreements, and policies and procedures relating to the Use or Disclosure of Protected Health Information for the purpose determining whether Business Associate is in compliance with the terms of this Business Associate Agreement and any non-compliance may be a basis for termination of this Business Associate Agreement and the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, as provided for in section 17.

19.2 Covered Entity and Business Associate shall mutually agree in advance upon the scope, timing, and location of any such inspection.

- 19.3 At Business Associate's request, and to the extent permitted by law, Covered Entity shall execute a nondisclosure agreement, upon terms and conditions mutually agreed to by the parties.
- 19.4 That Covered Entity inspects, fails to inspect, or has the right to inspect as provided for in Section 19.1 does not relieve Business Associate of its responsibility to comply with this Business Associate Agreement and/or the HIPAA Rules or impose on Covered Entity any responsibility for Business Associate's compliance with any applicable HIPAA Rules.
- 19.5 Covered Entity's failure to detect, its detection but failure to notify Business Associate, or its detection but failure to require remediation by Business Associate of an unsatisfactory practice by Business Associate, shall not constitute acceptance of such practice or a waiver of Covered Entity's enforcement rights under this Business Associate Agreement or the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.
- 19.6 Section 19.1 is not intended by the parties to limit in any way the scope of Business Associate's obligations related to Inspection and/or Audit and/or similar review in the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

20. MISCELLANEOUS PROVISIONS

- 20.1 Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with the terms and conditions of this Business Associate Agreement will be adequate or satisfactory to meet the business needs or legal obligations of Business Associate.
- 20.2 HIPAA Requirements. The Parties agree that the provisions under HIPAA Rules that are required by law to be incorporated into this Amendment are hereby incorporated into this Agreement.
- 20.3 No Third Party Beneficiaries. Nothing in this Business Associate Agreement shall confer upon any person other than the parties and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- 20.4 Construction. In the event that a provision of this Business Associate Agreement is contrary to a provision of the applicable underlying

Agreement, Contract, Master Agreement, Work Order, Purchase Order, or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate, the provision of this Business Associate Agreement shall control. Otherwise, this Business Associate Agreement shall be construed under, and in accordance with, the terms of the applicable underlying Agreement, Contract, Master Agreement, Work Order, Purchase Order or other services arrangement, with or without payment, that gives rise to Contractor's status as a Business Associate.

- 20.5 Regulatory References. A reference in this Business Associate Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- 20.6 Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.
- 20.7 Amendment. The parties agree to take such action as is necessary to amend this Business Associate Agreement from time to time as is necessary for Covered Entity or Business Associate to comply with the requirements of the HIPAA Rules and any other privacy laws governing Protected Health Information.

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COUNTY OF LOS ANGELES

By

(Authorized Signatory Name)

(Authorized Signatory Title)

(Authorized Signatory Signature)

(Date)

BUSINESS ASSOCIATE

By

(Authorized Signatory Name)

(Authorized Signatory Title)

(Authorized Signatory Signature)

(Date)

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 8

Exhibit P (IRS Notice 1015) -
(Replaced in its entirety by revised Exhibit P
under Amendment Number Five of Agreement)

EXHIBIT P

IRS NOTICE 1015

Latest version is available from IRS website at
<http://www.irs.gov/pub/irs-pdf/n1015.pdf>



Department of the Treasury
Internal Revenue Service

Notice 1015

(Rev. December 2019)

Have You Told Your Employees About the Earned Income Credit (EIC)?

What Is the EIC?

The EIC is a refundable tax credit for certain workers.

Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whose wages you did not withhold income tax.

However, you do not have to notify any employee who claimed exemption from withholding on Form W-4, Employee's Withholding Allowance Certificate.

Note: You are encouraged to notify each employee whose wages for 2019 are less than \$55,952 that he or she may be eligible for the EIC.

How and When Must I Notify My Employees?

You must give the employee one of the following.

- The IRS Form W-2, Wage and Tax Statement, which has the required information about the EIC on the back of Copy B.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on Copy B of the IRS Form W-2.
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

If you give an employee a Form W-2 on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy. If you give an employee a substitute Form W-2, but it does not have the required information, you

must notify the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2020.

You must hand the notice directly to the employee or send it by first-class mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can download copies of the notice at www.irs.gov/FormsPubs. Or you can go to www.irs.gov/OrderForms to order it.

How Will My Employees Know if They Can Claim the EIC?

The basic requirements are covered in Notice 797. For more detailed information, the employee needs to see Pub. 596, Earned Income Credit (EIC), or the Instructions for Forms 1040 and 1040-SR.

How Do My Employees Claim the EIC?

An eligible employee claims the EIC on his or her 2019 tax return. Even an employee who has no tax withheld from wages and owes no tax may claim the EIC and ask for a refund, but he or she must file a tax return to do so. For example, if an employee has no tax withheld in 2019 and owes no tax but is eligible for a credit of \$800, he or she must file a 2019 tax return to get the \$800 refund.

Notice **1015** (Rev. 12-2019)
Cat. No. 205991

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 9

Exhibit W (County's Administration) -
(is hereby added under Amendment Number Five of Agreement)

COUNTY'S ADMINISTRATION

CONTRACT NO. 77676

COUNTY PROJECT DIRECTOR:

Name: Jay Patel
Title: Chief, Enterprise Applications
Address: Department of Mental Health
Chief Information Office Bureau
695 S. Vermont Avenue, 11th Floor
Los Angeles, CA 90005
Telephone: (213) 480-3650
Facsimile: (213) 252-8884
E-Mail: jpatel@amh.lacounty.gov

COUNTY PROJECT MANAGER:

Name: Pending
Title: County's Project Manager
Address: Department of Mental Health
Chief Information Office Bureau
695 S. Vermont Avenue, 11th Floor
Los Angeles, CA 90005
Telephone:
E-Mail: Pending

Notices to County shall be sent to the following:

#1
Address: Department of Mental Health
Chief Information Office Bureau
695 South Vermont Avenue, 7th Floor
Los Angeles, CA 90005
Facsimile: (213) 736-9360

#2
Name: Jay Patel
Title: Chief, Enterprise Applications
Address: Department of Mental Health
Chief Information Office Bureau
695 South Vermont Avenue, 11th Floor
Los Angeles, CA 90005
Facsimile: (213) 252-8884
E-Mail: jpatel@dmh.lacounty.gov

CERTIFICATES AND COPIES - COUNTY ADDRESS

Address: Los Angeles County Department of Mental Health
Chief Information Office Bureau
695 S. Vermont Avenue, 7th Floor
Los Angeles, CA 90005
Attention: Jay Pat

AMENDMENT NUMBER FIVE TO
AGREEMENT NUMBER 77676

ATTACHMENT 10

Exhibit X (Contractor's Administration) -
(is hereby added under Amendment Number Five of Agreement)

CONTRACTOR'S ADMINISTRATION**CONTRACTOR'S NAME:** Netsmart Technologies Inc.**CONTRACT NO:** 77676**CONTRACTOR PROJECT DIRECTOR:**

Name: Thomas Stucke _____
 Title: LADMH Project Director _____
 Address: Netsmart Technologies Inc. _____
 11100 Nall Avenue _____
 Overland Park, KS 66211 _____
 Telephone: (650) 281-4167 _____
 E-Mail: tstucke@ntst.com _____

CONTRACTOR PROJECT MANAGER:

Name: Corey Murteza _____
 Title: Contractor Project Manager _____
 Address: Netsmart Technologies, Inc. _____
 11100 Nall Avenue _____
 Overland Park, KS 66211 _____
 Telephone: (913) 749-4253 _____
 E-Mail: cmurteza@ntst.com _____

CONTRACTOR'S AUTHORIZED OFFICIAL(S)

Name: Kevin Kaufman _____
 Title: Chief Financial Officer _____
 Address: Netsmart Technologies, Inc. _____
 11100 Nall Avenue _____
 Overland Park, KS 66211 _____
 Telephone: (913) 272-2670 _____
 E-Mail: KKaufman@ntst.com _____

Name: Joe McGovern _____
 Title: Executive Vice President Operations _____
 Address: Netsmart Technologies, Inc. _____
 3500 Sunrise Highway Suite D-122 _____
 Great River, NY 11739 _____
 Telephone: (631) 968-2012 _____
 E-Mail: JMcGovern@ntst.com _____

Notices to Contractor shall be sent to the following:

Name: Jennifer Utting _____
 Title: VP & Corporate Counsel _____
 Address: Netsmart Technologies, Inc. _____
 11100 Nall Avenue _____
 Overland Park, KS 66211 _____
 Telephone: (913) 272-2691 _____
 E-Mail: Contracts_notice@ntst.com _____

SOLE SOURCE CHECKLIST

Department Name: Mental Health

New Sole Source Contract

Existing Sole Source Contract Date Sole Source Contract Approved: _____

Check (✓)	JUSTIFICATION FOR SOLE SOURCE CONTRACTS Identify applicable justification and provide documentation for each checked item.
<input type="checkbox"/>	➤ Only one bona fide source (monopoly) for the service exists; performance and price competition are not available. A monopoly is an <i>“Exclusive control of the supply of any service in a given market. If more than one source in a given market exists, a monopoly does not exist.”</i>
<input type="checkbox"/>	➤ Compliance with applicable statutory and/or regulatory provisions.
<input checked="" type="checkbox"/>	➤ Compliance with State and/or federal programmatic requirements.
<input type="checkbox"/>	➤ Services provided by other public or County-related entities.
<input checked="" type="checkbox"/>	➤ Services are needed to address an emergent or related time-sensitive need.
<input type="checkbox"/>	➤ The service provider(s) is required under the provisions of a grant or regulatory requirement.
<input type="checkbox"/>	➤ Additional services are needed to complete an ongoing task and it would be prohibitively costly in time and money to seek a new service provider.
<input type="checkbox"/>	➤ Services are needed during the time period required to complete a solicitation for replacement services; provided services are needed for no more than 12 months from the expiration of an existing contract which has no available option periods.
<input type="checkbox"/>	➤ Maintenance and support services are needed for an existing solution/system during the time to complete a solicitation for a new replacement solution/ system; provided the services are needed for no more than 24 months from the expiration of an existing maintenance and support contract which has no available option periods.
<input type="checkbox"/>	➤ Maintenance service agreements exist on equipment which must be serviced by the original equipment manufacturer or an authorized service representative.
<input type="checkbox"/>	➤ It is more cost-effective to obtain services by exercising an option under an existing contract.
<input type="checkbox"/>	➤ It is in the best economic interest of the County (e.g., significant costs to replace an existing system or infrastructure, administrative cost savings and excessive learning curve for a new service provider, etc.) In such cases, departments must demonstrate due diligence in qualifying the cost-savings or cost-avoidance associated with the best economic interest of the County.



 Chief Executive Office

7/1/20

Date