



RESOLUTION No. 17-586

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION APPROVING EXECUTION OF A PERSONAL SERVICES CONTRACT WITH CALIFORNIA INSTITUTE FOR BEHAVIORAL HEALTH SOLUTIONS (CIBHS)

WHEREAS, California Institute for Behavioral Health Solutions (CIBHS), in collaboration with *eCenter Research Inc.*, has developed electronic Behavioral Health Solutions (eBHS), a web-based data platform that offers the capacity for flexible, real-time reporting and querying to support individual, population, and system improvement and outcome tracking; and

WHEREAS, this Agreement provides for log-in access to use the eBHS web-based data system and implementation, training, and support activities for use of the Improvement and Innovation through Data (IITD) model; and

WHEREAS, IITD is a three-pronged approach created by CIBHS to assist county behavioral health systems to collect, improve and analyze client data and to use it in a meaningful way for client improvement; and

WHEREAS, the Department of Health Care Services (DHCS) requires treatment outcome reports from Mental Health Providers by utilizing an electronic data system; and

WHEREAS, eBHS will make available the required reports for the Nevada County Behavioral Health Department to be in compliance with DHCS requirements.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Supervisors of the County of Nevada, State of California, that the Personal Services Contract by and between the County of Nevada and California Institute for Behavioral Health Solutions (CIBHS) for the provision of log-in access to use the electronic Behavioral Health Solutions (eBHS) web-based data system and implementation, training, and support activities for use of the Improvement and Innovation through Data (IITD) model in the maximum amount of \$61,100 for the term of July 1, 2017, through June 30, 2019, be and hereby is approved, and that the Chair of the Board of Supervisors be and is hereby authorized to execute the Contract on behalf of the County of Nevada.

Funds in the amount of \$50,000 for Fiscal Year 2017/18 to be disbursed from account: 1589-40104-493-1000/521470.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 12th day of December, 2017, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Hank Weston and Richard Anderson

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: Julie Patterson Hunter

Hank Weston
Hank Weston, Chair

12/12/2017 cc: BH*
AC* (Hold)

2/06/2018 cc: BH*
AC* (Release)
CIBHIS

PERSONAL SERVICES CONTRACT

Health and Human Services Agency
County of Nevada, California

This Personal Services Contract is made between the COUNTY OF NEVADA (herein "County"), and

CALIFORNIA INSTITUTE FOR BEHAVIORAL HEALTH SOLUTIONS

(herein "Contractor"), wherein County desires to retain a person or entity to provide the following services, materials and products generally described as follows:

- (§1) **Provision of log-in access to use the electronic Behavioral Health Solutions (eBHS) web-based data system, implementation, training and support activities for use of the Improvement and Innovation through Data (IITD) model.**

SUMMARY OF MATERIAL TERMS

- (§2) **Maximum Contract Price:** \$61,100
(§3) **Contract Beginning Date:** 07/01/2017 **Contract Termination Date:** 06/30/2019
(§4) **Liquidated Damages:** N/A

INSURANCE POLICIES

Designate all required policies:

- | | | Req'd | Not Req'd |
|------|--|----------|-----------|
| (§6) | Commercial General Liability (\$1,000,000) | <u>X</u> | ___ |
| (§7) | Automobile Liability | <u>X</u> | ___ |
| | (\$ 300,000) Personal Auto ___ (\$1,000,000) Business Rated <u>X</u> | | |
| | (\$1,000,000) Commercial Policy ___ | | |
| (§8) | Workers' Compensation | <u>X</u> | ___ |
| (§9) | Errors and Omissions (\$1,000,000) | ___ | <u>X</u> |

LICENSES

Designate all required licenses:

- (§14) N/A

NOTICE & IDENTIFICATION

- (§33) **Contractor: California Institute for Behavioral Health Solutions**
2125 19th Street, Second Floor
Sacramento, California 95818
Contact Person: Shoshana Zatz
Phone: (916) 556-3480 ext. 141
E-mail: szatz@cibhs.org

County of Nevada:
950 Maidu Avenue
Nevada City, California 95959

Contact Person: Rebecca Slade
Phone: (530) 470-2784
E-mail: Rebecca.Slade@co.nevada.ca.us

Funding: 1589-40104-493-1000/521470

CFDA No.: N/A
CFDA Agreement No.: N/A

Contractor is a: (check all that apply)

| | | | | |
|--------------|------------|-----------|-----------|---------------------|
| Corporation: | ___ Calif. | ___ Other | ___ LLC | <u>X</u> Non-profit |
| Partnership: | ___ Calif. | ___ Other | ___ LLP | ___ Limited |
| Person: | ___ Indiv. | ___ DbA | ___ Ass'n | ___ Other |

EDD: Independent Contractor Worksheet Required: ___ Yes X No

ATTACHMENTS

Designate all required attachments:

- | | Req'd | Not Req'd |
|---|----------|-----------|
| Exhibit A: Schedule of Services (Provided by Contractor) | <u>X</u> | ___ |
| Exhibit B: Schedule of Charges and Payments (Paid by County) | <u>X</u> | ___ |
| Exhibit C: Schedule of Changes (Additions, Deletions & Amendments) | <u>X</u> | ___ |
| Exhibit D: Schedule of HIPAA Provisions (Protected Health Information) | <u>X</u> | ___ |
| Exhibit E: Uniform Administrative Requirements (CFDA-Funded) | ___ | <u>X</u> |

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Terms

Each term of this Contract below specifically incorporates the information set forth in the Summary at page one (1) above as to each respective section (§) therein, as the case may be.

Services

1. Scope of Services:

Contractor shall provide all of the services, materials and products (herein "Services") generally described in **Exhibit "A"**, according to a performance schedule, if applicable, as set forth in said exhibit (herein "Performance Schedule"). If requested, Contractor agrees to serve as an expert witness for County in any third party action or proceeding arising out of this Contract.

Payment

2. Charges and Payments:

The charges (herein "Charges") for furnishing the aforesaid Services under this Contract are set forth in **Exhibit "B"**, including, if applicable, hourly rates, unit pricing, and expense, mileage and cost limits. Said Charges shall be presented monthly by invoice, and shall be due within thirty (30) days of receipt of said invoice unless payment is otherwise set forth in said **Exhibit "B"**, and shall remain in effect for the entire term of this Contract, and any extension hereof. In no event will the cost to County for Services to be provided under this Contract, including direct non-salary expenses, exceed the **Maximum Contract Price** set forth at §2, page one (1), of this Contract. If a Catalog of Federal Domestic Assistance ("CFDA") number is designated at §33, page one (1), of this Contract, then all components of compensation billed to County shall be calculated in accordance with Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200, et al (commonly referred to as the "OMB Super Circular" or "Uniform Guidance").

Time for Performance

3. Contract Term:

This Contract shall commence on the **Contract Beginning Date** set forth at §3, page one (1), of this contract. All Services required to be provided by this Contract shall be completed and ready for acceptance no later than the **Contract Termination Date** set forth at §3, page one (1), of this Contract.

4. Liquidated Damages:

County and Contractor agree that damages to County due to delays in timely providing Services in accordance with the aforesaid Performance Schedule and Contract Termination Date are impractical and difficult to ascertain. Therefore, if §4 at page one (1) hereof shall indicate a daily amount as **Liquidated Damages**, County shall have the right to assess said daily sum, not as a penalty, but as and for damages to County due to delays in providing Services not in accordance with the said Performance Schedule, or later than the Contract Termination Date (herein "Delay"). Liquidated Damages shall be offset against amounts owing to Contractor, including retention sums.

To the extent that any Delay is a result of matters or circumstances wholly beyond the control of Contractor, County may excuse said Liquidated Damages; provided however, that County may condition such excuse upon Contractor having given prompt notice to County of such delay immediately by telephone and thereafter by written explanation within a reasonable time. The time for Contractor's performance shall be extended by the period of delay, or such other period as County may elect.

5. Time of the Essence:

Time is of the essence with respect to Contractor's performance under this Contract. Delay in meeting the time commitments contemplated herein will result in the assessment of liquidated damages, if indicated at §4 at page one (1), hereof. If Liquidated Damages are not so indicated, damages shall be as otherwise provided by law.

Insurance

6. Commercial General Liability Insurance: (County Resolution Nos. 90-674, 02-439)

If §6 at page one (1) hereof shall indicate a **Commercial General Liability** insurance policy is required, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following:



- (i) Broad form coverage for liability for death or bodily injury to a person or persons, and for property damage, combined single limit coverage, in the minimum amount indicated at said §6;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

7. Automobile Liability Insurance: (County Resolution No. 90-676)

If §7 at page one (1) hereof shall require either a Business Rated or a Commercial Automobile Liability insurance policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance evidenced by a certificate of insurance with properly executed endorsements attached, which insurance shall include the following provisions:

- (i) Liability protection for death or bodily injury to a person or persons, property damage, and uninsured and underinsured coverage, combined single limit coverage, in the minimum amount indicated at said §7;
- (ii) An endorsement naming County as an additional insured under said policy, with respect to claims or suits arising from the Services provided or the relationships created under this Contract;
- (iii) A provision that said insurance shall be primary and non-contributory, that other insurance maintained by the County of Nevada shall be excess only and that neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance available to County;
- (iv) A provision that said insurance shall provide for thirty (30) days written notice to County of any termination or change in coverage protection, or reduction in coverage limits (except ten (10) days notice for non-payment of premium).

If §7 at page one (1) hereof shall require a Personal Auto policy, for each vehicle used including non-owned and hired automobiles, Contractor shall promptly provide proof of such insurance for a minimum of three hundred thousand dollars, (\$300,000), in combined single limits, and naming the County as additionally insured.

8. Workers' Compensation: (County Resolution No. 90-674)

If §8 at page one (1) hereof shall indicate a **Workers' Compensation** insurance policy is required, Contractor shall maintain said policy as required by law, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the County, its agents, officers, employees, and volunteers for losses arising from work performed by Contractor for the County.

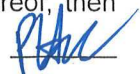
Before commencing to utilize employees in providing Services under this Contract, Contractor warrants that it will comply with the provisions of the California Labor Code, requiring Contractor to be insured for workers' compensation liability or to undertake a program of self-insurance therefor.

9. Errors and Omissions:

If §9 at page one (1) hereof shall indicate **Errors and Omissions** insurance is required, Contractor shall maintain either a professional liability or errors & omissions policy in the minimum amount indicated, and shall promptly provide proof of such insurance evidenced by a certificate of insurance, or other documentation acceptable to County.

10. Miscellaneous Insurance Provisions: (County Resolution Nos. 90-674, 90-675)

All policies of insurance required by this Contract shall remain in full force and effect throughout the life of this Contract and shall be payable on a "per occurrence" basis unless County specifically consents to "claims made" coverage. If the County does consent to "claims made" coverage and if Contractor changes insurance carriers during the term of this Contract or any extensions hereof, then



Contractor shall carry prior acts coverage. The following additional conditions apply to "claims made" coverage: In order for the acts and omissions of Contractor and all its agents during the term of this Agreement to be "continually covered" there must be insurance coverage for the entire contract period commencing on the effective date of this Agreement and ending on the date that is three (3) years beyond the final date this Agreement is effective, including any extensions or renewals of this Agreement. Contractor acknowledges that the provision of this Section may necessitate the purchase of "tail insurance" if coverage lapses. The requirement to maintain tail insurance shall survive termination of this Agreement.

Insurance afforded by the additional insured endorsement shall apply as primary and non-contributory insurance, and neither the insured nor the insurer shall seek contribution from any other insurance or self-insurance maintained by County, its officers, agents and/or employees. Any insurance or self-insurance maintained by County, its officers, agents and/or employees shall be excess only and not contributing with insurance required or provided under this agreement.

At all times, Contractor shall keep and maintain in full force and effect throughout the duration of this Contract, policies of insurance required by this Contract which policies shall be issued by companies with a Best's Rating of B+ or higher (B+, B++, A-, A, A+ or A++), or a Best's Financial Performance Rating (FPR) of 6 or higher (6, 7, 8 or 9) according to the current Best's Key Rating Guide, or shall be issued by companies approved by the County Risk Manager. In the event the Best's Rating or Best's FPR shall fall below the rating required by this paragraph, Contractor shall be required to forthwith secure alternate policies which comply with the rating required by this paragraph, or be in material breach of this Contract.

Failure to provide and maintain the insurance policies (including Best's ratings), endorsements, or certificates of insurance required by this Contract shall constitute a material breach of this agreement (herein "Material Breach"); and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both. (See §13, ¶12, below, as these provisions additionally apply to subcontractors.)

11. Indemnity:

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify, defend and hold harmless the County and its officers, officials, employees, agents and volunteers from any and all liabilities, claims, demands, damages, losses and expenses (including, without limitation, defense costs and attorney fees of litigation) which result from the negligent act, willful misconduct, or error or omission of Contractor, except such loss or damage which was caused by the sole negligence or willful misconduct of County or its officers, officials, employees, agents and volunteers.

Personal Services

12. Contractor as Independent:

In providing services herein, Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as agents or employees of County. Contractor agrees neither its agents nor employees have any rights, entitlement or claim against County for any type of employment benefits or workers' compensation or other programs afforded to County employees. Contractor shall hold County harmless and indemnify County against any such claim by its agents or employees.

13. Assignment and Subcontracting:

Except as specifically provided herein, the rights, responsibilities, duties and Services to be performed under this Contract are personal to the Contractor and may not be transferred, subcontracted, or assigned without the prior written consent of County. Contractor shall not substitute nor replace any personnel for those specifically named herein or in its proposal without the prior written consent of County.

Unless otherwise agreed in writing by the County's Risk Manager, Contractor shall cause and require each transferee, subcontractor and assignee to comply with the insurance provisions set forth herein at §§6, 7, 8, 9 and 10, in the same amounts and subject to the same terms as are required of Contractor under this Contract, unless otherwise provided by County's Risk Manager. Said insurance shall include all upstream parties (including the Contractor and the County) as additional insureds using a Blanket Additional Insured Endorsement (ISO form number CG 20 38 04 13) or coverage at least as broad. Contractor shall verify that all subcontractors provide a policy endorsement in compliance with this Paragraph and shall provide a copy of the same to County at least ten (10) working days prior to commencement of any work by subcontractor. Failure of Contractor to so cause and require such compliance by each transferee, subcontractor and assignee, or to timely provide County with a copy of the required policy endorsement, shall constitute a Material Breach of this agreement, and, in addition to any



other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

14. Licensing and Permits:

Contractor warrants (i) Contractor is qualified and competent to provide all Services under this contract; (ii) Contractor and all employees of Contractor hold all necessary and appropriate licenses therefor, including those licenses set forth at §14, page one (1) hereof; and, (iii) Contractor shall obtain, and remain in compliance with, all permits necessary and appropriate to provide said Services. Contractor shall cause said licenses and permits to be maintained throughout the life of this Contract. Failure to do so shall constitute a Material Breach of this agreement, and, in addition to any other remedy available at law or otherwise, shall serve as a basis upon which County may elect to suspend payments hereunder, or terminate this Contract, or both.

Public Contracts

15. Certificate of Good Standing:

Registered corporations including those corporations that are registered non-profits shall possess a Certificate of Good Standing also known as Certificate of Existence or Certificate of Authorization from the California Secretary of State, and further warrants to shall keep its status in good standing and effect during the term of this Contract.

16. Prevailing Wage and Apprentices:

To the extent made applicable by law, performance of this contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§ 200 et seq., relating to apprenticeship. Contractor shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract. A copy of the relevant prevailing wage as defined in Labor Code §1770 et seq. is on file with the Department of Transportation, County of Nevada, 950 Maidu Avenue, Nevada City, California 95959. Copies will be provided upon request.

17. Accessibility (County Resolution No. 00190):

It is the policy of the County of Nevada that all County services, programs, meetings, activities and facilities shall be accessible to all persons, and shall be in compliance with the provisions of the Americans with Disabilities Act and Title 24, California Code of Regulations. To the extent this Contract shall call for Contractor to provide County contracted services directly to the public, Contractor shall certify that said direct Services are and shall be accessible to all persons.

18. Nondiscriminatory Employment:

In providing Services hereunder, Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including the provisions of the Americans with Disabilities Act of 1990, and Fair Employment and Housing Act, and shall not discriminate against any employee, or applicant for employment or client because of race, sex, sexual orientation, color, ancestry, religion or religious creed, national origin or ethnic group identification, political affiliation, mental disability, physical disability, medical condition (including cancer, HIV and AIDS), age (over 40), marital status, or use of Family and Medical Care Leave and/or Pregnancy Disability Leave in regard to any position for which the employee or applicant is qualified.

If applicable, Contractor shall comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons in all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

19. Drug-Free Workplace:



Senate Bill 1120, (Chapter 1170, Statutes of 1990), requires recipients of state grants to maintain a "drug-free workplace". Every person or organization awarded a contract for the procurement of any property or services shall certify as required under Government Code Section 8355-8357 that it will provide a drug-free workplace.

20. Prior Nevada County Employment (County Resolution No. 03-353):

Effective July 22, 2003, it is the policy of the County of Nevada that former members of the Board of Supervisors, a former CEO, or a former Purchasing Agent, for a period of twelve (12) months following the last day of employment, shall not enter into any relationship wherein that former employee or former Board member receives direct remuneration from a legal entity that, during the last twelve (12) months of said employment or Board member's service, entered into a contract with, or received a grant from the County of Nevada. Provided however, that this prohibition shall not apply to any employee that did not personally approve a contract with or grant to said legal entity during the last twelve (12) months of said employment, and shall not apply when the Board of Supervisors did not approve a contract with or grant to said legal entity during the last twelve (12) months of said Board member's service.

A violation of this policy shall subject Contractor to all of the remedies enumerated in said resolution and as otherwise provided in law, which remedies shall include but not be limited to injunctive relief, cancellation and voiding of this contract by County, a return of grant money, a cause of action for breach of contract, and entitlement to costs and reasonable attorney fees in any action based upon a breach of contract under this provision.

21. Conflict of Interest:

Contractor shall not cause, use or allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits, for any of its officers, directors, or shareholders. Contractor shall not cause, use nor allow any payments, funds or proceeds derived from this Contract to be used, either directly or indirectly, for salary, wages or benefits for any of its agents, servants, or employees, except those expressly specified in Exhibit "B".

Contractor further certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who performs any function or responsibilities in connection with this contract shall have any personal financial interest or benefit that either directly or indirectly arises from this contract. Contractor shall establish safeguards to prohibit its employees or its officers from using their position for the purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business or other ties.

22. Political Activities:

Contractor shall in no instance expend funds or use resources derived from this Contract on any political activities.

23. Cost Disclosure:

In accordance with Government Code Section 7550, should a written report be prepared under or required by the provisions of this Contract, Contractor agrees to state in a separate section of said report the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of said report.

Default and Termination

24. Termination:

a. A Material Breach of this Contract pursuant to the terms hereof or otherwise, in addition to any other remedy available at law, shall serve as a basis upon which County may elect to immediately suspend payments hereunder, or terminate this contract, or both **without notice**.

b. If Contractor fails to timely provide in any manner the services, materials and products required under this Contract, or otherwise fails to promptly comply with the terms of this Contract, or violates any ordinance, regulation or other law which applies to its performance herein, County may terminate this Contract by giving **five (5) days written notice** to Contractor.



c. County, upon giving **seven (7) calendar days written notice** to Contractor, shall have the right to terminate its obligations under this Contract if the County, the Federal Government or the State of California, as the case may be, does not appropriate funds sufficient to discharge County's obligations coming due under this contract.

d. Either party may terminate this Contract for any reason, or without cause, by giving **thirty (30) calendar days written notice** to the other, which notice shall be sent by certified mail in conformity with the notice provisions. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract. Contractor shall be excused for failure to perform services herein if such performance is prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

e. Any notice to be provided under this section may be given by the County Executive Officer or Designee or Agency Director.

25. Suspension:

County, upon giving seven (7) calendar days written notice to Contractor, shall have the right to suspend this Contract, in whole or in part, for any time period as County deems necessary due to delays in federal, state or County appropriation of funds, lack of demand for services to be provided under this contract, or other good cause. Upon receipt of a notice of suspension from County, Contractor shall immediately suspend or stop work as directed by County and shall not resume work until and unless County gives Contractor a written notice to resume work. In the event of a suspension not the fault of the Contractor, Contractor shall be paid for services performed to the date of the notice of suspension in accordance with the terms of this Contract.

Miscellaneous

26. Financial, Statistical and Contract-Related Records:

a. **BOOKS AND RECORDS:** Contractor shall maintain statistical records and submit reports as required by County. Contractor shall also maintain accounting and administrative books and records, program procedures and documentation relating to licensure and accreditation as they pertain to this Contract. All such financial, statistical and contract-related records shall be retained for five (5) years or until program review findings and/or audit findings are resolved, whichever is later. Such records shall include but not be limited to bids and all supporting documents, original entry books, canceled checks, receipts, invoices, payroll records, including subsistence, travel and field expenses, together with a general ledger itemizing all debits and credits.

b. **INSPECTION:** Upon reasonable advance notice and during normal business hours or at such other times as may be agreed upon, Contractor shall make all of its books and records available for inspection, examination or copying, to County, or to the State Department of Health Care Services, the Federal Department of Health and Human Services, the Controller General of the United States and to all other authorized federal and state agencies, or their duly authorized representatives.

c. **AUDIT:** Contractor shall permit the aforesaid agencies or their duly authorized representatives to audit all books, accounts or records relating to this Contract, and all books, accounts or records of any business entities controlled by Contractor who participated in this Contract in any way. All such records shall be available for inspection by auditors designated by County or State, at reasonable times during normal business hours. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within fifteen (15) days upon delivery of written notice from County. Contractor shall promptly refund any moneys erroneously charged and shall be liable for the costs of audit if the audit establishes an over-charge of five percent (5%) or more of the Maximum Contract Price.

27. Non- Profit Provisions:

If Contractor is registered as a non-profit corporation, Contractor shall comply with the following requirements of this section:



a. Reporting Requirements:

Contractor shall submit a report to County no later than thirty (30) days after the aforesaid Contract Termination Date, which report shall identify the status of each service which was provided as described in **Exhibit "A"** (Schedule of Services), and detail all amounts expended as set forth in **Exhibit "B"** (Schedule of Charges and Payments), or otherwise. This report is subject to audit by the Nevada County Auditor/Controller.

b. Supplemental Audit Provisions:

(i) Contractor shall provide the most recent copy of the Contractor's reviewed or audited financial statements. Said financial statements shall be verified by an independent Certified Public Accountant. These financial statements together with the Certified Public Accountant's verification are due to the County within thirty (30) days of execution of the Contract. If Contractor, however, has another County Contract currently in effect and has previously provided this information to the County within the last year, it is not necessary for Contractor to re-submit these statements and verification under this Agreement.

(ii) Non-profit Contractors whose contract with the County includes services that will be reimbursed, partially or in full, with Federal funds are also governed by the OMB Super Circular and are required to have a single or program-specific audit conducted if the Contractor has expended \$500,000 or more in Federal awards made on or before December 26, 2014, or \$750,000 or more in Federal awards made after December 26, 2014, during Contractor's fiscal year. Any Contractor who is required to complete an annual Single Audit must submit a copy of their annual audit report and audit findings to County at the address listed in "Notice & Identification" §33 on page one (1) of the executed contract within the earlier of thirty (30) days after the Contractor's receipt of the auditor's report or nine (9) months following the end of the Contractor's fiscal year.

28. Intellectual Property:

All original photographs, diagrams, plans, documents, information, reports, computer code and all recordable media together with all copyright interests thereto (herein "Intellectual Property"), which concern or relate to this Contract and which have been prepared by, for or submitted to Contractor, shall be the property of County, and upon fifteen (15) days demand therefore, shall be promptly delivered to County without exception. Provided however, for personal purposes only and not for commercial, economic or any other purpose, Contractor may retain a copy of Contractor's work product hereunder.

29. Entire Agreement:

This Contract represents the entire agreement of the parties, and no representations have been made or relied upon except as set forth herein. This Contract may be amended or modified only by written, fully executed agreement of the parties.

30. Jurisdiction and Venue:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Nevada County, California.

31. Compliance with Applicable Laws:

The Contractor shall comply with any and all federal, state and local laws, codes, ordinances, rules and regulations which relate to, concern or affect the Services to be provided by this Contract. If a CFDA number is designated at §33, page one (1), of this Contract then the applicable CFDA funding agreement requires that this Contract shall also be governed by and construed in accordance with all applicable laws, regulations and contractual obligations set forth in the applicable CFDA funding agreement. Contractor shall comply with all terms and conditions of the applicable CFDA funding agreement and all other applicable Federal, state and local laws, regulations, and policies governing the funding for this Contract. A full copy of the applicable CFDA funding agreement is available for review at the Health and Human Services Agency Administration Office.

32. Confidentiality:

Contractor, its employees, agents and or subcontractors may come in contact with documents that contain information regarding matters that must be kept confidential by the County, including



personally identifiable patient or client information. Even information that might not be considered confidential for the usual reasons of protecting non-public records should be considered by Contractor to be confidential.

Contractor agrees to maintain confidentiality of information and records as required by applicable federal, state, and local laws, regulations and rules and recognized standards of professional practice.

Notwithstanding any other provision of this Agreement, the Contractor agrees to protect the confidentiality of any confidential information with which the Contractor may come into contact in the process of performing its contracted services. This information includes but is not limited to all written, oral, visual and printed patient or client information, including but not limited to: names, addresses, social security numbers, date of birth, driver's license number, case numbers, services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data.

The Contractor shall not retain, copy, use, or disclose this information in any manner for any purpose that is not specifically permitted by this agreement. Violation of the confidentiality of patient or client information may, at the option of the County, be considered a material breach of this Agreement.

33. Notices:

This Contract shall be managed and administered on County's behalf by the department and the person set forth at "Notice & Identification" §33 page one (1) of this Contract, and all invoices shall be submitted to and approved by this Department. In addition to personal service, all notices may be given to County and to Contractor by first class mail addressed as set forth at said §33 of page one (1) of this Contract. Said notices shall be deemed received the fifth (5th) day following the date of mailing or the earlier date of personal service, as the case may be.

34. Authority:

All individuals executing this Contract on behalf of Contractor represent and warrant that they are authorized to execute and deliver this Contract on behalf of Contractor.

IN WITNESS WHEREOF, the parties have executed this Contract effective on the Beginning Date, above.


CONTRACTOR:



Percy Howard, LCSW
Interim CEO

Dated: 11-27-17

COUNTY OF NEVADA:



Hank Weston
Chair, Board of Supervisors

Dated: 12/12/2017



EXHIBIT "A"
SCHEDULE OF SERVICES
CALIFORNIA INSTITUTE FOR BEHAVIORAL HEALTH SOLUTIONS (CIBHS)

California Institute for Behavioral Health Solutions (CIBHS), herein referred to as "Contractor" or "CIBHS", shall provide County with:

1. Log-in access to use the electronic Behavioral Health Solutions (eBHS) web-based data system; and
2. Implementation, training and support activities for use of the Improvement and Innovation through Data (IITD) model.

Product Description:

Improvement and Innovation Through Data (IITD) is a three-pronged approach created by CIBHS to assist county behavioral health systems' to collect, improve and analyze client data and to use it in a meaningful way for client improvement. IITD includes: (1) a uniquely flexible, web-based data system; (2) a robust implementation method; and (3) training on use of data in clinical practice. The web-based system was developed in partnership with eCenter Research, Inc. and is known as electronic Behavioral Health Solutions (eBHS).

Participating counties or agencies receive login rights to eBHS to upload information, interact with data, review dashboards and reports, and receive trainings, which are the deliverables that are the result of CIBHS services defined in this scope of work.

All data collected by CIBHS for a given agency and entered into the eBHS system can be exported from within the system into a .csv / excel file for a complete record of all data collected.

CIBHS provides coding for both simple and complex data collections by users. A simple collection (up to 2.5 days of coding) is a collection of scaling responses (e.g. scale of 1-10) to statements related to the client's wellbeing. A complex collection (up to 5 days of coding) is a partitioned table reflecting groups of variables such as demographic information, list of treatment team members, screening data, diagnosis, results from outcome measures, goals of treatment plan, level of care history, session tracking and client feedback.

If the eBHS Data Platform becomes non-accessible or non-functional during normal business hours, Contractor will restore functioning in as timely a manner as possible. There is no hardware involved with the eBHS Data Platform.

The Data Integrity and Security Model has been fully vetted by the California Department of HealthCare Services, is HIPAA Compliant, is hosted on Amazon Web Services, is covered under the CIBHS CyberSecurity Policy, and undergoes periodic security reviews and Security Risk Analysis as required by the State of California and Federal Regulations. For purposes of this Agreement, Contractor acknowledges that it is a Business Associate of County, and to that extent will comply with the Business Associate Agreement, attached



hereto and incorporated herein, which covers all of HIPAA/PHI related requirements and commitments by Contractor.

Scope of Work:

Contractor will provide implementation, training and support activities for IITD by using the Community Development Team (CDT), electronic Behavioral Health Solutions (eBHS), and Feedback Informed Treatment. The IITD model will include pre-implementation planning, implementation supports, Teleconference Consultation, customized web-based data platform access, data collection, interpretation and use training as follows:

YEAR I OF IITD

Year I of IITD includes pre-implementation planning, implementation, and sustained implementation support to improve and analyze client data and to use it in a meaningful way for client improvement. Additionally, Year I provides support to sites to effectively navigate the data system, understand how to interpret and utilize in-vivo outcomes data to improve behavioral health treatment, and sustaining the use of data long-term so that it becomes a systemic part of clinical practice.

1. Pre-implementation and Implementation Planning Services

- IITD Introductory meeting
- IITD Pre-Implementation Planning
 - Integrating into Agency services
 - Staffing
 - Administrative Oversight
 - Data Crosswalk meeting with eCenter
 - Develop Program Performance Dashboard Outcome Report Template
 - Develop Individual Client Dashboard Template
 - Development of two (2) Simple customized data collections
 - User Participation in CIBHS implementation Webinar (2-hour webinar)
- Implementation:
 - eBHS (one-half day of training)
 - eBHS technical assistance calls monthly for six months from the date of CIBHS implementation.
 - Feedback Informed Treatment (FIT) (One day of training)
 - Data use calls (monthly calls for practitioners)
- “Go Live”
 - Site Log-in access for use of eBHS following completion of pre-implementation planning services.

2. Monitor and Support Services

A. Helpdesk:

eBHS users may request data platform technical support by calling (866)-856-2606. During regular County business hours, requests will be answered in real time. During



non-business hours or County holidays, requests will be answered on next business day. Prior to the "Go-Live" date, Contractor will provide County with written detailed instructions on accessing all available Helpdesk services and resources, which are incorporated herein by reference and made part of this Agreement.

B. Administrator Calls:

Admin calls are monthly one hour calls for County administrators who are involved in the implementation of the data platform. Admin participants will discuss issues regarding the implementation and sustainability of the data platform and use of the data platform. Individuals implementing the data platform in other counties may also attend the calls as peer supports.

These calls will be ongoing for the duration of the Agreement. Each call lasts one hour and take place monthly.

Prior to the "Go-Live" date, Contractor will provide County with written detailed instructions on how to access, and participate in, the administrator calls, which are incorporated herein by reference and made part of this Agreement.

YEAR II OF IITD

Year II of IITD (and on-going), is designed for the continuance of client data to be used for client improvement, to effectively navigate the data system, and understand how to interpret and utilize in-vivo outcomes data to improve behavioral health treatment. Sustainability of the use of data long-term becomes a systemic part of clinical practice. Contractor shall continue to provide:

- Site Log-in access for use of eBHS
- Program Performance Dashboard Report Updates
- Monitor and Support, and Help Desk Services, as set forth in 2.A and 2.B above

Additionally, Contractor shall at all times during this Agreement provide County with written and/or electronic training materials related to entering data into eBHS and using data in practice, for the purposes of training new County staff who did not receive the initial on-site training.



EXHIBIT "B"
SCHEDULE OF CHARGES AND PAYMENTS
CALIFORNIA INSTITUTE FOR BEHAVIORAL HEALTH SOLUTIONS (CIBHS)

Subject to the satisfactory performance of services required of Contractor pursuant to this Contract, and the terms and conditions set forth, the maximum obligation of this Agreement shall not exceed \$61,100 for the entire contract term. The maximum contract amount shall not exceed \$50,000 for Fiscal Year 2017/18, unless additional services, collections or users are requested or necessary and made part of this agreement by future amendment signed by both parties, as stipulated below.

Funds not encumbered or expended prior to June 30, 2018, under this Contract may be rolled over by the County to pay for contract services provided during the 2018/19 Fiscal Year.

Upon execution of contract, Contractor shall submit an invoice for fifty percent (50%) of Year I Costs (\$20,550). Contractor shall then bill monthly for the balance of the Costs and for any additional services provided.

| | |
|---|----------|
| Year I Costs – (approximately July 2017 – February 2018): | \$41,100 |
| Year II Costs – (approximately March 2018 – June 2019): | \$20,000 |

Costs include 20 data platform users, basic customization and 2 simple collections. Additional costs adding data platform users over the amount of 20 are \$500 dollars per user/per year. For any additional simple collections, a fee of \$3,800/collection will be charged. For complex customized collections a cost of \$7,600 per customized complex collection will be charged as a one-time fee. If more than 5 days of coding, the cost is \$200/hour.

Contractor shall submit invoices once a month for services provided. Payment shall be made within thirty (30) days of receipt of approved invoices.

Contractor shall submit invoices to:

HHS Administration
Attn: BH Fiscal
950 Maidu Avenue
Nevada City, CA 95959



EXHIBIT "C"

SCHEDULE OF CHANGES

(Personal Services Contract - Mental Health)

Where Exhibit "C" revises the language of in this Agreement, such revisions shall govern and are hereby incorporated.

Section 35 is hereby added to read as follows:

Section 35. Cyber Liability Insurance

Without limiting any of the obligations or liabilities of Contractor, Contractor shall, in addition to the other insurance requirements set forth in Sections 6–10, carry and maintain, at its own expense including any applicable deductibles or retentions, as long as respective, applicable statute(s) of limitation or repose are in effect relating to the specific purposes of this Agreement, Cyber Liability insurance with limits of not less than \$2,000,000 for each occurrence and an annual aggregate of \$4,000,000, or the amount of any future increase in aggregate policy limits in excess of \$4,000,000, covering claims involving privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security.

APPROVED AS TO FORM:


County Counsel

EXHIBIT "D"
HIPAA BUSINESS ASSOCIATE AGREEMENT
Addendum

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT (the "Agreement") is entered into by and between **California Institute for Behavioral Health Solutions (CIBHS)**, ("Business Associate") and **Nevada County** ("Covered Entity").

Business Associate and Covered Entity have a business relationship (the "Relationship" or the "Agreement") in which Business Associate may perform functions or activities on behalf of Covered Entity involving the use and/or disclosure of protected health information received from, or created or received by, Business Associate on behalf of Covered Entity. Business Associate is also a Qualified Service Organization (QSO) under 42 CFR, Part 2 and agrees to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information. Therefore, if Business Associate is functioning as a Business Associate or QSO to Covered Entity, Business Associate agrees to the following terms and conditions set forth in this HIPAA Business Associate Agreement.

Definitions

Catch-all definition:

The following terms used in this Agreement shall have the same meaning as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

Specific definitions:

(a) Business Associate. "Business Associate" shall generally have the same meaning as the term "Business Associate" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean **California Institute for Behavioral Health Solutions**.

(b) Covered Entity. "Covered Entity" shall generally have the same meaning as the term "Covered Entity" at 45 CFR 160.103, and in reference to the party to this agreement, shall mean **Nevada County**.

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

Obligations and Activities of Business Associate

Business Associate agrees to:

- (a) Not use or disclose protected health information other than as permitted or required by the Agreement or as required by law;
 - (b) Use, and document the implementation of, appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by this Agreement;
 - (c) Report to Covered Entity as soon as practicable within two (2) business days of Business Associate becoming aware of any use or disclosure of protected health information not provided for by the Agreement. Business Associate shall also report to Covered Entity within the same time-frame any breaches of unsecured protected health information as required at 45 CFR 164.410, and any security incident of which it becomes aware;
 - (d) In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors that create, receive, maintain, or transmit protected health information on behalf of the Business Associate agree in writing to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
 - (e) Within five (5) business days of a request by the Covered Entity, make available protected health information in a designated record set as necessary to satisfy Covered Entity's obligations under 45 CFR 164.524. In the event an individual delivers directly to the Business Associate a request for access to protected health information, the Business Associate shall within two (2) business days forward such request to the Covered Entity;
 - (f) Within five (5) business days of request of a Covered Entity, make amendment(s) to protected health information in a designated record set as directed or agreed to by the Covered Entity pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR 164.526. This includes, but is not limited to, the Business Associate providing such information to the Covered Entity for amendment and incorporation of any such amendment(s) in the protected health information. In the event an individual delivers directly to the Business Associate a request for amendment(s) to protected health information, the Business Associate shall within two (2) business days forward such request to the Covered Entity;
 - (g) Maintain a record of all disclosures of protected health information and information related to such disclosures, including the name of the recipient and the date of disclosure. If known, the records shall also include, the address of the recipient of the protected health information, a brief description of the protected health information disclosed, and the purpose of the disclosure which includes an explanation of the basis of such disclosure;
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(h) Make available to the Covered Entity the information required to provide an accounting of disclosures within five (5) business days of notice by the Covered Entity to the Business Associate. The information provided by the Business Associate should be that which is necessary to satisfy the Covered Entity's obligations under 45 C.F.R. 164.528. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall within two (2) business days forward the request to the Covered Entity;

(i) To the extent the Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s); and

(j) Make its internal practices, books, and records relating to the use and disclosure of protected health information available to the Secretary for purposes of determining compliance with the HIPAA Rules. Business Associate shall notify the Covered Entity upon receipt of such a request for access by the Secretary, and shall provide the Covered Entity with a copy of the request as well as a copy of all materials disclosed.

Permitted Uses and Disclosures by Business Associate

(a) Business Associate may only use or disclose protected health information:

1. To carry out its duties to the Covered Entity pursuant to the terms of the Relationship;
2. For its own proper management and administration; and
3. To carry out its legal responsibilities.

(b) Business Associate may use or disclose protected health information as required by law.

(c) Business Associate agrees to limit uses and disclosures and requests for protected health information to the minimum amount necessary to accomplish the purpose of the request, use, or disclosure, and consistent with the Covered Entity's minimum necessary policies and procedures.

(d) Business Associate may disclose protected health information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person. Additionally, Business Associate must obtain an agreement from the receiving party to immediately notify the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

(f) Business Associate may provide data aggregation services relating to the health care operations of the Covered Entity.

Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions

- (a) Covered Entity shall notify Business Associate within five (5) business days of notice of any limitation(s) in the notice of privacy practices of Covered Entity under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of protected health information.
- (b) Covered Entity shall notify Business Associate within five (5) business days of notice of any changes in, or revocation of, the permission by an individual to use or disclose his or her protected health information, to the extent that such changes may affect Business Associate's use or disclosure of protected health information.
- (c) Covered Entity shall notify Business Associate within five (5) business days of notice of any restriction on the use or disclosure of protected health information that Covered Entity has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of protected health information.

Permissible Requests by Covered Entity

Business Associate may not use or disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except for the exceptions set out at paragraph (d) above under "Permitted Uses and Disclosures By Business Associate"

42 CFR Part 2

- (a) To the extent that in performing its services for or on behalf of Covered Entity, Business Associate uses, discloses, maintains, or transmits protected health information that is protected by 42 CFR, Part 2, Business Associate acknowledges and agrees that it is a QSO for the purpose of such federal law. Business Associate acknowledges that in receiving, storing, processing or otherwise dealing with any PHI from the Covered Entity, it is fully bound by 42 C.F.R. Part 2. Business Associate will resist efforts to obtain PHI except as provided in 42 C.F.R. Part 2.
 - (b) Business Associate may use and/or disclose PHI for the proper management and administration of its business, except as otherwise limited by the Agreement or 42 C.F.R. Part 2. Business Associate may use and/or disclose PHI to carry out its legal responsibilities, except as otherwise limited by the Agreement or 42 C.F.R. Part 2. Business Associate may use PHI to report violations of law as permitted by HIPAA and 42 C.F.R. Part 2.
 - (c) Covered Entity will notify Business Associate of any changes in or revocation of, authorization by an Individual to use or disclose PHI. Covered Entity will notify Business Associate of any Individual requests for restrictions to the use or disclosure of PHI. Business Associate acknowledges it is fully bound by HIPAA and 42 C.F.R. Part 2.
 - (d) Mandatory provisions of HIPAA preempt provisions of the Agreement. Provisions of the Agreement not mandated by HIPAA but nonetheless permitted by HIPAA will control. In the
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event of inconsistencies between HIPAA and 42 C.F.R. Part 2, the more restrictive rule will control.

- (e) Parties will comply with any and all federal, state and local laws pertaining to client confidentiality including, but not limited to, state mental health and developmental disability confidentiality law, state and federal drug and alcohol confidentiality laws and state AIDS/HIV confidentiality laws.

Term and Termination

(a) Term. The Term of this Agreement shall be effective as of June 1, 2017 and shall terminate at the time CIBHS ceases to provide evaluation services for Nevada County or on the date Covered Entity terminates for cause as authorized in paragraph (b) of this Section, whichever is sooner.

(b) Termination for Cause. Business Associate authorizes termination of this Agreement by Covered Entity, if Covered Entity determines Business Associate has violated a material term of the Agreement. At the Covered Entity's option, the Covered Entity may permit the Business Associate to cure or end any such violation within the time specified by the Covered Entity.

(c) Obligations of Business Associate Upon Termination.

(i). Upon termination of this Agreement for any reason, Business Associate shall return to Covered Entity or, at the Covered Entity's discretion and direction, destroy all protected health information received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, that the Business Associate still maintains in any form. This provision shall apply to protected health information that is in the possession of the Business Associate or agents of the Business Associate. Business Associate shall retain no copies of the protected health information.

(ii). Upon termination of this Agreement for any reason, Business Associate may retain certain protected health information for its own management and administration or to carry out its legal responsibilities at the discretion of the Covered Entity. With respect to such protected health information necessary for Business Associate's own management and administration or to carry out its legal responsibilities which was received from Covered Entity, or created, maintained, or received by Business Associate on behalf of Covered Entity, Business Associate shall:

1. Retain only that protected health information which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 2. Return to Covered Entity, or if agreed to by Covered Entity, destroy the remaining protected health information that the Business Associate still maintains in any form;
 3. Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the protected health information, other than as provided for in this Section, for as long as Business Associate retains the protected health information;
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4. Not use or disclose the protected health information retained by Business Associate other than for the purposes for which such protected health information was retained and subject to the same conditions set out at paragraph (d) above under "Permitted Uses and Disclosures By Business Associate" which applied prior to termination; and
5. Return to Covered Entity 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 its proper management and administration or to carry out its legal responsibilities.

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

Miscellaneous

(a) Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

(b) Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

(c) Interpretation. Any ambiguity in this Agreement shall be interpreted to permit compliance with the HIPAA Rules.

(d) Injunctive Relief. Business Associate stipulates that its unauthorized use or disclosure of protected health information while performing services pursuant to this Agreement would cause irreparable harm to Covered Entity, and in such event, Covered Entity shall be entitled to institute proceedings in any court of competent jurisdiction to obtain damages and injunctive relief.

(e) Indemnification. Business Associate shall indemnify and hold harmless Covered Entity and its officers, trustees, employees, and agents from any and all claims, penalties, fines, costs, liabilities or damages, including but not limited to reasonable attorney fees, incurred by Covered Entity arising from a violation by Business Associate of its obligations under this Agreement.

(f) Exclusion from Limitation of Liability. To the extent that Business Associate has limited its liability under the terms of this Agreement, whether with a maximum recovery for direct damages or a disclaimer against any consequential, indirect or punitive damages, or other such limitations, all limitations shall exclude any damages to Covered Entity arising from Business Associate's breach of its obligations relating to the use and disclosure of protected health information.

(g) Owner of Protected Health Information. Under no circumstances shall Business Associate be deemed in any respect to be the owner of any protected health information used or disclosed by or to Business Associate by Covered Entity.

(h) Third Party Rights. The terms of this Agreement do not grant any rights to any parties other than Business Associate and Covered Entity.

(i) Independent Contractor Status. For the purposed of this Agreement, Business Associate is an independent contractor of Covered Entity, and shall not be considered an agent of Covered Entity.