

**AGREEMENT BETWEEN THE COUNTY OF VENTURA AND THE CONTRACTOR FOR  
INTENSIVE SERVICES COORDINATOR SERVICES**

This Agreement between the **COUNTY OF VENTURA** and the **CONTRACTOR** for intensive service coordinator services (Agreement) is made and entered into this xxth day of Month 202x (Effective Date) by and between the County of Ventura, a political subdivision of the State of California, on behalf of its Ventura County Behavioral Health Department (COUNTY), and the **CONTRACTOR**, a California general law municipal corporation (CITY). Hereinafter, COUNTY and CITY may be referred to individually as a "Party" and collectively as the "Parties."

**RECITALS**

- A. CITY desires to enter into this Agreement with COUNTY for the performance of certain non-emergent mental health field engagement and case management services within its boundaries.
- B. COUNTY, through its Ventura County Behavioral Health (VCBH) Department, has staff with the qualifications, training, experience, and resources to perform such services, and agrees to contract with CITY to perform such services on the terms and conditions set forth in this Agreement.
- C. The performance by COUNTY for CITY of the services described herein will require COUNTY to incur certain costs and expenses, including but not limited to costs and expenses related to salary and benefits, services and supplies, administrative expenses, and liability and workers compensation insurance, for the COUNTY employee(s) designated to serve as the Intensive Services Coordinator (ISC) and perform such services pursuant to this Agreement.
- D. It is the intent of the Parties that CITY assume all costs and expenses incurred by COUNTY related to its performance of services under this Agreement.

NOW THEREFORE, in consideration of the mutual promises, covenants, terms and conditions contained below, and above Recitals, the Parties agree as follows:

**AGREEMENT**

**1. PERFORMANCE OF SERVICES**

- A. Subject to all of the terms and conditions of this Agreement, including but not limited to any additional terms and conditions contained in any exhibit hereto, COUNTY shall perform, and CITY shall be entitled to have COUNTY perform, such services for CITY as described in the attached Exhibit "A" (PROGRAM DESCRIPTION), incorporated by this reference.
- B. The Parties believe that any person employed by COUNTY to fulfill the objectives of this Agreement are not eligible for CalPERS membership as such persons are subject to California Government Code section 20303. All persons performing such services for CITY pursuant to this Agreement shall be employed by COUNTY. No person employed by COUNTY hereunder shall have any CITY pension, civil service, or other status or right.

- C. No employee of COUNTY shall perform any service for CITY that falls outside the scope of their duties as an employee of COUNTY while performing services or functions for CITY.
- D. No service except those described in Exhibit “A” shall be performed under this Agreement by an employee of COUNTY.
- E. If COUNTY and CITY mutually agree as to the necessity for any such COUNTY employee to work within administrative offices in CITY, CITY shall, at its own cost and expense, provide or reimburse COUNTY for all necessary office space, furniture, furnishings and equipment, office supplies, stationery, notices, forms, and like materials. Any equipment or furnishings provided by CITY shall remain property of CITY.

## **2. PAYMENT FOR SERVICES**

- A. In consideration of COUNTY's performance of the services pursuant to this Agreement, CITY shall pay COUNTY according to this Section 2 and Exhibit “B” (PAYMENT PROVISIONS), attached hereto and incorporated herein by this reference.
- B. In exchange for location of COUNTY's employee at CITY and dedication of that employee to providing RISE services to CITY and its residents, CITY agrees to pay to COUNTY the total cost of COUNTY's employee, calculated as follows: Total Salary Cost + Total Benefits Cost +, Supporting Services and Supplies Cost (10% of Total Salary and Benefits) + Administration fee of 15% of the total of the other cost components. If the cost to COUNTY of employee's salary or benefits increases during the term of this Agreement that increase will be reflected in the COUNTY's invoices and CITY's payment.
- C. The total sum of all payments made by CITY to COUNTY for the performance of services under this Agreement shall not exceed ~~\$x~~ (Not-To-Exceed Limit). CITY expressly reserves the right to deny any payment or reimbursement requested by COUNTY for any expense in excess of the Not-To-Exceed Limit. CITY acknowledges that COUNTY is under no obligation to perform services beyond the Not-To-Exceed Limit unless the Parties execute an amendment pursuant to Section 7.

## **3. TERM**

- A. The initial term of this Agreement shall be from ~~Month, Day, 20XX~~ through ~~June 30, 202x~~ (Initial Term).
- B. The Initial Term may be extended up to two (2) additional one (1) year terms with each term coinciding with COUNTY's fiscal year (July 1<sup>st</sup> to June 30<sup>th</sup>) upon the execution of an amendment pursuant to Section 7.

## **4. NATURE OF RELATIONSHIP**

- A. Independent Contractor. The Parties agree that the relationship created by this Agreement between COUNTY and CITY is that of an independent contractor. In performing the

services described herein, COUNTY shall at all times act and perform as an independent contractor of CITY, and not as a partner, joint venture, agent, or employee of CITY, and nothing contained herein shall be construed to be inconsistent with this relationship or status. COUNTY, by virtue of this Agreement, shall not have any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of CITY or to bind the CITY in any manner. Except for any materials, procedures, or subject matter agreed upon between the Parties, COUNTY shall have complete control over the method, manner, details, and means of performing services pursuant to this Agreement. COUNTY shall be responsible to CITY only for the requirements and results specified in this Agreement and, except as provided herein, shall not be subjected to CITY's control with respect to the physical action or activities of COUNTY in performing services under this Agreement. Despite any provision of this Agreement that may appear to give CITY the right to direct COUNTY as to the details of performing the services required herein or to exercise a measure of control over such services the COUNTY will follow the direction of CITY as to the results of the services only and not the means by which those results are accomplished.

- B. Non-Exclusivity. While this Agreement is in effect, COUNTY may, independent of its relationship with CITY and without breaching this Agreement or any duty owed to the CITY under this Agreement, render the same or similar services to any other entity. While this Agreement is in effect, CITY may, independent of its relationship with COUNTY and without breaching this Agreement or any duty owed to COUNTY, contract with other individuals and entities to perform or render to CITY the same or similar services performed by COUNTY under this Agreement.

## **5. ASSIGNMENT AND SUBCONTRACTORS**

COUNTY shall not assign, sublet, or transfer this Agreement or any rights or responsibilities hereunder without the prior written consent of CITY. Any attempted assignment, sublease, or transfer in violation of this Agreement shall be null and void, and of no force and affect. Any attempted assignment, sublet, or transfer in violation of this Agreement shall be grounds for the CITY to terminate this Agreement immediately.

## **6. TERMINATION**

- A. Either Party may terminate this Agreement for any reason by giving the other Party thirty (30) days written notice of its intent to terminate.
- B. In the event of any termination, CITY shall pay COUNTY for services performed prior to the effective date of such termination.

## **7. AMENDMENT**

This Agreement may be amended or modified by the mutual agreement of the Parties if such amendment or modification is in written form executed on behalf of both Parties.

## **8. NOTICE**

Any notice, communication, amendment, or termination of this Agreement, including any change of address of either Party while this Agreement is in effect shall be in writing and may be personally served, sent by prepaid first-class mail, or email (if included below) to the respective Party as follows:

### **If to COUNTY:**

Ventura County Behavioral Health Department  
Attn: Loretta L. Denering, Director  
1911 Williams Drive, Suite 200  
Oxnard, CA 93036  
PHONE: (805) 981-2214  
EMAIL: [BHhousingClerical@ventura.org](mailto:BHhousingClerical@ventura.org)

### **If to CITY:**

Contractor  
Attn:  
Street Address  
City, State, Zip  
PHONE:  
EMAIL:

## **9. COMPLIANCE WITH LAWS**

The Parties agree that its officers, agents, employees, and subcontractors will obey all local, State, and Federal laws and regulations in the performance of this Agreement, including, but not limited to laws and regulations related to the payment minimum wages, prohibitions against discrimination, and the use and disclosure of private and confidential health information and records.

## **10. REQUIRED LICENSES, CERTIFICATES, AND PERMITS**

COUNTY and its officers, agents, employees and/or subcontractors shall secure and maintain in force while this Agreement is in effect, at COUNTY's cost and expense, such licenses, certificates, and permits as are required by law, in connection with the performance of services pursuant to this Agreement.

## **11. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

The Parties represent and agree that each of them does not and shall not discriminate against any employee or applicant for employment based on any protected categories, including but not limited to; race, religion, color, sex, or national origin, in accordance with California Constitution, Article 1, Section 31, and California Government Code Section 12940.

## **12. CONFIDENTIALITY AND PRIVACY**

- A. The Parties shall comply with all applicable Federal and State confidentiality and privacy laws and regulations related to member, patient, and student health information, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the substance abuse treatment program confidentiality regulations at 42 C.F.R. Part 2, the Lanterman Petris Short Act at California Welfare and Institutions Code section 5328, and the Confidentiality of Medical Information Act at California Civil Code section 56 et seq. The Parties shall ensure that all services performed under this Agreement comply with the requirements of these laws and regulations. In recognition of these laws, although

COUNTY employee(s) or department(s) performing services under this Agreement may work closely with CITY's designated staff, communication between the Parties following an incident or encounter may be limited by COUNTY, in its sole and absolute discretion, until an appropriate authorization, consent, or release is obtained to allow use by or disclosure to CITY of confidential or protected health information (PHI).

- B. The Parties acknowledge that COUNTY and CITY are both subject to the California Public Records Act (Gov't Code Sec.7920.000, et seq.) and the Ralph M. Brown Act (Gov't Code Sec. 54950, et seq.)

### **13. AUDIT OF RECORDS**

COUNTY will maintain full and accurate records with respect to all services performed under this Agreement. Subject to the provisions and requirements of Section 12. CITY, upon reasonable advance notice, will have access to such records during COUNTY's normal business hours, the right to examine and audit the same and to make a transcript therefrom, and to inspect all data, documents, proceedings, and activities related to COUNTY's performance of this Agreement. COUNTY will retain such financial and program service records as required by applicable law after termination of and final payment under this Agreement.

### **14. INSURANCE**

- A. The Parties acknowledge and agree that each of them is a public agency and is self-insured. Each Party will maintain policies at coverage limits commensurate with its respective activities under this Agreement and as otherwise required by law. Each Party may, in its discretion, purchase commercial insurance to cover its exposure under this Agreement.
- B. Upon the reasonable request of either Party, the Parties will provide to each other a certificate of insurance, or a substantially equivalent document, evidencing their workers' compensation insurance coverage and general liability insurance coverage.

### **15. INDEMNIFICATION**

- A. COUNTY agrees to indemnify, defend (with counsel acceptable to CITY), and hold harmless CITY, its officers, agents, employees and volunteers, from any and all costs, expenses, claims, suits, and liability including bodily or personal injury to or death of any person, and for injury to or lose of any property, resulting from or arising out of or in any way connected with any negligent or wrongful acts or omissions of COUNTY, its officers, agents, and employees, in performing or in failing to perform any services provided for, referred to in, or in any way connected with the services to be performed under this Agreement.

- B. COUNTY, its officers, employee, agents, and department by this Agreement shall not assume any liability for the negligent or wrongful acts or omissions of CITY, nor any officer, agent, employee, or volunteer thereof, and CITY agrees to indemnify, defend (with counsel acceptable to COUNTY), and hold harmless the COUNTY, its officers, agents, employees, and volunteers from any and all costs, expenses, claims, suits and liabilities resulting, arising out of, or in any way connected with any negligent or wrongful acts or omissions of CITY, its officers, agents, and employees, in performing or authorizing the performance of or in failing to perform or authorize the performance of any services provided for, referred to in, or in any way connected with the performance of services under this Agreement.

## **16. DISPUTE RESOLUTION**

The Parties shall cooperate in good faith to informally resolve any dispute or claim arising out of, relating to, or in connection with this Agreement, including but not limited to the performance of and payment for services described herein. Before pursuing any other remedy, representatives of the COUNTY CEO and the CITY Manager will complete an in-person meeting and engage in a good faith effort to resolve the dispute. If the Parties are unable to informally resolve a dispute within ninety (90) days of that meeting, then either Party may pursue any remedies available to it at law or in equity.

## **17. GOVERNING LAW AND VENUE**

This Agreement shall be interpreted pursuant to the laws of the State of California, without regard to its law governing conflict of laws. Exclusive venue for any legal action involving or related to the interpretation or enforcement of this Agreement shall be the Superior Court of California for Ventura County.

## **18. ENTIRE AGREEMENT**

This Agreement and its accompanying exhibits contain the entire agreement of the Parties, and no representations, inducements, promises, or agreements otherwise between the Parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless executed in separate agreement by the Parties executed pursuant to this Agreement.

## **19. BINDING EFFECT**

This Agreement shall inure to the benefit and shall be binding upon all of the Parties and their respective successors in interest.

## **20. WAIVER OF DEFAULT**

Waiver of any default by either Party shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in Section 7.

**21. THIRD PARTY RIGHTS**

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than COUNTY and CITY.

**22. SEVERABILITY**

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any Federal, State, or county statute, ordinance, or regulation, then the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

**23. SECTION AND PARAGRAPH HEADINGS**

The headings of sections and paragraphs herein are inserted only for convenience and shall not be deemed to govern, limit, modify, or in any other manner affect the scope, meaning, or intent of the provisions of this Agreement or any part or portion thereof, nor shall they otherwise be given any legal effect whatsoever.

**24. AUTHORITY**

The Parties represent and warrant that each of them has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Further, the Parties represent and warrant that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind their respective Party.

**25. ELECTRONIC SIGNATURES**

A. The Parties agree that this Agreement may be transmitted and signed by electronic or digital means by either Party or both Parties and that such signatures shall have the same force and effect as original signatures, in accordance with California Government Code Section 16.5 and California Civil Code Section 1633.7.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**COUNTY OF VENTURA**

**CONTRACTOR**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT “A”**  
**SERVICE DESCRIPTION**

**A. ISC Program; Generally**

1. The purpose of this Agreement is to implement a ISC Program (Program) in and for the CITY for individuals who reside within the established City limits. As more fully described herein, the Program shall consist of COUNTY providing a single, full-time equivalent (FTE) staff member from its VCBH Rapid Integrated Support and Engagement (RISE) program team to work in conjunction and collaborate with CITY, to coordinate the provision of non-emergent mental health field engagement and case management services for former and current participants of the XXX, residents of the CITY’s XXX and other individuals identified as unhoused by the CITY.
2. The Program is not a crisis intervention program, an emergency response program, nor does it include psychiatric mobile response, and the COUNTY staff member designated herein to serve as the ISC and work with CITY is not licensed or qualified to perform or provide, and shall not perform or provide, any of the following: (i) on-scene crisis intervention services; (ii) assessments or evaluations for involuntary detention of individuals that may be at risk of harming themselves or others; (iii) assessments or evaluations for involuntary detention of individuals that are unable to provide food, clothing, or shelter for themselves (i.e., gravely disabled); or (iv) any other similar type of mobile crisis response in the community.

**B. ISC Designation**

1. The COUNTY employee that implements the Program and performs the services described in this Agreement shall be referred to as the ISC.
2. The ISC shall be a member of the VCBH RISE program team and will possess the training, experience, and licenses/certifications, and will complete the background check, determined by the COUNTY to be necessary or appropriate for the implementation of the Program and performance of services under this Agreement.

**C. COUNTY Role and Responsibilities.** COUNTY will perform the following services and functions:

1. The COUNTY’s ISC will collaborate and partner with CITY's designated staff, as designated pursuant to Section D(l) of this Exhibit “A,” to provide non-emergent mental health field engagement services and case management services to former and current participants of the XXX, residents of the CITY’s XXX, and other individuals identified unhoused by the CITY. Services may include but not be limited to the following:

- I. Meet and engage on a regular basis with identified individuals to determine mental health needs.
  - II. Provide non-emergent mental health case management activities services, including non-medical initial screenings, needs assessments, and referrals to providers of appropriate levels of care.
  - III. Provide basic non-medical follow-up care and case management services, as individually appropriate, in the field to ensure the appropriate linkage to mental health care and resources within the community of former and current participants of the XXX, residents of the CITY's XXX, and other individuals identified unhoused by the CITY.
  - IV. Collaborate with CITY's Partnership Officer to identify and develop case files for former and current participants of the XXX, residents of the CITY's XXX., and other individuals identified unhoused by the CITY.
2. Notwithstanding anything in this Exhibit "A" to the contrary, and consistent with Section 4 of the Agreement, COUNTY will determine the type and scope of services and ISC activities to be performed to implement and administer the Program and in the case of any particular individual or specific incident. COUNTY, in its sole and absolute discretion, may decide that the ISC will not provide or perform any service or function that is inconsistent with the job/position description, requires a specialized license or certification, violates applicable law, or jeopardizes the safety or welfare of the ISC.
  3. The ISC will have the following weekly schedule:

Day of the Week	Hours of Work
Saturday and Sunday	Not in office
Monday	Off every other Monday, when on, 8:00 am-5:00pm
Tuesday through Friday	8:00 am – 6:00 pm

- The Parties may change or update this schedule as necessary via an amendment pursuant to Section 7 of the Agreement.
4. Upon the reasonable request of CITY, COUNTY will provide CITY training on mental health services and applicable health and medical privacy and confidentiality laws and rules consistent with COUNTY policies and procedures.
  5. COUNTY will protect, and will only use and disclose information related to , identified individuals according to applicable Federal and State confidentiality and privacy laws, including but not limited to HIPAA [Pub. L. No. 104-191], the substance abuse treatment program confidentiality regulations at 42 C.F.R. Part 2, the Lanterman, Petris Short Act at California Welfare and Institutions Code section 5328, the Confidentiality of Medical Information Act at California Civil Code section 56 et seq. and the implementing regulations thereof.

6. On a regular basis to be determined by the Parties, but not less than once per calendar year, COUNTY will meet with CITY to discuss and review the implementation and development of the ISC services, including but not limited to the budget and expenditures for services under this Agreement.
  7. COUNTY shall not use or employ any volunteer or student worker to perform any services or functions under the Agreement.
- D. CITY Roles and Responsibilities. CITY will perform and/or provide the following in support of the Program and the ISC's performance of services:
1. CITY will dedicate a CITY representative who shall either be a CITY employee or designee to serve as the single point of contact to collaborate and partner with the ISC and their performance of Program services. This person shall be referred to as the CITY's designated staff.
  2. As soon as possible, following the execution of this Agreement, CITY will identify and prepare a case load of former and current participants of the Ojai Tent Town Project, residents of the CITY's, and other individuals identified unhoused by the CITY and provide a copy of that case load to the ISC for engagement and receipt of services. Thereafter, on an ongoing basis, the CITY's designated staff will identify additional individuals and/or prepare additional case files for referral to the ISC for engagement and the receipt of services.
  3. CITY will promptly respond to requests made by COUNTY or the ISC for data and information related to the identified individuals to the extent permitted by State or Federal law (e.g., information and records related to utilization of services, history, arrests, incarceration).
  4. Upon reasonable request of COUNTY, CITY will meet with COUNTY to discuss changes and updates to the ISC work schedule set forth in Section C (3) of this Exhibit "A."
  5. CITY will participate in trainings provided by COUNTY or the ISC pursuant to Section C (4) of this Exhibit "A."
  6. CITY's designated staff will attend and participate in all meetings of the Parties, including but not limited to any meetings requested by COUNTY or the ISC to discuss the performance of Program services as well as particular identified individuals and incidents. The CITY's designated staff, and the ISC shall meet regularly, to coordinate the needs of former and current participants of **XXX**, residents of the CITY's **XXX**, and other individuals identified as unhoused by the CITY.
  7. CITY reserves the right to request that COUNTY remove and/or replace the COUNTY's employee designated to serve as the ISC from any CITY facility whose conduct or work

with identified individuals, CITY staff, or the public is not in accordance with CITY policies and procedures.

## **EXHIBIT "B"**

### **PAYMENT PROVISIONS**

The following provisions and requirements apply to CITY's payment for COUNTY's performance or provision of services or functions under the Agreement.

A. Compensation; Not-To-Exceed Limit. CITY shall pay COUNTY a Not-To-Exceed Limit of \$X for COUNTY's satisfactory performance of the services performed pursuant to this Agreement. Of this amount, \$X will be designated for FY 2024-25 and \$X for FY 2025-26. CITY expressly reserves the right to deny any payment or reimbursement requested by COUNTY for any expense in excess of the Not-To-Exceed Limit.

B. Invoicing and Payment

1. On a quarterly basis, COUNTY shall submit to CITY an itemized statement of all Program services which were performed by COUNTY pursuant to this Agreement. Quarterly statements will cover the period from the first (1st) day of the three (3) preceding months through and including the last day of the preceding month. Quarterly statements will identify the date that services were performed; the employee(s) performed the services; the nature of the services performed; and the amount of time spent performing the services. Quarterly statements will be informative but concise regarding services and functions performed during that billing period.

The Parties agree that CITY may pay COUNTY on a quarterly basis.

C. Satisfactory Performance; Disputes

1. CITY may review COUNTY's performance of Program services to determine that services have been satisfactorily performed or provided pursuant to the Agreement.
2. Upon reasonable advance written notice, CITY may inspect and/or audit all records and other written material used by COUNTY in preparing the monthly statements submitted to CITY for payment.
3. If CITY determines that COUNTY has not satisfactorily performed Program services as provided in this Agreement, then CITY will alert COUNTY to that determination as soon as possible. CITY may withhold any disputed charge or amount until the services are satisfactorily completed or COUNTY amends the invoice statement. Notwithstanding the foregoing, under no circumstances shall CITY be entitled to refuse to pay or withhold the entire amount of an invoice or quarterly payment to COUNTY unless CITY asserts that none of the services listed on a particular monthly invoice or quarterly payment were satisfactorily performed by COUNTY.

4. Any dispute regarding COUNTY's performance of Program services under this Agreement and/or CITY's payment of monthly invoices or quarterly installments shall be resolved pursuant to Section 16 of the Agreement.

## **EXHIBIT "C"**

### **BUSINESS ASSOCIATE AGREEMENT**

All terms used herein have the same meaning as those terms in the Health Insurance Portability and Accountability Act (HIPAA) Rules.

#### **I. Definitions**

- a. Business Associate shall mean **[insert provider legal entity name]**.
- b. Covered Entity shall mean the County of Ventura.
- c. HIPAA Rules shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and part 164.

#### **II. Obligations and Activities of Business Associate**

- a. Business Associate agrees to not Use or Disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- b. Business Associate agrees to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 (the "Security Rule") with respect to Electronic Protected Health Information, to prevent Use or Disclosure of the Protected Health Information, other than as provided for by this Agreement. Such safeguards and compliance with the Security Rule shall include compliance with the administrative, physical, and technical safeguards and documentation requirements set forth in 45 CFR 164.308, 164.310, 164.312, and 164.316.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect of a Use or Disclosure of Protected Health Information by Business Associate in breach of the requirements of this Agreement.
- d. Business Associate agrees to report to Covered Entity, in writing, within forty-eight (48) hours of the discovery of any Use, Disclosure, or Breach of the Protected Health Information not provided for by this Agreement of which it becomes aware, including any Breach of Unsecured Protected Health Information, as required by 45 CFR 164.410 (the "Data Breach Notification Rule"), and any Security Incident of which Business Associate becomes aware. Such notice shall include the identity of each Individual whose Protected Health Information or Unsecured Protected Health Information was, or is reasonably believed by Business Associate to have been accessed, acquired, Used, or Disclosed during the Breach.

- e. Business Associate agrees, in accordance with 45 CFR Parts 164.502(e)(1)(ii) and 164.308(b)(2), to ensure that any agent, including a Subcontractor who creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate in connection with the services provided to Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement, to Business Associate with respect to such information, including Electronic Protected Health Information. If Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of the Subcontractor's obligations under the Agreement (or other arrangement) between Subcontractor and Business Associate, Business Associate will take reasonable steps to cure the breach or end the violation, as applicable, and, if such steps are unsuccessful, Business Associate will terminate the Agreement (or other arrangement), if feasible.
- f. Business Associate agrees to provide access, at the request of Covered Entity, to Protected Health Information in a Designated Record Set (including Protected Health Information that is maintained in one or more Designated Record Sets electronically), to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR Part 164.524.
- g. Business Associate agrees to make Protected Health Information in a Designated Record Set available for amendment and incorporate any amendments to Protected Health Information as directed by Covered Entity pursuant to 45 CFR 164.526.
- h. Business Associate agrees that to the extent 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 will comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligations.
- i. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the Use and Disclosure of Protected Health Information received from or created, maintained or received by Business Associate on behalf of Covered Entity available to the Covered Entity, or to the Secretary of the Department of Health and Human Services (Secretary), as applicable, for the purposes of the Secretary determining Covered Entity's compliance with the HIPAA Rules.
- j. Business Associate agrees to maintain and make available the information required 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 CFR 164.528.
- k. Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information concerning an Individual unless Business Associate obtains from the Individual, in accordance with 45 CFR 164.508(a)(4), a valid authorization that includes a statement that the disclosure will result in remuneration to the Business Associate (or Covered Entity, if applicable). This paragraph shall not apply to remuneration received in circumstances specified in 45 CFR 164.502(a)(5)(ii)(B)(2).

### **III. Permitted General Uses and Disclosures by Business Associate**

- a. Except as otherwise limited in this Agreement, Business Associate may Use or Disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the **ISC services agreement**.
- b. Business Associate may Use or Disclose Protected Health Information as Required by Law.
- c. Business Associate agrees that when Using or Disclosing Protected Health Information or when requesting Protected Health Information, it will make reasonable efforts to limit the Protected Health Information to the Minimum Necessary to accomplish the intended purpose of the Use, Disclosure, or Request, and will comply with the Minimum Necessary policies and procedures of Covered Entity.
- d. Business Associate will only Use or Disclose Protected Health Information in a manner that would not violate the HIPAA Rules if done by Covered Entity, except for the specific Uses and Disclosures set forth herein.

### **IV. Specific Use and Disclosure Provisions**

- a. Except as otherwise limited in this Agreement, Business Associate may Use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may Disclose Protected Health Information received in its capacity as a Business Associate for the proper management and administration of the Business Associate, provided that the Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or of the purpose for which it was Disclosed to the person and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. Except as otherwise limited in this Agreement, Business Associate may Use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 45 CFR 164.504(e)(2)(i)(B).
- d. Business Associate may De-Identify Covered Entity's Protected Health Information and Use and Disclosure the De-Identified information without restriction.
- e. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j) (1).

### **V. Obligations of Covered Entity**

- a. Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 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 of any changes in, or revocation of, permission by an Individual to Use or Disclose 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 of any restriction on the Use or Disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's Use or Disclosure of Protected Health Information.

## **VI. Permissible Requests by Covered Entity**

Covered Entity shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under the HIPAA Rules if done by Covered Entity.

## **VII. Term and Termination**

- a. *Term.* This Agreement shall be effective as of **Month Day, 202x**, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy the Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this section.
- b. *Termination for Cause.* Business Associate authorizes termination of this Agreement and the **ISC services agreement** by Covered Entity if Covered Entity determines Business Associate has violated a material term of the Agreement and/or if Business Associate has not cured the breach or ended the violation within the time specified by the Covered Entity.
- c. *Obligations of Business Associate Upon Termination*
  - 1. Except as provided in paragraph (2) of this Section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of Subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.



2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. If such return or destruction of Protected Health Information is not feasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further Uses and Disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information. To the extent it later becomes feasible to return or destroy such Protected Health Information, Business Associate shall do so in accordance with paragraph (1) of this Section.
2. The rights and obligations under this Section shall survive the termination of this Agreement.

#### **VIII. Miscellaneous**

- a. *Regulatory References.* A reference in this Agreement to a section of 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 Covered Entity to comply with the requirements of the HIPAA Rules, or any other applicable law.
- c. *Interpretation.* Any ambiguity in this Agreement shall be resolved to permit Covered Entity and Business Associate to comply with the HIPAA Rules.