This **Agreement** is made this **1st day of July 2014** (the "Effective Date") by and between **Netsmart Technologies, Inc**., a Delaware corporation with offices at 4950 College Boulevard, Overland Park, Kansas 66212, (hereinafter referred to as "**Contractor**") and the **County of Monterey**, a political subdivision of the State of California, on behalf of the Monterey County Health Department (hereinafter referred to as "**County**").

RECITALS

The County has utilized Avatar application through Netsmart, Technologies, Inc. as the electronic medical records system for the Health Department – Behavioral Health Bureau since 2008. The County currently hosts the hardware, software, and database and the Contractor has provided software subscription, maintenance, and technical support.

County would like to migrate from a County hosted hardware, software, and database environment for the electronic medical records system to a Contractor hosted solution (Plexus Foundation). This Agreement is for the provision of services for the migration of data, Plexus Foundation implementation services, technical support and software maintenance for the term of this Agreement.

1.0 DEFINITIONS

As used in this Agreement, the following definitions apply to capitalized terms:

(a) "Applicable Law" means, in the case of software compliance, Federal or State of California law, rules or regulations that relate to the functionality of the Software. In all other cases Applicable Law means Federal, State of California or local laws, rules and regulations that apply to the conduct of Vendor's general business operations.

(b) "Encumbrance" means the process by which amounts payable under this Agreement are posted to the County's financial records for the payment then due under this Agreement, reducing the related appropriations balance.

(c) "Charges" means the amounts to be paid by County for the right to use the Licensed Programs, for services provided to County and for hardware or other Third Party Products acquired by County under the terms of this Agreement. The Charges and Payment Terms are described in Schedule A.

(d) "Hardware Configuration" means the computer hardware required to install and operate the Licensed Programs. A description of the recommended Hardware Configuration is set forth in Schedule C attached hereto.

(e) "County Database" means a collection of data records that are maintained as a single logical area on a single computer system that is used, accessed, or acted upon by Licensed Programs.

(f) "Licensed Programs" means both the Netsmart Programs and the Third Party programs.

(g) "County Resources" means the staff and other resources to be provided by County for the installation and implementation of the Licensed Programs in accordance with the Scope Document for Plexus Implementation Plan. Schedule D attached hereto sets forth the required and available County Resources.

(h) "Netsmart Programs" means the Netsmart computer programs in object code form and their associated documentation. Schedule A lists separately the various modules of the Netsmart Programs purchased by County.

(i) "Problem or Defect" means any failure of the Licensed Programs to operate in substantial conformance with the Specifications.

(j) "Scope Document for Plexus Implementation Plan" or "SOW" means the detailed work plan attached hereto as Schedule B.

(k) "Services" means the installation, training and other services to be provided by Contractor as described in Schedule B.

(l) "Specifications" means the description and features of the Licensed Programs as set forth in the documentation relating to the Licensed Programs supplied to County by Contractor hereunder and more particularly identified in Schedule F of this Agreement.

(m) "Support Services" means the maintenance and support services to be provided by Netsmart in accordance with Schedule E.

(n) "Third Party Products" means any product acquired by Netsmart from an outside vendor on behalf of County under the terms of this agreement. Third Party Products consisting of software are called Third Party Programs. Third Party Products are described in Schedule A

2.0 LICENSED PROGRAMS

(a) Contractor hereby grants County a non-exclusive, royalty-free, perpetual (subject only to termination under Section 15) non-transferable license to use the Licensed Programs in object code form only:

i) for County's internal business purposes and not to process the data of any other entity;

ii) to support the number of County Databases and the number of named users of the Contractor Programs set forth in Schedule A;

iii) on the number of servers, operating system and for access by the maximum number of simultaneous users or other such restrictions of the Third Party Products as set forth in Schedule A;

The foregoing license grant may be exercised by County and its employees and independent contractors (provided that such independent contractors undertake in writing to be bound by all applicable restrictions in this Agreement) (collectively, "County Personnel") on County's equipment for County's internal business purposes provided they are added as named users for the Licensed Programs.

(b) Except as expressly stated in this Agreement, no other rights, express, implied or otherwise are granted to County.

(c) The Third Party Programs are licensed subject to the same restrictions as are set forth in Section 2(a) above as well as such other restrictions as may be set forth in Schedule A.

(d) Nothing in this Agreement will be deemed to convey any title or ownership interest in the Licensed Programs to County. County acknowledges Contractor's rights and the rights of the owner of the Third Party Programs in the Licensed Programs and agrees that the Licensed Programs are trade secrets and unpublished works on which Contractor and such third party(s) hold and will hold the sole and exclusive copyright. County will not dispute the rights of Contractor and the third party(s) in the Licensed Programs and will not sell, disclose, lease, sublease, lend or otherwise make the Licensed Programs available to others including third party hosting providers.

(e) No copies of the Licensed Programs may be made by County without the prior written consent of Contractor except for backup purposes in accordance with normal data processing practices. County agrees to reproduce any copyright notices and/or other proprietary legends, regardless of form, contained in, affixed to, or appearing on the Licensed Programs.

(f) County will not disassemble or reverse engineer any of the Licensed Programs nor attempt to access or modify the source code version of the Licensed Programs and will not make any derivations, adaptations, or translations of the Licensed Programs in whole or in part, nor use the Licensed Programs to develop functionally similar computer software or to otherwise compete with Contractor.

(g) If suggestions made by County are incorporated into subsequent versions of the Licensed Programs, County hereby assigns to Contractor all rights County may have in and to any suggestions, concepts, or improvements concerning the Licensed Programs that may result from County communications to Contractor.

(h) Escrow Program. The license herein does not include any rights to the source code for the Contractor Programs. Contractor has established a source code escrow program with an affiliate of Iron Mountain Incorporated ("Escrow Agent") under which it has deposited a copy of the Contractor Program source code and source code documentation in electronic format with the Escrow Agent. Contractor deposits with the Escrow Agent, updates, changes, alterations, or modifications to the code for the Contractor Programs on a quarterly basis. If County elects to receive the benefit of the Escrow Program, County will pay the annual subscription fee as stated in Schedule A.

(i) Upon Contractor's request and with reasonable notice, County agrees to provide Contractor with verification as to the number of users using the Licensed Programs or allow Contractor or its authorized agent to independently audit County's database to verify the same. Should this verification identify usage of the Licensed Programs in excess of the number of licensed users, County agrees to immediately pay Contractor's invoice for the then-current prices for such Licensed Programs for each additional user license.

3.0 COMPLIANCE WITH APPLICABLE LAW & TERMS OF GRANT

(a) <u>Compliance with Law</u>. In providing services under this Agreement, CONTRACTOR shall comply with all Applicable Laws, regulations, and administrative requirements adopted by federal, state, and local governments including, but not limited to, Welfare and Institutions Code, Divisions 5, 6, and 9; California Code of Regulations, Titles 9 and 22; any Short-Doyle and Short-Doyle/Medi-Cal policies as identified in Department of Mental Health letters and in the Cost Reporting/Data Collection (CR/DC) Manual. In addition, if CONTRACTOR is providing Medi-Cal services pursuant to this Agreement, CONTRACTOR shall comply with Title XIX of the Social Security Act, and all other Applicable Laws, regulations and guidelines pertaining to federally funded mental health programs, including all requirements necessary for Medicaid/Medi-Cal reimbursement for mental health treatment services.

(b) <u>Compliance with Terms of State and/or Federal Grants</u>. If this Agreement is funded with monies received by the COUNTY pursuant to contract(s) with the state and/or federal government in which the COUNTY is the grantee, CONTRACTOR will comply with all provisions of said contract(s), to the extent applicable to CONTRACTOR as a subgrantee under said contract(s), and said provisions shall be deemed a part of this Agreement as if fully set forth herein. Upon request, COUNTY will deliver a copy of said contract(s) to CONTRACTOR at no cost to CONTRACTOR.

4.0 HARDWARE

Contractor will be responsible for all hardware necessary to host the database, application, and provide remote access to the Avatar suite of applications to County on Contractor premise

5.0   SCOPE OF SERVICE

The Summary of Scope of Services is as follows:

(a) Provide software license subscriptions;

(b) Provide software maintenance/support services including technical support;

(c) Provide professional services to include project management, software installation, data migration, training, and all support necessary to transition from a County hosted application and database environment to a vendor hosted application and database environment which will be referred to as the Plexus Foundation; and

(d) Provide recurring services and support associated with a Contractor Hosted solution, which entails the management of the hardware, software, and database that will reside on Contractor premise for access by County.

The details of Service is defined pursuant to the following sections of this Agreement:

(a) Schedule B: Scope of Work for Plexus Foundation Implementation Services – details the roles and responsibilities associated with migration from a County hosted solution to the Plexus Foundation.

(b) Schedule C: Hardware Configuration – details the minimum County hardware requirements to remotely access the Avatar software and database hosted by Contractor.

(c) Schedule D: County Resource Requirement – County responsibilities for the implementation of the Netsmart Programs during implementation.

(d) Schedule E: Support Services – defines the recurring technical support and maintenance services provided by Contractor during the term of this Agreement.

(e) Schedule F: Specifications - Documentation provisions details County entitlement as part of the implementation services.

6.0 TERM OF AGREEMENT

(a) The license term granted by this Agreement is perpetual.

(b) The initial term, during which Contractor shall provide implementation, maintenance and support services for the system as described in the AGREEMENT and attached Exhibits, shall commence with the Effective Date of the AGREEMENT and continue for a period of three (3) years until June 30, 2017, with the option to extend the AGREEMENT for two additional one year periods. County is not required to state a reason if it elects not to renew.

(c) If this AGREEMENT includes options for renewal or extension, CONTRACTOR must commence negotiations for rate changes a minimum of ninety days (90) prior to the expiration of the AGREEMENT. Both parties must agree to any rate changes in writing.

7.0   COMPENSATION AND PAYMENTS

(a) In consideration of the licenses granted hereunder, Services to be performed and Third Party Products to be provided by Contractor. County agrees to pay Contractor the Charges at the times and in the amounts set forth in **Schedule A**.

With the exception of the initial invoice which is due upon Agreement signing and Encumbrance, undisputed invoices are payable in accordance with Section 7(d) below. Failure to make timely payment is considered a material default of the Agreement.

(b) Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the renewal date of the AGREEMENT, and subject to the maximum rate increase as defined in Schedule E.

(c) Invoice amounts shall be billed directly to the ordering department.

(d) CONTRACTOR shall reference the Agreement number on all invoices submitted to the County. The invoice shall set forth the amounts. CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this AGREEMENT, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the uncontested amount certified within 30 days of receiving the certified invoice.

8.0 TAXES

The Charges set forth in this Agreement do not include any taxes. Where applicable, there will be added to such Charges, and County will pay, amounts equal to any taxes (however designated, levied, or based) on such Charges including, but not limited to, state and local sales, privilege, property, use or excise taxes, but not including taxes based on the net income of Contractor. If County claims a tax exemption, County will provide to Contractor a certificate of exemption from taxes, or other evidence sufficient to permit Contractor to exclude taxes from Charges.

9.0 INDEMNIFICATION

(a) Indemnification by Contractor: Intellectual Property Infringement. In the event of any claim by a third party against County (the "Claim"), alleging that the use of the Licensed Programs infringes upon any intellectual property rights of such third party, County will promptly notify Contractor and Contractor will defend County and its officers, agents, and employees against such Claim in County's name but at Contractor's expense, and will indemnify and hold harmless County against any liability paid by County, including but not limited to attorneys' fees and disbursements, arising out of such Claim. In the event such an infringement is found and Contractor cannot either procure the right to continued use of the Licensed Programs, or, within forty-five (45) days of such finding, and, if Contractor has a right to appeal, the exhaustion of those rights by Contractor, (unless such period is extended by County), replace or modify the Licensed Programs with a non-infringing program of comparable quality and functionality, then Contractor shall terminate the license of the Licensed Programs, and will refund to County all fees, including license and professional service fees, paid by County, pursuant to this Agreement, reduced by **1/36th** for each full month from the date of first use of the Licensed Programs, until the date of termination. Contractor will not have any liability under Section 10(b), and Contractor will be indemnified by County with respect to any Claim, to the extent that the Claim is based upon (i) the use of the Licensed Programs in combination with other products or services not made or furnished by Contractor, provided that the Licensed Programs alone are not the cause of such Claim; or (ii) the modification of the Licensed Programs or any portion thereof by anyone other than Contractor, provided that the Licensed Programs in unmodified form are not the cause of such Claim.

(b) Indemnification by Contractor: Other Claims. Contractor shall indemnify, defend, and hold harmless County, its officers, agents, and employees, from and against any and all claims by a third party and any and all liabilities and losses incurred by County on account of such claims(including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) caused by Contractor's negligence or willful misconduct in connection with the performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Contractor's performance" includes Contractor's acts or omissions and the acts or omissions of Contractor's officers, employees, agents and subcontractors.

(c) Indemnification by County: Failure to Use Licensed Programs as Permitted. County will indemnify and hold harmless Contractor from and against all claims, suits or actions by any third party against Contractor (the "Claims") relating to, arising out of or resulting from County's failure to use the Licensed Programs as permitted under this Agreement, or any claim by any party receiving services from County ("Claim for Services"). Contractor shall provide County with prompt notice of any such Claims or Claim for Services, allow County sole control of the defense, and shall fully cooperate with County in defending the Claims or Claim for Services.

10.0 WARRANTIES

(a) *Licensed Programs*. Contractor warrants that the Licensed Programs will substantially conform in all material respects with the requirements of this Agreement and their Specifications. If a Problem or Defect occurs while County is receiving Support Services, Contractor will correct the Problem or Defect in accordance with the Support Services provisions set forth in Schedule E.

(b) *Infringement*. Contractor further represents and warrants that it has the right to grant the licenses granted to County hereunder and that to the best of Contractor's knowledge the Licensed Programs do not infringe upon or violate the United States patent rights of any third party and do not infringe upon or violate the copyright, or trade secret right of any third party.

(c) If County or anyone acting with the consent of or under the direction of County fails to use the Licensed Programs as permitted under this Agreement, then (i) with respect to the warranty made under Section 10(a), Contractor shall have no obligation or liability to County with respect to any Problem or Defect caused by such failure to use the Licensed Programs as permitted under this Agreement, and (ii) with respect to the representation and warranty under Section 10(b), Contractor shall have no obligation or liability to County with respect to any third party claim of patent, copyright or trade secret infringement or misappropriation arising from such failure to use the Licensed Programs as permitted under this Agreement. County will have an affirmative obligation to immediately inform Contractor in writing of any known failure to use the Licensed Programs as permitted under this Agreement.

(d) The limited warranty described under Section 10(a) will not apply unless the County's hardware and software system components meet Contractor's minimum requirements as described in Schedule C.

(e) *Third Party Programs* In the event Contractor provides any Third Party Programs to County in connection with this Agreement, the following shall apply: (1) Contractor shall specifically identify in writing all Third Party Programs in Schedule A; (2) Contractor shall attach to Schedule A written copies of all third party license agreements applicable to County; and (3) Contractor warrants that (i) it has the right to license any Third Party Programs licensed to County under this Agreement; (ii) to the best of Contractor's knowledge, the Third Party Programs do not, and the use of the Third Party Programs by County as contemplated by this Agreement will not, infringe any intellectual property rights of any third party, and (iii) unless specifically provided otherwise herein, County shall have no obligation to pay any third party any fees, royalties, or other payments for County's use of any Third

Party Programs in accordance with the terms of this Agreement. Contractor shall support and maintain all such Third Party Programs to the same extent as the Licensed Programs.

Viruses and Disabling Mechanisms. Contractor shall use commercially reasonable measures to screen the Licensed Programs to avoid introducing any virus or other destructive programming that are designed (1) to permit unauthorized access or use by third parties to the software installed on County's systems, or (ii) to disable or damage County's systems. Contractor shall not insert into the Licensed Programs any code or other device that would have the effect of disabling or otherwise shutting down all or any portion of the Licensed Programs. Contractor shall not invoke such code or other device at any time, including upon expiration or termination of this Agreement for any reason.

(f) *Services*. Contractor warrants that all services provided by Contractor to County under this Agreement shall be performed in a workmanlike manner.

(g) *No Litigation*. Contractor further warrants there is no pending or threatened litigation that would have a material adverse impact on its performance under this Agreement.

(h) *Compliance with Applicable Law*. Contractor warrants that the services provided under this Agreement and County's permitted use of the Licensed Programs shall comply with applicable federal, state, and local laws and regulations.

(i) *Authority*. Contractor has the fully power, capacity and authority to enter into and perform the Agreement and to make the grant of rights contained herein.

11.0 LIMITATION OF WARRANTY

THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESS OR IMPLIED, WHETHER IN RELATION TO THE LICENSED PROGRAMS, HARDWARE OR THE PROVISION OF ANY SERVICES INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR ARISING BY TRADE USAGE OR COURSE OF DEALING. COUNTY'S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THE SECTION 10(a) WARRANTY AND CONTRACTOR'S SOLE OBLIGATION IS TO MODIFY THE SOFTWARE TO ELIMINATE THE PROBLEM OR DEFECT. COUNTY'S EXCLUSIVE REMEDY IN THE EVENT OF A BREACH OF THE SECTION 10(b) WARRANTY IS SET FORTH IN SECTION 9.

12.0 LIMITATIONS OF LIABILITY

(a) **LIMITATION ON SPECIFIED DAMAGES** EXCEPT FOR BREACH OF THE WARRANTY IN SECTION 10 (b) (INFRINGEMENT), AND THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THIS AGREEMENT (INCLUDING IN SECTION 9 (INDEMNIFICATION)), IN SCHEDULE H AND SCHEDULE I, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING DAMAGES RELATED TO DELAYS, LOSS OF DATA, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR PROFITS OR REVENUE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

(b) **LIMITATION ON CUMULATIVE LIABILITY**. EXCEPT FOR THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN SECTION 9 (INDEMNIFICATION), IN SCHEDULE H AND SCHEDULE I THE CUMULATIVE LIABILITY OF ONE PARTY TO THE OTHER PARTY FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THIS AGREEMENT, WHETHER BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE TOTAL OF THE LICENSE FEES AND PROFESSIONAL SERVICES FEES PAID TO CONTRACTOR UNDER THIS AGREEMENT.

13.0 INSURANCE

(a) **Evidence of Coverage:** Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, a certified copy of the policy or policies shall be provided by the Contractor upon request.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall <u>not</u> receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

(b) **Qualifying Insurers:** All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Officer.

(d) **Insurance Coverage Requirements:** Without limiting CONTRACTOR'S duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this AGREEMENT a policy or policies of insurance with the following minimum limits of liability:
   i. <u>Commercial general liability insurance</u>, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than $1,000,000 per occurrence.
   ii. <u>Business automobile liability insurance,</u> covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than $500,000 per occurrence.
   iii. <u>Workers' Compensation Insurance</u>, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than $1,000,000 each person, $1,000,000 each accident and $1,000,000 each disease.
   iv. <u>Professional liability insurance</u>, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than $1,000,000 per claim and $2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail

coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

(e) **Other Insurance Requirements:** All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

(f) Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

(g) *Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.*

(h) Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

(i) CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

14.0 ACCESS TO AND AUDIT OF RECORDS

(a) <u>Maintenance of Records.</u> CONTRACTOR shall maintain records indicating the nature and extent of all services performed and all payments received under this Agreement for a period of five (5) years after completion of all services pursuant to this Agreement or until all disputes, claims, litigation, or audits have been resolved, whichever occurs later. CONTRACTOR shall maintain such records in a form comporting with generally accepted standards and applicable law. Government Code § 8546.7 makes any expenditure of public funds over $10,000 subject to the examination and

audit of the State Auditor for a period of three (3) years after final payment under the Agreement.

(b) <u>Right to Inspect Records.</u> The COUNTY, State Department of Mental Health, the Comptroller General of the United States, the U.S. Department of Health and Human Services, and other authorized federal and state agencies shall have the right to inspect any and all books, records, and facilities maintained by CONTRACTOR during normal business hours to evaluate the use of funds and the cost, quality, appropriateness, and timeliness of services.

(c) <u>Overpayment.</u> If the results of any audit show that the funds paid to CONTRACTOR under   this Agreement exceeded the amount due, then CONTRACTOR shall pay the   excess   amount   to COUNTY in cash not later than sixty (60) days after the final audit   settlement; or, at COUNTY'S election, COUNTY may recover the excess or any portion   of it by offsets made by COUNTY against any payment(s) owed to CONTRACTOR   under this or any other Agreement.

(d) <u>Responsibility for Audit Exceptions.</u> Any and all audit exceptions by COUNTY or any state or federal agency resulting from an audit of CONTRACTOR's performance of this Agreement, or actions by CONTRACTOR, its officers, agents, and employees shall be the sole responsibility of the CONTRACTOR.

15.0 TERMINATION

(a) <u>Termination without Cause.</u> The County reserves the right to cancel this AGREEMENT, or any extension of this AGREEMENT, without cause, with a thirty day (30) written notice..

(b) <u>Termination for Cause.</u> Either party may terminate this AGREEMENT for cause, if the other party is in default of any of its material obligations hereunder, and has not commenced cure within thirty (30) days after receiving written notice of default, and effected the cure within ninety (90) days of receipt of notice of default from Contractor. In the event cure cannot reasonably be effected within ninety (90) days, a party may choose not to cancel this Agreement if the other party acts diligently during the ninety (90) day period following its receipt of notice and completes the cure promptly thereafter.

(c) In the event of termination for convenience pursuant to Section 15 (a) Contractor shall within thirty (30) days of receipt of notice of termination for convenience submit to the Monterey County Health Department all outstanding invoices for services provided prior to the effective date of the termination for convenience. The Monterey County Health Department shall submit within thirty (30) days of receipt from Netsmart those outstanding invoices of Netsmart that have been certified for payment to the County Auditor-Controller. The County Auditor-Controller shall pay any undisputed invoices in accordance with Section 7(d) above.

(d) <u>Termination or Amendment in Response to Reduction of Government Funding.</u> Notwithstanding any other provision of this Agreement, if Federal, State or local government terminates or reduces its funding to the County for services that are to be provided under this Agreement, County, in its sole and absolute discretion after consultation with the Contractor, may elect to terminate this Agreement by giving written notice of termination to Contractor effective immediately or on such other date as County specifies in the notice. Alternatively, County and Contractor may mutually agree to amend the Agreement in response to a reduction in Federal, State or local funding.

(e) In the event this Agreement is terminated pursuant to Section 15(b) solely due to a breach by County of license rights contained in Section 2, County will, within thirty (30) days of the date of

termination of this Agreement, erase from all computer storage any image or copies of the Licensed Programs, related specifications and documentation and will certify in writing to Contractor that the original and all copies of such property have been destroyed.

(f) Upon Termination of this Agreement for any reason specified in this Section, Contractor will provide a machine-readable copy of the Data available to County within thirty (30) days of termination of this Agreement.

(g) Notwithstanding any termination of this Agreement for any reason, the terms and conditions set forth in the following Sections of this Agreement will survive and will be binding on the representatives, successors, heirs and assignees of the parties:

    i)   Section 9   Indemnifications
    ii)   Section 12   Limitation of Warranty
    iii) Section 13   Professional Liability Insurance Tail Coverage
    iv) Section 14. Access to and Audit of Records
    v)   Section 15   Termination
    vi) Section 16   Confidentiality
    vii) Section 18   Non-Hiring
    viii)   Section 20   General Provisions
    ix) Schedule H Confidentiality of Patient Information
    x)   Schedule I. Business Associate Agreement

16.0 CONFIDENTIALITY

(a) Except where disclosure is required by law, including disclosures pursuant to a request under the California Public Records Act, each Party agrees that all information supplied by one Party and its affiliates and agents (collectively, the "Disclosing Party") to the other ("Receiving Party") including, without limitation, (a) source code, prices, trade secrets, mask works, databases, designs and techniques, models, displays and manuals; (b) any unpublished information concerning research activities and plans, marketing or sales plans, sales forecasts or results of marketing efforts, pricing or pricing strategies, costs, operational techniques, or strategic plans, and unpublished financial information, including information concerning revenues, profits, and profit margins; (c) any information relating to customers, patients, business partners, or personnel;(d) Patient Information (as defined in Exhibit H), and (e) Protected Health Information (as defined in 45 C.F.R. § 160.103), will be deemed confidential and proprietary to the Disclosing Party, regardless of whether such information was disclosed intentionally or unintentionally or marked as "confidential" or "proprietary" ("Confidential Information"). The foregoing definition shall also include any Confidential Information provided by either Party's contractors, subcontractors, agents, or vendors. To be deemed "Confidential Information", trade secrets and mask works must be plainly and prominently marked with restrictive legends.

(b) Each Party recognizes the importance of the other Party's Confidential Information. In particular, each Party recognizes and agrees that the Confidential Information of the other is critical to their respective businesses and that neither Party would enter into this Agreement without assurance that such information and the value thereof will be protected as provided in this Section 16 (Confidentiality), Section 17 (Intellectual Property Rights) and elsewhere in this Agreement. Accordingly, each Party agrees as follows: (a) the Receiving Party will hold any and all Confidential Information it obtains in strictest confidence and will use and permit use of Confidential Information solely for the purposes of this Agreement. Without limiting the foregoing, the Receiving Party shall use at least the same degree of care, but no less than reasonable care, to avoid disclosure or use of this Confidential Information as the Receiving Party employs with respect to its own Confidential Information of a like importance; (b) the Receiving Party may disclose or provide access to its responsible employees, agents, and consultants who have a need to know and may make copies of Confidential Information only to the extent reasonably necessary to carry out its obligations hereunder; and (c) the Receiving Party currently has, and in the future will maintain in effect and enforce, rules and policies to protect against access to or use or disclosure of Confidential Information other than in accordance with this Agreement, including without limitation written

instruction to and agreements with employees, agents, or consultants who are bound by an obligation of confidentiality no less restrictive than set forth in this Agreement to ensure that such employees, agents, and consultants protect the confidentiality of Confidential Information, including Section 16 (Confidentiality), Section 17 (Intellectual Property Rights). The Receiving Party will require its employees, agents, and consultants not to disclose Confidential Information to third-parties, including without limitation customers, subcontractors, or consultants, without the Disclosing Party's prior written consent, will notify the Disclosing Party immediately of any unauthorized disclosure or use, and will cooperate with the Disclosing Party to protect all proprietary rights in and ownership of its Confidential Information.

(c) During the course of the Agreement, Contractor and County agree not to discuss the project with any person who does not have a need to know that information for a constructive purpose that will positively impact completion of the Implementation Plan.

(d) Contractor recognizes and acknowledges the sensitive and confidential nature of information it may obtain with regard to County and the treatment services that it provides, and agrees that information with respect to County's treatment services will be governed by Schedule H and Schedule I.

(e) During the course of the Agreement, Contractor and County agree not to discuss the project with any person who does not have a need to know that information for a constructive purpose that will positively impact completion of the Implementation Plan.

17.0 INTELLECTUAL PROPERTY RIGHTS

(a) All data provided by County belongs to County. All records compiled by Contractor in completing the work described in this AGREEMENT, including but not limited to written reports, studies, drawings, blueprints, negatives of photographs, graphs, charts, plans, County specific table and dictionary codes, configuration specifications and all other similar recorded data, shall become and remain the property of County. Use or distribution of County data by Contractor is prohibited unless Contractor obtains prior written consent from County.

(b) For systems hosted or stored on equipment not owned by County, Contractor will ensure that County has full access to its data 24 x 7 x 365. Upon Termination of this Agreement for any reason, Contractor will provide a machine-readable copy of the Data available to County within thirty (30) days of termination of this Agreement.

(c) Notwithstanding anything to the contrary contained in this AGREEMENT, it is understood and agreed that Contractor shall retain all of its rights in its proprietary information including, without limitation, methodologies and methods of analysis, ideas, concepts, expressions, know how, methods, techniques, skills, knowledge and experience possessed by Contractor prior to this AGREEMENT.

18.0 NON-HIRING

During the term of this Agreement and for a period of one (1) year following its termination, neither party will directly or indirectly solicit for employment or as a consultant, an employee or consultant of the other party, or any person who was an employee or consultant of the other party at any time during the twelve (12) month period immediately prior to the date such employee or consultant is solicited, hired or retained.

19.0 FORCE MAJEURE

Neither party will be responsible for delays or failures in performance resulting from acts or events beyond its reasonable control, including but not limited to, acts of nature, governmental actions, acts of terrorism, fire, labor difficulties or shortages, civil disturbances, transportation problems, interruptions of power supply or communications or natural disasters, provided such party takes reasonable efforts to minimize the effect of such acts or events.

20.0 GENERAL PROVISIONS

(a) Governing Law. This Agreement will be construed in accordance with the laws of the State of California, without giving effect to the conflict of law rules thereof. Both parties agree this Agreement does not constitute a consumer transaction.

(b) Entire Agreement. This Agreement and the schedules and exhibits attached hereto contain the entire understanding of the parties with respect to the matter contained herein. There are no promises, covenants or undertakings contained in any other writing or oral communication. In the event of any conflict between or among the documents comprising this Agreement, the latest dated document will prevail.

(c) Amendments. This Agreement may not be amended or modified except in a writing signed by authorized representatives of the parties.

(d) Waiver. A waiver of a breach or default under this Agreement will not be a waiver of any subsequent breach or default. Failure of either party to enforce compliance with any term or condition of this Agreement will not constitute a waiver of such term or condition.

(e) Insolvency. In the event that either party will cease conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under a Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then (at the option of the other party) this Agreement will terminate and be of no further force and effect and any property or rights of such other party, whether tangible or intangible, will forthwith be returned to it.

(f) Assignment. The license granted hereunder to County may not be assigned, or sublicensed, or shared, nor may County use the Licensed Programs to provide the software features as a service (Software as a Service) to a third party, whether for the benefit of County or others, without the written consent of Contractor. Contractor may not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. The assignment of this Agreement to a majority owned affiliate of Contractor or Contractor's parent corporation will not require consent of County, provided Contract provides thirty (30) days prior notice to County. County may, however, assign all of its rights under this Agreement to an assignee who acquires all or substantially all of the assets of County, is not a competitor of Contractor, and has financial resources at least equal to those of County. Any permitted assignee will assume in writing, all obligations of the assignor.

(g) Dispute Resolution. The parties will use reasonable efforts, including, without limitation, face-to-face negotiations, to resolve any differences arising between them as a result of this Agreement prior to exercising their respective rights at law or equity.

(h) Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable under any applicable statute or law, it is to that extent deemed to be omitted, and the remaining provisions of this Agreement will not be affected in any way.

(i) This Agreement may be executed in two or more counterparts, each of which will be deemed an original.

(j) Headings. The headings of the paragraphs and sections of this Agreement are for convenience only and will not control or affect the meaning or construction of any provision of this Agreement.

(k) Compliance with Laws. The parties agree to comply with all laws and regulations, including all United States and multilateral export laws and regulations, to assure that the Licensed Programs are not exported, directly or indirectly, in violation of law.

(l) Non-Exclusive Agreement. This Agreement is non-exclusive and both County and Contractor expressly reserve the right to contract with other entities for the same or similar services.

21.0 NOTICES

Notices required to be given to the respective parties under this AGREEMENT shall be deemed given by any of the following means: (1) when personally delivered to the County's contract administrator or to CONTRACTOR'S responsible officer; (2) when personally delivered to the party's principal place of business during normal business hours, by leaving notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; (3) 24 hours after the notice is transmitted by FAX machine to the other party, at the party's FAX number specified pursuant to this AGREEMENT, provided that the party giving notice by FAX must promptly confirm receipt of the FAX by telephone to the receiving party's office; or, (4) three (3) days after the notice is deposited in the U. S. mail with first class or better postage fully prepaid, addressed to the party as indicated below.
Notices mailed or faxed to the parties shall be addressed as follows:

TO THE COUNTY:

Health Department Director
County of Monterey, Health Department
1270 Natividad Road
Salinas, CA 93906
Tel. No.: (831) 755-4526 FAX No.: (831) 755-4980

TO THE CONTRACTOR:

Netsmart Technologies, Inc.
Corporate Counsel
4950 College Blvd
Overland Park, Kansas 66212
Contract_Notices@ntst.com
Tel. No.(800) 421-7503 Fax No.: (631) 968-2123

IN WITNESS WHEREOF, the County and CONTRACTOR execute this AGREEMENT as follows:

MONTEREY COUNTY   CONTRACTOR

By: _____

_____   Signature of Chair, President, or
Ray Bullick, Director of Health   Vice-President

Dated: _____   _____
                                          Printed Name and Title

Approved as to Fiscal Provisions: Dated: _____

_____
Gary Giboney, Auditor/Controller   By: _____

Dated: _____   (Signature of Secretary, Asst. Secretary, CFO,
                                          Treasurer or Asst. Treasurer)*

Approved as to Liability Provisions: _____
                                          Printed Name and Title

_____
Steve Mauck, Risk Management   Dated: _____

Dated: _____

Approved as to Form:

_____
Stacy Saetta, Deputy County Counsel

Dated: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Schedule A - Charges and Payment Terms for FYs 2014-17

Description	Qty	FY 14/15 - 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
RENEWAL of Licensed Software Maintenance and Support		**Period Charges**	**Payment Terms**	**Period Charges**	**Payment Terms**	**Period Charges**	**Payment Terms**
Avatar RADplus Named User License Maintenance	500	$125,000.00	Payable Upon the Execution and Encumbrance of this Agreement	$125,000.00	Payable upon the first day of FY 15/16 (7/1/2015)	$125,000.00	Payable upon the first day of FY 16/17 (7/1/2016)
MyAvatar - CalPM Maintenance	1	$4,746.86	Payable Upon the Execution and Encumbrance of this Agreement	$4,746.86	Payable upon the first day of FY 15/16 (7/1/2015)	$4,746.86	Payable upon the first day of FY 16/17 (7/1/2016)
MyAvatar - Clinicians Workstation (CWS) Maintenance	1	$4,746.86	Payable Upon the Execution and Encumbrance of this Agreement	$4,746.86	Payable upon the first day of FY 15/16 (7/1/2015)	$4,746.86	Payable upon the first day of FY 16/17 (7/1/2016)
MyAvatar - Managed Services Organization (MSO) Maintenance	1	$4,746.86	Payable Upon the Execution and Encumbrance of this Agreement	$4,746.86	Payable upon the first day of FY 15/16 (7/1/2015)	$4,746.86	Payable upon the first day of FY 16/17 (7/1/2016)
Avatar E-Signature Maintenance	1	$4,746.86	Payable Upon the Execution and Encumbrance of this Agreement	$4,746.86	Payable upon the first day of FY 15/16 (7/1/2015)	$4,746.86	Payable upon the first day of FY 16/17 (7/1/2016)
Escrow Agreement - County as Beneficiary	1	$1,200.00	Payable Upon the Execution and Encumbrance of this Agreement	$1,200.00	Payable upon the first day of FY 15/16 (7/1/2015)	$1,200.00	Payable upon the first day of FY 16/17 (7/1/2016)
Avatar -Addiction Severity Index (ASI) Maintenance	1	$3,559.88	Payable Upon the Execution and Encumbrance of this Agreement	$3,559.88	Payable upon the first day of FY 15/16 (7/1/2015)	$3,559.88	Payable upon the first day of FY 16/17 (7/1/2016)
Perceptive - Point of Service Scanning	1	$4,251.00	Payable Upon the Execution and Encumbrance of this Agreement	$4,251.00	Payable upon the first day of FY 15/16 (7/1/2015)	$4,251.00	Payable upon the first day of FY 16/17 (7/1/2016)
Subtotal:		**$152,998.32**		**$152,998.32**		**$152,998.32**	

RENEWALS of Licensed Subscription	Qty	Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
CareConnect Monthly Subscription (Replaces part of "Meaningful Use - Annual Maintenance")	1	$6,900.00	Payable Upon the Execution and Encumbrance of this Agreement	$6,900.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$6,900.00	Payable upon the first day of Fy 16/17 (7/1/2016)
Lab Results (Inbound)	1	$9,261.00	Payable Upon the Execution and Encumbrance of this Agreement	$9,261.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$9,261.00	Payable upon the first day of Fy 16/17 (7/1/2016)
Quality Measures and Clinical Decision Support 251 - 500 Users (Meaningful Use 1)	1	$1,800.00	Payable Upon the Execution and Encumbrance of this Agreement	$1,800.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$1,800.00	Payable upon the first day of Fy 16/17 (7/1/2016)
CareConnect Immunization (Meaningful Use)	1	$1,736.44	Payable Upon the Execution and Encumbrance of this Agreement	$1,736.44	Payable upon the first day of Fy 15/16 (7/1/2015)	$1,736.44	Payable upon the first day of Fy 16/17 (7/1/2016)
CareConnect Syndromic Surveillance (Meaningful Use)	1	$1,736.44	Payable Upon the Execution and Encumbrance of this Agreement	$1,736.44	Payable upon the first day of Fy 15/16 (7/1/2015)	$1,736.44	Payable upon the first day of Fy 16/17 (7/1/2016)
OrderConnect Base Fee (Replaces part of "Meaningful Use - Annual Maintenance" and all of "Infoscriber - Avatar Integration - annual fee")	1	$1,425.00	Payable Upon the Execution and Encumbrance of this Agreement	$1,425.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$1,425.00	Payable upon the first day of Fy 16/17 (7/1/2016)
OrderConnect - FULL SUITE - Prescriber Subscription (Replaces "Infoscriber 10 Prescribers" and "OrderConnect Eligible Professional (Full Suite Prescriber Subscription)"	10	$11,856.00	Payable upon the	$11,856.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$11,856.00	Payable upon the first day of Fy 16/17 (7/1/2016)
OrderConnect - Non-Prescribing User Subscription (Replaces "Infoscriber (10 non-prescribers, 3 Sys Admins)" and "OrderConnect - Agent (Full Suite Non-Prescriber Subscription)"	32	$4,742.40	Payable Upon the Execution and Encumbrance of this Agreement	$4,742.40	Payable upon the first day of Fy 15/16 (7/1/2015)	$4,742.40	Payable upon the first day of Fy 16/17 (7/1/2016)
myHealthPoint Portal (Replaces Consumer Connect)	1	24,000.00	Payable Upon the Execution and Encumbrance of this Agreement	24,000.00	Payable upon the first day of Fy 15/16 (7/1/2015)	24,000.00	Payable upon the first day of Fy 16/17 (7/1/2016)
Subtotal:		**$63,457.28**		**$63,457.28**		**$63,457.28**	

Third Party Software Subscriptions & Maintenance/Support Renewals	Qty	FY 14/15 - 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
Intersystems - Cashe Enterprise Multi-Server, Platform Specific	200	$ 32,902.43	Payable Upon the Execution and Encumbrance of this Agreement. Cache costs for 9 FYmonths during the migration/implementation	$ -	Fees no longer apply after migration to Contractor hosted environment	$ -	Fees no longer apply after migration to Contractor hosted environment
Intersystems - Cache Shadow Database	200	$ 8,243.54	Payable Upon the Execution and Encumbrance of this Agreement. Cache costs for 9 FYmonths during the migration/implementation	$ -	Fees no longer apply after migration to Contractor hosted environment	$ -	Fees no longer apply after migration to Contractor hosted environment
Subtotal:		**$ 41,145.97**		**$ -**		**$ -**	

New Purchases – CONTRACTOR Support, Services and Subscriptions	Qty	Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
ICD 10 / DSM 5		**Fy 14/15 - 7/1/2014 Through 6/30/2015**		**Fy 15/16 - 7/1/2015 Through 6/30/2016**		**Fy 16/17 - 7/1/2016 Through 6/30/2017**	
Diagnosis Content Subscription Base Fee (ICD 10 / DSM V)	1	$2,327.16	Subscription Fees to start April 1, 2015	$9,308.64	Payable upon the first day of Fy 15/16 (7/1/2015)	$9,308.64	Payable upon the first day of Fy 15/16 (7/1/2015)
Diagnosis Content Subscription Additional Users	136	$204.00	Subscription Fees to start April 1, 2015	$816.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$816.00	Payable upon the first day of Fy 15/16 (7/1/2015)
Plexus Consulting - Diagnosis Content Implementation	60	$12,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Web Services							
Avatar Web Services Suite	1	$20,000.00	Payable Upon the Execution and Encumbrance of this Agreement	$ -	N/A	$ -	N/A
Avatar Web Services Suite Maintenance	1	$3,150.00	Payable Upon the Execution and Encumbrance of this Agreement	$4,200.00	Payable upon the first day of Fy 15/16 (7/1/2015)	$4,200.00	Payable upon the first day of Fy 15/16 (7/1/2015)

Plexus Consulting - Web Services Installation Services	24	$4,800.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A

New Purchases – CONTRACTOR Support, Services and Subscriptions	Qty	Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
My LearningPoint		**FY 14/15 - 7/1/2014 Through 6/30/2015**		**FY 15/16 - 7/1/2015 Through 6/30/2016**		**FY 16/17 - 7/1/2016 Through 6/30/2017**	
myLearningPointe - LMS Premier	500	$20,625.00	Payable Upon the Execution and Encumbrance of this Agreement	$27,500.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ -	N/A
Netsmart Hosting							
Avatar Hosting with Disaster Recovery	500	$168,750.00	Payable Upon the Execution and Encumbrance of this Agreement	$225,000.00	Payable upon the first day of FY 15/16 (7/1/2015)	$225,000.00	Payable upon the first day of FY 15/16 (7/1/2015)
Hosting Setup Fee - Avatar	1	$50,000.00	Payable Upon the Execution and Encumbrance of this Agreement	$ -	N/A	$ -	N/A
Plexus Cloud Hosting App / DB Migration Services	1	$6,400.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Plexus Cloud Hosting - Perceptive - Disaster Recovery	1	$10,710.00	Payable Upon the Execution and Encumbrance of this Agreement	$14,280.00	Payable upon the first day of FY 15/16 (7/1/2015)	$14,280.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Cloud Hosting - Avatar Scriptlink	1	$5,625.00	Payable Upon the Execution and Encumbrance of this Agreement	$7,500.00	Payable upon the first day of FY 15/16 (7/1/2015)	$7,500.00	Payable upon the first day of FY 15/16 (7/1/2015)
Meaningful Use Stage 2 Components							
CareConnect Referral Connector – The point-to-point exchange of clinical summaries using Direct Messaging of referral records in order to meet the electronic messaging core objective requirement of MU2	1	$1,800.00	Payable 60 Days Past Notification of Availability for Implementation	$2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)	$2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Consulting - CareConnect Referral Connector	25	$5,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Direct Mailbox	1	$180.00	Payable Upon the Execution and Encumbrance of this Agreement	$240.00	Payable upon the first day of FY 15/16 (7/1/2015)	$240.00	Payable upon the first day of FY 15/16 (7/1/2015)

Meaningful Use Stage 2 Components Continued.		FY 14/15 - 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
CareConnect HIE Connector for CCD Transactions (unique capability to translate the files transmitted and received to match the formats required by both CONTRACTOR Care Records and the HIE operating systems.) OPTIONAL	1	$1,800.00	Payable 60 Days Past Notification of Availability for Implementation	$2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)	$2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Consulting - CareConnect - HIE Implementation of CCDs OPTIONAL	35	$7,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Care Guidance/Clinical Quality Metrics - Benchmarking - per Prescriber (MU2)	21	$4,725.00	Payable 60 Days Past Notification of Availability for Implementation	$6,300.00	Payable 60 Days Past Notification of Availability for Implementation	$6,300.00	Payable 60 Days Past Notification of Availability for Implementation
Consulting to Migrate to Current Solutions							
Plexus Consulting - Perceptive POS Migration	90	$13,500.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Plexus Consulting - myHealthPoint Implementation	65	$13,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Consulting/Training Services							
Plexus Advance Professional Services - Billing Training (1 Day Preparation, 3 Days Onsite, 1 Day Follow Up)	40	$8,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
OrderConnect Additional Subscriptions							
OrderConnect - FULL SUITE - Prescriber Subscription "	11	$13,041.60	Payable Upon the Execution and Encumbrance of this Agreement	$13,041.60	Payable upon the first day of FY 15/16 (7/1/2015)	$13,041.60	Payable upon the first day of FY 16/17 (7/1/2016)
Subtotal Cost for Implementation & Hosting:		**$372,637.76**		**$312,986.24**		**$285,486.24**	

The following table reflects the breakdown of costs:

Summary	FY 14/15	FY 15/16	FY 16/17	Total Agreement Amount
Software License Subscription - Recurring	$ 63,457.28	$ 63,457.28	$ 63,457.28	
Software Maintenance/Support - Recurring	$ 152,998.32	$ 152,998.32	$ 152,998.32	
Third Party Software Licensing - Recurring	$ 41,145.97	$ -	$ -	
One Time Implementation Costs	$ 139,700.00			
Vendor Hosting Charges - Recurring	$ 232,937.76	$ 312,986.24	$ 285,486.24	
	$ 630,239.33	**$ 529,441.84**	**$ 501,941.84**	**$ 1,661,623.01**

*On-Site travel will not be billed.

Schedule B
Scope Document
for the *Plexus Foundations Implementation Services*

Table of Contents:

1. **Purpose**

The purpose for this statement of work is to outline the requirements and deliverables for the implementation and project management of the . Implementation and migration from a County hosted hardware, software, and database solution to a Contractor hosted solution referred to as the Plexus Foundation. The scope is based on the latest generally available software release, project timeline, and use of Plexus implementation methodology, Plexus Home content and recommendations. The details of the scope of services are included below.

Project Duration

Project Duration
The following project start and end dates are estimates, and are subject to adjustment based upon the Effective Date of the Agreement and both parties overall cooperation of such implementation. Netsmart and County requires a minimum of sixty (60) days following the Effective Date of this Agreement to accommodate pre-project activities such as planning, staffing and technology activities. The overall duration of this project, based on the scope of work detailed herein is expected to be 9 months following the Project Kickoff event. Additional services will be applicable for any project where the duration from project kick-off to go-live is in excess of 9 months. Any such additional services shall be subject to a written amendment to this Agreement approved by both parties.

Notice of Changes or Delays
In the event Contractor determines, in good faith, at any time during the course of the project implementation, that failure, delay, inadequacy of performance by County in performance of its obligations, or County requested changes to the scope of work, as specified in the statement of work, may prevent Contractor from completing any of Contractor's obligations in the agreed upon time frame or cause Contractor to incur additional or unanticipated costs or expenses, Contractor will promptly notify County's Project Manager in writing, which notice shall specify in reasonable detail: (1) any alleged failure, delay or inadequacy of performance by County and (2) the estimated impact including the resulting costs or expenses of such alleged failure, delay or inadequacy of performance on Contractor's obligations. County will respond to the notice, specifying any grounds for disagreement, within ten (10) working days from receipt of the notice. County. In the event of a disagreement, Contractor retains the option to either stop or continue with the work, and will begin the dispute resolution steps included in the contract between the parties.

3.   Implementation Services

Point of Service (POS) Scanning	Implementation Scope
	Provides staff the ability to quickly and easily scan, capture and organize low volume scanned images.
Point of Service Scanning	Point of Service (POS) Imaging solutions include: • Installation of 2 ImageNow County Workstations- Additional stations will need to be set up by the County or additionally contracted. • Up to 5 pre-defined CaptureNow Profiles • 25 unique Document Types and up to 10 Custom Properties • 3 ImageNow Document/Project Views • 5 ImageNow Groups with Security Structure
Training	Provide up to a **4** hours Administration Training for a designated solution administrator to be completed during the implementation process (shadow).
	Provide up to a **2** hour Solution Training Session for "Super Users" at a single location for up to **5** individuals, using a "Train the Trainer" approach.
County Responsibilities Prior to Implementation	Provide a complete list of users needing access to the content management solution along the security designation of those users regarding scanning/importing, viewing, printing.
	Provide a complete list of form/document types to be configured for the POS solution.
	Capture workstations being installed/configured by Contractor resources must be in place and ready for install prior to the scheduled implementation.
	Provide detailed solution hardware information • Number of scanners with designated use (Point of Service, Batch, Both) • Scanner Make/Model and Location Workstation Machine ID for Point of Service Scanners
	• Systems administrator and/or DBA must be available throughout the implementation for assistance and to shadow the relevant installation solution components.

myHealthPointe (formerly ConsumerConnect)	Implementation Scope
myHealthPointe offers County the ability to provide their clients with access to information related to their care, 24 hours a day through a secure, web-based portal.	
Key Functions	Includes one customized myHealthPointe user interface chosen from a standard list of attributes.
	The practice can create custom forms and schedule the delivery of the forms based on defined criteria and/or trigger events, such as a completed appointment.
	Providers can communicate with County/clients secure messaging.
	The practice can update the logo that will be displayed on the portal to all County/patients.
	The practice can create and manage groups for secure messaging so that County/patients can submit a targeted request to a specific group (Examples: billing, scheduling, provider group).
	County/patients can register into the system with a combination of their own email address and a pin generated from the provider portal. The pin is used to link the County/patient's account to their CareRecord.
	County/patients can request schedule and appointment changes, subject to Clinician/Scheduler approval.
	County/patients can communicate with their care team using secure messaging.
	County/patients can generate a Continuity of Care Document (CCD) that can be provided to another practitioner, system or setting to support the continuity of care.
	County/patients can create their SMS and email notifications for appointments, results and medications.
	County/patients can request a medication refill request subject to clinician approval.
	County/patients can view their information that is on file, including: demographics, emergency contacts, vitals, insurance, current medications, past medical history, problems, family history, immunizations and allergies.
	County/patients can customize appearance and order of widgets on their home page

Configuration & Training	Patient (Staff Train the Trainer for patient training)
	□ Registering account
	□ Appointment list
	□ Requesting appointments
	□ Appointment Reminders
	□ Medications List
	□ Medication refill requests
	□ Secure Messaging
	□ Notifications
	o General configuration
	o Appointment Reminders
	o New message notifications
	Staff (Train the Trainer session)
	□ Administration
	o Setting up new users - we will do up to the first 20
	o Portal settings and not to change them
	□ Access of the portal administration views
	□ Secure Messaging
	o New messages
	o Send messages
	□ Patient Provisioning
	□ Custom form creation
	□ Appointment Requests
	□ Medication Refill Request

CareConnect	Implementation Scope
CareConnect enables the sharing of clinical information between and among providers involved in the care of a consumer and with other entities such as Regional Health Information Organizations (RHIOs). CareConnect works with the Contractor enterprise system to provide a secure way to exchange clinical and administrative information. It is the vehicle for Clinical Information Exchange.	
Key Features	Satisfy Meaningful Use requirements to provide the capability to exchange key clinical information among providers of care and patient authorized entities electronically.
	CareConnect will satisfy the following Stage II Meaningful Use requirements: • Exchange Clinical Information (Other Providers) • Immunization Reporting • Public Health Surveillance Reporting • Meaningful Use Measures
	The following services are available for interfacing through CareConnect: • County to County Referrals • HIE Connectivity (CCD Transmission) • Mobile Device Connectivity • Lab Orders Out • Immunization registries • Public Health Surveillance to PH Agencies

OrderConnect	• For lab orders and results OrderConnect is considered a prerequisite solution.
3rd Party Vendors	• Non-preferred vendor selection may require time to develop the connection. • Engagement from 3rd party vendors/connections is required.

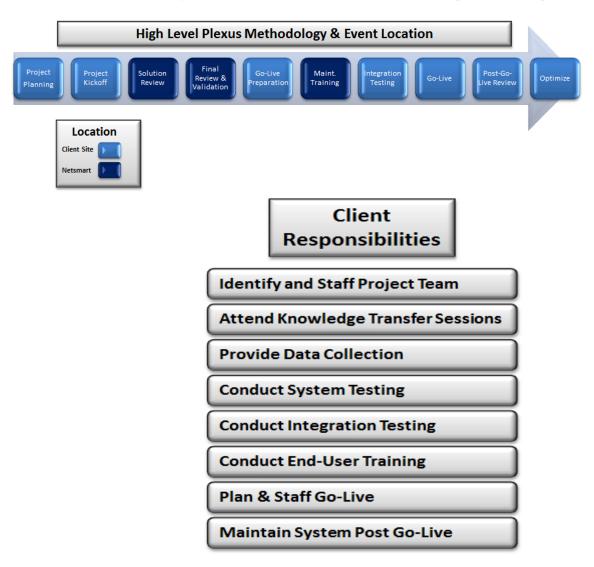| ICD-10	Scope of Services
Registry Settings	Contractor resources will assist County in applying required registry settings to enable ICD-10 functionality.
Configuration Training	Project team training focuses on the following areas: • Setting of the ICD-10 registry setting • Connection to external web service • Review individual payor and provider ICD-10 over-ride capabilities • Validation of successful data conversion from existing diagnosis tables to new diagnosis tables • Training on ICD-10 Procedure input and configuration • Training on Advanced Billing Rules input and configuration • Training on DRG input and configuration
End-User Training	During this event, County will deliver training to all end users in preparation for go-live. **Objectives** • Train end-users on ICD-10 functionality **County responsibilities:** • Distribute training materials provided by Contractor (or create custom training materials) • Conduct end-user training, ensuring that all necessary staff are trained prior to go-live. **Contractor responsibilities:** • Provide County with Contractor training materials
Scope of ICD-10 Capabilities	• Incorporation of standard web service that provides access to externally hosted content for cross-mapped diagnosis search o Requires additional licensing o Requires network connection at each end user work station • System wide registry setting to indicate ICD-10 cutover date o Ability to flex at the payor (PM) or provider (MSO) level as required • Pull appropriate diagnosis based on date of service for all claims o 837 Institutional o 837 Professional o 837 Dental o UB-04 o HCFA-1500 • Provide ability to cross-map between ICD-9 and ICD-10 for procedures o Does not replace CPT codes - only applies to inpatient

	procedure billing
	o Allows County to input cross mapped content for simultaneous capture of both ICD-9 and ICD-10 procedure codes
	• DRG Capture
	o Allows County to input cross mapped content for ICD-10-CM to DRG Codes
	• Advanced Billing Rules
	o Allows County to input smaller subset of ICD-10 codes used for Advanced Billing Rules
	o Ability to create both ICD-9 and ICD-10 Billing Rules

2.   Assumptions

- Contractor will devote sufficient resources and timely communication to the project in order to assure its reasonable success.

- New hardware, if required, will be delivered by the date required in the Project Schedule.

- County will use currently supported Crystal Professional version for all report development.

- County will provide sufficient resources as identified in the work breakdown structure of the project plan.

- A training room will be available for the training sessions with working equipment and appropriate software loaded prior to the arrival of the Contractor if it is part of the planning and expectations for the project.

- Individuals scheduled to attend training will attend and participate in the entire session as defined by the agenda.

- Contractor will share available recommended practices during the implementation.

- The project will be executed according to the event-based Contractor Plexus Foundation Methodology as outlined below.

- Any usage of diagnosis and/or procedure code content that is utilized within the Contractor solutions must be fully licensed by the County. Additionally, the County must provide proof of this licensing. This includes Micromedex content, CPT or DSM codes.

3. Location of Work & County Responsibilities

The location of work by Contractor and County staff identified in the detailed project schedule and Plexus event descriptions is work performed either on-site at County location(s), at a Contractor regional office or conducted remotely. A high-level outline for work location and County responsibilities is provided below.

4. Plexus Events, Expectations & Deliverables

The following section of this document details the main deliverables of the County Implementation.

4.1 Sales to Operations Transition

Our implementation services begin with a formal transition from our Sales Team to our Project Management Team. This thorough transition process ensures that the expectations set and project management scoped during the sales process is reviewed including all contract components, and operational flows gathered during the sales cycle.

4.2   Hardware Network OS/Installation

Contractor-hosted:
The County is responsible for providing the desktop hardware, operating system software, LAN/WAN network, and Internet connectivity upon which the licensed programs operate.

Contractor's engineers require the completion of a desktop hardware, network, and bandwidth survey prior to installation of any solutions. This ensures that all equipment and connectivity methods meet minimum application and performance requirements before Contractor Technologies installs the programs.

4.3   Software Delivery and Installation

Contractor-hosted:
Licensed software solutions and keys are delivered via FTP with User Documentation that describes the application and database organization.

Contractor's system engineers install the solution on the server system hardware within Contractor's Plexus Cloud hosting environment. Contractor will assist the County in connecting to the hosting environment and connecting a subset of County workstations. Contractor's Plexus Cloud installation will include:

- Loading the InterSystems Cache database products needed by the application on all applicable servers
- Loading purchased Contractor's Licensed Programs that make up the solution
- Testing the software to ensure access from the County workstations
- Training the customer on installing workstation software

Contractor engineers will create and install Plexus Home, BUILD, TEST and LIVE environments for all applications purchased.

4.4   Project Planning
The Project Planning Event is an opportunity to begin preparing your project team. The County project team will be introduced and the team's responsibilities will be discussed. The Plexus Foundations implementation methodology is introduced and the different events within the methodology presented, outlining the objectives of each event and the roles and responsibilities of each member of the team. Additionally project tools that will be used will be shown through demonstration and hands-on experience.

Super User Solution web-based training courses are provided to up to 25 named Project Team users via the myLearningPointe (www.mylearningpointe.com) online platform. Individual user training access is distributed and available to Project Team users starting at the Project Kick Off Plexus Methodology event and concludes at initial

Go Live event. Users will have unlimited access to the provided solution training courses during the implementation.

Objectives:

- Review project management principles
- Review event-based Contractor Plexus Foundations methodology
- Provide hands on experience with solutions
- Introduction to tools to be used during the project
- Introduction to Starter Kit questions
- Introduce Plexus Home & scripts
- Gather state reporting & payor requirements
- Introduce myLearningPointe training classes (where applicable)
- Conduct project Planning Assessment (Gate 1)
- Plan for next event

County Responsibilities:

- Identify County project team and develop County Staffing Plan
- Ensure correct County personnel attends the Project Planning event
- Provide necessary facilities and equipment to support session
- Complete Starter Kit questions
- Review and sign Communication Management, Change Management & Risk Management Plans
- Complete myLearningPointe training classes (where applicable)

4.5 General Project Management

Active throughout the project lifecycle and fundamental to it is a monitoring and measurement process that consists of numerous cost and scope control, testing, quality assurance and acceptance activities. These ongoing activities are supplemented by critical control points, progress checkpoints, called Plexus Gates are included to ensure that the project cannot advance to the next phase until the required activities and acceptance factors are successfully met. The monitoring and measurement process employed by Contractor ensures that projects are properly stewarded to both a time and cost budget. This critical process transcends across the entire project implementation process to help ensure on-time project completion within estimated cost parameters along with properly managed and approved schedule and scope changes.

- Status meetings & Project Status Reports
- County signoff and acceptance letters
- Project plan change requests
- Product Change Requests
- Product Improvement Forms
- Plexus Gates

4.6   Project Kickoff

The Project Kickoff consists of three discreet activities: Project Kickoff presentation, Workflow Assessment and Scope Review.

The project kickoff presentation gives the County Executives, project sponsors and project leadership an opportunity to create excitement for the organization and the project as well as pass down key messages and expectations.

The scope review session includes breakout sessions led by SA's to review in detail the contract scope.

During the Workflow Assessment the Contractor Solution Architect (SA) and County departmental/solution representatives, which could include a combination of IT analysts, departmental heads and/or key stakeholders from that department, will walk through the departments to get an understanding of the County's unique workflow and processes and how it aligns with Contractor's recommended practices. The walkthrough will be facilitated using both the Starter Kit questions, having already been completed, as well as the Workflow Assessment which will serve as a framework for questions and documentation of the discussions that occurred during the assessment.

Objectives:

- Conduct official project kickoff meeting
- Introduce Contractor Solution Architects
- Review Starter Kit outstanding items
- Conduct Workflow Assessment
- Identify improvement opportunities
- Conduct scope review
- Identify project risks & scope concerns
- Present data collection materials
- Conduct Plexus Project Kickoff Assessment (Gate 2)
- Plan for next event

County responsibilities:

- Deliver Project Kickoff presentation (with Contractor leadership support)
- Complete Starter Kit questions prior to the event
- Complete any required data collection, following the event, by deliverable due dates
- Participate and provide feedback during departmental walkthroughs
- Participate in scope review discussions
- Provide necessary facilities and equipment to support the event

4.7 Solution Review

The discussions during this event are a continuation of the data collection the County has already provided leading up to Solution Review. The Solution Architect will provide a demonstration of basic departmental workflow, providing context for additional design decisions to be made. This event will represent the culmination of data collection and design decisions leading to the building of a complete and functional system.

The Solution Review event requires the attendance of end-user/departmental representatives trusted and empowered to make design decisions. These representatives should have a solid understanding of the workflow in their area of expertise and will be expected to interact accordingly with others within the department to gain access to answers as will be necessary.

County leaves the Solution Review event with assignments to be performed over the next several weeks. The assignments will be documented along with expected due dates and can be reviewed as a part of the Event Summary Document. The Contractor project team will work with the County to establish these deadlines and schedule conference calls to provide guidance and ensure the County is on track.

Objectives:

- Demonstrate recommended system workflow in County system
- Conduct integration discussions
- Discuss data collection materials
- Identify Policies & Procedures requiring change
- Review the event summary and sign-off
- Plan for next event

County Responsibilities:

- Participate in the Solution Review event
- Provide knowledge of requested data and current departmental processes and workflow
- Identify Standard Operating Policies & Procedures for organization that will require change
- Make design decisions for future state processes
- Complete data collection assignments by defined due dates
- Identify process improvement opportunities

4.8 Final Review & Validation

This event consists of three discrete parts: Final Review & Application Training, System Testing & Learning Plan discussions.

The Final Review discussion is intended to present the design decisions and data collection as it is now represented in the County's completed system and confirm their

accuracy. Additionally, as a part of Final Review, application training relevant to testing and training is delivered to the County personnel.

The System Testing Session will be include a starter set of test scripts, examples upon which they can customize their own scripts, as well as instruction on testing principles, policies and procedures. During this session, there will also be discussion regarding the development of a County testing strategy/plan for which the County will be given a sample on which to build their own.

The Learning Plan session is included to help County develop a solid plan to ensure end-users will be effectively trained prior to go-live. This will be critical to the success of the project as well as adoption of the solutions. The plan will include training strategies, resource requirements, any required technologies and/or logistics, timelines, goals and objectives.

The same group that attended Solution Review should attend the Final Review & Validation event. Additionally, while it may be the same individuals, depending on your staffing plan, the event should also include any individuals who will be expected to conduct system testing and/or end-user training. It is recommended that trainers participate in testing. It affords them an opportunity to practice and become familiar with the system.

Objectives (Finial Review)

- Provide in-depth demonstration of the solutions and build using the County's domain
- Review and confirm design decisions and build
- Confirm the solution workflow
- Complete design process
- Provide hands-on solution training
- Conduct Plexus Final Design Assessment (Gate 3)
- Plan for next event

Objectives (System Validation)

- Provide training on test script development and testing concepts
- Begin development of County-specific system test scripts
- Plan for next event

Objectives (Learning Plan Development)

- Conduct Learning Plan session
- Begin development on Learning Plan
- Plan for next event

County responsibilities:

- Participate in Final Review & Validation event
- Provide appropriate resources to attend sessions
- Complete data collection assignments
- Validate design and build
- Signoff design decisions
- Customize sample test scripts to use during system and integration testing
- Customize sample training materials in preparation for end-user training
- Develop Learning Plan & execute against plan for end-user training

4.9   Go-Live Preparation

The Go-Live Preparation event is the official milestone to transition project ownership from the Contractor project team to the County. Solution and project management discussion are delivered during this week and focus, in preparation for go-live, on assessing the County's knowledge of the system as well as preparing the County for their training events and go-live. In the solution discussions, the County trainers are expected to provide a live demonstration of the system back to the Contractor project team to confirm their understanding of the system and to confirm they are prepared to effectively train the end-user population.

System Testing, while not complete, should be well underway. Contractor Project Management will facilitate the event at the County site, while the rest of the Contractor project team participates via a conference call.

Those attending the event should be the same as the Final Review and Validation attendees. Department heads and/or key departmental representatives should attend the solution activities along with the County representative responsible for testing coordination.

Solution-Specific Activities & Objectives

- County to demo system using the County demo script exhibiting a clear understanding of the solution functionality and departmental processes
- Understand open issues, escalate, and plan as appropriate
- Review completed training materials
- Review Go-Live Readiness Assessment

Project Management Activities & Objectives

- Initiate ownership transition process
- Confirm system testing is in process, on track and scheduled for completion prior to Integration Testing
- Finalize Integration Testing Plan
- Initiate Go-Live Planning
- Conduct Plexus Go-Live Preparation Assessment (Gate 4)

- Plan for next event

County Responsibilities:

- Demonstrate understanding of system and departmental processes by leading a demonstration of the application
- Finalize Training Strategy/Plan
- Provide adequate training facilities
- Provide completed testing materials
- Schedule and perform end-user training
- Finalize Integration Testing scripts and Integration Testing Plan
- Confirm users will be trained and available for Integration Testing
- Confirm facilities and hardware is in place to support Integration Testing
- Develop and own the Go-Live Plan

4.10   Maintenance Training

During this event, the County will receive training on how to maintain the system using Contractor maintenance tools. The event includes training on commonly used maintenance activities, *not* design and build activities. After maintenance training, the County is equipped to make changes, modifications and updates to their implemented system.

County representatives who will maintain and support the production system should attend this event, although not always, this is commonly IT personnel.

Objectives

- Prepare County representatives to make common data base updates
- Train County to locate supporting documentation and to use the appropriate tools to manage system maintenance
- Educate County on troubleshooting tools and techniques
- Confirm County policies and procedures have been updated
- Confirm Integration Testing readiness
- Plan for next event

County responsibilities:

- Attend database maintenance training
- Learn the application tools needed to maintain the production system

4.11   Integration Testing

One round of Integration Testing will be conducted according to the County's Integration Testing Plan. Integration Testing will be executed at the County's site and will be led by the County project management team with assistance from the Contractor project team.

IT will allow the system testers to flow a complete patient experience, "a day in the life" of a patient, using the system including all involved, major workflow processes. This event also allows the County to validate SOPs and end-user training prior to conversion.

Objectives

- Complete Integration Testing according to plan
- Confirm Go-Live preparedness
- Ensure all critical path issues have an action plan
- Conduct Plexus Go-Live Assessment (Gate 5)
- Plan for next event

County responsibilities:

- Lead and direct integration testing activities
- Conduct application integrated testing
- Conduct operational testing
- Document integrated test results
- Troubleshoot and resolve testing issues
- Update issues list with any unresolved integration test findings

4.12 Go-Live:

Go-Live is the event when solutions are moved into productive use by the end-user population. It will take place at the County site, supported by both project teams. Contractor support will include the first 3 days following go-live and will include the Contractor Project Manager onsite along with remote support from the Contractor Delivery Consultants/Analysts.

Objectives:

- Begin functional use of Contractor solutions
- Transition support from Contractor project team to the County
- Gather and document feedback regarding project experience, including methodology & project team resources

County responsibilities:

- Develop and complete go-live plan
- Confirm all systems, resources and 3rd parties are scheduled and prepared for go-live
- Conduct go-live plan meetings to outline plan for all solutions and users
- Execute go-live plan
- Document go-live issues

4.13   Post-Go-Live Review

The purpose of Post-Go-Live Review is to gauge end-user satisfaction, understand current utilization of the solutions, and discuss process and solution issues. As a part of the review, which includes a series of interviews, observations, recommendations are made on how to optimize design, build and general use of the system in order to take advantage of all that the solution has to offer as well as ascertain potential design enhancements. Additionally, this process provides a view to solution capabilities and additional benefits that are available to your organization, allowing for more effective planning for system and process optimization and project phases.

The Post-Conversion Review will be conducted at the County site by a Solution Architect and is to be conducted 60 to 90 days following conversion.

Objectives:

- Conduct Post-Go-Live Review interviews
- Interview County using Post-Go-Live Review template
- Gather and document feedback regarding end-user and organizational satisfaction
- Identify critical process workflow enhancement concerns
- Gather feedback regarding system adoption
- Hold & document conversations for continued relationship opportunities, planning needs & optimization
- Develop short and long term action plans
- Deliver Post-Go-Live Executive Summary
- Plan for optimization

County responsibilities:

- Provide answers to Post-Go-Live review questions
  - Plan for optimization

Schedule C
Hardware Configuration

Technical Requirements may change over the course of the Agreement and as such, Contractor shall notify County of any change in which County is expected to reasonably adopt to meet then-current technical requirements.

User's Computer (Minimum)

Processor	1 gigahertz (GHz) or faster 32-bit (x86)
Operating System	Windows 7, 8 (8.1)
RAM	1 GB or greater
Hard Disk Space	1 GB or greater
Monitor	VGA or higher (1024 x 768 pixels)
Mouse	Microsoft Mouse, or compatible pointing device
Browser	IE 9 (Windows 7), IE 10 (Windows 7, 8), IE 11 (Windows 7, 8.1) (IE 32 bit only in compatibility mode) Chrome (16-27), Firefox (10-22)
Java Requirement	JRE 1.6.0_22 -49(32-bit only) JRE 1.7.0_45 (32-bit only) JRE 1.7.0_51-55 & 1.8.0-u5 (32-bit only, RADplus 2011+ MW Build 2014.01.00.1276)

User's Computer (Recommended)

Processor	2 gigahertz (GHz) or faster 32-bit (x86) or 64-bit
Operating System	Windows 7, 8 (8.1)
RAM	2 GB or greater
Hard Disk Space	2 GB or greater
Monitor	VGA or higher (1024 x 768 pixels)
Mouse	Microsoft Mouse, or compatible pointing device
Browser	IE 9 (Windows 7), IE 10 (Windows 7, 8), IE 11 (Windows 7, 8.1) (IE 32 bit only in compatibility mode) Chrome (16-27), Firefox (10-22)
Java Requirement	JRE 1.6.0_22 -49(32-bit only) JRE 1.7.0_45 (32-bit only) JRE 1.7.0_51-55 1.8.0-u5 (32-bit only, RADplus 2011+ MW Build 2014.01.00.1276)

Schedule D

County Resource Requirement

County will provide the resources described below for the implementation of the Contractor Programs. Failure to provide these resources could compromise the project and may result in the need for additional Contractor Implementation Services

For ICD 10 / DSM V Implementation - County Side Project Manager, Subject Matter Expert(s) as needed, Trainers for End Users, Business Analyst, Crystal Report writing (if needed)
For Migration to NTST Hosting - County Side Project Manager, System Analyst, Crystal Report writing (if needed)
For Web Services Implementation - County Side Project Manager, Subject Matter Expert(s) as needed, Web Services Programmer
For Meaningful Use Stage 2 Components Implementation - County Side Project Manager, Subject Matter Expert(s) as needed, Trainers for End Users, Business Analyst
For Perceptive POS Migration - County Side Project Manager, Subject Matter Expert(s) as needed, Trainers for End Users, Business Analyst,
For myHealthPoint Implementation - County Side Project Manager, Subject Matter Expert(s) as needed, Trainers for End Users, Business Analyst,
For Avatar Billing Training - County Side Project Manager, Subject Matter Expert(s) as needed, Trainers for End Users, Business Analyst,

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Schedule E
Support Services

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The Support Services described in this Schedule will be performed by Contractor subject to the terms and conditions of this License and Service Agreement.

a) Contractor will maintain the then current version of the Licensed Programs in substantial conformance with its Specifications as amended from time to time by Contractor, and with applicable Federal regulatory requirements and laws. Contractor will use commercially reasonable efforts to either:

  (i) Correct any reproducible Problems or Defects in the then current or immediately prior release of Licensed Programs by Contractor which prevent it from operating in substantial conformance with the Specifications and applicable Federal regulatory requirements; or

  (ii) Provide a commercially reasonable alternative that will substantially conform with the Specifications and applicable Federal regulatory requirements and laws.

b) County will make requests for Support Services by giving Contractor written notice specifying a Problem or Defect in the Licensed Programs. In making a verbal request for Support Services, County will provide Contractor within twenty four (24) hours after such verbal notice with such written information and documentation as may be reasonably prescribed by Contractor.

c) County will provide and maintain, at its expense, hardware and/or software to allow Contractor to access County's system remotely. County will provide Contractor with appropriate access credentials.

d) On a timely basis Contractor will also provide County with:

  (i) such updates as are distributed without charge to other similar County's which reflect modifications and incremental improvements made to the Licensed Programs by Contractor;

  (ii) an opportunity to obtain enhancements to the Licensed Programs for which charges are imposed on the same terms as such enhancements are generally made available to other County's.

e) Contractor will make technical support personnel available from 9:00 a.m. to 6:00 p.m., Contractor local time Monday through Friday, exclusive of Contractor holidays.

f) If reasonable analysis by Contractor indicates that a reported Problem or Defect is caused by a problem related to Hardware used by County, the hardware's system software, or applicable software other than Licensed Programs, or County's misuse or modification of the Licensed Programs, Contractor's responsibility will be limited to the correction of the portion, if any, of the problem caused by a Problem or Defect in the Licensed Programs. County will, at Contractor's option, pay Contractor for the cost of analyzing the reported problem at Contractor's then prevailing time-and-materials rate.

g) The initial term for provision of Support Services for Licensed Programs will begin on July 1, 2014 and end on June 30, 2017.

h) Contractor agrees that it will not revise the Charges for Support Services during the initial term. In accordance with Section 6 of the Agreement, Contractor will give County not less than ninety (90) days written notice prior to the expiration of the initial term of the Agreement to commence negotiations on Support Service Charges as part of the parties' negotiations on any option to extend the Agreement. Charges will not be increased for any extension term by more than the most recent increase in the US Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) - Medical Care or 4%, whichever is higher.

i) Absent a bona fide dispute, if County fails to pay for Support Services when due, Contractor may refuse to provide Support Services until County makes payment of all Charges due. If County has missed any mandatory upgrades Contractor will also charge, and County will pay, for software and services necessary to bring the Licensed Programs up to Contractor's then-current level before Contractor will certify that County is again eligible for maintenance hereunder.

j) Guardiant is included at no charge provided County is current on maintenance. Guardiant is a diagnostic tool that monitors the health of County's licensed Contractor solutions and provides the ability to review technical configuration and metric data not limited to; configuration changes, support case activities, system usage, application events, licensing, user activity, and installed updates in a dashboard view.

k) If analysis by Contractor indicates that a reported problem is caused by a reproducible Problem or Defect, Contractor will use commercially reasonable efforts to provide Support Services in accordance with the following prioritization of reported problems:

Priority	Definition
1 - Critical	**Priority 1:** will be assigned when the Contractor Program or a material Contractor Program Function component is non-operational as a result of a defect [in Production environment only] such as the Production system cannot be accessed or utilized in any capacity, a direct patient safety issue is present, or a HIPAA compliance violation as a result of a server incident or Contractor application defect. Best efforts will be made to correct Priority 1 problems, or to provide a plan for such correction, within two (2) business days. *County's Commitment:* • This case Priority must be called in directly to the Contractor Support department. • County provides specific, detailed information required for troubleshooting/investigation. • County provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate County resources, the case will be downgraded to Priority 2 after three (3) business days.
2 – High	**Priority 2:** will be assigned to Production defects that result in functions that have a significant negative impact on daily operations but do not constitute as a "System Down". A workaround may be available and/or the capacity to maintain daily business functionality. Commercially reasonable efforts will be made to correct Priority 2 problems, or to provide a plan for such correction, within five (5) business days. *County's Commitment:* • County provides specific, detailed information required for troubleshooting/investigation. • County provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate County resources, the case will be downgraded to Priority 3 after six (6) business days.
3-Medium	**Priority 3:** will be assigned for system defects that result in functions that have no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. Commercially reasonable efforts will be made to correct Priority 3 problems, or to provide a plan for such correction, within ten (10) business day. *County's Commitment:* • County provides specific, detailed information required for troubleshooting/investigation. • County provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate County resources, the case will be downgraded to Priority 4 after eleven (11) business days.
4 – Low	**Priority 4:** will be assigned to cosmetic defects that do not affect system usability or non-defect related requests including, but not limited to, system set up/configuration, training, functionality questions, documentation, portal access, and upgrade requests. Commercially reasonable efforts will be made to address Priority 4 issues, or to provide a plan for such correction, within fifteen (15) business day. *County's Commitment:* • County provides specific, detailed information required for troubleshooting/investigation. • County provides appropriate staff and resources to sustain continuous communication and work effort as required. • Without appropriate County resources, the case will be closed following our Case Closure Notification policy.

Specifications

Document Provisions by Contractor

As set forth in the following checked documentation list, Contractor will make available to County online documentation of all line items checked as part of the system implementation and support. All County authorized subscribers that access the electronic medical records system will be able to access the online documentation. County will not alter or eliminate any copyright notice on documents provided by Contractor as listed below.

☒	Avatar PM User Guide
☒	Avatar PM Welcome Guide
☒	Avatar PM Kickoff Manual
☒	Avatar CWS User Guide
☒	Avatar CWS Welcome Guide
☒	Avatar CWS Kickoff Manual
☒	Avatar MSO User Guide
☒	Avatar MSO Welcome Guide
☒	Avatar MSO Kickoff Manual
☐	Avatar GLI User Guide
☒	RADplus User Guide
☒	Setup and Utilization of Third Party Reporting Software
☐	System Administration Procedures for Netsmart Systems Utilizing Cache'
☒	Perceptive-ImageNow Software End-User License Agreement
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Schedule H: Confidentiality of Patient Information

Confidentiality of Patient Information and Records.   All patient information and records are confidential. CONTRACTOR shall maintain the confidentiality of all patient records, including billings and computerized records, in accordance with all applicable state and federal law relating to confidentiality of patient records and patient information, including but not limited to: HIPAA, HITECH, and the HIPAA Regulations; 42 U.S.C. § 290dd-2 and the Part 2 Regulations; the Lanterman-Petris-Short Act ("LPS"), California Welfare and Institutions Code § 5328, *et seq*.; California substance abuse laws at California Health & Safety Code §§ 11812 and 11845.5; federal and state Medicaid and Medi-Cal laws at 45 C.F.R. § 205.50, 42 C.F.R. §§ 431.300 *et seq*. and California Welfare and Institutions Code § 10850, *et seq.*, the Confidentiality of Medical Information Act ("CMIA") at California Civil Code sections 56.00 *et seq.*, California laws governing HIV/AIDS records at California Health & Safety Code § 120975, and California Civil Code Section 1798.29.

"Patient Information" includes any individually identifying information related to a patient/recipient of services including, but not limited to: name, identifying numbers, symbol, fingerprint, photograph or voice print.   In addition, "Patient Information" includes all information CONTRACTOR has obtained about a patient/recipient of services, including the mere fact that patient is receiving alcohol or drug treatment from the County or has been referred to an alcohol or drug treatment program by the County, whether or not a documentary record of such information exists.

Ownership of Information. All Patient Information created, maintained, received, or transmitted by the CONTRACTOR for or on or behalf of the County in connection with the Services under this Agreement shall be and remain the property of the County and the County shall retain exclusive rights and ownership thereto. Such information shall be referred to henceforth as "County Information".

Use and Disclosure of Patient Information. CONTRACTOR shall use County Information or Patient Information obtained from contact with patients/recipients of Services and complainants (including anonymized data) only for the purpose(s) for which use or disclosure was authorized and shall implement appropriate safeguards to maintain the confidentiality of such information and to prevent further use or disclosure. CONTRACTOR acknowledges that County Information regarding a patient whose records are subject to the Part 2 Regulations may not be re-disclosed to another entity without specific authorization from the patient or his/her legally authorized representative for such re-disclosure. In addition, CONTRACTOR shall obtain the County's prior written consent to any disclosure of County Information, except as required by law. The County, through the Behavioral Health Director, shall have access to any Patient Information created, received, transmitted, or maintained by CONTRACTOR in connection with its performance under this Agreement.

CONTRACTOR shall use County Information or Patient Information gained from access to records and from contact with patients/recipients of service and complainants (including anonymized data) only for the purpose(s) for which use or disclosure was authorized and shall implement appropriate safeguards to maintain the confidentiality of such information and to prevent further use or disclosure. CONTRACTOR shall not disclose Patient Information, including the identities of patients/recipients of service, without proper authorization to such disclosure or as required by law. CONTRACTOR further acknowledges that County Information regarding a patient whose records are subject to the Part 2 Regulations may not be re-disclosed to another entity without specific authorization from the patient or his/her legally authorized representative for such re-disclosure. In addition, CONTRACTOR shall obtain COUNTY's authorization to such disclosure prior to any release of Patient Information. The COUNTY, through the Behavioral Health Director, shall have access to such confidential information.

CONTRACTOR shall return or securely destroy County Information as directed by the County. Transfer to the County or a third party designated by the County shall occur within a reasonable period of time, and without significant interruption in service. In the event that County requires destruction of County Information, CONTRACTOR agrees to securely destroy all data in its possession and in the possession of

any subcontractors or agents to which the CONTRACTOR may have transferred County Information. CONTRACTOR agrees to provide certification of data destruction to County.

CONTRACTOR shall notify County of any security breach or suspected security breach of any County Information or covered under applicable federal regulations set forth in 12 C.F.R. Part 30, or under California Civil Code 1798.29, or any other breach of County Information immediately following discovery, if the information was, or is reasonably believed to have been acquired by an unauthorized person. Notification must be given in the most expedient time possible and without unreasonable delay. Written confirmation must be sent within two (2) days of discovery or notification of the breach or suspected breach. A "breach" means the unauthorized acquisition of computerized data that constitutes Personal Information that compromises the security, confidentiality, or integrity of the information. A breach is also the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the Protected Health Information, and/or the unauthorized access, use, or disclosure of Medical Information under CMIA.

Penalty for Unauthorized Disclosure. CONTRACTOR understands that disclosure of Patient Information in violation of state or federal law may subject the party releasing the information to civil and/or criminal fines, penalties, including but not limited to a minimum of $10,000 in civil damages, as set forth in Welfare and Institutions Code Section 5330.

Duty to Warn. CONTRACTOR understands that persons providing services under this Agreement may, in certain situations involving a patient or recipient of services who is a danger to himself or others, have a duty to warn third parties of such danger and should consult supervisory staff and/or legal counsel about such duty to warn as appropriate.

Dissemination of these Confidentiality Provisions. CONTRACTOR shall inform all its officers, employees, agents, and subcontractors providing services hereunder of these provisions.

Indemnification. Netsmart will indemnify, defend and hold harmless County and its respective employees, directors, officers, subcontractors, agents and affiliates from and against all claims, actions, damages, losses, liabilities, fines, penalties, costs or expenses (including without limitation reasonable attorneys' fees) suffered by CONTRACTOR arising from any negligent or wrongful acts or omissions in connection with this Schedule H, by Netsmart or by its employees, directors, officers, subcontractors, or agents. In addition, CONTRACTOR will reimburse County for its actual out of pocket costs of notice, mitigation or remediation of any privacy breach caused by any act or omission of CONTRACTOR.

By my signature below, as the authorized representative of the CONTRACTOR named below, I certify acceptance and understanding for myself and the CONTRACTOR of the above confidentiality provisions.

	Netsmart Technologies, Inc.
	Business Name of Contractor
Signature of Authorized Representative	Name of Authorized Representative (printed)
Date	Title of Authorized Representative

SCHEDULE I

QUALIFIED SERVICE ORGANIZATION/BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective November 1, 2014 (Effective Date"), is entered into by and among the County of Monterey, a political subdivision of the State of California, on behalf of the Health Department ("Covered Entity") and Netsmart Technologies, Inc. ("Business Associate") (each a "Party" and collectively the "Parties") hereby enter into this Qualified Service Organization Agreement under the Part 2 Regulations and Business Associate Agreement under HIPAA.

Business Associate provides certain services ("Services") for Covered Entity under this Agreement that involve the use and disclosure of Protected Health Information that is created, received, transmitted, or maintained by Business Associate from, or on behalf of, Covered Entity ("PHI").

The County is a "Covered Entity" as that term is defined in the Privacy Rule and the Security Regulations and Netsmart Technologies, Inc. is a "Business Associate" as that term is defined in the Privacy Rule;

Business Associate is also a Qualified Service Organization, as defined in 42 C.F.R. Part 2.11, providing services to Covered Entity.

The Parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E as amended from time to time (the "Privacy Regulation"), the Breach Notification Standards, 45 C.F.R. Part 160 and Part 164, Subparts A and D (the "Breach Notification Regulation"), and with the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C as amended from time to time (the "Security Regulation") under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act and its implementing regulations ("HITECH") and the restrictions on use and disclosure imposed under the Confidentiality of Alcohol and Drug Abuse Patient Records under 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2 (the "Part 2 Regulations"). Collectively, the Privacy Rule, Security Rule, and Breach Notification Rule are referred to as the HIPAA Regulations.

Business Associate acknowledges that, pursuant to HITECH, 45 C.F.R. §§ 164.308 (administrative safeguards), 164.310 (physical safeguards), 164.312 (technical safeguards), 164.316 (policies and procedures and documentation requirements) and 164.502 et. seq. apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Title XIII of HITECH contained in Public Law 111-005 that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate.

Business Associate is committed to complying with applicable California law, including but not limited to, the California Confidentiality of Medical Information Act, Cal. Civil Code §§ 56 et seq. ("CMIA"), the Lanterman-Petris-Short Act ("LPS") Cal. Welf. & Inst. Code § 5328 *et seq*., California substance abuse laws Cal. Health & Safety Code §§ 11812 and 11845.5; California laws governing HIV/AIDS records at California Health & Safety Code § 120975, and California Civil Code Section 1798.29. Collectively, these and other applicable laws shall be referred to as "California Laws")

Business Associate is committed to complying with any applicable Medi-Cal requirements at 45 C.F.R. § 205.50, 42 C.F.R. § 431.300, *et seq.* and Cal. Welf. & Inst. Code §10850, *et seq.* ("Medi-Cal requirements").

Business Associate is also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 ("Red Flag Rules").

Business Associate acknowledges that the general prohibitions on re-disclosure under the Part 2 Regulations do not allow Business Associate to disclose patient identifying information to another entity without patient authorization, even where the Privacy Rule might allow disclosure;

Business Associate acknowledges that a person's mere participation in an alcohol/drug program is confidential, as is any information about the individual;

Business Associate acknowledges that the CMIA prohibits Business Associate from further disclosing PHI that it receives from Covered Entity where such disclosure would be violative of the CMIA, LPS, or other state or federal law.

Business Associate acknowledge that disclosure of confidential matters can be a violation of federal law and can subject Covered Entity, individual persons, and/or the Business Associate to potential criminal and civil sanctions and fines;

This Agreement sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information ("EPHI"), and the information protected under the Part 2 Regulations ("Part 2 Information") shall be handled. The Parties further acknowledge that state statutes or other laws or precedents may impose additional obligations, including data breach notification or information security obligations, and it is their the Parties' further intention that each shall comply with such laws as well as HITECH and HIPAA in the collection, handling, storage, and disclosure of personal data of patients or other personal identifying information exchanged or stored in connection with their relationship.

The Parties agree as follows:

DEFINITIONS

All capitalized terms used in this Agreement but not otherwise defined shall have the meaning set forth in the Privacy Rule, Security Rule and HITECH.

PERMITTED USES AND DISCLOSURES OF PHI

Unless otherwise limited herein, Business Associate may:

(a) use or disclose PHI to perform functions, activities or Services for, or on behalf of, Covered Entity as requested by Covered Entity from time to time, provided that such use or disclosure would not violate the Privacy or Security Regulations or the standards for Business Associate Agreements set forth in 45 C.F.R. § 164.504(e), exceed the minimum necessary to accomplish the intended purpose of such use or disclosure, violate the additional requirements of HITECH contained in Public Law 111-005 that relate to privacy and security, or violate the 42 C.F.R. Part 2 Regulations, California Law, Medi-Cal Requirements, and other applicable federal or state law;

(b) disclose PHI for the purposes authorized by this Agreement only: (i) to its employees, subcontractors and agents; (ii) as directed by this Agreement; or (iii) as otherwise permitted by the terms of this Agreement;

(c) use PHI in its possession to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B) if necessary to provide the Services under this Agreement;

(d) use PHI in its possession for proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1) and to the extent permitted by the 42 C.F.R. Part 2 Regulations, California Law, and Medi-Cal Requirements;

(f) de-identify any PHI obtained by Business Associate under this Agreement for further use or disclosure only to the extent such de-identification is necessary for the provision of Services pursuant to this Agreement, and use such de-identified data in accordance with 45 C.F.R. § 164.502(d)(1); and

RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI

Responsibilities of Business Associate. With regard to its use and/or disclosure of PHI, Business Associate shall:

(a) acknowledge that PHI may also be subject to the Part 2 Regulations (referred to as "Part 2 Information") and that it is fully bound by the provisions of the Part 2 Regulations and the HIPAA Regulations in receiving, transmitting, transporting, storing, processing, or otherwise dealing with, any Part 2 Information as it would apply to a "program" as defined in the Part 2 Regulations.

(b) ensure that any Part 2 Information will not be re-disclosed to any other person or entity, including an agency or Subcontractor who provides services to Business Associate, except as permitted by the Part 2 Regulations;

(c) resist any efforts in judicial or administrative proceedings (including court order and subpoena) if necessary, any efforts to obtain access to information pertaining to PHI and Part 2 Information, except as permitted by the Part 2 Regulations;

(d) use and/or disclose the PHI only as permitted or required by this Agreement or as otherwise Required by Law;

(e) report to the privacy officer of Covered Entity immediately (i) any use and/or disclosure of the PHI that is not permitted or required by this Agreement of which Business Associate becomes aware, and (ii) any Breach of unsecured PHI as specified by HITECH, the Breach Notification Rule, and (iii) any actual or suspected use or disclosure of data in violation of any applicable federal or state laws by Business Associate or its agents or subcontractors upon Business Associate's determination of the occurrence of such unauthorized use and/or disclosure. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. The notification of any Breach of unsecured PHI shall include, to the extent possible, the identification of each individual whose unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used or disclosed during the Breach, as well as any other available information that Covered Entity is required to include in Breach notification to the individual, the media, the Secretary, and any other entity under the Breach Notification Rule and any other applicable state or federal laws, including, but not limited to, 45 C.F.R. §§ 164.404 through 164.408. If any required information is not available at the time of notification, it shall be reported to Covered Entity as soon as such information becomes

available. Business Associate shall cooperate fully with Covered Entity in meeting Covered Entity's obligations with respect to such Breach.

(f) use commercially reasonable safeguards to maintain the security of the PHI and to prevent use and/or disclosure of such PHI other than as provided herein;

(g) obtain and maintain an agreement with each of its subcontractors and agents that receive, use, or have access to PHI pursuant to which agreement such subcontractors and agents agree to adhere to the same restrictions, conditions, and requirements on the use and/or disclosure of PHI that apply to Business Associate pursuant to this Agreement;

(h) make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the use and/or disclosure of PHI to the Secretary for purposes of determining Covered Entity or Business Associate's compliance with the Privacy Rule;

(i) document disclosures of PHI and information related to such disclosure and, within ten (10) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528, as well as provide an accounting of disclosures, as required by HITECH, directly to an individual provided that the individual has made a request directly to Business Associate for such an accounting. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person; (iii) a brief description of the PHI disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. 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 such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(j) subject to Section 4.4 below, return to Covered Entity within twenty-one (21) days of the termination of this Agreement, the PHI in its possession and retain no copies, including backup copies;

(k) disclose to its subcontractors, agents or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(l) if all or any portion of the PHI is maintained in a Designated Record Set:

(i) upon ten (10) business days' prior written request from Covered Entity, provide access to the PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, the individual to whom such PHI relates or his or her authorized representative to meet a request by such individual under 45 C.F.R. § 164.524; and

(ii) upon ten (10) business days' prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526;

(m) maintain policies and procedures to detect and prevent identity theft in connection with the provision of the Services, to the extent required to comply with the Red Flag Rules;

(n) notify the Covered Entity within five (5) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall cooperate fully with the Covered Entity in such challenge;

(o) maintain a formal security program materially in accordance with all applicable data security and privacy laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security;

(p) to the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, comply with the requirements of Privacy Rule that apply to the Covered Entity in the performance of such obligations. Business Associate further acknowledges that, pursuant to HITECH, the applicable provisions of HIPAA apply to Business Associate in the same manner that such sections apply to Covered Entity;

(q) acknowledge that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA, HITECH, the HIPAA Regulations, the Part 2 Regulations, and the Red Flags Rules, as applicable. Business Associate further represents and warrants that it shall comply with all applicable state privacy and security laws, to the extent that such state laws are not preempted by HIPAA or HITECH and acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

Additional Responsibilities of Business Associate with Respect to EPHI. In the event that Business Associate has access to EPHI, in addition to the other requirements set forth in this Agreement relating to PHI, Business Associate shall:

(a) implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by 45 C.F.R. Part 164, Subpart C;

(b) ensure that any subcontractor or agent to whom Business Associate provides any EPHI agrees in writing to implement reasonable and appropriate safeguards to protect such EPHI; and

(c) report to the privacy officer of Covered Entity, in writing, any Security Incident involving EPHI of which Business Associate becomes aware within two (2) business days of Business Associate's discovery of such Security Incident or sooner if practical. For purposes of this Section, a Security Incident shall mean (consistent with the definition set forth at 45 C.F.R. § 164.304), the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system. In such event, the Business Associate shall, in consultation with the Covered Entity, mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper use or disclosure. If such Security Incident constitutes a Breach of Unsecured PHI, Business Associate shall comply with the notification requirements set forth in Section 1.02(e).

Responsibilities of Covered Entity. Covered Entity shall, with respect to Business Associate:

(a) provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) notify Business Associate of any limitations in the Notice pursuant to 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI;

(c) notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's use or disclosure of PHI;

(d) notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the use or disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's use or disclosure of PHI; and

(e) notify Business Associate, in writing and in a timely manner, of any restrictions on use and/or disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

TERMS AND TERMINATION

Term. This Agreement shall become effective on the Effective Date and shall continue in effect unless terminated as provided in this Article 4. Certain provisions and requirements of this Agreement shall survive its expiration or other termination as set forth in Section 5.1 herein.

Termination. Either Covered Entity or Business Associate may terminate this Agreement and any related agreements if the terminating Party determines in good faith that the terminated Party has breached a material term of this Agreement; provided, however, that no Party may terminate this Agreement if the breaching Party cures such breach to the reasonable satisfaction of the terminating Party within thirty (30) days after the breaching Party's receipt of written notice of such breach.

Automatic Termination. This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

Effect of Termination. Upon termination or expiration of this Agreement for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I) if, and to the extent that, it is feasible to do so. Prior to doing so, Business Associate shall recover any PHI in the possession of its subcontractors or agents. To the extent it is not feasible for Business Associate to return or destroy any portion of the PHI, Business Associate shall provide Covered Entity a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its possession or in possession of its subcontractors or agents. Business Associate shall extend any and all protections, limitations and restrictions contained in this Agreement to any PHI retained after the termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed.

Survival. The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 4.4, 5.1, 5.6, and 5.7, and Section 2.1 (solely with respect to PHI that Business Associate retains in accordance with Section 4.4 because it is not feasible to return or destroy such PHI), shall survive termination of this Agreement until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this Agreement, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

Amendments; Waiver. This Agreement may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of the HIPAA, HITECH or Red Flag Rules is materially amended in a manner that changes the obligations of Business Associates or Covered Entities, the Parties agree to negotiate in good faith appropriate amendment(s) to this Agreement to give effect to the revised obligations. Further, no provision of this Agreement shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

Notices. Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:
    Netsmart Technologies, Inc.
    4950 College Blvd.
    Overland Park, KS
    Attn: Chief Privacy Officer
    Tel: 800-421-7503
If to Covered Entity, to:
    County of Monterey, Health Dept.
    Behavioral Health Bureau
    Attn: Wayne W. Clark, PhD
    Tel: 831-755-4503

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

Counterparts; Facsimiles. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

Choice of Law; Interpretation. This Agreement shall be governed by the laws of the State of California; as provided, however, that any ambiguities in this Agreement shall be resolved in a manner that allows Business Associate to comply with the Privacy Rule, and, if applicable, the Security Rule and the CMIA.

Indemnification. Business Associate will indemnify, defend and hold harmless Covered Entity and its respective employees, directors, officers, subcontractors, agents and affiliates from and against all claims, actions, damages, losses, liabilities, fines, penalties, costs or expenses, including reasonable attorneys' fees (Damages) suffered by Covered Entity arising from any acts or omissions in connection with this Agreement, by Business Associate or by its employees, directors, officers, subcontractors, or agents. As between Business Associate and Covered Entity, the limitation of liability in Section 12, Limitations of Liability in the underlying Agreement will not apply and Netsmart will fully indemnify Covered Entity for:

(a)   Covered Entity's reasonable costs of notice, mitigation or remediation of any Breach of Unsecured PHI or acquisition, access, use, or disclosure of data in a manner not permitted by this Agreement that is attributable to any act or omission of Business Associate or its agents or subcontractors.
(b)   Fines or penalties that are assessed against Covered Entity by a state or federal regulatory agency for an act or omission of Business Associate or by its employees, directors, officers, subcontractors, or agents on a theory of agency or vicarious liability.
(c) Damages resulting from any negligent or willful acts or omissions of Covered Entity in connection with this Agreement are excepted from this indemnification requirement. .

It is the intent of the parties to this Agreement to provide the broadest possible indemnification for Covered Entity. Business Associate shall reimburse Covered Entity for all costs, attorneys' fees, expenses, and liabilities incurred by Covered Entity with respect to any investigation, enforcement proceeding or litigation in which Business Associate is obligated to indemnify, defend, and hold harmless Covered Entity under this Agreement. This provision is in addition to and independent of any indemnification provision in any related or other agreement between the Covered Entity and the Business Associate, including the underlying AGREEMENT.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf as of the Effective Date.

[BUSINESS ASSOCIATE]   *COUNTY OF MONTEREY, ON BEHALF OF THE HEALTH DEPARTMENT*

By: _____   By: _____

Print Name: _____   Print Name: _____Ray Bullick_____

Print Title: _____   Print Title: _____Director of Health_____

Date: _____   Date: _____

SCHEDULE J: NETSMART HOSTING ADDENDUM TO LICENSE

This Addendum is effective on the effective date of the Agreement ("Addendum Effective Date").

1. **PURPOSE OF ADDENDUM** This Addendum states the terms and conditions under which Contractor will provide software hosting services and permit County to load Data on the Hosted System via a virtual private network ("VPN") or Secure Socket Layer ("SSL").

2. **DEFINITIONS** Capitalized terms in this Addendum that are not defined below will have the same meaning as the terms that are given in the Agreement. All references to Schedules mean the Schedules attached to this Contractor Hosting Addendum to License unless otherwise indicated.

   a) "Migration" refers to all services, activities, and infrastructure associated with the migration of the County's Avatar system and all associated components from the County Network to Contractor's Plexus Cloud. An example project plan and narrative description of activities are provided in Schedule 2(a). After the signing of this agreement, the County and Contractor Project Managers will define a mutually acceptable Project Plan and Timeline.
   b) "County Hardware" means the computer hardware and communications equipment required by County to log on to the System and use the Software Services and is the responsibility of County to obtain.
   c) "Data" has the meaning provided in Section 6
   d) "Hosted System" means the hardware and software in Contractor's data center, including the Licensed Programs as defined in the Agreement that are used to provide Software Services to County. A brief overview of the components and services of the "Hosted System" is set forth in Addendum Schedule 2(b)
   e) "Month 1" means the first day of the first month after mutual contract execution.
   f) "Contractor Provided Hardware" means any equipment provided to the County by Contractor
   g) "Service Charges" means the amount to be paid by County for
      i) Contractor's data center usage;
      ii) Any Contractor Provided Hardware ;

   iii) Any Professional Services
   iv) The payment terms for Service Charges is set forth in "Schedule A – Charges and \\Payment Terms" of the Agreement and referenced again in Schedule 2(c) of this addendum.

   h) "SLA" is an abbreviation for Service Level Agreement. The Service Level Agreement, or SLA, describes the functions, features and performance capabilities of the Hosted System as available at County's site and is set forth in Addendum Schedule 2(d).

3. **TERM**
   a) Contractor hereby grants County a non-transferable, non-exclusive right to access the Hosted System from Contractor's Data Center for a period of 33 months from the Addendum Effective Date expiring on June 30, 2017 ("Addendum Initial Term"), with the option to extend the AGREEMENT for two additional one year periods. County is not required to state a reason if it elects not to renew.
   b) If this AGREEMENT includes options for renewal or extension, CONTRACTOR will notify COUNTY of a proposed rate change a minimum of ninety days (90) prior to the expiration of the AGREEMENT. Both parties must agree to any rate changes in writing.
   c) The Hosted Software Services may be used by County only:
      i) for County's internal business purposes and not to process the data of any other entity; and
      ii) for access by the maximum number of named users permitted under the Agreement; and
      iii) so long as the County is not otherwise in default under the Agreement or this Addendum.

   Subsections (i), (ii), and (iii) above shall be understood to permit non-employees of County, such as agents or contractors who have a need for access to the Licensed Programs to support the internal operations of County, to be added as named users for the Licensed Programs.

   d) This Addendum does not convey to County any title or ownership interest in the Hosted Systems or the Licensed Programs. County has additional rights in the Licensed Programs, however, under the Agreement.

e) The Hosting Services covered by this Addendum are provided solely to County. County is prohibited from engaging in any activity that makes these Hosting Services available to third parties.

4. **CHARGES AND PAYMENT TERMS**
County agrees to pay Contractor in accordance with Section 7 and Schedule A.

5. **TAXES**
The Charges set forth in this Agreement do not include any taxes. Where applicable, there shall be added to such Service Charges and County shall pay amounts equal to any taxes (however designated, levied, or based) on such Service Charges including, but not limited to, state and local sales, privilege, property, use or excise taxes, but not including taxes based on the net income of Contractor.

6. **PROTECTION OF COUNTY DATA**
As used in this paragraph 6, the word "Data" means all information acquired from County that will reside on a Contractor secure server and be maintained for County during the performance of this Agreement. Contractor will maintain the Data in accordance with generally accepted security standards applicable to protected health information and as required by law. Upon termination of this Agreement for any reason Contractor shall furnish all Data to County as soon as reasonably practical in a mutually acceptable industry standard format. If professional services are required to convert or format the Data to meet requested format, County will pay for such professional services as an additional charge.

7. **GENERAL TERMS**
Except as expressly set forth in this Addendum, the relationship between Contractor and County will be governed by the provisions of the Agreement.

8. **SURVIVAL OF TERMS**
In the event this Addendum terminates pursuant to its terms, the Agreement will continue in full force and effect.

9. **CROSS DEFAULT**
A default by County and resulting termination of the Agreement will similarly terminate the license rights granted by this Addendum. A default and termination of this Addendum, however, will not constitute grounds for termination of the Agreement, unless the default under this Addendum would likewise be grounds for termination of the Agreement

Addendum Schedule J(a)
EXAMPLE Migration Project Plan and Narrative Description

ID	WBS	Task Name	Duration	Predece	Resource Names	28, M
1	1	**Monterey County Migration**	**49 days**			
2	1.1	**General Project Activities**	**49 days**			
3	1.1.1	**Contract Initiation**	**0 days**			
4	1.1.1.1	**Initial Contract**	**0 days**			
5	1.1.1.1.1	Contract Signing	0 days			
6	1.1.2	**Project Management Execution**	**49 days**	3SS		
7	1.1.2.1	**Distribute Project Status Information**	**49 days**			
8	1.1.2.1.1	Chair Project Status Meetings	49 days		Monterey Project Manager[5%],NTST Project Manager[5%	
9	1.1.2.1.2	Compile Required Project Reports	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
10	1.1.2.1.3	Distribute Project Reports	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
11	1.1.2.2	**Direct and Manage Execution of Project Tasks**	**48 days**	3SS		
12	1.1.2.2.1	Implement Approved Corrective Actions	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
13	1.1.2.2.2	Implement Approved Preventative Actions	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
14	1.1.2.2.3	Implement Approved Change Requests	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
15	1.1.2.3	**Perform Integrated Change Control**	**48 days**	3SS		
16	1.1.2.3.1	Execute On-Going Risk Process Meetings (ID, Analysis, Response)	48 days		Monterey Project Manager[5%],NTST Project Manager[5%]	
17	1.1.2.3.2	Perform On-Going Change Control Meetings to Review Scope Change Requests	48 days		Monterey Project Manager[5%],NTST Project Manager[5%]	
18	1.1.2.3.3	Assess Schedule and Cost Analysis	48 days		Monterey Project Manager[5%],NTST Project Manager[5%	
19	1.2	**Hosted Migration Effort**	**48 days**	3SS		
20	1.2.1	**Creation of "Production Ready" Hosted Environment**	**48 days**			
21	1.2.1.1	**Cloud Setup**	**10 days**			
22	1.2.1.1.1	**Hardware Setup**	**5 days**			
28	1.2.1.1.2	**Software Installation on Server**	**1 day**	22		
29	1.2.1.1.2.1	OS Install	1 day		NTST Systems Engineer	
30	1.2.1.1.2.2	Monitoring Software Installation	1 day		NTST Systems Engineer	
31	1.2.1.1.2.3	Backup Software Installation	1 day		NTST Systems Engineer	
32	1.2.1.1.2.4	SFTP Site Set-up	1 day		NTST Systems Engineer	
33	1.2.1.1.2.5	Quest Software (AD/Unix Integration)	1 day		NTST Systems Engineer	
34	1.2.1.1.2.6	Uptime Software	1 day		NTST Systems Engineer	
35	1.2.1.1.3	**Database and RADplus Software Install**	**2 days**	28		
36	1.2.1.1.3.1	Installation of Cache DB	1 day		NTST Systems Engineer	
37	1.2.1.1.3.2	Installation of RADplus Middleware	1 day	36	NTST Systems Engineer	
38	1.2.1.1.4	**Create Virtualized Environments**	**1 day**	35		
39	1.2.1.1.4.1	Create Hosted Production Environment (LIVE)	1 day		NTST Systems Engineer	
40	1.2.1.1.4.2	Create Hosted UAT Environment	1 day		NTST Systems Engineer	
41	1.2.1.1.4.3	Create Hosted Test Environment	1 day		NTST Systems Engineer	

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ID	WBS	Task Name	Duration	Predece	Resource Names	28, M
42	1.2.1.1.5	Networking/Connectivity Infrastructure	1 day	38		
43	1.2.1.1.5.1	Monterey County Side Configuration	1 day			
44	1.2.1.1.5.1.1	MPLA Circuit	1 day			
45	1.2.1.1.5.1.1.1	Installation of MPLS Circuit	1 day		Monterey IT Staff[90%],NTST Systems Engineer[10%]	
46	1.2.1.1.5.2	Cloud Side Configuration	1 day	44SS		
47	1.2.1.1.5.2.1	MPLS Traffic	1 day			
48	1.2.1.1.5.2.1.1	Confirm MPLS Connection Allows Access	1 day		NTST Systems Engineer[90%],Monterey IT Staff[10%]	
49	1.2.1.1.5.2.1.2	Confirm Connection to Monterey County Network Addresses in Cloud	1 day		NTST Systems Engineer[90%],Monterey IT Staff[10%]	
50	1.2.1.2	.DAT Migration	5 days	21		
66	1.2.1.3	Hosting Environment Testing	9 days	50		
81	1.2.1.4	Go / No-Go Decision Point	0 days	66	Monterey Project Manager,NTST Project Manager	
82	1.2.1.5	Go-Live - Production Use of Hosted Environment	24 days	81		
83	1.2.1.5.1	Go-Live Planning	10 days			
93	1.2.1.5.2	.DAT Migration	2 days	83,81		
112	1.2.1.5.3	Go-Live	12 days	93		
113	1.2.1.5.3.1	Back-Enter Data from Down-time	1 day		Monterey Clinical Analyst,Monterey Functional Analyst	
114	1.2.1.5.3.2	Begin Use of Hosted Hosted System in Production Environment	1 day	113	Monterey Clinical Analyst,Monterey Functional Analyst	
115	1.2.1.5.3.3	NTST Consulting Go-Live Support & Troubleshooting	10 days	114	Monterey Project Manager,NTST Project Manager	

WBS 1.1 – General Project Activities – These tasks represent the work associated with the management of the Consolidated Project per standard project management methodologies as outlined in the Project Management Book of Knowledge (PMBOK). Within this WBS, the work associated with the Initiation, Planning, and Monitoring/Controlling will be managed.

WBS 1.2.1– Creation of "Production Ready" Hosted System Environment – These tasks represent the work associated with all the tasks that will need to be completed in order to provide fully functioning Avatar Environments on Contractor's Hosted/Cloud platform. Once completed, County staff will be able to access/use the Avatar applications as well as generate Crystal Reports with all data transactions protected through secure networking solutions.

    WBS 1.2.1.1– Cloud Setup – These tasks represent the work to be accomplished by NTST Systems Engineers County to provide the hardware, networking, and software that comprises a completely installed Avatar system on the Hosted System platform.

        WBS 1.2.1.1.1 – Hardware Setup – These tasks are associated with the procurement and installation of all hardware required to support the fully operational Avatar Environments for County in the Contractor Cloud. These tasks are the exclusive responsibility of NTST Systems Engineers.

        WBS 1.2.1.1.2 – Software Installation – These tasks are associated with the procurement and installation of all software required to make the hardware operational as well as provide continued monitoring and back-up capabilities. These tasks are the exclusive responsibility of NTST Systems Engineers

        WBS 1.2.1.1.3 – Database and RADplus Software Install – These tasks are associated with the installation of the database and application software specifically associated with the Avatar application. These tasks are the exclusive responsibility of NTST Systems Engineers

        WBS 1.2.1.1.4 – Create Virtualized Environments – Contractor leverages virtualization to create separate virtualized servers upon which each of the Avatar environments is hosted. Once completed, Monterey County's Hosted Solution will be comprised of three environments (LIVE, UAT, and TEST) with each hosted on its own separate virtual server. As such, after the installation and configuration of all hardware and software, NTST Systems Engineers will create "copies" of the installed server to produce the three virtualized environments into which the Avatar .DATs will be hosted/mounted.

        WBS 1.2.1.1.5 – Networking / Connectivity Infrastructure – These tasks are associated with the installation and configuration of hardware and software to assure that the end user will be able to connect to the virtualized environments upon with Monterey County's LIVE, UAT, and TEST systems will be hosted.

            WBS 1.2.1.1.5.1 – County Side Configuration – In order to support secure connection between the end user and the NTST Cloud, installation and configuration of MPLS Circuit will be required within Monterey County's network. These tasks will primarily be executed by County IT resources with NTST Systems Engineers acting in an advising capacity.

                WBS 1.2.1.1.5.1.1 – MPLS Circuit –To support this MPLS connection a Circuit will need to be installed and configured on the County side.

            WBS 1.2.1.1.5.2 – Cloud Side Configuration – In order to support secure connection between the end user and the NTST cloud, installation and configuration of MPLS solutions will be required within the NTST Cloud network.

WBS 1.2.1.2 - .DAT Migration - While there are many different software components that support the Avatar system, the primary one is the .DAT which in essence comprises both the application logic as well as the database. Given this, when one makes a copy of an installation's .DAT, the individual ultimately making a copy of their entire system (application software and data).

As such, to migrate Monterey County's Avatar system from their self-hosted platform onto the NTST Cloud, it will be necessary to create a copy of the .DATs currently in use and move them onto the virtualized servers now available in the NTST Cloud.

> **WBS 1.2.1.2.1** – Migration – In order to create copies of the .DATs currently in use at Monterey County, during these tasks County will run their nightly back-up routines, thus creating a back-up copy of the .DATS, and move these .DAT files to a SFTP site from which NTST Systems Engineers will be able to access them.
>
> It is important to note that it is the plan of County to provide the .DATs from their LIVE system and their UAT during the initial test migration effort.
>
> **WBS 1.2.1.2.2** – Installation – Once these .DATs are made available to NTST Systems Engineers, these will be mounted in the virtualized UAT and LIVE environments.
>
> **WBS 1.2.1.2.3** – Verification – The final step in assuring that the hardware, software, environments and application are operational, the verification process is performed by NTST Systems Engineers before releasing the system to County for their users to access.

WBS 1.2.1.3 – Hosted System Testing – In order to assure that the County system now hosted on Contractor's Cloud platform is stable and fully operational, a series of tasks focused on testing all components of the installation and application will be undertaken by County staff

> **WBS 1.2.1.3.2** – Application Access through SSL – From the Workstation(s), County Staff will be using Internet Explorer web-browser to access the Avatar Application(s). For each Avatar environment that a County Staff member might connect to, a short-cut will have been created. When these short-cuts are employed by a user, they should have an internet connection, secured by Secure Socket Layer (SSL) established with the desired Avatar system. Once connected, the user should be able to log into the selected Avatar environment and utilize the application in a normal fashion. During the work associated with these tasks, the users will test the availability of the short-cuts on the Workstation, the connection to the desired Avatar environment, the establishment of an encrypted SSL connection to the desired Avatar environment, the ability to log into the Avatar system, and the basic functions of said system.
>
> **WBS 1.2.1.3.3** – ODBC/Report Generation –Will Test data traffic through the MPLS Circuit, their ability to access the Cache database within the Contractor Cloud, and the Report Viewer software that was loaded on the Workstation(s)
>
> **WBS 1.2.1.3.4** – Functional Testing of Avatar – Once the availability, accessibility and stability of the Avatar environments established in the NTST Cloud have been confirmed, County staff will initiate testing of the various functions within the application itself.
>
> **WBS 1.2.1.4** - Go / No Go Decision Point – Based upon the results encountered during the full functional tests performed during the Functional Testing of the system (WBS 1.3.8.1) as well as all efforts to address identified issues after the testing (WBS 1.3.8.2), at this point the overall success of the project to date will be evaluated by County and Contractor leadership to determine whether full roll-out of the Hosted System platform is advised.

WBS 1.2.1.5 – Go-Live – Production Use of Hosted System Environment – After both the Hosted System Migration efforts have been completed, efforts associated with the final migration of the entire County system will be undertaken.

WBS 1.2.1.5.1 – Go-Live Planning – By this time the steps associated with a successful migration of the .DATs from the Self-Hosted environment to the Hosted System environment will have been tested and performed twice. As such the planning of the final migration efforts will be an exercise of scheduling the resources and focusing on how to manage the end users connecting to Hosted System environment rather than the Self-Hosted environment.

WBS 1.2.1.5.2 - .DAT Migration – These tasks represent the work to be accomplished by NTST Systems Engineers and County IT Consultants to migrate Monterey County's Avatar system from their self-hosted platform onto the NTST Cloud.

WBS 1.2.1.5.2.1 – Migration – In order to create copies of the .DATs currently in use at Monterey County, during these tasks County will run their nightly back-up routines, thus creating a back-up copy of the .DATS, and move these .DAT files to a SFTP site from which NTST Systems Engineers will be able to access them.

It is important to note that it is the plan of County to provide the .DATs from their LIVE system and their UAT during the initial test migration effort.

WBS 1.2.1.5.2.2 – Installation – Once these .DATs are made available to NTST Systems Engineers, these will be mounted in the virtualized UAT and LIVE environments.

WBS 1.2.1.5.2.3 – Verification – The final step in assuring that the hardware, software, environments and application are operational, the verification process is performed by NTST Systems Engineers before releasing the system to County for their users to access.

WBS 1.2.1.5.3– Go-Live - These tasks represent the work to be accomplished by the project team in order to support the end users as they begin their productive use of the all applications in the LIVE environment on the Hosted System platform.

Addendum Schedule J(b)
Overview of the "Hosted System" Components and Services

HOSTING COMPONENTS

A.   Avatar Environment

Contractor will provide redundant middleware and ECP servers to Monterey running through SSL, load balanced with enterprise F5 load balancers, tied to a backend Cache database. This environment will be replicated to our Kansas City data center with failover capabilities spelled out in the Disaster Recovery portion of this document. The environment will be provisioned based up concurrent number of users and estimated growth patterns. Contractor implements and utilizes real-time monitoring on Avatar hosted system, providing feedback on all security, stability, and performance attributes of each system.

The Contractor Avatar environment is governed under an ISO 27000 series framework, consisting of an extensive set of policies, procedures, and work instructions governing the planning, implementation, management, and support of the environment. Contractor's complete set of policies and procedures will be provided under a separate cover.

Contractor Plexus Support includes application and database patching. Contractor encourages the Monterey to stay current with applications patches. Patches will be applied to Monterey test environments first, to be tested by Contractor and Monterey. Upon successful testing and validation by the Monterey, Contractor will schedule and apply patches to the Monterey's live environment at a mutually agreeable time. Patches affecting core system security and stability, will be escalated and applied to the Monterey environment, as soon as reasonably possible, to ensure optimal security and stability within the hosted Avatar solution.

Avatar application support will continue under the current Contractor Application support model. System support, consisting of network connectivity, Cache database, security, and infrastructure system support is provided by Contractor's Plexus Cloud Systems Engineering team, Infrastructure Team, and Security Teams. Monterey will be provided all applicable support phone numbers, which include the general hosting phone numbers, 24/7 phone numbers, and escalation phone numbers.

Contractor Plexus hosting support will continue to utilize the same priority ranking system representing the severity of issue currently being encountered. Priority 1 (P1) issues represent a down system event or significant event severely hampering core system functionality or availability, which have Contractor's support teams immediate engage with the Monterey on addressing the issue. Priority 2 (P2) issues represent a significant event occurring within the Avatar solution, while the core system remains functional and accessible or critical system patches that need added to the environment. Contractor will assign and initially engage with Monterey within 12 hours, to begin work on a resolution. Priority 3 (P3) issues represent low priority issues, representing non-critical issues, non-critical patches, or questions. Contractor will engage with the Monterey within 48 hours and begin work on a resolution.

B.   Avatar Disaster Recovery

Contractor provides redundant, dedicated virtualization throughout the entire Avatar environment, including middleware, ECP, and database servers. The middleware and ECP systems employ load balancing behind master F5 load balancers, monitoring performance and health of each device. System failures are identified and routed around, by the load balancers. The database environment utilizes HA server components, to fail over between servers, in the event of a failure. Replicated copies of the middleware and ECP environments are maintained offline, at our secondary data center, and update on a weekly basis or after any changes are made. The database server environments are replicated in real-time to the secondary data center. Target RTO for Avatar failover to the secondary data center is 4 hours,

though generally can be completed in a matter of minutes. Target RPO for data loss is 30 minutes, though all tests generally show times in the sub-2 minute timeframe.

Nightly backups of the Avatar environment occur to local tier III storage and to encrypted backup tapes, which are taken offsite daily by Iron Mountain. Monthly restoration tests of random Monterey environments occur and are fully documented from all three sources of information

C.   Scriptlink Hosting

Contractor will provide redundant Web Servers to support the hosting and execution of Monterey developed scripts. In order to provide administrative rights to this Web Server, Contractor provides representatives from County secure access mechanisms into the Plexus Cloud Environment. The environment will be provisioned based up concurrent number of users and estimated growth patterns. Finally, as part of the Scriptlink Hosting Contractor will provide and manage all aspects of the communication between the County's Hosted Avatar Environment and the Scriptlink Web Servers.

The Contractor Avatar environment is governed under an ISO 27000 series framework, consisting of an extensive set of policies, procedures, and work instructions governing the planning, implementation, management, and support of the environment.

HOSTING SCOPE OF SERVICES

A. <u>Netsmart Data Center Environments</u>. The Netsmart Plexus Data Centers ("NPDC") consist of a 2X primary data center environment and an N+1 secondary datacenter environment, both consisting of dual-fed, redundant data operation facility intended to provide uninterrupted power and service for Netsmart clients. The NPDC are designed to significantly reduce client downtime and operates under supervision twenty-four (24) hours per day, seven (7) days per week ("24 x 7"), every day of the year. The NPDC houses all data center equipment, including hosted computing equipment, network equipment, and security equipment. Data center monitoring systems include fire protection (detectors, sprinklers, and dry agent), mechanical systems, camera recording systems, entry alarms, electrical systems, generator operations, water detection systems, and card access control/biometrics access controls. Netsmart engineers observe systems 24 x 7 and report alarms as needed. The following table sets forth the responsibilities of Netsmart and Client regarding the physical facilities:

No.	Table 1: Facility Responsibility Description	Netsmart NPDC	Client
1.1	**Environment**		
1.1.1	Provide the NPDC facility required to host the computing and network environment	X	
1.1.2	Provide the NPDC equipment and third party software	X	
1.1.3	Manage, monitor and control the NPDC	X	
1.1.4	Provide any applicable UPS/temperature-controlled environment for Netsmart provided equipment needed at Client site (e.g. network equipment, etc.)		X
1.1.5	Provide appropriate rack space for Netsmart provided equipment at the Client site, if applicable		X
1.2	**NPDC Facility Management and Monitoring**		
1.2.1	NPDC power monitoring for generators - *	X	
1.2.2	Monitoring of chiller system for pressure, temp, alarm and standby- *	X	
1.2.3	Monitoring of electrical room for moisture, UPS availability- *	X	
1.2.4	Monitoring of NPDC data center air-conditioning units, including air conditioning, power, moisture, humidity and temperature- *	X	
1.2.5	Monitoring of NPDC Auto Transfer Switches. Monitors and activates UPS/generator system as incoming power dictates- *	X	
1.2.6	Monitoring and control of the NPDC environment- *	X	
1.2.7	Facility operation and maintenance- *	X	
1.3	**NPDC Physical Security**		
1.3.1	Camera monitoring is provided throughout the Data Center and exterior entries. Multiple cameras provide views of the Data Center and all access points, which are visible at all times to the on-site operators. All cameras continuously record to tape for future viewing and investigation- *	X	
1.3.2	All primary doors are controlled by card access with biometric readers in high-security areas. Multiple access points must be crossed to access the Data Center floor- *	X	
1.3.3	All secured doors are electronic fail-secure strikes. All door hardware and Monitoring are backed by emergency power- *	X	

1.3.4	Access to host facility is site-restricted via ACL's which are controlled by Netsmart's security personnel	X	
1.3.5	Entry/exit points of service center are monitored via closed-circuit television- *	X	

B. <u>Network Operations</u>. As part of the NPDC Services, Netsmart will provide and manage many aspects of the communications between the NPDC and the Client networks. Each section below describes a unique aspect of the network infrastructure. There are three separate networks that must work together in unison to provide seamless application delivery. In addition, each party agrees to perform their respective network operations responsibilities, as set forth in Table 2 below.

    1. <u>NPDC Network Operation</u>. The NPDC Network Operations are the network equipment, software, and console systems that support the servers and databases for Client within a facility or facilities that Netsmart manages. Netsmart will provide and operate at the NPDC all network equipment, third party software and console systems to host the Licensed Software, equipment, and certain third party software (collectively, the "Netsmart Environment"). Netsmart will provide a high-availability network designed to remain fully operational in the event of any single equipment failure. Possible points of equipment failure may include routers, switches, load balancers, and firewalls. Netsmart will support, manage, and maintain this equipment and third party software in a manner consistent with vendor specifications and Netsmart best practices. Netsmart will provide network management of all Netsmart-provided network components in the NPDC to maintain the service levels set forth in this Netsmart System Schedule.

    2. <u>Netsmart/Client provided Internet Communications</u>. The Internet Communications Network Operations are the communications infrastructures that include primary and secondary communications circuits between the NPDC and the Internet, and from the client LAN/WAN to the Internet. The Netsmart circuits will be provisioned in a manner that maximizes existing physical circuit diversity from a variety of Internet backbone providers, at both data center environments. This process does not guarantee physical diversity; but rather provides the best practice for obtaining physical diversity. The Netsmart Internet circuits will be sized in accordance with Netsmart best practices for appropriate bandwidth, quality of service and responsiveness. Some metrics that may be used for sizing include active concurrent users, number and volume of interface traffic, number and volume of print activities, etc. All Netsmart-side circuit provisioning and management will be the responsibility of Netsmart in conjunction with Netsmart's third party communications carriers. All communications equipment necessary to terminate these WAN circuits will be provided and managed by Netsmart. The equipment may include routers, switches, firewalls, out-of-band-management consoles and power reboot switches as well as CSU/DSU circuit termination equipment. All client-side circuit provisioning and management will be the responsibility of the client. All communications equipment necessary to terminate these Internet circuits will be provided and managed by the client. The equipment may include routers, switches, firewalls, out-of-band-management consoles and power reboot switches as well as CSU/DSU circuit termination equipment. Netsmart will assist Client in troubleshooting Internet issues that may involve Client's network or client's Internet provider; however, Netsmart reserves the right to charge for the time, materials and travel and related expenses involved in resolution of problems that are determined to originate within Client's network.

    3. <u>Client-provided LAN/WAN</u>. Client LAN and Client WAN will consist of any communications circuits, WAN termination equipment and LAN equipment not provided by Netsmart. These circuits and equipment will be managed and maintained by Client. Netsmart will assist Client in troubleshooting issues that may involve Client's network; however, Netsmart reserves the right to charge for the time, materials and travel and related expenses involved in resolution of problems that are determined to originate within Client's network.

    4. <u>Netsmart Provided MPLS Connectivity</u> Client location will be provided (2) routers for connection to Netsmart Technologies' MPLS network from client's internal network. An MPLS circuit will be installed at the client location from (2) diverse carriers. Both circuits will be identical in capacity and not less than 20Mbps. Circuits will be provisioned to have connectivity to both Netsmart data centers,

Columbus and Kansas City, through their respective MPLS cloud. Once installed, both circuits and routers will be active allowing traffic to utilize each connection

No.	Table 2: Network Operations Responsibility Description	Netsmart NPDC	Client
2.1	**NPDC Network Operations**		
2.1.1	All required network equipment within the NPDC, such as routers, switches, load balancers and consoles	X	
2.1.2	Network management of equipment and third party software, including routers, switches, load balancers and firewalls	X	
2.1.3	Redundant power circuits and power distribution	X	
2.1.4	24 x 7 x 365 network support with level 2 and 3 backup available by pager	X	
2.1.5	Monitoring Netsmart-provided applications response time, including round trip latency from Netsmart's Internet providers	X	
2.1.6	Network management, support, installation, and configuration of Netsmart-provided WAN circuits and WAN equipment	X	
2.2	**Netsmart/Client provided Internet Communications Network Operations**		
2.2.1	Communications circuit(s) from the NPDC to Internet Backbone	X	
2.2.2	Network management including Monitoring systems, device management and polling systems	X	
2.2.3	Monitoring of Netsmart-provided network routers, including utilization, memory, exception reporting, syslog, configuration management and ACL hits/denies	X	
2.2.4	Monitoring of Netsmart-provided WAN links ups/downs, error thresholds, bandwidth, and CIR packet flow/loss	X	
2.2.5	Communications circuit(s) from the CLIENT to Internet Backbone		X
2.2.6	Network management including Monitoring systems, device management and polling systems		X
2.2.7	Monitoring of client-provided network routers, including utilization, memory, exception reporting, syslog, configuration management and ACL hits/denies		X
2.2.8	Monitoring of Client Gateway ups/downs, router, switch, power		X
2.3	**Client LAN/WAN Operations**		
2.3.1	Network management, support, installation, and configuration of Client provided WAN circuits and WAN Equipment		X
2.3.2	Network management, support, installation, and configuration of Client LAN infrastructure		X
2.3.3	Management of network printers, terminal servers, PCs, terminals or other Client-side equipment		X

C. Systems Management. As part of the NPDC Services, Netsmart will provide systems management services for the management, security and performance of the computing systems required to operate the Licensed Software. The "back-end system" includes third party software, certain Sublicensed Software, and host nodes running the Licensed Software database as well as the Avaguard monitoring system, and interface engine. This aspect of the back-end system also includes the storage technology and media. The back-end systems

also include the required operating systems ("OS") and layered products necessary for the System to operate. The computing system includes the back-end system and the front-end application server resources necessary to provide access to the System and executes the Licensed Software and server requirements to facilitate printing (excluding Client print servers required for and on Client LAN). The computing system includes management and Monitoring systems and software to monitor and report on system health, security, capacity and availability.

The front-end system includes the required OS and layered-product licenses (necessary for the System to operate. The system management services include the responsibility for the equipment and third party software maintenance of the computing system and associated infrastructure in accordance with manufacturer-recommended and supported practices. In addition, such services include processes and resources to monitor the computing systems and to report and alert on compromised system health, security, capacity, and availability. Furthermore, Netsmart will:

- Meet or exceed contracted performance, capacity, and System Availability (as defined below) levels using the appropriate management methodologies, resources, and tools for the Netsmart Environments
- Provide System performance Monitoring and tuning
- Provide System capacity analysis and planning
- Provide storage management for all the in-scope environments
- Use and adhere to documented change management processes and procedures
- Use and adhere to documented problem management processes, procedures and escalation guidelines
- Provide and monitor mutually agreed-upon security functions in conjunction with Client's security officer and in accordance with documented security policies

In addition, each party agrees to perform their respective systems management responsibilities, as set forth in Table 3 below.

No.	Table 3: Systems Management Responsibility Description	Netsmart NPDC	Client
3.1	**Equipment and Third Party Software Acquisition and Provisioning**		
3.1.1	Provide back-end computing systems consisting of CPU, memory and data storage required to operate the in-scope environment(s) Back-end computing systems will be provided in accordance with obligations set forth in this Netsmart System Schedule and certified by Netsmart Engineering	X	
3.1.2	Provide OS and layered-product software licenses for back-end systems required to operate the in-scope environment(s)	X	
3.1.3	Purchase of database Sublicensed Software and ongoing Sublicensed Software Maintenance fees	X	
3.1.4	Provide front-end computing systems necessary to facilitate Client access to their specific in-scope environment(s) Front-end computing systems will be provided in accordance with obligations set forth in this Netsmart System Schedule and certified by Netsmart Engineering	X	
3.1.5	Provide OS and layered-product software licenses for front-end systems required to operate the in-scope environment(s)	X	
3.1.6	Provide systems and third party software necessary for Netsmart to manage and monitor back-end and front-end systems	X	
3.1.7	Provide front-end servers required to facilitate printing from the in-scope environment(s), excluding Client-specific print servers required for local printing on Client site	X	

3.1.8	Provide systems required for Client local printing from Avatar and non-Avatar applications		X
3.1.9	Provide systems required for Client access to Client's LAN (e.g. local authentication, primary/backup domain controllers) and other non-Avatar functionality		X
3.1.10	Provide front-end computing systems necessary to facilitate local Client Licensed Software installation. Computing systems must meet Netsmart minimum system requirements		X
3.2	**Management and Monitoring**		
3.2.1	Apply OS and layered-product service packs to front-end and back-end systems as required to maintain system health, security, availability and capacity	X	
3.2.2	Monitor the computing systems (24 x 7) to report and alert on compromised system health, security, availability and capacity	X	
3.2.3	Reboot back-end and front-end computing systems on a recurring schedule to optimize performance of the computing environment	X	
3.2.4	Monitor charting application services (charting and Remote Report Distribution) for successful completion		X
3.2.5	Resubmit and/or reroute any failed print jobs		X
3.2.6	Provide OS and layered-product software licenses for front end systems required for a local Avatar application installation (Windows, Crystal)		X
3.3	**Security Administration**		
3.3.1	Provide system third party software and equipment security controls	X	
3.3.2	Monitor System security errors, exceptions and attempted violations as dictated by standard procedures	X	
3.3.3	Host facility physical security measures and controls	X	
3.3.4	Secure backup media with check-in and check-out procedures	X	
3.3.5	Store Client's backup media in a manner that will protect the confidentiality of the data stored on them and ensure that such data remain Client's property	X	
3.3.6	Run and monitor continuous intrusion detection software on both host and network-based systems	X	
3.3.7	Provide secure environment for on-site and off-site storage for backups	X	
3.3.8	Virus detection and correction as required	X	
3.3.9	Provide corporate IT Security Manager to monitor and enforce security procedures and resolve exception report issues	X	
3.3.10	Provide logical security using lockdown procedures post production	X	
3.3.11	Assign and manage accounts for Client users to access systems		X
3.3.12	Designate assigned security representative to ensure personnel have appropriate access and be responsible for review of access controls, etc.		X
3.4	**Other Third-Party Software**		

3.4.1	Provide adequate licenses for third party products used to augment Avatar functionality		X
	Third-party products will be implemented in accordance with obligations set forth in the contract and certified by Netsmart Engineering		
3.5	**Miscellaneous Technologies Selection, Deployment and Management**		
3.5.1	Provide, configure, host and manage other non-Avatar resources deployed to augment Avatar functionality (excluding those which have not been identified as Netsmart Avatar technology partners)	X	
	Resources excluded may consist of, but are not limited to, biometric authentication application and database servers, and medical encoding application and database servers		
3.5.2	Select peripheral technologies certified by Netsmart and consult with Netsmart Technical Project Manager prior to final selection	X	X
	Peripheral technologies consist of PCs, thin client devices, hand-held devices, printers, document scanners, and barcode scanners		
	Netsmart is responsible for providing Client with a list of validated devices, and Client is responsible for making their selection and verifying with the TPM that it is valid according to the list provided		
3.5.3	Procurement and deployment of peripheral technologies in accordance with Netsmart- certified configurations		X
3.5.4	Peripheral devices configuration, management and maintenance (Web browser configuration, connectivity, rebooting, paper, toner, paper jam, device offline, etc.)		X
3.5.5	Client site peripheral management (adds, moves and changes--some changes may require NPDC assistance to implement)		X
3.5.6	Provide virtual access to peripherals and interfaces as needed to support Client		X

D. <u>Database Administration</u>. Netsmart will provide the ability to implement and maintain database access, performance and availability in a consistent and efficient manner across all System environments. Client will maintain the content and integrity of the database. Netsmart will:

- Install and maintain Database Management System ("DBMS") software as defined in Table 4 below
- Provide appropriate database management methodologies, resources and tools to manage, troubleshoot, back up and recover the database environments.
- Monitor and report on database performance and capacity
- Provide DBMS storage management
- Monitor and manage database security
- Maintain offsite backup of the System and Client data (the offsite media backup will operate and perform in a manner comparable to NPDC with respect to both System and Client data)

In addition, each party agrees to perform their respective database administration responsibilities, as set forth in Table 4 below.

No.	Table 4: Database Administration Responsibility Description	Netsmart NPDC	Client
4.1	**Software Installation and Upgrade**		
4.1.1	Installation, management, and upgrading of third party database software necessary to support the Licensed Software.	X	
4.1.2	Certification of application environment after database or other upgrade		X
4.2	**Performance Management and Monitoring**		
4.2.1	Monitor database alert logs	X	
4.2.2	Monitor database number of extents remaining	X	
4.2.3	Monitor database freespace	X	
4.2.4	Monitor database freespace deficits	X	
4.2.5	Monitor database instance status	X	
4.2.6	Monitor database lock conflicts	X	
4.2.7	Monitor space available in tablespace	X	
4.2.8	Monitor status of database listeners	X	
4.2.9	Reorg/defragment database objects/tablespace	X	
4.2.10	Analysis and tuning of any custom scripts developed by Client or third-party		X
4.2.11	Monitor basic database performance characteristics such as I/O	X	
4.2.12	Monitor and manage file and tablespace	X	
4.3	**Backup, Restore and Recovery**		
4.3.1	Perform system backups as specified in standard backup procedure	X	
4.3.2	Media rotation	X	
4.3.3	Verify backup logs	X	
4.3.4	Maintain and document backup requirements	X	
4.3.5	Coordinate offsite storage functions, including logging, tracking, labeling, ordering, receiving and sending storage media	X	
4.3.6	Restore System data as required	X	
4.3.7	Define System-wide recovery and backup requirements	X	
4.3.8	Schedule and test routine recovery procedures	X	

4.3.9	Perform the required frequency of replacement for all media in storage	X	
4.3.10	Backup of Client-based PCs and servers		X
4.3.11	Verification of restored environment		X

E. <u>Applications Management</u>. Applications Management services are the services required to manage the Licensed Software application level of the System. As part of the NPDC Services, Netsmart's primary function with respect to Applications Management is in the areas of service package management, application server management, and monitoring and reporting on application processes. Each party agrees to perform their respective Applications Management responsibilities, as set forth in Table 5 below. Netsmart will upgrade the System as required to keep Client on a supportable release; but not more frequently than limit set forth in the scope of use table above. Specific service packages will be made available as required to address a medical need, financial need or regulatory requirement. Client will, at its own expense, support, manage and provide training for all Licensed Software, including without limitation all maintenance and build activities related to production financial and clinical applications and Licensed Software upgrades. Client agrees to use "superusers" to provide Licensed Software management support.

No.	Table 5: Applications Management Responsibility Description	Netsmart NPDC	Client
5.1	**Service Package Management**		
5.1.1	Load patches and Service Packages as required to meet contractual agreements	X	
5.1.2	Installation of New Releases on a periodic basis, subject to notice and approval by Client. (Frequency as set forth in the scope of use limit section above)	X	
5.1.3	Perform back-end special instructions for service package loads	X	
5.1.4	Perform front-end special instructions for service package loads	X	
5.1.5	Support applications testing by providing a certification domain to Client as required to support contractual commitments	X	
5.1.6	Monitor Licensed Software notifications for issues related to patient care, financial burden, or performance		X
5.1.7	Request patches & service packages as needed to keep the System at a supportable level (as defined above)		X
5.1.8	Perform application special instructions for service package loads as needed		X
5.1.9	Perform service package certification guidelines as needed		X
5.1.10	Test service packages /application enhancements, fixes and upgrades and assure the integrity of the resulting data. Client is responsible for final signoff		X
5.1.11	Perform and manage the process for local installations of the Licensed Software application on Client PCs		X
5.2	**Monitoring tasks**		
5.2.1	Monitor Application Servers for appropriate number/ups/downs	X	
5.2.2	Monitor orphaned journal transactions	X	
5.2.3	Monitor Avatar System Access logs and perform maintenance		X

No.		Netsmart NPDC	Client
5.2.4	Verify client record status		X
5.3	**Audit reports and logs**		
5.3.1	Review/monitor audit reports and logs		X
5.3.2	Perform Client audits/reports/tools		X
5.4	**User accounts**		
5.4.1	Establish ongoing setup and maintenance of user accounts for Licensed Software products		X
5.5	**Maintenance Activities**		
5.5.1	Cycle Application Servers as needed	X	
5.5.2	Perform event code/event set changes as required		X
5.5.3	Provide and maintain application-specific security such as task access, positions, and role setup		X
5.5.4	Train end users on application		X
5.5.5	Maintain change management of all local installations of the Licensed Software applications on Client PCs		X
5.6	**Avatar Software Operations**		
5.6.1	Perform Daylight Savings Time management activities	X	
5.6.2	Notify Client help desk of issues found that affect service	X	
5.6.3	Set up and review purges and operations jobs		X
5.6.4	Run/review Licensed Software operations		X
5.6.5	Add/remove operations jobs		X
5.6.6	Monitor operations for successful completion		X
5.6.7	Restart production jobs as required		X

F. Interface Management.   Interfaces include both medical device interfaces ("MDI") and foreign system interfaces ("FSI") that reside on the System.   Each party agrees to perform their respective Interface Management responsibilities, as set forth in Table 6 below.

No.	Table 6: Interface Management Responsibility Description	Netsmart NPDC	Client
6.1	**Monitoring**		
6.1.1	Monitor Netsmart outbound interface queue counts and over-threshold alarms	X	
6.1.2	Monitor and cycle inbound interfaces as required to establish connections or start transactions sending		X
6.1.3	Monitor Netsmart inbound cycle times over-threshold alarms	X	
6.2	**Management**		
6.2.1	Notify Client help desk of issues found that affect service	X	
6.2.2	Notify Netsmart Hosting Support when cycling interface/VPN's or of known ups/downs		X
6.2.3	Review system access logs		X

| 6.2.5 | Review error logs | | X |
| 6.2.6 | Notify Netsmart's Hosting Support of issues found that affect service | | X |

G. <u>Administration</u>. Each party agrees to perform their respective administrations responsibilities, as set forth in Table 7 below.

1. <u>Change Management</u>. Netsmart and Client will follow a formal process for changes that could affect the hosted System. Netsmart will provide a copy of the change management procedure to Client. This process (i) ensures that changes occur in a controlled environment so that all parties understand the potential impact of an impending change, and (ii) identifies potentially affected systems and processes prior to implementation of the change(s). Client must authorize all changes that affect production domains as specified in the standard change management procedure. Client agrees to cooperate with Netsmart in connection with providing reasonable and appropriate maintenance windows and participating in the testing as reasonably required.

2. <u>Problem Management</u>. Problem management is the identification, assessment of impact, reporting, tracking, escalation, notification, and resolution of problems that occur in the NPDC. Client is responsible for maintaining a staffed help desk that will provide the first line of support for users and data coordination calls. This line of support must be able to distinguish application issues versus connectivity or infrastructure issues. In addition, the use of "superusers" at Client site should be maintained to address application-specific issues.

3. <u>Audit</u>. Upon written notice from Client to Netsmart's VP of Hosting/Systems Engineering, Netsmart will permit access to the NPDC and processing environment for Client's auditors and/or an independent third party retained by Client. Client will provide Netsmart's VP of Hosting/Systems Engineering an audit agenda two (2) weeks prior to audit date. Any such audit conducted by Client auditors and/or an independent third party auditor retained by Client shall be limited to one (1) audit per calendar year. Netsmart shall provide reasonable support and assistance during any such audit(s) to include preparation, pre-audit events and 1 business day of physical NPDC access. Netsmart will conduct a periodic independent audit (internal or third party) of the NPDC operating environment in accordance with applicable standards. Questions regarding NPDC audits should be directed to Netsmart's VP of Hosting/Systems Engineering.

No.	Table 7: Administration Responsibility Description	Netsmart NPDC	Client
7.1	**Change Management**		
7.1.1	Provide and maintain an automated change management system for the centralized reporting and tracking of changes made by Netsmart personnel	X	
7.1.2	Provide a weekly Avatar patching maintenance window		X
7.1.3	Allow for a monthly global maintenance window		X
7.1.4	Notify Netsmart of planned outages on Client side		X
7.1.5	Designate at least two individuals responsible for signing change forms		X
7.1.6	Notify Netsmart of changes to Client environment		X
7.1.7	Certify ALL changes prior to moving them to production		X
7.1.8	Test application enhancements, fixes, and upgrades and assure the integrity of the resulting data		X
7.1.9	Provide sufficient advance notice (6 months) to Netsmart of material changes to Client growth (e.g., order volumes, users)		X
7.2	**Problem Management**		

7.2.1	Provide and maintain a method for proper escalation of problems within Netsmart hosting management	X	
7.2.2	Log all incidents and problems in accordance with documented processes.	X	
7.2.3	Maintain ownership of all problems related to Netsmart services through closure or until agreement that the problem is not within Netsmart's scope of responsibility	X	
7.2.4	Provide appropriate contact numbers or other information necessary to communicate with key NPDC support staff	X	
7.2.5	Perform post-mortem reviews on problems that affect service level standards, including root cause analysis if possible	X	
7.2.6	Notify Netsmart's hosting support desk of issues found that affect service	X	
7.2.7	Staff operations 24 x 7	X	
7.2.8	Provide on-call technical staff 24 x 7	X	
7.2.9	Ensure proper notification and escalation in accordance with standard operating procedures	X	
7.2.10	Maintain Client help desk to provide first line of support for Users		X
7.2.11	Identify applications issues versus connectivity issues		X
7.2.12	Provide and maintain a method for proper escalation of problems within Client's management		X
7.2.13	Assign IT Coordinator for primary contact by Netsmart technology group as per Netsmart standard escalation procedures		X
7.3	**Service Management**		
7.3.1	Provide system availability reporting	X	
7.3.2	Create incident reports for outages	X	
7.3.3	Maintain inventory of installed products	X	
7.3.4	Provide statistics and management reports to Client on a regular basis as detailed in the procedures manual	X	
7.3.5	Provide Client with detailed reporting and statistics on reported problems	X	

Addendum Schedule 2(c)
Contractor Professional Services, Third Party Products, and Annual Charges

All charges and Payment Terms are governed under "Schedule A - Charges and Payment Terms" of the Agreement.

	Qty	FY 14/15- 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
		Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
Netsmart Hosting							
Avatar Hosting with Disaster Recovery	500	$ 168,750.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 225,000.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 225,000.00	Payable upon the first day of FY 15/16 (7/1/2015)
Hosting Setup Fee - Avatar	1	$ 50,000.00	Payable Upon the Execution and Encumbrance of this Agreement	$ -	N/A	$ -	N/A
Plexus Cloud Hosting App / DB Migration Services	1	$ 6,400.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Plexus Cloud Hosting - Perceptive - Disaster Recovery	1	$ 10,710.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 14,280.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 14,280.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Cloud Hosting - Avatar Scriptlink	1	$ 5,625.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 7,500.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 7,500.00	Payable upon the first day of FY 15/16 (7/1/2015)

Addendum Schedule 2(d)
SERVICE LEVEL AGREEMENT
For
Hosting Account Services

1. Coverage Definitions

This Hosting Availability Service Level Agreement (SLA) applies to you ("County") if you have contracted for any of the following web-based services from Contractor: Avatar, TIER, Insight, or Cache hosting, e-mail hosting, or web hosting.

This Section sets forth the System Availability commitments for Hosting Services. If monthly System Availability (as defined below) falls below 99.0%, Contractor will provide a credit against the County's next monthly Hosting Fees to account for the downtime. The appropriate credit percentage (%) will be determined based on the following table.

System Uptime %	Credit %
>= 98.0% and < 98.9%	5%
97.0 to 97.9%	10%
95.0 to 96.9%	15%
< 94.9 or below	25%

2. System Availability Calculation

a) Contractor will calculate System Availability as set forth below for each month during the Term of this Contractor Contract Addendum.

b) System Availability will be calculated as follows (and will be rounded to up to the next one tenth of a percentage point):

System Availability = [(Base Time – Unscheduled Downtime) / (Base Time)] x 100

"Base Time" equals the product of the number of days in the applicable month times 24 hours times 60 minutes.

"Unscheduled Downtime" equals the time (in minutes) during which the Production System is not operational (excluding "Scheduled Downtime") from Contractor's Hosting facility internet connection based on the measuring methodology documented below.

"Scheduled Downtime" equals the aggregate total of all minutes of planned and scheduled maintenance performed during the month to perform any necessary hardware, operating system, network, database, application software maintenance, repair, upgrades, and updates. Contractor will work with County to determine and use commercially reasonable efforts to Schedule Downtime after regular business hours, during times that minimize the disruption to operations. The amount of scheduled downtime may vary from month to month depending on the level of change to the system such as the project implementation phase, adding new products, upgrading products, etc.

c) County is permitted to audit the Unscheduled Downtime based on the methodology established below. Contractor agrees to cooperate with County in connection with any audit of the Unscheduled Downtime. This audit must take place within 30 days of the month end.

d) Contractor recommends that County implement, on a timely basis, the Service Packages that will be provided to County by Contractor on a periodic basis. Contractor will advise County on Service Packages that may enhance performance and availability and will advise County of the advantages of implementing the Service Packages as well as the implication of electing not to implement the Service Packages. Contractor will perform the technical requirements needed for County to use the Service Packages that County elects to implement, at no additional charge and as part of the Hosting Fees. County and Contractor will work together to establish a mutually agreeable implementation schedule for the Service Packages. Upon notice to County that the System's performance and availability will be adversely affected if County elects not to implement a Service Package, County will waive any credits set forth above, until such time as County performs its obligations as necessary to implement the required Service Packages.

e) County must allow Contractor to implement the latest Contractor supported layered software version (i.e. OS, DBMS, etc.) and patches within six (6) months of the general support announcement from Contractor. Contractor will advise County regarding the layered software enhancements as well as the implications of electing not to implement the layered software enhancements. Contractor will perform the technical requirements needed for County to use the layered software enhancements that County elects to implement as part of the Hosting Service fees. County and Contractor will work together to establish an implementation schedule for the layered software enhancements. If Contractor provides notice to County that the System's performance and availability will be adversely affected if County elects not to implement the layered software enhancements, County waives its right to any credits set forth above until County implements the required layered software enhancements.

f) If County is operating beyond the Scope of Use limits, County waives its right to any credits set forth above until County is in compliance with Scope of Use.

g) The System will be considered in a System Stabilization Period during the seventy-two (72) hour window following the First Productive Use and following a Major System Change. During a System Stabilization Period, changes to the System may be required to achieve optimal performance and Unscheduled Downtime or Scheduled Downtime minutes do not apply.

3. Exceptions

County shall not receive any credits under this SLA in connection with any failure or deficiency of Hosting Availability caused or associated with:

a. Circumstances beyond Contractor's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including, without limitation, web server software, FTP Servers, or statistics) or inability to obtain supplies, or power used in or equipment needed for provision of services;

b. Failure of access circuits to the Contractor Network, unless such failure is caused solely by Contractor;

c. Scheduled maintenance, scheduled backups, scheduled restores and emergency maintenance and upgrades;

d. Issues with FTP, POP, or SMTP County access;

e. County's acts or omissions (or acts or omissions of others engaged or authorized by County), including, without limitation, custom scripting or coding (e.g., CGI, Perl, Java, HTML, ASP, etc.), any negligence, willful misconduct, or misuse of the Services;

f. E-mail or webmail delivery and transmission;

g. Outages elsewhere on the Internet that hinder access to your account. Contractor is not responsible for browser or DNS caching that may make your site appear inaccessible when others can still access it. Contractor will guarantee only those areas considered under the control of Contractor: Contractor server links to the Internet, Contractor's routers, and Contractor's servers.

h. Use of a VPN or similar connection which is not exclusively within Contractor's control at both ends of such connection, and where the problem occurs in the part of the VPN which is not under Contractor's control.

4. Scheduled Maintenance
    Contractor reserves the right to establish a monthly maintenance window for the purpose of upgrading, patching, modifying, and repairing portions or the entire ASP/Hosting environment. The monthly window is generally scheduled on the 3rd Sunday of the month, from 2:00AM – 5:30AM EST.

5. Credit Request and Payment Procedures
    In order to receive a credit, County must submit a request for credit to Contractor Technologies, Inc. Accounting at AR@ntst.com, within ten (10) business days after the incident supporting the request. Each request must include County's account number (per Contractor's invoice) and the dates and times of the unavailability of the services. If the unavailability is confirmed by Contractor as an incident eligible for credit, credits will be applied within two billing cycles after Contractor's receipt of County's request. Credits are not refundable and can be used only towards future billing charges.

    Notwithstanding anything to the contrary herein, the total amount credited to County in a particular month under this SLA cannot exceed the total hosting fee paid by County for the month in which Services were impacted. Credits are exclusive of any applicable taxes charged to County or collected by Contractor and are County's sole and exclusive remedy with respect to any failure or deficiency in level of services described in this SLA if County applied for and received a credit. Nothing in this SLA precludes County from pursuing an alternate contract remedy for any future incident that may occur.

Netsmart Subscription Products Addendum

1. **Introduction.** This Addendum is a supplement to the terms of the License and Services Agreement dated July 1, 2014 ("Effective Date") by and between Netsmart Technologies, Inc. ("Contractor"), and the County of Monterey, a political subdivision of the State of California, hereinafter referred to as ("County"), which will be referred to in this Addendum as the "Agreement". The terms and conditions of this Addendum will apply to Subscription Products and Services identified in Section 2 by check mark. All references to Schedules in this Addendum refer to the Schedules of this Addendum.

2. **Subscription Products and Services Descriptions.** Subscription Products and Services will include all generic versions, corrections, enhancements and improvements developed by Contractor during the Term of this Addendum:

☒ **OrderConnect** ☐ **Not Included**

The OrderConnect suite is an e-Prescribing and medication management product. The full version of this product has the ability to exchange web-based pharmaceutical information, prescriptions, medication orders, disease specific information, laboratory orders, and radiology/imaging and results with defined allied healthcare partners.

☒ **CareConnect** ☐ **Not Included**

A software service that enables clinical data to be shared between providers and other entities such as RHIOs Regional Health Information Organizations ("RHIOs"), Health Information Exchanges ("HIEs"), State agencies for public health organizations for immunizations, reportable labs and syndromic surveillance data in support of national standards related to continuity of care, and Contractor County to County referrals to support transitions of care with direct messaging capabilities.

☒ **Care Guidance/Clinical Quality Metrics** ☐ Not Included

Contractor's Clinical Decision Support and Quality Measures ensure County's utilizing a Netsmart CareRecord have the means necessary to meet all Meaningful Use stage 2 requirements for metric reporting and care guidance functionality. The Care Guidance rules are based upon national quality forums clinical quality measures, thus assuring clinician awareness and organizational improvement towards meeting quality outcomes measures. As data is aggregated on the Clinical Quality Metrics ("CQM") Contractor will benchmark your organization's performance on all required CQM.

☒ **myHealthPointe Portal** ☐ **Not Included**

A Consumer web portal that enables Care Providers to proactively involve Consumers in their care. Using the portal, Consumers can schedule appointments, view current medications, and communicate with their Care Providers.

☐ **ProviderConnect** ☒ **Not Included**

A software product that supports data exchange between the Contractor host system and outside providers of care.

3. Supplemental Definitions

Any capitalized term not defined below but used in this Addendum will have the meaning given to that term in the Agreement.

"Agent" means any person who is authorized under applicable law and regulations to transmit or relay prescription authorization information between a Prescriber and a pharmacy. An Agent is typically a nurse who is authorized by a physician to communicate with a pharmacy or laboratory on behalf of a Prescriber.

"Anniversary Date" means the annual calendar anniversary of the Effective Date.

"Care Provider" means an organization that provides medical or health services and any other person or organization that furnishes, bills, or is paid for health care in the normal course of business including a hospital, critical access hospital, skilled nursing facility, or comprehensive outpatient rehabilitation facility.

"Charges" means the amounts to be paid by County for the right to use the Subscription Products and Services and for hardware or other Third Party Products acquired by County under the terms of this Addendum. The Charges and payment schedule are set forth in "Schedule A – Charges and Payment Terms" of the Agreement and referenced again in Schedule 3(a) of this addendum.

"Consumer" means an individual who is receiving services from a Care Provider, and who has the right to access specific portions of their electronic health record and the ability to exchange messages with their Care Provider through a Subscription Services Product.

"Drug Information Data" or "DID" means context-relevant drug database products licensed from one of the following publishers: Cerner Multum, Inc. ("VantageRx"), First DataBank Evaluations of Drug Interactions ("EDI") or Thompson Reuters, Inc. ("UltiMedex") that provides drug and allergy interaction and dosage information (collectively, "DID Publishers").

"Non-Prescribing User" means any person who is granted limited access to OrderConnect for the purpose of editing information that is not required to be entered or modified by a Prescriber or Agent under applicable law and regulations. A Non-Prescribing User typically generates reports without modification of the information in the reports, and can update basic demographic information,

"Patient Data" or "Consumer Data" means names, addresses, social security numbers, medical records and any other information concerning or relating to Consumers which is deemed to be protected health information under the rules and regulations of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). De-identified Data (as such term is defined by HIPAA) shall not be considered to be Patient Data.

"Prescriber" means any person who possesses a DEA number and who is authorized by law to write prescriptions.

"Service Level Agreement" means the minimum performance criteria that Contractor will meet while delivering the Subscription Service and the remedial action if performance falls below the target criteria as provided in Schedule 3(b).

"User" means an individual or entity, other than a Consumer, that has been granted access with a user ID and password to a Subscription Product or Service by the County.

4. License Terms and Conditions

A. The Subscription Products and Services are specifically included within the grant of license and term of license as "Licensed Programs" under the Agreement.

B. County grants to Contractor a non-exclusive, non-transferable license (the "Usage License") to use all Patient Data for the sole purpose of operating the Subscription Products and Services for the benefit of County and its clients and for maintaining the Subscription Products and Services (for example, creating backups of the Patient Data or moving it between servers) so long as Contractor has a bona fide need to do so subject to and for the sole purpose required by this Addendum and the Agreement. The Usage License does not confer on Contractor any right to share Patient Data with third parties other than Contractor employees or consultants who are bound by agreements that contain confidentiality provisions equivalent to those contained in the Agreement. The foregoing restriction on Contractor's use of Patient Data does not prohibit Contractor from making use of De-identified Data as described and permitted under HIPAA, but any use of De-identified Data requires County's prior written approval.

5. **Term and Termination**

A. Contractor will make the Subscription Products and Services available and Charges will apply in accordance with Sections 6 and 15, and Schedule A of the Agreement.

B. In the event that County discontinues using the Subscription Products and Services for any reason, County shall be entitled to the return of all data entered into the Subscription Product. In the event Contractor ceases doing business, County shall also be entitled to the return of all data entered into the Subscription Product. In the event data is returned to County, it will be provided in comma delimited file format or another format mutually agreed to by both parties.

C. Either party may terminate this Addendum in the event the other is in material breach of the terms of this Addendum, or as permitted under the Agreement.

6. **Charges and Payment Terms**

County shall pay Contractor for the Subscription Products and Services as provided in Schedule A to this Agreement.

7. **County Obligations**

In addition to the obligations under the Agreement County agrees:

A. That it has no ownership rights in data or information in the DID services or content.

B. To restrict use of Drug Information Data to licensed healthcare professional directly connected with the County, either as an employee or an authorized affiliate. Such use shall be made only under the supervision of, and reliance upon, the clinical discretion and judgment of a licensed physician. As between the County and the publisher of the Drug Information Data, County assumes full responsibility for ensuring the appropriateness of using and relying upon the information supplied by the Drug Information Data publisher, in view of all attendant circumstances, indications and contraindications. Except as provided above, it will not otherwise make the DID content available to any person, or entity including the government, whether affiliated or not, except as required by subpoena or other legal process and after notice to the owner of the content.

C. To maintain accurate and up to date Patient Data in all systems covered by the Agreement.

D. To provide support to its Users and Consumers related to their use of the Subscription Products and Services.

E. To notify Contractor in the event County becomes aware of or suspects misuse, unauthorized access, data corruption or any other threat to the security of the Subscription Products system and related data or if County receives a subpoena or other legal process requiring disclosure of Contractor confidential information or DID content.

F. For myHealthPointe Portal, to adhere to the terms and conditions or at a minimum, terms that are the same as or equivalent to the terms stated in Schedule 3(c).

8. Contractor Obligations

In addition to the obligations of the Agreement, Contractor will be responsible for:

A. Establishing SSL connectivity between the Consumer's computing device and the Care Provider's firewall;

B. Meeting the service levels as stated in Schedule 3(b);

C. Keeping Patient Data confidential in accordance with the terms of the Agreement.

9. Limitation on Cumulative Liability

EXCEPT FOR THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THE AGREEMENT (INCLUDING IN SECTION 9 (INDEMNIFICATION)), IN SCHEDULE H AND SCHEDULE I, THE CUMULATIVE LIABILITY OF CONTRACTOR TO COUNTY FOR ANY ACTUAL OR ALLEGED DAMAGES ARISING OUT OF, BASED ON OR RELATING TO THE SUBSCRIPTION PRODUCTS AND SERVICES COVERED BY THIS ADDENDUM, WHETHER BASED UPON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR ANY OTHER LEGAL THEORY, WILL NOT EXCEED THE AMOUNT OF THE CHARGES PAID TO CONTRACTOR UNDER SCHEDULE A FOR THE PRIOR TWELVE (12) MONTHS.

10. List of Schedules

Schedule 3(a)   Charges and Payment Terms
Schedule 3(b)   Service Level Agreement
Schedule 3(c)   Supplier pass-through terms for myHealthPointe Portal

Addendum Schedule 3(a)
Netsmart Subscription Charges and Payment Terms

All charges and Payment Terms are Governed under "Schedule A - Charges and Payment Terms" of the Agreement.

Extension of Subscriptions	Qty	FY 14/15- 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
		Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
CareConnect Monthly Subscription (Replaces part of "Meaningful Use - Annual Maintenance")	1	$ 6,900.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 6,900.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 6,900.00	Payable upon the first day of FY 16/17 (7/1/2016)
Lab Results (Inbound)	1	$ 9,261.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 9,261.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 9,261.00	Payable upon the first day of FY 16/17 (7/1/2016)
Quality Measures and Clinical Decision Support 251 - 500 Users (Meaningful Use 1)	1	$ 1,800.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 1,800.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 1,800.00	Payable upon the first day of FY 16/17 (7/1/2016)
CareConnect Immunization (Meaningful Use)	1	$ 1,736.44	Payable Upon the Execution and Encumbrance of this Agreement	$ 1,736.44	Payable upon the first day of FY 15/16 (7/1/2015)	$ 1,736.44	Payable upon the first day of FY 16/17 (7/1/2016)
CareConnect Syndromic Surveillance (Meaningful Use)	1	$ 1,736.44	Payable Upon the Execution and Encumbrance of this Agreement	$ 1,736.44	Payable upon the first day of FY 15/16 (7/1/2015)	$ 1,736.44	Payable upon the first day of FY 16/17 (7/1/2016)
OrderConnect Base Fee (Replaces part of "Meaningful Use - Annual Maintenance" and all of "Infoscriber - Avatar Integration - annual fee")	1	$ 1,425.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 1,425.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 1,425.00	Payable upon the first day of FY 16/17 (7/1/2016)
OrderConnect - FULL SUITE - Prescriber Subscription (Replaces "Infoscriber 10 Prescribers" and "OrderConnect Eligible Professional (Full Suite Prescriber Subscription)*	10	$ 11,856.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 11,856.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 11,856.00	Payable upon the first day of FY 16/17 (7/1/2016)

	Qty	FY 14/15 Period Charges	Payment Terms	FY 15/16 Period Charges	Payment Terms	FY 16/17 Period Charges	Payment Terms
OrderConnect - Non-Prescribing User Subscription (Replaces "Infoscriber (10 non-prescribers, 3 Sys Admins)" and "OrderConnect - Agent (Full Suite Non-Prescriber Subscription)"*	32	$ 4,742.40	Payable Upon the Execution and Encumbrance of this Agreement	$ 4,742.40	Payable upon the first day of FY 15/16 (7/1/2015)	$ 4,742.40	Payable upon the first day of FY 16/17 (7/1/2016)
myHealthPoint Portal (Replaces Consumer Connect)	1	24,000.00	Payable Upon the Execution and Encumbrance of this Agreement	24,000.00	Payable upon the first day of FY 15/16 (7/1/2015)	24,000.00	Payable upon the first day of FY 16/17 (7/1/2016)

New Purchases – CONTRACTOR Services and Subscriptions	Qty	FY 14/15- 7/1/2014 Through 6/30/2015		FY 15/16 - 7/1/2015 Through 6/30/2016		FY 16/17 - 7/1/2016 Through 6/30/2017	
		Period Charges	Payment Terms	Period Charges	Payment Terms	Period Charges	Payment Terms
Meaningful Use Stage 2 Components							
CareConnect Referral Connector – The point-to-point exchange of clinical summaries using Direct Messaging of referral records in order to meet the electronic messaging core objective requirement of MU2	1	$ 1,800.00	Payable 60 Days Past Notification of Availability for Implementation	$ 2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Consulting - CareConnect Referral Connector**	25	$ 5,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A

Item	Qty	Price	Payment Terms	Price 2	Payment Terms 2	Price 3	Payment Terms 3
Direct Mailbox***	1	$ 180.00	Payable Upon the Execution and Encumbrance of this Agreement	$ 240.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 240.00	Payable upon the first day of FY 15/16 (7/1/2015)
CareConnect HIE Connector for CCD Transactions (unique capability to translate the files transmitted and received to match the formats required by both CONTRACTOR Care Records and the HIE operating systems.)	1	$ 1,800.00	Payable 60 Days Past Notification of Availability for Implementation	$ 2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)	$ 2,400.00	Payable upon the first day of FY 15/16 (7/1/2015)
Plexus Consulting - CareConnect - HIE Implementation of CCDs**	35	$ 7,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A
Care Guidance/Clinical Quality Metrics - Benchmarking - per Prescriber (MU2)	21	$ 4,725.00	Payable 60 Days Past Notification of Availability for Implementation	$ 6,300.00	Payable 60 Days Past Notification of Availability for Implementation	$ 6,300.00	Payable 60 Days Past Notification of Availability for Implementation
Consulting to Migrate to Current Solutions							
Plexus Consulting - myHealthPoint Implementation**	65	$ 13,000.00	Payable 50% Project Initiation with the balance due upon project completion or 90 days from the Initiation, whichever occurs first	$ -	N/A	$ -	N/A

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OrderConnect Additional Subscriptions								
OrderConnect - FULL SUITE - Prescriber Subscription*	11	$ 13,041.60	Payable Upon the Execution and Encumbrance of this Agreement	$ 13,041.60	Payable upon the first day of FY 15/16 (7/1/2015)	$ 13,041.60	Payable upon the first day of FY 16/17 (7/1/2016)

*Each facility is allowed to fax 100 fax pages directly from the application per month for each prescriber license purchased. Faxed pages in excess of that allowance in any calendar month will be billed at $0.20 per page for the balance of that month.

** No on-site travel is included for this product implementation.

MANDATORY DISCLAIMER ON DID PUBLICATIONS AND SERVICES: Information provided by the DID publishers is believed to be accurate, up-to-date, and complete, but no guarantee is made by any of the DID publishers to that effect. In addition, the drug information contained therein may be time sensitive. The DID publishers do not endorse drugs, diagnose patients or recommend therapy. The DID services are informational resources designed to assist licensed healthcare practitioners in caring for their patients and/or to serve end-users viewing this service as a supplement to, and not a substitute for, the expertise, skill, knowledge and judgment of healthcare practitioners. Healthcare practitioners should use their professional judgment in using the information provided. DID information is not a substitute for the care provided by licensed healthcare practitioners. The absence of a warning for a given drug or drug combination in no way should be construed to indicate that the drug or drug combination is safe, effective, or appropriate for any given patient. In connection with the use of RED BOOK information in Drug Information Data, County acknowledges and agrees that THE PRICES CONTAINED IN RED BOOK ARE BASED ON DATA REPORTED BY MANUFACTURERS. THE DID PUBLISHERS HAVE NOT PREFORMED ANY INDEPENDENT ANALYSIS OF THE ACTUAL PRICES PAID BY WHOLESALERS AND PROVIDERS IN THE MARKETPLACE. THUS, ACTUAL PRICES PAID BY WHOLESALERS AND PROVIDERS MAY WELL VARY FROM THE PRICES CONTAINED IN THE DATABASE AND ALL PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE.

*** Direct Messaging is subject to Contractor's third party pass through provisions:

I.   SUBLICENSE. Inpriva, Inc. (Inpriva) hereby grants a limited nonexclusive and nontransferable sublicense for certain Direct Messaging Services and other Health Information Network Services (together, the "HIN Services"), including the right to store and use all information/data provided or obtained through use of the HIN Services (the "Inpriva Information"), through Netsmart (the "Sublicensor") to the end-user Sublicensee (the "End-User" or "Customer") for use within the territorial boundaries of the United States and the United States territories of Puerto Rico, Guam and the Virgin Islands (the "Permitted Territory") subject to a written agreement between Sublicensor and County. County (Netsmart County) acknowledges that Inpriva owns the HIN Services subject to the sublicense. County may not access or use the HIN Services or store Inpriva Information from, or send the Inpriva Information to, any location outside of the Permitted Territory without first obtaining Inpriva's prior written approval and entering into such written agreements as Inpriva may require.

II.   PROTECTIONS AND NONDISCLOSURE. County agrees that it shall protect all Intellectual properties in the HIN Services, including without limitation, patents, copyrights, and trade secrets. Further, County shall not reverse engineer intellectual property associated with HIN Services. County may not allow a third party

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service provider (hereafter "Service Provider") to access or use the HIN Services or store or otherwise use Inpriva Information on its behalf without first obtaining Inpriva's written permission.

III.   WARRANTIES AND INFRINGEMENT

(a)   HIN Services. Contractor and Inpriva represent that HIN Services will substantially conform in all material respects with the requirements of this Agreement and their Specifications. If a Problem or Defect occurs while County is receiving Support Services, Contractor and/or Inpriva will correct the Problem or Defect in accordance with the Support Services provisions set forth in Schedule E.
(b)   Infringement. Contractor and Inpriva further represent and warrant that it has the right to grant the licenses granted to County hereunder and in connection with HIN Services and that to the best of Contractor's knowledge the Portal does not infringe upon or violate the United States patent rights of any third party and do not infringe upon or violate the copyright, or trade secret right of any third party.
(c)   Viruses and Disabling Mechanisms. Contractor and Inpriva shall use commercially reasonable measures to screen HIN Services to avoid introducing any virus or other destructive programming that are designed (1) to permit unauthorized access or use by third parties to the software installed on County's systems, or (ii) to disable or damage County's systems. Contractor and Inpriva shall not insert into HIN Services any code or other device that would have the effect of disabling or otherwise shutting down all or any portion of HIN Services. Contractor and Inpriva shall not invoke such code or other device at any time, including upon expiration or termination of this Agreement for any reason.
(d) WARRANTY DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT TO WHICH THIS SCHEDULE IS ATTACHED AND IN THIS SECTION, ANY USE BY SUBCOUNTY OF THE HIN SERVICES IS AT SUBCOUNTY'S OWN RISK. THE HIN SERVICES ARE PROVIDED FOR USE "AS IS" WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY LAW, INPRIVA AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

IV.   LIMITATION OF LIABILITY. NO LIABILITY FOR DAMAGES. EXCEPT FOR BREACH OF SECTION 16 (COUNTY CONFIDENTIALITY), SCHEDULE H (CONFIDENTIALITY OF PATIENT INFORMATION), AND SCHEDULE I (BUSINESS ASSOCIATE AGREEMENT), INSURED CLAIMS, AND THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THIS AGREEMENT (INCLUDING IN SECTION 9 (INDEMNIFICATION)), IN NO EVENT SHALL INPRIVA OR ITS SUPPLIERS HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF THE USE OR INABILITY TO USE ANY PRODUCT AND HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR LOSS OF DATA, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL INPRIVA'S CUMULATIVE LIABILITY ARISING OUT OF THIS SUBLICENSE EXCEED THE AMOUNTS ACTUALLY PAID BY SUBCOUNTY TO SUBLICENSOR OR INPRIVA FOR THE HIN SERVICES PURSUANT TO THIS SUBLICENSE.

V.   RESPONSIBILITIES OF END-USER. 1. This Section applies to any means through which an End-User orders or accesses the HIN Services including, without limitation, system-to-system, personal computer or the Internet. 2. For the purposes of this Section, the term "Authorized User" means a Customer employee that Customer has authorized to order or access the HIN Services and who is trained on Customer's obligations under this End-User License Agreement with respect to the ordering and use of the HIN Services and Inpriva Information. 3. Each Direct Address has a healthcare or healthcare-associated organization, person or device bound to it as reflected in an associated Direct Digital Certificate. This License, which grants access to the HIN Services is expressly conditioned upon compliance by the End-User with the terms and conditions of the Direct Digital Certificates, including those related to management of the HIN Services.   4. Customer shall ensure that only Authorized Users can order or have access to the HIN Services. 5. Customer shall take all necessary measures to prevent unauthorized ordering of or access to the HIN Services by any person other than an Authorized User for permissible purposes, including, without limitation, limiting the knowledge of the Customer security codes, member numbers, User IDs, and any passwords Customer may use (collectively, "Security Information"), to those individuals with a need to know. 6.

Customer* shall monitor compliance with the obligations of this Section, and immediately notify Inpriva if Customer suspects or knows of any unauthorized access or attempt to access the HIN Services.   7. If, subject to Section II, Customer uses a Service Provider to establish access to the HIN Services, Customer shall be responsible for the Service Provider's use of Security Information, and ensure the Service Provider safeguards such Security Information through the use of security requirements that are no less stringent than those applicable to Customer under this Section. 8. Customer shall use commercially reasonable efforts to assure data security when disposing of any individually identified personal information obtained from Inpriva. Such efforts must include the use of those procedures issued by the federal regulatory agency charged with oversight of Customer's activities (e.g. the Office of Civil Rights) applicable to the handling of such information or records. 9. Customer shall use commercially reasonable efforts to secure Inpriva Information when stored on servers. 10. Customer is responsible for ensuring that Users are properly qualified to use the HIN Services and use them for appropriate purposes. It is the Customer's responsibility to review the access auditing reports for individual Users if that is deemed by Customer to be important for their HIPAA compliance. 11. Customer is responsible for establishing a trust policy to be used by the HIN Services to determine which recipients Users can send messages to and which senders the User can receive messages from. Customer is responsible for the completion of registration forms and agreements required for enrollment to use the HIN Services, including those establishing the identity of the Customer and the Customer's Representative. 12. Customer agrees to accurately complete its registration information in the as part of the registration process and maintain the accuracy of the information in an "Identity Registry" provided by Inpriva. Customer agrees to have this registration information checked for consistency with other information sources by the Inpriva and understand that inconsistencies may result in termination of HIN Services unless and until corrected by the Customer. Customer agrees to require that its Users maintain the accuracy of the information contained in the Identity Registry. 13. Customer acknowledges that information provided by the Customer and its Users may be included in Provider/Direct directories accessible to other organizations or persons having Direct addresses, unless the Customer notifies Inpriva otherwise. 14. Customer agrees to comply fully with all requirements (including but not limited to requirements regarding individuals receiving access to the HIN Services, and requirements regarding identity proofing of those individuals) that are set forth on these web pages relating to registration, enrollment and management of the HIN Services and for the HIN Services generally. The Participant further understands that such requirements may be updated by Inpriva from time to time in its sole discretion, and that it is the responsibility of the Customer to review the requirements on an ongoing basis and to ensure the Customer's continued compliance with those requirements. 15. If Inpriva reasonably believes that Customer has violated this Section, Inpriva may, in addition to any other remedy authorized by this End-User Agreement, with reasonable advance written notice to Customer and at Inpriva's sole expense, conduct, or have a third party conduct on its behalf, an audit of Customer's network security systems, facilities, practices and procedures to the extent Inpriva reasonably deems necessary, including an on-site inspection, to evaluate Customer's compliance with the data security requirements of this Section.

Schedule 3(b)

Service Level Agreement

1. Coverage and Definitions

This Service Level Agreement (SLA) applies to you ("County" or "County") if you have contracted for any of the Subscription Products and Services identified in Section II of this Addendum.

This Section sets forth the System Availability commitments for this Addendum. If monthly System Availability (as defined below) falls below 99.0%, Contractor will provide a credit against the County's next monthly Fees (under this Addendum) to account for the downtime. The appropriate credit percentage (%) will be determined based on the following table.

System Uptime %	Credit %
>= 98.0% and < 99.0%	5%
97.0 to 97.9%	10%
95.0 to 96.9%	15%
< 94.9 or below	25%

2. System Availability Calculation

h) Contractor will calculate System Availability as set forth below for each month during the Term of this Contractor Agreement.

i) System Availability will be calculated as follows (and will be rounded to up to the next one tenth of a percentage point):

System Availability = [(Base Time − Unscheduled Downtime) / (Base Time)] x 100

"Base Time" equals the product of the number of days in the applicable month times 24 hours times 60 minutes.

"Unscheduled Downtime" equals the time (in minutes) during which the Production System is not operational (excluding "Scheduled Downtime") from Contractor's Hosting facility internet connection based on the measuring methodology documented below.

"Scheduled Downtime" equals the aggregate total of all minutes of planned and scheduled maintenance performed during the month to perform any necessary hardware, operating system, network, database, application software maintenance, repair, upgrades, and updates. Contractor will work with County to determine and use commercially reasonable efforts to Schedule Downtime after regular business hours, during times that minimize the disruption to operations. The amount of scheduled downtime may vary from month to month depending on the level of change to the system such as the project implementation phase, adding new products, upgrading products, etc.

j) County is permitted to audit the Unscheduled Downtime based on the methodology established below. Contractor agrees to cooperate with County in connection with any audit of the Unscheduled Downtime. This audit must take place within 30 days of the month end.

k) Contractor recommends that County implement, on a timely basis, the Service Packages that will be provided to County by Contractor on a periodic basis. Contractor will advise County on Service Packages that may enhance performance and availability and will advise County of the advantages of implementing the Service Packages as well as the implication of electing not to implement the Service Packages. Contractor will perform the technical requirements needed for County to use the Service Packages that County elects to implement, at no additional charge and as part of the fees under this Addendum. County

and Contractor will work together to establish a mutually agreeable implementation schedule for the Service Packages. Upon notice to County that the System's performance and availability will be adversely affected if County elects not to implement a Service Package, County will waive any credits set forth above, until such time as County performs its obligations as necessary to implement the required Service Packages.

l) County must allow Contractor to implement the latest Contractor supported layered software version (i.e. OS, DBMS, etc.) and patches within six (6) months of the general support announcement from Contractor. Contractor will advise County regarding the layered software enhancements as well as the implications of electing not to implement the layered software enhancements. Contractor will perform the technical requirements needed for County to use the layered software enhancements that County elects to implement as part of the fees under this Addendum. County and Contractor will work together to establish an implementation schedule for the layered software enhancements. If Contractor provides notice to County that the System's performance and availability will be adversely affected if County elects not to implement the layered software enhancements, County waives its right to any credits set forth above until County implements the required layered software enhancements.

m) If County is operating beyond the Scope of Use limits, County waives its right to any credits set forth above until County is in compliance with Scope of Use.

n) The System will be considered in a System Stabilization Period during the seventy-two (72) hour window following the First Productive Use and following a Major System Change. During a System Stabilization Period, changes to the System may be required to achieve optimal performance and Unscheduled Downtime or Scheduled Downtime minutes do not apply.

3. Exceptions

County shall not receive any credits under this SLA in connection with any failure or deficiency of Hosting Availability caused or associated with:

i. Circumstances beyond Contractor's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, failure of third party software (including, without limitation, web server software, FTP Servers, or statistics) or inability to obtain supplies, or power used in or equipment needed for provision of services;
j. Failure of access circuits to the Contractor Network, unless such failure is caused solely by Contractor;
k. Scheduled maintenance, scheduled backups, scheduled restores and emergency maintenance and upgrades;
l. Issues with FTP, POP, or SMTP County access;
m. County's acts or omissions (or acts or omissions of others engaged or authorized by County), including, without limitation, custom scripting or coding (e.g., CGI, Perl, Java, HTML, ASP, etc.), any negligence, willful misconduct, or misuse of the Services;
n. E-mail or webmail delivery and transmission;
o. Outages elsewhere on the Internet that hinder access to your account. Contractor is not responsible for browser or DNS caching that may make your site appear inaccessible when others can still access it. Contractor will guarantee only those areas considered under the control of Contractor: Contractor server links to the Internet, Contractor's routers, and Contractor's servers.
p. Use of a VPN or similar connection which is not exclusively within Contractor's control at both ends of such connection, and where the problem occurs in the part of the VPN which is not under Contractor's control.

4. Scheduled Maintenance

Contractor reserves the right to establish a monthly maintenance window for the purpose of upgrading, patching, modifying, and repairing portions or the entire ASP/Hosting

environment. The monthly window is generally scheduled on the 3rd Sunday of the month, from 2:00AM – 5:00AM EST.

5. Credit Request and Payment Procedures

In order to receive a credit, County must submit a request for credit to Contractor Accounting at: AR@ntst.com, within ten (10) business days after the incident supporting the request. Each request must include County's account number (per Contractor's invoice) and the dates and times of the unavailability of the services. If the unavailability is confirmed by Contractor as an incident eligible for credit, credits will be applied within two billing cycles after Contractor's receipt of County's request. Credits are not refundable and can be used only towards future billing charges.

Notwithstanding anything to the contrary herein, the total amount credited to County in a particular month under this SLA cannot exceed the total hosting fee paid by County for the month in which Services were impacted. Credits are exclusive of any applicable taxes charged to County or collected by Contractor and are County's sole and exclusive remedy with respect to any failure or deficiency in level of services described in this SLA if County applied for and received a credit. Nothing in this SLA precludes County from pursuing an alternate contract remedy for any future incident that may occur.

Schedule 3(c) - myHealthPointe Portal Supplier Terms and Conditions

This Schedule states the terms and conditions of the Supplier (the "Terms") that shall further govern the access and use of the myHealthPointe Portal ("Portal") made available by Netsmart Technologies Inc. Capitalized terms not otherwise defined in this Schedule shall have the same meaning as in the Agreement (as defined below).

ARTICLE I – DEFINITIONS

"Documentation" means those materials provided to County that describe the function and use of the Portal, including without limitation the online user guide for the Portal, as updated from time to time.

"InteliChart" or "Supplier" means InteliChart, LLC, a North Carolina limited liability company.

"Agreement" means the Agreement between Contractor and County, including all schedules, exhibits, and addenda thereto, pursuant to which County is purchasing subscriptions to access and use the Portal and to which this Schedule 3(c) is attached.

"Order Form" means a Contractor order form submitted by County in order to (i) purchase additional User subscriptions to the Portal, and/or (iii) purchase Services from Contractor. Each Order Form shall be in a form acceptable to Contractor and shall not be deemed effective unless accepted in writing by Contractor in its sole discretion. The terms of each such Order Form are hereby incorporated by reference.

ARTICLE II - SUBSCRIPTION AND SERVICES

(a)   *Subscription Purchases*. During the Initial Term of the Agreement Contractor shall make the Portal available to the County pursuant to, and in accordance with, the Terms, the Agreement and each of the applicable exhibits, schedule(s) and/or Order Forms thereto. County agrees that its subscriptions hereunder are neither contingent on the delivery of any future functionality or features in the Portal nor dependent on any oral or written public comments made by Contractor regarding future functionality or features in the Portal. For avoidance of doubt, County acknowledges and agrees that its right to access and use the Portal is subscription-based and is not being provided pursuant any perpetual license grant included within the Agreement; provided, however, that the restrictions and limitations imposed on the Licensed Programs included in the Agreement shall apply to your access and use of the Portal.

(b)   *User Subscriptions*. Unless otherwise specified in an applicable Order Form, (i) the Portal shall be purchased as User subscriptions and may be accessed by no more than the number of Users purchased by County from Contractor, (ii) additional User subscriptions for the Portal may be purchased during the term of the Agreement by submitting an Order Form, and (iii) the additional User subscriptions for the Portal shall terminate on the same dates as the then-existing subscriptions for the Portal. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Portal.

(c)   *Reservation of Rights*. Subject to the limited rights expressly granted hereunder, Contractor reserve all rights, title and interest in and to the Portal, including all related intellectual property rights. No rights are granted to County hereunder other than as expressly set forth herein.

(d)   *County Responsibilities*. County shall (i) be responsible for its User's compliance with the Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of the Patient Data and of

the means by which County acquired the Patient Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Portal, and notify Contractor promptly of any such unauthorized access or use, (iv) use the Portal only in accordance with the Documentation and all applicable federal and state laws and regulations, (v) not make the Portal available to anyone other than its Users, its administrative personnel and County's patients, <u>provided</u> that in each such instance that County shall ensure that such individual (A) shall use the Portal only in accordance with the Documentation and all applicable federal and state laws and regulations and (B) shall not access and/or use the Portal in order to build a competitive product or service, copy any features, functions or graphics of the Portal, or monitor the availability and/or functionality of the Portal for any benchmarking or competitive purposes, (vi) not sell, resell, rent or lease the Portal, (vii) not modify, alter, revise, decompile, disassemble, reverse engineer, create derivative works or attempt to derive the source code of the Portal, (viii) not use the Portal to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (ix) not store or transmit any material containing software viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs, (x) not interfere with or disrupt the integrity or performance of the Portal, (xi) not attempt to gain unauthorized access to the Portal or their related systems or networks, or (xii) not access the Portal in order to build a competitive product or service, copy any features, functions or graphics of the Portal or monitor the availability and/or functionality of the Portal for any benchmarking or competitive purposes.

Article III - WARRANTIES AND INDEMNIFICATION

(a) *The Portal*. Contractor represents that the Portal will substantially conform in all material respects with the requirements of this Agreement and their Specifications. If a Problem or Defect occurs while County is receiving Support Services, Contractor will correct the Problem or Defect in accordance with the Support Services provisions set forth in Schedule E.

(b) *Infringement*. Contractor further represents and warrants that it has the right to grant the licenses granted to County hereunder and in connection with the Portal and that to the best of Contractor's knowledge the Portal does not infringe upon or violate the United States patent rights of any third party and do not infringe upon or violate the copyright, or trade secret right of any third party.

(c) *Viruses and Disabling Mechanisms*. Contractor shall use commercially reasonable measures to screen the Portal to avoid introducing any virus or other destructive programming that are designed (1) to permit unauthorized access or use by third parties to the software installed on County's systems, or (ii) to disable or damage County's systems. Contractor shall not insert into the Portal any code or other device that would have the effect of disabling or otherwise shutting down all or any portion of the Portal. Contractor shall not invoke such code or other device at any time, including upon expiration or termination of this Agreement for any reason.

(d) *Disclaimer*. EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT AND IN THIS SECTION, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. *Contractor Breach*. County acknowledges and agrees that should Contractor discontinue its provision of services under this Schedule of the Agreement, or materially breach its reseller agreement with InteliChart, then County, in its discretion,

may negotiate directly with InteliChart to obtain subscriptions/licenses and/or services previously provided by or through Contractor.

(e) *Indemnity by Contractor Intellectual Property Infringement.* In the event of any claim by a third party against County (the "Claim"), alleging that the use of the Portal infringes upon any intellectual property rights of such third party, County will promptly notify Contractor and Contractor will defend County and its officers, agents, and employees against such Claim in County's name but at Contractor's expense, and will indemnify and hold harmless County against any liability paid by County, including but not limited to attorneys' fees and disbursements, arising out of such Claim. In the event such an infringement is found and Contractor cannot either procure the right to continued use of the Portal, or, within forty-five (45) days of notice of the Claim (unless such period is extended by County), replace or modify the Portal with a non-infringing program of comparable quality and functionality, then Contractor shall discontinue its provision of services and refund to County all fees, including subscriptions or licenses and professional service fees, paid by County, reduced by 1/36th or each full month from the date of first use of the Portal, until the date of termination.

(f)

(G) *LIMITATION OF LIABILITY.* COUNTY ACKNOWLEDGES AND AGREES EXCEPT FOR BREACH OF SECTION 16 (COUNTY CONFIDENTIALITY), SCHEDULE H (CONFIDENTIALITY OF PATIENT INFORMATION), AND SCHEDULE I (BUSINESS ASSOCIATE AGREEMENT), INSURED CLAIMS, AND THE PARTIES' RESPECTIVE EXPRESS INDEMNITY OBLIGATIONS IN THIS AGREEMENT (INCLUDING IN SECTION 9 (INDEMNIFICATION)), THAT IN NO EVENT SHALL INTELICHART HAVE ANY LIABILITY TO COUNTY, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY OR OTHERWISE. COUNTY AGREES THAT THE PORTAL IS A DOCUMENTATION TOOL ONLY, AND THAT THE PORTAL IS NOT INTENDED TO PROVIDE DIAGNOSES, PRACTICE GUIDELINES, ADVICE, OR PROTOCOLS FOR DELIVERING MEDICAL CARE. COUNTY FURTHER AGREES THAT NOTHING IN THE PORTAL OR ANYTHING ELSE PROVIDED PURSUANT TO THE AGREEMENT CONSTITUTES OR IS INTENDED TO BE MEDICAL ADVICE OR A SUBSTITUTE FOR MEDICAL KNOWLEDGE OR JUDGMENT. COUNTY FURTHER AGREES IT SHALL BE SOLELY RESPONSIBLE TO ENSURE THAT THE DOCUMENTATION OF MEDICAL CARE PROVIDED BY IT, ITS AFFILIATES OR THEIR RESPECTIVE EMPLOYEES, AGENTS, THIRD PARTY CONTRACTORS, AND SUPPLIERS IS ACCURATE AND THAT ALL BILLING INFORMATION DELIVERED BY COUNTY TO ANY INSURANCE COMPANY, GOVERNMENTAL AGENCY, OR OTHER PAYOR SHALL BE ACCURATE AND COMPLETE. NEITHER NETSMART NOR ITS VENDORS SHALL HAVE ANY RESPONSIBILITY AS A RESULT OF THE AGREEMENT FOR DECISIONS MADE OR ACTIONS TAKEN OR NOT TAKEN IN RENDERING MEDICAL CARE OR FOR INFORMATION PROVIDED TO ANY INSURANCE COMPANY, GOVERNMENTAL AGENCY, OR OTHER PAYOR.

ARTICLE IV - MISCELLANEOUS

(a) *Assignment.* County shall have no right to transfer, assign or sublicense any of its rights, interests or obligations with respect to the Portal to any third party and any attempt to do so shall be null and void.(b) Except as expressly set forth in this Schedule, the relationship between Contractor and County will be governed by the provisions of the Agreement.