



**TO:** SOUTHERN NEVADA DISTRICT BOARD OF HEALTH      **DATE:** June 23, 2016

**RE:** *Approval of Interlocal Contract between the Southern Nevada Health District and the Clark County Department of Juvenile Justice Services*

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### **PETITION #24-16**

That the Southern Nevada District Board of Health approve the Interlocal Contract, SNHD-1-STD-16-090, between the Southern Nevada Health District and the Clark County Department of Juvenile Justice Services to allow the Southern Nevada Public Health Laboratory to provide laboratory testing for sexually transmitted diseases as a fee-for- service arrangement.

### **PETITIONERS:**

Karen F. Carifo, PhD, Laboratory Director *✓ 6-2-2016*  
Michael Johnson, PhD, Director of Community Health *AS 6-3-2016*  
Andrew J. Glass, FACHE, MS, Director of Administration *6/3/16*  
Joseph P. Iser, MD, DrPH, MSc, Chief Health Officer *[Signature]*

### **DISCUSSION:**

This is a contract for sexually transmitted disease testing services to be provided by the Southern Nevada Public Health Laboratory (SNPHL) for the Clark County Department of Juvenile Justice Services (CCDJJS) at a discounted rate payable by CCDJJS to the Southern Nevada Health District (SNHD).

### **FUNDING:**

A subgrant of \$22,600 is provided to CCDJJS by the SNHD Department of Disease Investigation and Intervention (DIIS) which will ultimately be credited to the testing services provided by the SNPHL. Cost of further testing provided by the SNPHL will be covered by the revenues generated by the terms of this contract from the CCDJJS.



**INTERLOCAL SERVICE AGREEMENT  
BETWEEN  
SOUTHERN NEVADA HEALTH DISTRICT  
AND  
CLARK COUNTY ON BEHALF OF ITS  
DEPARTMENT OF JUVENILE JUSTICE SERVICES  
SNHD-1-STD-INT-16-090**

THIS INTERLOCAL SERVICE AGREEMENT is by and between the Southern Nevada Health District (“Health District”) a political subdivision of the State of Nevada and the Public Health Authority for Clark County, and Clark County on behalf of its Department of Juvenile Justice Services (“DJJS”), a political subdivision of the State of Nevada (may be individually referred to as “Party” and collectively, referred to as “Parties”).

WHEREAS, pursuant to Nevada Revised Statutes (NRS) Chapter 439, Health District is the public health authority for Clark County, Nevada and has jurisdiction over all public health matters therein; and

WHEREAS, NRS 277.180 provides that public agencies may enter into agreements for the performance of any activity or understanding which the agencies are authorized by law to perform; and

WHEREAS, Health District is the recipient of subgrant funding received through the State of Nevada from the Centers for Disease Control and Prevention, Grant Number 5H25PS004376-03, CFDA 93.977, titled: STD Prevention and Control Program, issued on May 15, 2016, wherein DJJS will test its high risk population for HIV and STD; and

WHEREIN, Health District and DJJS desire to enter into a collaborative effort to implement STD clinical preventive (safety-net) services at the Department of Juvenile Justice Detention Center; and

WHEREAS, Health District and DJJS desire to provide in writing a full statement of their respective rights and obligations in connection with their mutual agreement in furtherance of the above described purposes; and

NOW, THEREFORE in consideration of the mutual promises and undertakings herein specified, the Parties agree as follows:

1. TERM AND TERMINATION. This Agreement shall be July 1, 2016 through June 30, 2017 unless sooner terminated by either Party as permitted in this Agreement. At the option of Health District, this Agreement may be extended upon issuance of an amendment signed by both Parties.
  - 1.01 This Agreement may be terminated by mutual consent of both Parties or unilaterally by either Party with or without cause.
  - 1.02 This Agreement may be terminated by either Party prior to the date set forth in paragraph 1, provided that a termination shall not be effective until thirty (30) days after a Party has served written notice upon the other Party.
  - 1.03 This Agreement is subject to the availability of funding and shall be terminated immediately if for any reason State and/or Federal funding ability, or private grant funding ability, budgeted to satisfy this Agreement is withdrawn, limited, or impaired.
2. INCORPORATED DOCUMENTS. The services to be performed and/or the goods to be provided and the consideration therefore shall be specifically described in the attachments to this Agreement, which are incorporated into and are specifically a part of this Agreement, as follows:

ATTACHMENT A: SCOPE OF WORK  
ATTACHMENT B: PAYMENT  
ATTACHMENT C: BUSINESS ASSOCIATE AGREEMENT
3. COMPENSATION. DJJS will reimburse Health District for tests performed at the rates shown in Attachment B: Payment. The not-to-exceed amount of this agreement for the term stated in Paragraph 1 is \$100,000. The Federal grant described on page 1 of this Agreement will cover testing in the amount of \$22,650; this accounts for 22.6% of the total funding.
4. STATUS OF PARTIES; INDEPENDENT CONTRACTOR. The Parties are associated with each other only for the purposes and to the extent set forth in this Agreement and in respect to the performance of services pursuant to this Agreement. In the performance of such services, Health District and any person employed by or contracted with Health District shall at all times act as and be an independent contractor, and not an employee or agent of DJJS. Further, it is expressly understood and agreed by the Parties that nothing contained in this Agreement will be construed to create a joint venture, partnership, association, or other affiliation or like relationship between the Parties.
  - 4.01 Health District has and shall retain the right to exercise full control over the employment, direction, compensation, and discharge of all persons employed by Health District in the performance of the services hereunder. Health District shall be solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding, and all other wages, salaries, benefits, taxes, demands, and regulations of any nature whatsoever.

5. FISCAL MONITORING AND ADMINISTRATIVE REVIEW OF ADVERSE FINDINGS. Health District may, at its discretion, conduct a fiscal monitoring of DJJS at any time during the term of the Agreement. DJJS will be notified in writing at least three (3) weeks prior to the visit outlining documents that must be available prior to Health District's visit. Health District shall notify DJJS in writing of any Adverse Findings and recommendations as a result of the fiscal monitoring. Adverse Findings are defined as Lack of Adequate Records, Administrative Findings, Questioned Costs, and Costs Recommended for Disallowance. DJJS will have the opportunity to address adverse findings in writing responding to any disagreement of adverse findings. Health District shall review disagreement issues, supporting documentation and files and forward a decision to the DJJS in writing.
6. AUDIT REQUIREMENTS.
  - 6.01 All payments made under this Agreement shall be subject to an audit and any payments shall be adjusted in accordance with said audit.
  - 6.02 DJJS shall schedule an annual financial audit and shall submit a copy to Health District for review within six (6) months following the close of DJJS's fiscal year. Failure to meet this requirement may result in loss of current funding and disqualification from consideration for further Health District administered funding. This audit shall be made by an independent auditor in accordance with generally acceptable accounting principles. This requirement applies equally to any subcontractor of DJJS that receives funding under this Agreement. DJJS shall include this requirement in all its subcontractor agreements. Any subcontracts prepared by DJJS shall be furnished to Health District to ensure conformance with all requirements.
  - 6.03 DJJS shall make appropriate corrections within six (6) months after receipt of an audit report to remedy any material weaknesses identified by the audit report. Health District may withhold payment for non-correction of material weaknesses identified by the audit report in addition to its right to terminate this Agreement.
  - 6.04 Entities receiving a combined total of \$750,000 or more annually from any combination of federal funding sources are subject to federal audit requirements pursuant to Public Law 98-502, "The Single Audit Act" as it may from time to time be amended. DJJS must comply with all applicable federal and state grant requirements including The Single Audit Act Amendments of 1996; 2 CFR Part 200 as amended; and any other applicable law or regulation, and any amendment to such other applicable law or regulation that may be enacted or promulgated by the federal government.

7. BOOKS AND RECORDS.

7.01 Each Party shall keep and maintain under generally accepted accounting principles full, true and complete books, records, and documents as are necessary to fully disclose to the other Party, properly empowered government entities, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms of this Agreement and any applicable statutes and regulations. All such books, records and documents shall be retained by each Party for a minimum of three (3) years, and for five (5) years if any federal funds are used pursuant to this Agreement, from the date of termination of this Agreement. This retention time shall be extended when an audit is scheduled or in progress for a period of time reasonably necessary to complete said audit and/or to complete any administrative and judicial litigation which may ensue.

7.02 Health District shall, at all reasonable times, have access to DJJS's records, calculations, presentations and reports for inspection and reproduction.

8. CONFIDENTIALITY. To comply with the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, to protect the security, confidentiality, and integrity of protected health information, the Parties will execute a Business Associate Agreement, attached hereto and incorporated by reference herein.

9. BREACH; REMEDIES. Failure of either Party to perform any obligation of this Agreement shall be deemed a breach. Except as otherwise provided for by law or this Agreement, the rights and remedies of the Parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages, and to a prevailing Party, the right to seek reasonable attorneys' fees and costs.

10. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Agreement or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.

11. LIMITED LIABILITY. The Parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. To the extent applicable, actual agreement damages for any breach shall be limited by NRS 353.260 and NRS 354.626. Agreement liability of both Parties shall not be subject to punitive damages.

12. FORCE MAJEURE. Neither Party shall be deemed to be in violation of this Agreement if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event, the intervening cause must not be through the fault of the Party asserting such an excuse, and, the excused Party is obligated to promptly perform in accordance with the terms of the Agreement after the intervening cause ceases.

13. INDEMNIFICATION. Neither Party waives any right or defense to indemnification that may exist in law or equity.
14. NON-DISCRIMINATION. As an Equal Opportunity Employer, DJJS has an ongoing commitment to hire, develop, recruit and assign the best and most qualified individuals possible. DJJS employs employees without regard to race, sex, color, religion, age, ancestry, national origin, marital status, status as a disabled veteran, or veteran of the Vietnam era, disability, sexual orientation or gender identity or expression. DJJS likewise agrees that it will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, and the American with Disabilities Act.
15. SEVERABILITY. If any provision contained in this Agreement is held to be unenforceable by a court of law or equity, this Agreement shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.
16. ASSIGNMENT. Neither Party shall assign, transfer or delegate any rights, obligations or duties under this Agreement without the prior written consent of the other Party.
17. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents, including this Agreement, and any other documents generated incidental thereto may be opened by the Parties to public inspection and copying. The Parties will have a duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
18. NO PRIVATE RIGHT CREATED. The Parties do not intend to create in any other individual or entity the status of a third party beneficiary, and this Agreement shall not be construed to create such status. The rights, duties, and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties determining and performing their obligations under this Agreement.
19. PROPER AUTHORITY. The Parties hereto represent and warrant that the person executing this Agreement on behalf of each Party has full power and authority to enter into this Agreement and that the Parties are authorized by law to perform the services set forth in the documents incorporated herein.
20. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement between the Parties and supersedes any prior contracts or agreement between the Parties regarding the subject matter hereof.
21. AMENDMENTS. This Agreement may be amended only by a writing signed by a duly authorized agent/officer of each Party and effective as of the date stipulated therein.
22. GOVERNING LAW. This Agreement and the rights and obligations of the Parties hereto shall be governed by, and construed according to the laws of the State of Nevada, with

Clark County, Nevada as the exclusive venue of any action or proceeding related to or arising out of this agreement.

23. NOTICES. All notices permitted or required under this Agreement shall be made by personal delivery, overnight delivery, or via U.S. certified mail, postage prepaid to the other Party at their address set out below:

**Southern Nevada Health District**

Financial Services Department  
Materials Management Supervisor  
P.O. Box 3902  
Las Vegas, NV 89127

**Clark County Department of  
Juvenile Justice Services**

Cheryl Wright  
Clinical Manager  
601 N. Pecos Road  
Las Vegas, NV 89101

BY SIGNING BELOW, the Parties agree that they have read, understood, and agreed to the conditions set forth above and have caused their duly authorized representatives to execute this Agreement.

**SOUTHERN NEVADA HEALTH  
DISTRICT**

**CLARK COUNTY ON BEHALF OF ITS  
DEPARTMENT OF JUVENILE JUSTICE  
SERVICES**

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

Andrew J. Glass, FACHE, MS  
Director of Administration

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

John Martin  
Director of Clark County DJJS

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

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

Approved as to form:



\_\_\_\_\_  
Annette L. Bradley, Esq.  
Attorney for Southern Nevada Health District

## **ATTACHMENT A SCOPE OF WORK**

During the term of this Agreement Parties agree to the following:

**1.0 DJJS shall:**

- 1) Collect samples from its high risk population juveniles
- 2) Deliver samples to the Southern Nevada Public Health Laboratory (“SNPHL”) within 24 hours of collection
- 3) Report all positive results to Health District Office of Disease Surveillance (“ODS”).
- 4) Treat in house high risk juveniles who test positive and note on report the treatment and results to ODS.
- 5) Identify all juveniles released without treatment on report to ODS.
- 6) Provide monthly progress reports to Health District as instructed by ODS Staff.

**2.0 Health District shall:**

- 1) Provide ODS with collection materials (tubes, collection needles) at no additional charge.
- 2) Follow-up with juveniles who tested positive or were released without treatment and who are in within the Health District’s jurisdiction.
- 3) Provide services Monday through Friday (excluding Holidays), 8:00 a.m. – 4:00 p.m.
- 4) Provide results to DJJS by electronic means (Fax or e-mail) within 48 hours of specimen receipt.



## **ATTACHMENT B PAYMENT**

### **1.0 Payment.**

Health District will invoice and DJJS shall reimburse Health District at the discounted per test rates shown below. Health District will provide a credit to DJJS for the individual discounted laboratory services performed in an aggregate amount not-to-exceed \$22,650.

Syphilis	\$ 9.00
Chlamydia	\$49.00
Gonorrhea	\$49.00
HIV	\$25.00

- 2.0 Health District will not bill more frequently than monthly for the duration of the project. The invoice will detail costs incurred for each item identified in the budget show above.
- 3.0 DJJS will pay Health District within 30 days of an accepted invoice.
- 4.0 Additional tests may be added to this Agreement pursuant to mutual agreement of both Parties and an amendment to this Agreement.

**ATTACHMENT C  
BUSINESS ASSOCIATE AGREEMENT  
BETWEEN  
SOUTHERN NEVADA HEALTH DISTRICT  
AND  
CLARK COUNTY ON BEHALF OF ITS  
DEPARTMENT OF JUVENILE JUSTICE SERVICES**

This Business Associate Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 between the Southern Nevada Health District ("Covered Entity"), and Clark County on Behalf of Its Department Of Juvenile Justice Services ("Business Associate"), (individually referred to as "Party" or collectively as "Parties").

**WITNESSETH:**

WHEREAS, the Department of Health and Human Services ("HHS") has promulgated regulations at 45 CFR Part 160 and 164, implementing the privacy and electronic security requirements set forth in the Administrative Simplification provision of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"); and

WHEREAS, Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and are hereinafter referred to as "Service Agreements," and

WHEREAS, in the course of fulfilling its responsibilities under such Service Agreements, Business Associate may have access to, use, and/or disclose Protected Health Information (as defined below); and

WHEREAS, Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document as if fully set out herein; and

WHEREAS, the enactment of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 establishes certain requirements relating to the use, disclosure, and safeguarding of protected health information by persons providing services to Covered Entities, and both Parties have mutually agreed to satisfy such requirements through this Agreement; and

NOW THEREFORE, in consideration of the Parties continuing obligations under the Service Agreement(s) and other good and valuable consideration, the Parties mutually agree to the provisions of this Agreement to address the requirements of the HIPAA Rules, establish satisfactory assurances Business Associate will appropriately safeguard any Protected Health Information received from or on behalf of Covered Entity, and, therefore, execute this Agreement.

**AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT**

Business Associate will provide services to Covered Entity pursuant to the following Service Agreements:

SNHD-1-STD-INT-16-090, Interlocal Service Agreement between Southern Nevada Health District and Clark County on Behalf of Its Department Of Juvenile Justice Services

## DEFINITIONS

Any terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 CFR Parts 160 and 164.

- a) "Breach" means the acquisition, access, use, or disclosure of PHI a manner that is not permitted under the privacy regulations which compromises the security or privacy of the PHI. Any unpermitted access, use, or disclosure is presumed a breach absent a demonstration of a low probability that the PHI has been compromised.
- b) "Protected Health Information" (PHI) means individually identifiable health information including, without limitation, all data, documentation, demographic, medical, and financial information collected from an individual which relates to the past, present, or future physical or mental health, condition, provision of health care, or payment for the provision of health care to an individual. PHI includes without limitation "Electronic Protected Health Information" as defined below.
- c) "Electronic Protected Health Information" (ePHI) means PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.
- d) "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.
- e) "Required by Law" has the same meaning as the term "required by law" in 45 CFR § 164.103.
- f) "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

## BUSINESS ASSOCIATE CONFIDENTIALITY REQUIREMENTS (Privacy Rule)

Business Associate acknowledges and agrees:

- i) To not use or disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as Required by Law.
- ii) To use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement.
- iii) In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.
- iv) All PHI created, received, maintained, or transmitted by Covered Entity and disclosed or made available in any form or format by Covered Entity or its operating units to Business Associate or is created, received maintained or transmitted by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

- v) To use or disclose any PHI solely for meeting its obligations as set forth in the Service Agreement(s) and as would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Covered Entity.
- vi) Ensure all such uses and disclosures of PHI are subject to the limits set forth in 45 CFR § 164.514 regarding limited data sets and minimum necessary requirements.
- vii) Ensure any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restriction and conditions that apply through this Agreement to Business Associate with respect to such information (45 CFR § 164.314).
- viii) To fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the HIPAA Rules.
- ix) Subject to the exceptions contained in the HITECH Act, Business Associate will not directly or indirectly receive remuneration for the sale or exchange of any PHI without a valid authorization from the applicable individual. Business Associate will not engage in any communication which might be deemed “marketing” under the HIPAA Rules.

#### BUSINESS ASSOCIATE SECURITY REQUIREMENTS (Security Rule)

Business Associate acknowledges and agrees:

- i) To implement appropriate safeguards and internal controls to prevent the use or disclosure of PHI other than as permitted in this Agreement or by the HIPAA Rules.
- ii) To use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement, or as Required by Law. This includes the implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect and secure the Covered Entity’s ePHI against any reasonably anticipated threats or hazards, utilizing technology commercially available to the Business Associate. (45 CFR §§ 164.308, 164.310, 164.312). Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training, and sanctions of its workforce member. (45 CFR §164.316).
- iii) To notify Covered Entity immediately of any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

In the case of an unsuccessful attempt to gain unauthorized access, Business Associate need only notify Covered Entity of an attempt that had a reasonable probability of success.

- iv) To notify Covered Entity immediately upon discovery of a breach pursuant to the terms of 45 CFR § 164.410 and cooperate in Covered Entity’s breach analysis procedures, including risk assessment and final determination on whether to notify affected individuals, media, or HHS.
  - a. A breach shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate.

- b. Business Associate shall provide Covered Entity with all required content of notification pursuant to 45 CFR § 164.410 and 45 CFR 404 within 15 business days of discovery of the Breach.
- v) For breaches determined to have resulted from the Business Associate actions and/or its subcontractors, Business Associate will handle and pay all costs for any breach notifications and/or mitigation to affected individuals and notifications to HHS and the media, on behalf of the Covered Entity.

## BUSINESS ASSOCIATE PERMITTED USES AND DISCLOSURES

Notwithstanding the prohibitions otherwise set forth in this Agreement, Business Associate may use and disclose PHI as follows:

- i) Subject to the limitations of this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- ii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(b).
- iii) Business Associate shall report to Covered Entity any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Business Associate shall report to Covered Entity any Security Incident it becomes aware, including breaches of unsecured PHI.
- iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

## SPECIFIC USE AND DISCLOSURES

- i) HHS has the right to review, audit, or investigate Business Associate's records and practices related to the use and disclosure of PHI to ensure Covered Entity's compliance with the terms of the HIPAA Rules.
- ii) Upon request, provide Covered Entity with timely and appropriate access to records, electronic records, personnel, or facilities sufficient for Covered Entity to gain reasonable assurance that Business Associate is in compliance with the HIPAA Rules and the provisions of this Agreement.
- iii) At Covered Entity's Request, Business Associate agrees:
  - a. To comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed and of which Business Associate has been notified.
  - b. Within 15 days of a request by Covered Entity, account for disclosures of PHI and make an account of such disclosure available to Covered Entity as required by 45 CFR § 164.528.

## TERMINATION

- i) Covered Entity shall have the right to terminate this Agreement and the Service Agreement(s) immediately if Covered Entity determines that Business Associate has violated any material term of this Agreement.
- ii) If Covered Entity reasonably believes that Business Associate has violated a material term of this Agreement, where practicable, Covered Entity shall either:
  - a. give written notice to Business Associate with an opportunity to reasonably and promptly cure or end the violation and terminate the Agreement if the Business Associates does not cure the breach or end the violation within the reasonable time specified; or
  - b. terminate this Agreement and the Service Agreement(s) immediately.
- iii) Upon termination of the Service Agreement(s), this Agreement, or at the request of Covered Entity, Business Associate will return or destroy all PHI received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information.
  - a. If such return or destruction is not feasible, Business Associate shall provide written assurances as to the means of continued protection of the data and extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible for so long as Business Associate maintains the same.
  - b. Business Associate shall consult with Covered Entity as necessary to ensure an appropriate means for the return and/or destruction of any PHI and notify the Covered Entity in writing when such destruction is complete.
  - c. If PHI is returned, the Parties shall document when the PHI has been received by the Covered Entity.

## MISCELLANEOUS

- i) The Parties agree that the provisions of HIPAA and the HITECH Act that apply to Business Associate are incorporated by reference into this Agreement in their entirety.
- ii) Business Associate agrees to make PHI available for amendment and incorporate any amendments to PHI in accordance with the requirements of 45 CFR § 164.526.
- iii) Except as expressly stated herein or the HIPAA Rules, the Parties to this Agreement do not intend to create any rights in any third parties.
- iv) The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement(s) and/or the business relationship of the Parties, and shall continue to bind Business Associate, its subcontractors, agents, employees, contractors, successors, and assigns.

- v) This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.
- vi) The Parties are independent entities and nothing contained herein shall be construed or deemed to create a relationship of employer and employee, principal and agent, partners, or any relationship other than that of independent parties voluntarily cooperating with each other solely for the purpose of carrying out the provisions herein.
- vii) This Agreement will be governed by the laws of the State of Nevada.
- viii) Failure to declare a breach or the actual waiver of any particular breach of the Agreement or Service Agreement(s) or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.
- ix) Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the HIPAA Rules.
- x) Any reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.
- xi) In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

**COVERED ENTITY:**

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

Name: Andrew J. Glass, FACHE, MS

Title: Director of Administration

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

**BUSINESS ASSOCIATE:**

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

Name:

Title:

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