



TO: SOUTHERN NEVADA DISTRICT BOARD OF HEALTH DATE: March 24, 2022

RE: Approval of amendment to Interlocal Agreement with the Nevada Division of Public and Behavioral Health to extend the current agreement through May 29, 2026

PETITION #32-22

That the Southern Nevada District Board of Health approve the attached Amendment between the Bureau of Behavioral Health Wellness and Prevention within the Nevada Division of Public and Behavioral Health and the Southern Nevada Health District (SNHD).

PETITIONERS:

Fermin Leguen, MD, MPH, District Health Officer *FL*
Cassius Lockett, PhD, Director of Disease Surveillance and Control *CL*
Victoria Burris, MPH, Communicable Disease Manager *VB*

DISCUSSION:

This amendment is between the Bureau of Behavioral Health Wellness and Prevention within the Nevada Division of Public and Behavioral Health and the Southern Nevada Health District (SNHD). It is the second amendment to the original interlocal agreement which provides Resilience Ambassadors (RAs) to the SNHD Office of Disease Surveillance as part of the Nevada Resiliency Project's response to the COVID-19 pandemic. The amendment extends this agreement, which was originally set to expire on May 30, 2022, through May 29, 2026.

Case and contact names, phone numbers, email addresses, and primary spoken language will be provided to the RA supervisor as a daily report. The RA supervisor will assign clients to the RAs, who will then call and/or email the clients to initiate social and behavioral health services.

FUNDING:

There is no cost associated with this petition.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

INTERLOCAL CONTRACT BETWEEN PUBLIC AGENCIES

A Contract Between the State of Nevada
Acting by and through its
Department of Health and Human Services
Division of Public and Behavioral Health

Public Entity #1:	Bureau of Behavioral Health and Wellness and Prevention
Address:	4126 Technology Way, Suite 200
City, State, Zip Code:	Carson City, Nevada 8706
Contact:	Dawn Yohey
Phone:	775-461-6533
Email:	dyohey@health.nv.gov

Public Entity #2:	Southern Nevada Health District
Address:	280 South Decatur Boulevard
City, State, Zip Code:	Las Vegas, Nevada 89701
Contact:	Karen White, Chief Financial Officer
Phone:	702-268-0390
Email:	Cfo.grants@snhd.org

WHEREAS, NRS 277.180 authorizes any one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform; and

WHEREAS, it is deemed that the services hereinafter set forth are both necessary and in the best interests of the State of Nevada.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. **REQUIRED APPROVAL.** This Contract shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. **DEFINITIONS**

TERM	DEFINITION
State	The State of Nevada and any State agency identified herein, its officers, employees and immune contractors.
Contracting Entity	The public entities identified above.
Fiscal Year	The period beginning July 1 st and ending June 30 th of the following year.
Contract	Unless the context otherwise requires, 'Contract' means this document titled Interlocal Contract Between Public Agencies and all Attachments or Incorporated Documents.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

3. **CONTRACT TERM.** This Contract shall be effective as noted below, unless sooner terminated by either party as specified in *Section 4, Termination*.

Effective From:	May 30, 2022	To:	May 29, 2026
-----------------	--------------	-----	--------------

4. **TERMINATION.** This Contract may be terminated by either party prior to the date set forth in *Section 3, Contract Term*, provided that a termination shall not be effective until **30** days after a party has served written notice upon the other party. This Contract may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Contract shall be terminated immediately if for any reason State and/or federal funding ability to satisfy this Contract is withdrawn, limited, or impaired.

5. **NOTICE.** All communications, including notices, required or permitted to be given under this Contract shall be in writing and directed to the parties at the addresses stated above. Notices may be given: (a) by delivery in person; (b) by a nationally recognized next day courier service, return receipt requested; or (c) by certified mail, return receipt requested. If specifically requested by the party to be notified, valid notice may be given by facsimile transmission or email to the address(es) such party has specified in writing.

6. **INCORPORATED DOCUMENTS.** The parties agree that this Contract, inclusive of the following Attachments, specifically describes the Scope of Work. This Contract incorporates the following Attachments in descending order of constructive precedence:

ATTACHMENT A:	SCOPE OF WORK AND DELIVERABLES
ATTACHMENT B:	BUSINESS ASSOCIATE ADDENDUM

Any provision, term or condition of an Attachment that contradicts the terms of this Contract, or that would change the obligations of the State under this Contract, shall be void and unenforceable.

7. **CONSIDERATION.** The parties agree that the services specified in *Section 6, Incorporated Documents* at a cost as noted below:

\$ 0		
------	--	--

Total Contract or installments payable at:	
--	--

Total Contract Not to Exceed:	\$ 0.00
-------------------------------	---------

Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Contract term) or a termination as the result of legislative appropriation may require.

8. **ASSENT.** The parties agree that the terms and conditions listed in the incorporated Attachments of this Contract are also specifically a part of this Contract and are limited only by their respective order of precedence and any limitations expressly provided.

9. **INSPECTION & AUDIT**

A. **Books and Records.** Each party agrees to keep and maintain under general accepted accounting principles full, true and complete records, agreements, books, and document as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

- B. **Inspection & Audit.** Each party agrees that the relevant books, records (written, electronic, computer related or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.
- C. **Period of Retention.** All books, records, reports, and statements relevant to this Contract must be retained a minimum three years and for five years if any federal funds are used in this Contract. The retention period runs from the date of termination of this Contract. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.
10. **BREACH - REMEDIES.** Failure of either party to perform any obligation of this Contract shall be deemed a breach. Except as otherwise provided for by law or this Contract, 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 reasonable attorneys' fees and costs. It is specifically agreed that reasonable attorneys' fees shall not exceed \$150.00 per hour.
11. **LIMITED LIABILITY.** The parties will not waive and intend to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Contract, but not yet paid, for the fiscal year budget in existence at the time of the breach.
12. **FORCE MAJEURE.** Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, acts of public enemy, acts of terrorism, 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 Contract after the intervening cause ceases.
13. **INDEMNIFICATION.** Neither party waives any right or defense to indemnification that may exist in law or equity.
14. **INDEPENDENT PUBLIC AGENCIES.** The parties are associated with each other only for the purposes and to the extent set forth in this Contract, and in respect to performance of services pursuant to this Contract, each party is and shall be a public agency separate and distinct from the other party and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract. Nothing contained in this Contract shall be deemed or constructed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.
15. **WAIVER OF BREACH.** Failure to declare a breach or the actual waiver of any particular breach of the Contract 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.
16. **SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
17. **ASSIGNMENT.** Neither party shall assign, transfer or delegate any rights, obligations or duties under this Contract without the prior written consent of the other party.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

18. **OWNERSHIP OF PROPRIETARY INFORMATION.** Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code (which is intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Contract shall be the joint property of both parties.
19. **PUBLIC RECORDS.** Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
20. **CONFIDENTIALITY.** Each party shall keep confidential all information, in whatever form, produced, prepared, observed or received by that party to the extent that such information is confidential by law or otherwise required by this Contract.
21. **FEDERAL FUNDING.** In the event, federal funds are used for payment of all or part of this Contract, the parties agree to comply with all applicable federal laws, regulations and executive orders, including, without limitation the following:
- A. The parties certify, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to Executive Orders 12549 and 12689 and Federal Acquisition Regulation Subpart 9.4, and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.
 - B. The parties and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder, including 28 C.F.R. Section 35, inclusive, and any relevant program-specific regulations.
 - C. The parties and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964 (P.L. 88-352), as amended, the Rehabilitation Act of 1973 (P.L. 93-112), as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)
 - D. Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
22. **PROPER AUTHORITY.** The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract and that the parties are authorized by law to perform the services set forth in *Section 6, Incorporated Documents*.
23. **GOVERNING LAW – JURISDICTION.** This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the exclusive jurisdiction of and venue in the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.
24. **ENTIRE AGREEMENT AND MODIFICATION.** This Contract and its integrated Attachment(s) constitute the entire agreement of the parties and as such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated Attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such Attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto, approved by the Office of the Attorney General.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

ATTACHMENT A

SCOPE OF WORK AND DELIVERABLES

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

Scope of Work Substance Abuse and Mental Health Services Administration (SAMHSA), Crisis Counseling Program (CCP)

Southern Nevada Health District, hereinafter referred to as Health District, agrees to provide the following services and reports according to the identified timeframes:

The Crisis Counseling Program (CCP) is a supplemental assistance program available to Substance Abuse Block Grant (SABG) and Health Disparity (HD) to fund mental health assistance and training activities in areas which have been Presidentially declared a disaster.

The mission of the CCP is to assist individuals and communities in recovering from the effects of natural and human-caused disasters, as well as behavioral and substance use concerns. CCP also addresses health disparities in our high-risk and underserved communities through the provision of community-based outreach and psycho-educational services. The CCP supports short-term interventions that involve the counseling goals of assisting disaster survivors in understanding their current situation and reactions, mitigating stress, assisting survivors in reviewing their disaster recovery options, promoting the use or development of coping strategies, providing emotional support, and encouraging linkages with other individuals and agencies who may help survivors in their recovery process (recover to their pre-disaster level of functioning). The State of Nevada, Department of Health and Human Services (DHHS), Division of Public and Behavioral Health (DPBH), has been provided the Program Award.

PURPOSE:

The Nevada CCP program serves to provide early triage, intervention, and referral of services in response to the impacts of COVID-19 on Nevada's population. Early triage, intervention, and referral to services can reduce the risk of mental health disorders for those impacted by COVID-19. Expansion of crisis services is necessary to ensure individuals, families, and communities are provided supports to build resiliency and to ensure linkage and referral to needed services and timely access to care. Nevada's CCP is focused on a population health approach that encourages health coping and active stressor management, resiliency, and compassion. Nevada's CCP program builds upon existing resources within the state, county, and local communities and recognizes the inherent value in community outreach and partnerships.

The CCP provides Resilience Ambassadors to community-based organizations to meet the need of the state. The program is not intended for those that are seriously mentally ill (SMI), but to enhance Nevada's healthcare workforce, which has been operating under crisis since March 2020. Health District has been identified as a key partner to support the delivery of CCP services to Clark County in Nevada.

The key difference between traditional mental health services and crisis counseling is the way services are provided. In contrast to the crisis counseling services provided through the CCP, mental health treatment, as typically defined within the mental health community, implies the provision of assistance to individuals for an existing pathological condition or disorder. Typically, the mental health professional and client will discuss various treatment options and agree to certain interventions and treatment goals.

Crisis counseling individual and group encounters serve to engage people and encourage them to talk about their experiences and teaches ways to manage stress. These activities can help Resilience Ambassadors identify people who may need referrals to behavioral health treatment. They also enhance social and emotional connections to others in the community and promote effective coping strategies and resilience. Resilience Ambassadors work closely with community organizations to familiarize themselves with available resources and to link impacted population to needed services.

ELIGIBLE SERVICES:

The Resilience Ambassador(s) assigned to **Health District** provides the following services to achieve the mission and support Nevadans.

- **Individual Crisis Counseling:** Helps survivors understand their reactions, improve coping strategies, review their options, and connect with other individuals and agencies that may assist them.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

- **Basic Supportive or Educational Contact:** General support and information on resources and services available to disaster survivors.
- **Group Crisis Counseling:** Group sessions led by trained Resilience Ambassadors who offer skills to help survivors cope with their situations and reactions.
- **Public Education:** Information and education about typical reactions, helpful coping strategies, and available disaster-related resources.
- **Community Networking and Support:** Relationship building with community resource organizations, Faith-based groups, and local agencies.
- **Assessment, Referral, and Resource Linkage:** Adult and child needs assessment and referral to additional disaster relief services or mental health or substance abuse treatment.
- **Distribution of Educational Materials:** Flyers, brochures, tip sheets, educational materials, and Web site information developed and distributed by CCP staff.

CCP PROGRAM CAPACITY:

The Division of Public and Behavioral Health will provide up to four (4) community Resilience Ambassador to be embedded within the **Health District** to provide eligible services. Capacity will be determined based on caseload, COVID-19 community need, and based on reported services. Engagement of Ambassador or reassignment of Ambassador will be based on program activity and joint review of program support by both Southern Nevada Health District and Division of Public and Behavioral Health.

DELIVERY OF SERVICES:

Due to the COVID-19 nationwide emergency and the need to protect the safety and health of all Americans, crisis counseling services will be delivered by in-person following Centers for Disease Control COVID-19 protocols and any Executive Directive issued by the State of Nevada Governor, via phone, internet, virtually and through social media. Delivery of services requires that each Resilience Ambassador has personal protective equipment, engages in social distancing, and is not placed in direct contact with individuals without appropriate safeguards. It is expected that many Resilience Ambassador services can be delivered virtually without in-person interactions, which is consistent with the practice of social distancing to prevent the spread of COVID-19. In addition, Resilience Ambassadors are not considered essential in-person services during a pandemic. For those ambassadors that are embedded within community-based organizations and who will be providing services on-site, ambassadors are not to be placed in an environment which does not have the appropriate level of safeguards or an environment which is heavily impacted by COVID-19.

CCP MODEL:

The CCP is designed to provide immediate behavioral health support, primarily relying on face-to-face contacts with survivors in their communities and/or through phone or internet based on recommendations from the CDC. The CCP provides these support-centered services to survivors or those impacted by COVID.

Eight key principles guide the CCP approach.

1. **Strengths-based:** Resilience ambassadors assume natural resilience in individuals and communities, and promote independence rather than dependence on the CCP, other people, or organizations. Resilience ambassadors help survivors regain a sense of control.
2. **Outreach-oriented:** Resilience ambassadors take services into the communities rather than wait for survivors to come to them.
3. **More practical than psychological in nature:** CCP is designed to prevent or mitigate adverse repercussions of disasters rather than to treat them. Resilience ambassadors provide support and education, listen to survivors, and accept the content at face value. Resilience ambassadors help survivors to develop a plan to address self-identified needs and suggest connections with other individuals or organizations that can assist them.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

4. **Diagnosis-free:** Resilience ambassadors do not classify, label, or diagnose people; they keep no records or case files. The CCP does not provide mental health or substance use treatment, or critical incident stress debriefing. Services are supportive and educational in nature.
5. **Conducted in nontraditional settings:** Resilience ambassadors make contact with survivors in their homes and communities, not in clinical or office settings.
6. **Culturally aware:** The CCP model embraces cultural and spiritual diversity as reflected in culturally relevant outreach activities that represent the communities served.
7. **Designed to strengthen existing community support systems:** Resilience ambassadors support, but do not organize or manage, community recovery activities. Likewise, the CCP supplements, but does not supplant or replace, existing community systems.
8. **Provided in ways that promote a consistent program identity:** Resilience ambassadors should work together early to establish a unified identity. The CCP strives to be a single, easily identifiable program, with services delivered by various local agencies.

SOUTHERN NEVADA HEALTH DISTRICT SHALL:

- Actively participate with the State’s CCP Program by embedding Resilience Ambassador into the COVID-19 process and providing a workstation following COVID-19 protocols;
- Participate in monthly program and caseload reviews, and engage with outreach and communication;
- Communicate with Resilience Ambassador Supervisor and identify resources required for the Ambassador to include additional training, review, or challenges with expectations of services;
- Site Coordinators are allowed to attend CCP training at no cost;
- Approve or reject potential candidates provided through the State’s Master Service Agreement (MSA) for Temporary Employment Services;
- Allow candidate to participate and complete all required training;
- Allow access of the Resilience Ambassador Supervisor to the Crisis Counselor on-site.
- **COVID RESPONSIBILITIES:**

All Centers for Disease Control and Prevention (CDC) and State of Nevada Governor Executive Directives must be complied with. This includes ensuring that each CCP Resilience Ambassadors has personal protective equipment, engages in social distancing, and is not placed in direct contact with individuals without appropriate safeguards. Appropriate safeguards may include a barrier or separate to prevent direct exposure. It is expected that many Resilience Ambassador services can be delivered virtually without in-person interactions, which is consistent with the practice of social distancing to prevent the spread of COVID-19. In addition, Resilience Ambassadors are not considered essential in-person services during a pandemic. For those ambassadors that are embedded within community-based organizations and who will be providing services on-site, ambassadors are not to be placed in an environment which does not have the appropriate level of safeguards or an environment which is heavily impacted by COVID-19. The potential of contagion to staff and/or survivors is too great a risk to take to jeopardize the safety of our team members. As part of the guidance for Nevada, face coverings and social distancing is required. Community-based organizations are required to provide hand sanitizer, personal protective equipment (PPE) and to mitigate risk to employees and those who utilize services. In addition, each community-based organization is required to provide DPBH with the precautions and guidance being required at each facility in response to COVID-19 as part of the CCP.

- Allow access to case information for those who agree to be contacted by a Resilience ambassador. The RA supervisor will receive a daily report, generated and emailed by the Health District’s Informatics staff, comprised of consenting client information collected from the TriSano system, to include case and contact names, phone numbers, email addresses, and primary spoke language. The RA supervisor will assign clients to the Resilience

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

ambassador, who will then call and/or email the clients to initiate services. Client lists will be stored in Excel spreadsheet on DBPH laptops and will be deleted 2-3 business days after creation. All lists, printed or electronic, will be stored and destroyed in accordance with HIPAA requirements.

DIVISION OF PUBLIC AND BEHAVIORAL HEALTH SHALL:

- Provide access to all required training for Resilience Ambassador and Southern Nevada Health District coordination staff assigned to Resilience Ambassador, Site Coordinator and designated key staff;
- Provide computer, hot spot for internet access and phone to Resilience Ambassador in the event services are required after May 29, 2022;
- Provide joint coordination of Resilience Ambassador;
- Ensure data collection tools are available for the Resilience Ambassador;
- Engage in weekly meetings with Resilience Ambassador Supervisor for program evaluation;
- Engage with Resilience Ambassador for Quality Improvement and review of data collection;
- Provide payment directly to Resilience Ambassador at no expense to Southern Nevada Health District;
- Process all data and reporting required for the federal grant award;
- Engage the Southern Nevada Health District in communication, outreach and program updates.
- Providing regular data reports, and
- Provide the mental health training and engagement with Resilience Ambassador.
- Honor and observe, in connection with the transactions contemplated by this Contract, any and all applicable laws prohibiting the transfer of personally identifiable information about individuals.

Any contractor utilized or retained by the Division of Public and Behavioral Health shall have Worker’s Compensation insurance and insurance in commercially reasonable amounts covering the types of work or services that such contractor shall perform in accordance with this Contract. The State shall assist Health District with obtaining contractor proof of insurance coverage as needed.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

ATTACHMENT B

Business Associate Addendum

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

ATTACHMENT B BUSINESS ASSOCIATE ADDENDUM

BETWEEN

Division of Public and Behavioral Health
Bureau of Behavioral Health Wellness and Prevention

Hereinafter referred to as the "Covered Entity"

and

Southern Nevada Health District

Hereinafter referred to as the "Business Associate"

PURPOSE. In order to comply with the requirements of HIPAA and the HITECH Act, this Addendum is hereby added and made part of the Contract between the Covered Entity and the Business Associate. This Addendum establishes the obligations of the Business Associate and the Covered Entity as well as the permitted uses and disclosures by the Business Associate of protected health information it may possess by reason of the Contract. The Covered Entity and the Business Associate shall protect the privacy and provide for the security of protected health information disclosed to the Business Associate pursuant to the Contract and in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA"), the Health Information Technology for Economic and Clinical Health Act, Public Law 111-5 ("the HITECH Act"), and regulation promulgated there under by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

WHEREAS, the Business Associate will provide certain services to the Covered Entity, and, pursuant to such arrangement, the Business Associate is considered a business associate of the Covered Entity as defined in HIPAA, the HITECH Act, the Privacy Rule and Security Rule; and

WHEREAS, Business Associate may have access to and/or receive from the Covered Entity certain protected health information, in fulfilling its responsibilities under such arrangement; and

WHEREAS, the HIPAA Regulations, the HITECH Act, the Privacy Rule and the Security Rule require the Covered Entity to enter into a contract containing specific requirements of the Business Associate prior to the disclosure of protected health information, as set forth in, but not limited to, 45 CFR Parts 160 & 164 and Public Law 111-5.

THEREFORE, in consideration of the mutual obligations below and the exchange of information pursuant to this Addendum, and to protect the interests of both Parties, the Parties agree to all provisions of this Addendum.

I. **DEFINITIONS.** The following terms shall have the meaning ascribed to them in this Section. Other capitalized terms shall have the meaning ascribed to them in the context in which they first appear.

1. **Breach** means the unauthorized acquisition, access, use, or disclosure of protected health information which compromises the security or privacy of the protected health information. The full definition of breach can be found in 42 USC 17921 and 45 CFR 164.402.
2. **Business Associate** shall mean the name of the organization or entity listed above and shall have the meaning given to the term under the Privacy and Security Rule and the HITECH Act. For full definition refer to 45 CFR 160.103.
3. **CFR** stands for the Code of Federal Regulations.
4. **Contract** shall refer to this Addendum and that particular Contract to which this Addendum is made a part.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

5. **Covered Entity** shall mean the name of the Division listed above and shall have the meaning given to such term under the Privacy Rule and the Security Rule, including, but not limited to 45 CFR 160.103.
6. **Designated Record Set** means a group of records that includes protected health information and is maintained by or for a covered entity or the Business Associate that includes, but is not limited to, medical, billing, enrollment, payment, claims adjudication, and case or medical management records. Refer to 45 CFR 164.501 for the complete definition.
7. **Disclosure** means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information as defined in 45 CFR 160.103.
8. **Electronic Protected Health Information** means individually identifiable health information transmitted by electronic media or maintained in electronic media as set forth under 45 CFR 160.103.
9. **Electronic Health Record** means an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff. Refer to 42 USC 17921.
10. **Health Care Operations** shall have the meaning given to the term under the Privacy Rule at 45 CFR 164.501.
11. **Individual** means the person who is the subject of protected health information and is defined in 45 CFR 160.103.
12. **Individually Identifiable Health Information** means health information, in any form or medium, including demographic information collected from an individual, that is created or received by a covered entity or a business associate of the covered entity and relates to the past, present, or future care of the individual. Individually identifiable health information is information that identifies the individual directly or there is a reasonable basis to believe the information can be used to identify the individual. Refer to 45 CFR 160.103.
13. **Parties** shall mean the Business Associate and the Covered Entity.
14. **Privacy Rule** shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164, Subparts A, D and E.
15. **Protected Health Information** means individually identifiable health information transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. Refer to 45 CFR 160.103 for the complete definition.
16. **Required by Law** means a mandate contained in law that compels an entity to make a use or disclosure of protected health information and that is enforceable in a court of law. This includes but is not limited to: court orders and court-ordered warrants; subpoenas, or summons issued by a court; and statutes or regulations that require the provision of information if payment is sought under a government program providing public benefits. For the complete definition refer to 45 CFR 164.103.
17. **Secretary** shall mean the Secretary of the federal Department of Health and Human Services (HHS) or the Secretary's designee.
18. **Security Rule** shall mean the HIPAA regulation that is codified at 45 CFR Parts 160 and 164 Subparts A and C.
19. **Unsecured Protected Health Information** means protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the guidance issued in Public Law 111-5. Refer to 42 USC 17932 and 45 CFR 164.402.
20. **USC** stands for the United States Code.

II. OBLIGATIONS OF THE BUSINESS ASSOCIATE.

1. **Access to Protected Health Information.** The Business Associate will provide, as directed by the Covered Entity, an individual or the Covered Entity access to inspect or obtain a copy of protected health information about the Individual that is maintained in a designated record set by the Business Associate or, its agents or subcontractors, in order to meet the requirements of the Privacy Rule, including, but not limited to 45 CFR 164.524 and 164.504(e)(2)(ii)(E). If the Business Associate maintains an electronic health record, the Business Associate or, its agents or subcontractors shall provide such information in electronic format to enable the Covered Entity to fulfill its obligations under the HITECH Act, including, but not limited to 42 USC 17935.
2. **Access to Records.** The Business Associate shall make its internal practices, books and records relating to the use and disclosure of protected health information available to the Covered Entity and to the Secretary for purposes of determining Business Associate's compliance with the Privacy and Security Rule in accordance with 45 CFR 164.504(e)(2)(ii)(H).
3. **Accounting of Disclosures.** Promptly, upon request by the Covered Entity or individual for an accounting of disclosures, the Business Associate and its agents or subcontractors shall make available to the Covered Entity or the individual information required to provide an accounting of disclosures in accordance with 45 CFR 164.528,

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

- and the HITECH Act, including, but not limited to 42 USC 17935. The accounting of disclosures, whether electronic or other media, must include the requirements as outlined under 45 CFR 164.528(b).
4. **Agents and Subcontractors.** The Business Associate must ensure all agents and subcontractors to whom it provides protected health information agree in writing to the same restrictions and conditions that apply to the Business Associate with respect to all protected health information accessed, maintained, created, retained, modified, recorded, stored, destroyed, or otherwise held, transmitted, used or disclosed by the agent or subcontractor. The Business Associate must implement and maintain sanctions against agents and subcontractors that violate such restrictions and conditions and shall mitigate the effects of any such violation as outlined under 45 CFR 164.530(f) and 164.530(e)(1).
 5. **Amendment of Protected Health Information.** The Business Associate will make available protected health information for amendment and incorporate any amendments in the designated record set maintained by the Business Associate or, its agents or subcontractors, as directed by the Covered Entity or an individual, in order to meet the requirements of the Privacy Rule, including, but not limited to, 45 CFR 164.526.
 6. **Audits, Investigations, and Enforcement.** The Business Associate must notify the Covered Entity immediately upon learning the Business Associate has become the subject of an audit, compliance review, or complaint investigation by the Office of Civil Rights or any other federal or state oversight agency. The Business Associate shall provide the Covered Entity with a copy of any protected health information that the Business Associate provides to the Secretary or other federal or state oversight agency concurrently with providing such information to the Secretary or other federal or state oversight agency. The Business Associate and individuals associated with the Business Associate are solely responsible for all civil and criminal penalties assessed as a result of an audit, breach, or violation of HIPAA or HITECH laws or regulations. Reference 42 USC 17937.
 7. **Breach or Other Improper Access, Use or Disclosure Reporting.** The Business Associate must report to the Covered Entity, in writing, any access, use or disclosure of protected health information not permitted by the Contract, Addendum or the Privacy and Security Rules. The Covered Entity must be notified immediately upon discovery or the first day such breach or suspected breach is known to the Business Associate or by exercising reasonable diligence would have been known by the Business Associate in accordance with 45 CFR 164.410, 164.504(e)(2)(ii)(C) and 164.308(b) and 42 USC 17921. The Business Associate must report any improper access, use or disclosure of protected health information by: The Business Associate or its agents or subcontractors. In the event of a breach or suspected breach of protected health information, the report to the Covered Entity must be in writing and include the following: a brief description of the incident; the date of the incident; the date the incident was discovered by the Business Associate; a thorough description of the unsecured protected health information that was involved in the incident; the number of individuals whose protected health information was involved in the incident; and the steps the Business Associate is taking to investigate the incident and to protect against further incidents. The Covered Entity will determine if a breach of unsecured protected health information has occurred and will notify the Business Associate of the determination. If a breach of unsecured protected health information is determined, the Business Associate must take prompt corrective action to cure any such deficiencies and mitigate any significant harm that may have occurred to individual(s) whose information was disclosed inappropriately.
 8. **Breach Notification Requirements.** If the Covered Entity determines a breach of unsecured protected health information by the Business Associate has occurred, the Business Associate will be responsible for notifying the individuals whose unsecured protected health information was breached in accordance with 42 USC 17932 and 45 CFR 164.404 through 164.406. The Business Associate must provide evidence to the Covered Entity that appropriate notifications to individuals and/or media, when necessary, as specified in 45 CFR 164.404 and 45 CFR 164.406 has occurred. The Business Associate is responsible for all costs associated with notification to individuals, the media or others as well as costs associated with mitigating future breaches. The Business Associate must notify the Secretary of all breaches in accordance with 45 CFR 164.408 and must provide the Covered Entity with a copy of all notifications made to the Secretary.
 9. **Breach Pattern or Practice by Covered Entity.** Pursuant to 42 USC 17934, if the Business Associate knows of a pattern of activity or practice of the Covered Entity that constitutes a material breach or violation of the Covered Entity's obligations under the Contract or Addendum, the Business Associate must immediately report the problem to the Secretary.
 10. **Data Ownership.** The Business Associate acknowledges that the Business Associate or its agents or subcontractors have no ownership rights with respect to the protected health information it accesses, maintains, creates, retains, modifies, records, stores, destroys, or otherwise holds, transmits, uses or discloses.
 11. **Litigation or Administrative Proceedings.** The Business Associate shall make itself, any subcontractors, employees, or agents assisting the Business Associate in the performance of its obligations under the Contract or

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

Addendum, available to the Covered Entity, at no cost to the Covered Entity, to testify as witnesses, or otherwise, in the event litigation or administrative proceedings are commenced against the Covered Entity, its administrators or workforce members upon a claimed violation of HIPAA, the Privacy and Security Rule, the HITECH Act, or other laws relating to security and privacy.

12. **Minimum Necessary.** The Business Associate and its agents and subcontractors shall request, use and disclose only the minimum amount of protected health information necessary to accomplish the purpose of the request, use or disclosure in accordance with 42 USC 17935 and 45 CFR 164.514(d)(3).
13. **Policies and Procedures.** The Business Associate must adopt written privacy and security policies and procedures and documentation standards to meet the requirements of HIPAA and the HITECH Act as described in 45 CFR 164.316 and 42 USC 17931.
14. **Privacy and Security Officer(s).** The Business Associate must appoint Privacy and Security Officer(s) whose responsibilities shall include: monitoring the Privacy and Security compliance of the Business Associate; development and implementation of the Business Associate's HIPAA Privacy and Security policies and procedures; establishment of Privacy and Security training programs; and development and implementation of an incident risk assessment and response plan in the event the Business Associate sustains a breach or suspected breach of protected health information.
15. **Safeguards.** The Business Associate must implement safeguards as necessary to protect the confidentiality, integrity, and availability of the protected health information the Business Associate accesses, maintains, creates, retains, modifies, records, stores, destroys, or otherwise holds, transmits, uses or discloses on behalf of the Covered Entity. Safeguards must include administrative safeguards (e.g., risk analysis and designation of security official), physical safeguards (e.g., facility access controls and workstation security), and technical safeguards (e.g., access controls and audit controls) to the confidentiality, integrity and availability of the protected health information, in accordance with 45 CFR 164.308, 164.310, 164.312, 164.316 and 164.504(e)(2)(ii)(B). Sections 164.308, 164.310 and 164.312 of the CFR apply to the Business Associate of the Covered Entity in the same manner that such sections apply to the Covered Entity. Technical safeguards must meet the standards set forth by the guidelines of the National Institute of Standards and Technology (NIST). The Business Associate agrees to only use or disclose protected health information as provided for by the Contract and Addendum and to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate, of a use or disclosure, in violation of the requirements of this Addendum as outlined under 45 CFR 164.530(e)(2)(f).
16. **Training.** The Business Associate must train all members of its workforce on the policies and procedures associated with safeguarding protected health information. This includes, at a minimum, training that covers the technical, physical and administrative safeguards needed to prevent inappropriate uses or disclosures of protected health information; training to prevent any intentional or unintentional use or disclosure that is a violation of HIPAA regulations at 45 CFR 160 and 164 and Public Law 111-5; and training that emphasizes the criminal and civil penalties related to HIPAA breaches or inappropriate uses or disclosures of protected health information. Workforce training of new employees must be completed within 30 days of the date of hire and all employees must be trained at least annually. The Business Associate must maintain written records for a period of six years. These records must document each employee that received training and the date the training was provided or received.
17. **Use and Disclosure of Protected Health Information.** The Business Associate must not use or further disclose protected health information other than as permitted or required by the Contract or as required by law. The Business Associate must not use or further disclose protected health information in a manner that would violate the requirements of the HIPAA Privacy and Security Rule and the HITECH Act.

III. **PERMITTED AND PROHIBITED USES AND DISCLOSURES BY THE BUSINESS ASSOCIATE.** The Business Associate agrees to these general use and disclosure provisions:

1. **Permitted Uses and Disclosures:**

- a. Except as otherwise limited in this Addendum, the Business Associate may use or disclose protected health information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Contract, provided that such use or disclosure would not violate the HIPAA Privacy and Security Rule or the HITECH Act, if done by the Covered Entity in accordance with 45 CFR 164.504(e) (2) (i) and 42 USC 17935 and 17936.
- b. Except as otherwise limited by this Addendum, the Business Associate may use or disclose protected health information received by the Business Associate in its capacity as a Business Associate of the Covered Entity, as necessary, for the proper management and administration of the Business Associate, to carry out the legal

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

responsibilities of the Business Associate, as required by law or for data aggregation purposes in accordance with 45 CFR 164.504(e)(2)(A), 164.504(e)(4)(i)(A), and 164.504(e)(2)(i)(B).

- c. Except as otherwise limited in this Addendum, if the Business Associate discloses protected health information to a third party, the Business Associate must obtain, prior to making any such disclosure, reasonable written assurances from the third party that such protected health information will be held confidential pursuant to this Addendum and only disclosed as required by law or for the purposes for which it was disclosed to the third party. The written agreement from the third party must include requirements to immediately notify the Business Associate of any breaches of confidentiality of protected health information to the extent it has obtained knowledge of such breach. Refer to 45 CFR 164.502 and 164.504 and 42 USC 17934.
- d. The Business Associate may use or disclose protected health information to report violations of law to appropriate federal and state authorities, consistent with 45 CFR 164.502(j)(1).

2. Prohibited Uses and Disclosures:

- a. Except as otherwise limited in this Addendum, the Business Associate shall not disclose protected health information to a health plan for payment or health care operations purposes if the patient has required this special restriction and has paid out of pocket in full for the health care item or service to which the protected health information relates in accordance with 42 USC 17935.
- b. The Business Associate shall not directly or indirectly receive remuneration in exchange for any protected health information, as specified by 42 USC 17935, unless the Covered Entity obtained a valid authorization, in accordance with 45 CFR 164.508 that includes a specification that protected health information can be exchanged for remuneration.

IV. OBLIGATIONS OF COVERED ENTITY

1. The Covered Entity will inform the Business Associate of any limitations in the Covered Entity's Notice of Privacy Practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect the Business Associate's use or disclosure of protected health information.
2. The Covered Entity will inform the Business Associate of any changes in, or revocation of, permission by an individual to use or disclose protected health information, to the extent that such changes may affect the Business Associate's use or disclosure of protected health information.
3. The Covered Entity will inform the Business Associate of any restriction to the use or disclosure of protected health information that the Covered Entity has agreed to in accordance with 45 CFR 164.522 and 42 USC 17935, to the extent that such restriction may affect the Business Associate's use or disclosure of protected health information.
4. Except in the event of lawful data aggregation or management and administrative activities, the Covered Entity shall not request the Business Associate to use or disclose protected health information in any manner that would not be permissible under the HIPAA Privacy and Security Rule and the HITECH Act, if done by the Covered Entity.

V. TERM AND TERMINATION

1. Effect of Termination:

- a. Except as provided in paragraph (b) of this section, upon termination of this Addendum, for any reason, the Business Associate will return or destroy all protected health information received from the Covered Entity or created, maintained, or received by the Business Associate on behalf of the Covered Entity that the Business Associate still maintains in any form and the Business Associate will retain no copies of such information.
- b. If the Business Associate determines that returning or destroying the protected health information is not feasible, the Business Associate will provide to the Covered Entity notification of the conditions that make return or destruction infeasible. Upon a mutual determination that return, or destruction of protected health information is infeasible, the Business Associate shall extend the protections of this Addendum to such protected health information and limit further uses and disclosures of such protected health information to those purposes that make return or destruction infeasible, for so long as the Business Associate maintains such protected health information.
- c. These termination provisions will apply to protected health information that is in the possession of subcontractors, agents, or employees of the Business Associate.

CETS# N/A	BA 3170
REF# C 17946	CAT: 27/14 GL 7060

2. **Term.** The Term of this Addendum shall commence as of the effective date of this Addendum herein and shall extend beyond the termination of the contract and shall terminate when all the protected health information provided by the Covered Entity to the Business Associate, or accessed, maintained, created, retained, modified, recorded, stored, or otherwise held, transmitted, used or disclosed by the Business Associate on behalf of the Covered Entity, is destroyed or returned to the Covered Entity, or, if it not feasible to return or destroy the protected health information, protections are extended to such information, in accordance with the termination.
3. **Termination for Breach of Contract.** The Business Associate agrees that the Covered Entity may immediately terminate the Contract if the Covered Entity determines that the Business Associate has violated a material part of this Addendum.

VI. MISCELLANEOUS

1. **Amendment.** The parties agree to take such action as is necessary to amend this Addendum from time to time for the Covered Entity to comply with all the requirements of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law No. 104-191 and the Health Information Technology for Economic and Clinical Health Act (HITECH) of 2009, Public Law No. 111-5.
2. **Clarification.** This Addendum references the requirements of HIPAA, the HITECH Act, the Privacy Rule and the Security Rule, as well as amendments and/or provisions that are currently in place and any that may be forthcoming.
3. **Indemnification.** Each party will indemnify and hold harmless the other party to this Addendum from and against all claims, losses, liabilities, costs and other expenses incurred as a result of, or arising directly or indirectly out of or in conjunction with:
 - a. Any misrepresentation, breach of warranty or non-fulfillment of any undertaking on the part of the party under this Addendum; and
 - b. Any claims, demands, awards, judgments, actions, and proceedings made by any person or organization arising out of or in any way connected with the party's performance under this Addendum.
4. **Interpretation.** The provisions of the Addendum shall prevail over any provisions in the Contract that may conflict or appear inconsistent with any provision in this Addendum. This Addendum and the Contract shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule. The parties agree that any ambiguity in this Addendum shall be resolved to permit the Covered Entity and the Business Associate to comply with HIPAA, the HITECH Act, the Privacy Rule and the Security Rule.
5. **Regulatory Reference.** A reference in this Addendum to a section of the HITECH Act, HIPAA, the Privacy Rule and Security Rule means the sections as in effect or as amended.
6. **Survival.** The respective rights and obligations of Business Associate under Effect of Termination of this Addendum shall survive the termination of this Addendum.

IN WITNESS WHEREOF, the Business Associate and the Covered Entity have agreed to the terms of the above written agreement.

Compliance with this section is acknowledged by signing the contract signature page of this packet.