



EXECUTIVE SUMMARY

Recommendation that the Broward College District Board of Trustees authorize the non-standard agreement with Advanced Health Strategies LLC (ITN-2024-012-OA – BEHAVIORAL HEALTH SERVICES) to provide telehealth mental health services to students. Fiscal Impact: Estimated \$643,500.00 spend over three years

Presenter(s): Jamonica Rolle, Vice Provost, Academic Affairs

What is the purpose of this contract and why is it needed? The purpose of this contract is to provide telehealth mental health services to students. This service is needed because many of our students are facing mental health obstacles that are impacting their academic performance (Student Climate Survey 2024 and 2020). In response to what the students would like to see from the College in terms of useful mental health supports, students reported they wanted the College to offer mental health telehealth in addition to face-to-face (Mental Health Assessment, 2023). Our students have reported high levels of anxiety, stress, and feeling very overwhelmed by their courses and juggling their college and personal lives (CCCSE and 2023 Mental health Assessment). Reports from Henderson Behavioral Services (current students' mental health counseling provider for the college) state that the top three issues facing our students are anxiety, depression and self-esteem/personal growth.

Advanced Health Strategies LLC was determined to be the most qualified, responsible, and responsive respondent. The decision to recommend award to Advanced Health Strategies LLC was based on several key factors such as seamless student onboarding process, technologically advanced and student-friendly appointment system, availability of care late evenings and weekends, 24/7/365 in-the-moment calls for students in crisis, healthcare liaisons to advise students, psychiatric services included in the price, quick response time, and out-of-state services availability.

Additionally, the final price was in line with the College's budget for this service, estimated at \$214,500 per year, for an estimated contract cost of \$643,500 for the initial contract term of three years.

What procurement process or bid waiver was used and why? The procurement process selected was a formal competitive solicitation, Invitation to Negotiate ITN-2024-012-OA - BEHAVIORAL HEALTH SERVICES. This process was selected per FLDOE Rule 6A-14.0734 and College Procedure A6Hx2-6.34.

This contract is to replace ITN-2020-001-OA - BEHAVIORAL HEALTH SERVICES with Henderson Behavioral Health. This contract is for telehealth services. Onsite services will be provided by in house staff starting on 10/01/2024.

Is this a budgeted expenditure from the budget established at the last June Board of Trustees meeting?
Yes.

What fund, cost center and line item(s) were used? CC0267 BU301 FD201 PG000423.

Has Broward College used this vendor before for these products or services? The College has used this vendor before (MT 10536) but not for this product or services.

Was the product or service acceptable in the past? The College has not used these services in the past. The other services provided by the vendor were acceptable.

Was there a return on investment anticipated when entering this contract? The College has not used these services in the past, but we expect the anticipated service has a return on investment.

Was that return on investment not met, met, or exceeded and how? The College has not used these services in the past. But different services provided by this vendor were met, and we anticipate this new service to meet return on investment.

Does this directly or indirectly feed one of the Social Enterprise tactics and how? Yes, Provide Best-in-class Student Experience under the Empower Student Development Tactic.

Did the vendor amend Broward College’s legal terms and conditions [to be answered by the Legal Office] if the College’s standard contract was used and was this acceptable to the Legal Office?

The General Counsel's office has reviewed the agreement and any deviation to the College's standard terms has been deemed acceptable.

FISCAL IMPACT:

Description: The three-year fiscal impact is \$643,500.00. Cost Center: CC0267 BU301 FD201 PG000423

09/24/24	CC0352 · Student Services	(\$643,500.00)
	CC0267 BU301 FD201 PG000423	

David Kenton
 David Kenton _____ 8/21/2024

APPROVAL PATH: 12447 Advanced Health Strategies LLC - ITN-2024-012-OA – Behavioral Health Services

Workflow Synchronize Routing Edit View Add Work Item

Stage	Reviewer	Description	Due Date	Status
1	Esmeralda Sweeney	AVP Review		Completed
2	Janice Stubbs	VP Review		Completed
3	Natalia Triana-Aristizabal	Contracts Coordinator		Completed
4	Zaida Riollano	Procurement Approval		Completed
5	Rabia Azhar	CFO Review		Completed
5	Christine Sims	Budget Departmental Review		Completed
5	Legal Services Review Group	Review and Approval for Form and		Completed
6	Board Clerk	Agenda Preparation		Pending
7	District Board of Trustees	Meeting	10/08/24 11:00 AM	Pending
8	Electronic Signature(s)	Signatures obtained via DocuSig		Pending
9	Natalia Triana-Aristizabal	Contracts Coordinator		Pending



Advanced Health Strategies

REAL DOCTORS, REAL TIME

Master Services Agreement
Contract for Services
For
The District Board of Trustees of Broward College, Florida

This Master Services Agreement Contract for Services (“Agreement / Contract”) is between:

Company / Vendor: Advanced Health Strategies, LLC (“AHS”),
a Limited Liability Company located in the State of Arizona
Tax ID No. 84-4245584
whose address is:
2415 E. Camelback Road, Suite 700
Phoenix, AZ 85016

AND

Customer/ College: The District Board of Trustees of Broward College, Florida
A Public College Institution located in the State of Florida
whose address is:
111 East Las Olas Blvd.
Fort Lauderdale, FL 33301

For Advanced Health Strategies agreed upon My College Doctor Telecounseling Services.

Advanced Health Strategies, LLC and Broward College are sometimes hereinafter individually referred to as a “Party” and collectively referred to as the “Parties.”

The Parties have entered into the following agreement whereas AHS is pleased to provide Broward College with Behavioral Health Telecounseling Services, pursuant to the terms and conditions of this agreement, through its My College Doctor product services.

The Customer has selected the following My College Doctor product services and mutually agree to the following:

Behavioral Health Telecounseling:

100% virtual My College Doctor Telecounseling to provide 1,500 Counseling Sessions per year.

Behavioral Health Telecounseling includes Teletherapy, Telepsychology, and Telepsychiatry sessions.

The Telepsychiatry sessions will be capped at up to 100 sessions per year. The up to 100 Telepsychiatry sessions are included within the 1,500 Telecounseling sessions.

Teletherapy sessions are virtual therapy sessions with a licensed counselor or therapist.

Telepsychology sessions are virtual therapy sessions with a licensed Psychologist.

Telepsychiatry sessions are virtual therapy sessions with a licensed Psychiatrist.

All sessions are 50 minutes long and available via phone or video.

In The Moment Care:

24/7/365 phone access to a credentialed clinician for a student member in crisis.

In the Moment Care to include up to 100 calls at a cost of \$3,000.00 per month.

Healthcare Liaison

My College Doctor's Healthcare Liaison service serves as the student member's advisor and assistant to help student members schedule appointments, connect with physicians to transfer prescriptions to lower price options and to advocate on the member's behalf, ultimately pinpointing how members can save on medical and pharmacy expenses. This service is provided at no additional cost.

The Parties agree to these following terms as outlined below and specified in the Terms of Service Agreement:

1. The agreed upon start and end dates for Services to begin for Customer's student members shall be:

Start "Effective" Date: November 1, 2024 End "Termination" Date: October 31, 2027

Customer agrees to an initial contract term of three years. The contract may be renewed, by mutual agreement between the parties, upon final College approval, for three (3) additional one-year periods, or as agreed to in resulting contract, and if needed, extended for 180 days beyond the expiration date of the final renewal period. Current contract pricing is not guaranteed after the initial three-year contract term. Thereafter this contract shall renew on a year-to-year basis and can be cancelled with a 60-day written notice by Customer to AHS.

Customer Initials _____

2. The agreed upon pricing is stated in the Pricing Addendum incorporated into this Masters Services Agreement. The cost covers the agreed upon services of Behavioral Health Telecounseling, In the Moment Care and our included Healthcare Liaison.

Customer Initials _____

3. Customer has read, understands and agrees to the Terms and Conditions of use as outlined below in the Terms and Conditions of Use included within this Agreement.

Customer Initials _____

4. Upon execution of this Services Agreement AHS will contact Customer to obtain member information for activation of each member to agree upon telehealth services. Member information will include member's name, date of birth, address, email, and phone number. AHS will assist Customer in setting up a CSV File of active members. Customer is responsible for providing to AHS all changes and updates of its members information as well as additions or deletions of members from the CSV File list as necessary.

Customer Initials _____

5. Customer agrees that electronic and digitized copies of signed versions of this Agreement and other associated documents including Attachments, Service Agreements and Amendments shall legally bind the Parties to the same extent as original documents.

Customer Initials _____

6. All billings will be done monthly, billed in arrears, unless otherwise agreed upon by the parties.

Customer Initials _____

Upon submission and activation of member information, AHS will send to each member's email the registration instructions for members to set up their own personal Telehealth account with My College Doctor. Members will have access to their Telecounseling services online through their computer, through the My College Doctor phone app, or by calling directly.

The Membership Email Instructions will include:

- Welcome Email from Customer Care to each member's provided email

- Summary of member benefits and services to My College Doctor

- Activation Instructions

- Phone App Information

- Electronic Membership Cards

- Member Awareness Digital Videos

- 24/7 Customer Help Line

- Periodical Member Awareness email updates throughout the year

AHS will provide continual Telecounseling services, as outlined above and/or below in the Terms of Conditions of Use, mutually agreed upon by both Parties until notified otherwise by Customer.

IN WITNESS WHEREOF, the Parties have executed this Agreement, through their duly authorized representatives, effective as of the Effective Date above.

ADVANCED HEALTH STRATEGIES, LLC
Company

2415 E. Camelback Rd., Suite 700
Phoenix, AZ 85016
602-568-8550

X _____
Larry L. Sheffield, President and Principal

Date

The District Board of Trustees of Broward College, Florida
College Customer Name

111 East Las Olas Blvd.
Fort Lauderdale, FL 33301

X _____
College's Authorized Signature

Date

Printed Name: _____ Title: _____

Email: _____ Phone Number: _____

College Administration's Contact and Billing Contact Information for Member Set-Up and
Coordination, if different from above:

Name: _____ College Position: _____

Email: _____ Phone Number: _____

Name: _____ College Position: _____

Email: _____ Phone Number: _____

Pricing Addendum Between Advanced Health Strategies, LLC And Broward College

Below is a pricing table that includes Sessions covering Therapy, Psychiatry and Psychology options

Service	Year 1	Year 2	Year 3
Counseling Sessions	1,500	1,500	1,500
Price (\$ per Session)	\$119.00	\$119.00	\$119.00
Subtotal	\$178,500.00	\$178,500.00	\$178,500.00
In the Moment (up to 100 Calls)	\$3,000 per month	\$3,000 per month	\$3,000 per month
Telepsychiatry (100 Sessions)	included in pricing	included in pricing	included in pricing

Pricing for Counseling Sessions	
	Per Year
Number of Sessions Includes Therapy, Psychiatry and Psychology	1,500
Rate per Session	\$119
Total	\$178,500

Broward College may purchase additional sessions, if there is an increase in demand. Additional Session pricing includes Therapy, Psychiatry and Psychology and may be purchased in the following pricing blocks. Any unused sessions will not roll over into the next contracted year.

Pricing Per Sessions Packages	
Session Credits	Rate per Session
250	\$275
500	\$225
750	\$200
1000-1499	\$175

Terms and Conditions of Use

1. DEFINED TERMS

- A. Affiliate – means, with respect to either Party, any person, firm, corporation, partnership (including, without limitation, any general partnership, limited partnership, or limited liability partnership), limited liability company, or other entity that, at any given time, directly or indirectly Controls, is Controlled by, or is under common Control with such Party.
- B. Business Day – means any day other than any Saturday, Sunday, or U.S. federal holiday.
- C. Confidential Information – means any non-public information disclosed by either Party (“Discloser”) to the other Party (“Recipient”) in connection with this Agreement, whether orally or in writing, that is designated as “confidential” or “proprietary” or that reasonably should be understood to be confidential or proprietary, given the nature of the information and the circumstances of disclosure. Advanced Health Strategies’ Confidential Information includes, but is not limited to, the Programs, the Advanced Health Strategies Technologies, and the Intellectual Property Rights in and to the Programs and Advanced Health Strategies Technologies. Customer’s Confidential Information includes the Customer Data, the Patient Information, and the Intellectual Property Rights in and to the Customer Data and the Patient Information. Each Party’s Confidential Information also includes: (i) the terms of this Agreement and any Services Agreements and any similar agreements between the Parties; and (ii) any non-public business, technical, financial, personal, or other information of or pertaining to such Party or concerning or relating to such Party’s products, services, business processes, plans, software (in both object code and source code form), inventions, algorithms, trade secrets, know-how, techniques, specifications, drawings, designs, customers, suppliers, personnel, staff, research and development plans, business forecasts and strategies, and the like.
- D. Control – means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any given person or entity, whether through ownership of voting securities (including, but not limited to, the direct or indirect ownership, at any given time, of fifty percent (50%) or more of the outstanding securities that have voting rights, or partnership or limited liability company interests, in the applicable entity), by contract, or otherwise.
- E. Customer Data – means any information, content, and data that are provided, uploaded, or input by or on behalf of Customer or its Affiliates to Advanced Health Strategies or any Programs or Services, including, but not limited to, any Patient Information, Client information, any reports, queries, and data extracts generated by Customer,
- F. Any templates or scripts created by Customer or its Affiliates, any other original content created by Customer or its Affiliates.
- G. Derivative Work – means any work that is based upon one or more pre-existing works (such as, for example, with respect to a software program as the pre-existing work, an upgrade, update, patch release, point release, revision, enhancement, modification, translation, abridgement, condensation, expansion, addition, extension, interface, new platform, or similar type of improvement of such pre-existing work, or any other form in which such pre-existing work is recast, transformed, or adapted) and which, if created or prepared without authorization of the owner of any copyright in any such pre-existing work, would constitute a copyright infringement of such pre-existing work.
- H. Enhancements – means any changes, additions, applications, or functionalities of any given Program that are not then generally provided by Advanced Health Strategies to its entire customer base and that are requested by Customer and created by Advanced Health Strategies.
- I. Intellectual Property Rights – means any of the following rights arising or existing under the laws of any country in the world that recognizes such rights: (i) rights associated with works of authorship, including copyrights, moral rights, and rights to mask-works; (ii) trademarks, service marks, trade names, trade dress, symbols, logos, designs, and other source identifiers; (iii) trade secrets; (iv) patents, design patents, rights to patented business processes, and other industrial property rights; (v) any other intellectual and industrial property rights of any kind or nature, however designated, whether arising by operation of law, contract, license or otherwise; and (vi) rights to any registrations, initial applications, renewals, extensions, continuations, divisions, or reissues, now or hereafter, of or for any of the foregoing rights.
- J. Maintenance Modifications – means any modifications or revisions, other than Enhancements, that correct errors in, or provide other incidental updates and corrections to, any Programs.
- K. Patient Information – means any data, information, results, reports, or other materials, of any kind or form, that are related to any of Customer’s or its Affiliates’ individual patients.
- L. Program or Programs – means any one or more of the software services provided or made available by Advanced Health Strategies and that are identified or described in a Services Agreement, including, but not necessarily limited to, the following, as applicable: (i) Advanced Health Strategies’ proprietary, HIPAA-Secure, encrypted software platform (the “Secure Platform”) and (ii) Advanced Health Strategies’ discount benefit services, and (iii) any Updates, Upgrades, new releases, Maintenance Modifications, or Enhancements to any of the foregoing or any portion thereof.
- M. Advanced Health Strategies Technologies – means: (i) any Programs and Services provided or made available by Advanced Health Strategies; (ii) any processes, methods, machines, manufactures, technology, software, other technologies, and other materials used by Advanced Health Strategies, or provided by Advanced Health Strategies to Customer, pursuant to this Agreement; (iii) all improvements, modifications, Enhancements, Updates, and Upgrades to any of the foregoing; and (iv) any other intellectual property developed, invented, patented, licensed, or registered by Advanced Health Strategies or its Affiliates prior to or during the Term (as defined in Section (5)(a) of this Agreement. For the avoidance of doubt, Advanced Health Strategies Technologies expressly exclude any of Customer’s Customer Data, Patient Information, and any Confidential Information.
- N. Services – means any services, other than Programs, provided (or to be provided) by Advanced Health Strategies to Customer pursuant to any Services Agreement.
- O. Services Agreement – means any written document that references this Agreement, defines or describes purchases of Services or rights to Programs by Customer from Advanced Health Strategies and/or the collection of fees or other administration for the Services or Programs, and is signed by an authorized representative of each Party.

- P. Upgrade – means a release of a version of any given Program that contains major changes in which important new features have been added to the Program (in comparison with the immediately preceding release of the Program). Any given Upgrade is represented by the digits to the left of the decimal point in the version number of the release of the Program (e.g., version 4.x of a Program represents an Upgrade to version 3.x of the Program).
- Q. Update – means a release of a version of any given Program that contains improvements and adjustments to the Program, but not major changes or important new features. Any given Update is represented by the digits to the right of the decimal point in the version number of the release of the Program (e.g., version 3.1 of a Program represents any Update to version 3.0 of the Program).

2. GENERAL

- A. This Agreement sets forth the terms and conditions under which Customer may purchase, and Advanced Health Strategies shall deliver or provide to Customer, Programs and Services, as specified and described in any Statement of Work. This Agreement will serve as the master agreement and will apply to any Services Agreement executed hereunder. Each Services Agreement is hereby incorporated herein by reference and will become part of this Agreement when executed by Advanced Health Strategies and Customer. Each Services Agreement shall include a description of the Programs and Services ordered by Customer and to be provided by the Company, and the associated fees and pricing terms. This Agreement and any Services Agreement may only be amended or modified by a written document signed by authorized representatives of both Advanced Health Strategies and Customer.
- B. In the event of a conflict between the provisions contained in this Agreement and those contained in any Services Agreement, the provisions contained in this Agreement will prevail and govern, except for any term of this Agreement that is specifically identified and modified in such Services Agreement (in which event such term shall only be modified with respect to such Services Agreement). This Agreement will continue to govern any Programs or Services to be provided by the Company under any Services Agreement, regardless of any name change to any Program or any changes in the functionality and operability of any Program.
- C. Under this Agreement, the Company shall provide Customer and its Affiliates with access via the Internet to the Programs specified or described in any Services Agreement, as further described below, through a URL provided by Advanced Health Strategies to Customer. Customer and its Affiliates may allow their respective employees and third-party consultants and contractors to access the Programs solely in compliance with the terms of this Agreement, which access must be for the benefit of Customer and its Affiliates. Customer is responsible for the compliance of its Affiliates, and of Customer's and its Affiliates' employees and third-party consultants and contractors, with the terms of this Agreement, Advanced Health Strategies' Privacy Policy, and in accordance with applicable law.
- D. The Parties agree that it is not the intent of the Parties that Customer create any Derivative Works of the Programs. Except as otherwise agreed by the Parties, Advanced Health Strategies will exclusively own the Programs and any Derivative Works of the Programs, and any Intellectual Property Rights thereto, regardless of whether developed by Advanced Health Strategies, by Customer, or by Advanced Health Strategies on behalf Customer, whether by Advanced Health Strategies alone or by Customer with Advanced Health Strategies' input, including any Enhancements or modifications to the Programs, and any conversions or compilations of the Programs; provided however, that nothing contained herein shall prohibit Customer from developing and continuing to use, throughout the Term and thereafter, templates and original Customer content solely for Customer's internal use. Customer agrees to assign (and upon creation of any Derivative Works of any Program, Customer automatically assigns) to Advanced Health Strategies and its successors and assigns, any Intellectual Property Rights to any Derivative Work of any Program that for any reason vest in Customer.
- E. Notwithstanding anything contained herein to the contrary, nothing herein shall prohibit Advanced Health Strategies from using aggregated, de-identified data (i.e., data that do not identify any individual, Customer, any of Customer's Affiliates, or any of Customer's or its Affiliates' facilities or locations) in a manner consistent with HIPAA and other applicable laws and regulations to develop new products and services for Advanced Health Strategies or third-parties, perform data mining on such aggregated, de-identified data and sell the results of its analyses as to general market trends to third-party providers and research analysts. Upon any termination or expiration of this Agreement or any applicable Services Agreement, and upon Customer's request from time to time, Advanced Health Strategies shall promptly provide or make available to Customer, at no additional cost or charge and in comma separated value (.csv) or ASCII format, a complete and accurate copy of all Customer Data then in Advanced Health Strategies' possession or control.
- F. The terms and conditions of this Agreement shall apply to the version of any Program that is initially delivered or provided to Customer hereunder, as well as to any Upgrades or Updates to any Program that are subsequently delivered or provided to Customer. Customer must destroy all previous copies of any Program (if any) that are in Customer's possession or control, however duplicated or archived, within six (6) months after implementation of an Upgrade or Update to such Program.
- G. Notwithstanding anything herein to the contrary, Advanced Health Strategies may from time to time, in its sole discretion, provide Enhancements that are requested by Customer to Programs. Any such Enhancement shall be described in a Services Agreement and, unless otherwise provided in such Services Agreement, shall be created at Advanced Health Strategies' then-current programming rates. Unless otherwise provided in the applicable Services Agreement, any such Enhancements shall be owned in their entirety by Advanced Health Strategies, and Customer shall have the same rights to such Enhancements as Customer has to the Programs hereunder.
- H. Audit. The Vendor shall maintain all records, books and documents pertinent to the performance of this Contract in accordance with generally accepted accounting principles consistently applied. The College shall have inspection and audit rights to such records for a period of 3 years from final payment under this Contract. Records relating to any legal disputes arising from performance under this Contract shall be made available until final disposition of the legal dispute. If the audit reveals that Vendor owes the College any funds, Vendor shall pay for the audit and return all funds to the College immediately.

- I. Nondiscrimination. The Vendor hereby assures that no person shall be excluded on the grounds of race, color, religion, national origin, disability, age gender, marital status, sexual orientation or any other basis prohibited by law from participation in, denied the benefits of, or otherwise be subjected to discrimination in any activity hereunder. The Vendor shall take all measures necessary to effectuate these assurances.
- J.

3. RIGHTS AND RESTRICTIONS

- A. The Parties intend that Company provide Services and Customer access the functionality of the Programs, solely through an online subscription service; provided however, that to the extent that any Services Agreement is deemed to be a software license, Advanced Health Strategies grants to Customer a limited, revocable (only in connection with any termination or expiration of this MSA or the applicable Services Agreement that is consistent with the terms of this MSA and such Services Agreement), non-exclusive, non-transferable (except pursuant to an assignment expressly permitted by this MSA) license and right (with no right to sub-license) for Customer and its Affiliates to, during the Term, access, execute, use, perform and display the Programs identified or described in any Services Agreements (and utilize any user guides and other Program documentation for such Programs, and any other Advanced Health Strategies Technologies provided or made available to Customer by Advanced Health Strategies), as reasonably necessary to use and operate the Programs for Customer's and its Affiliates' business operations, consistently with the other terms of this MSA and the applicable Services Agreement. Customer and its Affiliates shall not be permitted to use the Programs for any other purpose except as provided in the immediately preceding sentence without Advanced Health Strategies' prior written consent. Except as expressly provided in this Agreement or any Services Agreement, no license, expressed or implied, is granted to Customer or any of its Affiliates for the Programs or any Intellectual Property Right of Advanced Health Strategies or any of its Affiliates. All of Advanced Health Strategies' Confidential Information, technical information, specifications, records, documentation, and data that are furnished by Advanced Health Strategies to Customer hereunder shall remain the sole and exclusive property of Advanced Health Strategies.
- B. Customer and its Affiliates shall not, and shall not attempt to, use the Programs to do any of the following:
 - a. Copy, display, distribute, or otherwise use the Programs in any manner, or for any purpose, not expressly authorized by this Agreement;
 - b. Create Derivative Works of, or otherwise modify, the Programs;
 - c. Reverse engineer, decompile, or disassemble the Programs;
 - d. Disclose results of any benchmarking tests of the Programs without Advanced Health Strategies' prior consent;
 - e. Probe, scan, or test the vulnerability of the Programs or Advanced Health Strategies' network;
 - f. Breach or otherwise circumvent any security or authentication measures in the Programs or Advanced Health Strategies' network;
 - g. Access, tamper with, or use any Programs, or any of Advanced Health Strategies' computer systems, to which Customer is not granted rights under this Agreement;
 - h. Knowingly or intentionally interfere with or disrupt any other user of the Programs or any hosted system or network of Advanced Health Strategies', for example, by knowingly or intentionally sending a virus, flooding, spamming, or mail-bombing any part of the Programs;
 - i. Knowingly or intentionally insert malware into the Programs or otherwise use the Programs to distribute malware;
 - j. Access or search the Programs by any means other than the interfaces supported by Advanced Health Strategies (for example, by "scraping" information off screen displays generated by the Programs);
 - k. Send unsolicited communications, promotions, advertisements, or spam to third parties through the Programs;
 - l. Send altered, deceptive or false source-identifying information to third parties through the Programs, including by "spoofing" or "phishing";
 - m. Provide access to the Programs, or otherwise make the Programs available, to any third party other than as permitted by this Agreement, without the prior written consent of Advanced Health Strategies; or
 - n. Use the Programs to violate any applicable law in any way, or to violate the privacy of others.
- C. Except as expressly granted to Customer in this Agreement, Customer and its Affiliates shall not obtain any right, title, or other interest in the Advanced Health Strategies Technologies by virtue of this Agreement or through use of the Programs. Upon termination of this Agreement, all license rights conveyed by the Company to Customer under this Agreement shall be revoked, and all such rights shall revert to Advanced Health Strategies. To the extent that Customer contributes, in whole or in part, to any improvement or modification to the Advanced Health Strategies Technologies, Customer hereby assigns to Advanced Health Strategies all right, title, and interest in and to such improvement or modification. Further, Customer agrees that: (a) it will not seek, and that it will not permit its employees, agents, and representatives (including third-party contractors) to seek, patent, copyright, trademark, registered design, or other protection for any rights in and to any such improvements or modifications to the Advanced Health Strategies; and (b) it will, and it will require its employees, agents, and representatives (including third party contractors) to, at Advanced Health Strategies' expense, reasonably cooperate, and execute all documents as Advanced Health Strategies may reasonably require, to vest in Advanced Health Strategies or its nominees any protection for any such improvements or modifications to the Advanced Health Strategies that Advanced Health Strategies deems appropriate.
- D. Subject to the restrictions set forth in this Agreement or in any Services Agreement, Customer and its Affiliates may allow their third-party contractors and agents that are subject to a written agreement with Customer or any of its Affiliates to use the Programs for the benefit of Customer and its Affiliates. Customer shall be responsible, in accordance with applicable law, for any failure of its Affiliates or such third-party contractors and agents to comply with the terms of this Agreement and any Services Agreement. Customer's Affiliates shall be subject to the same restrictions, and shall have the same rights, regarding use of the Programs as apply to Customer under this Agreement.
- E. **INDEMNIFICATION FOR INFRINGEMENT OF ANY INTELLECTUAL PROPERTY CLAIMS.** For value received, the Vendor shall indemnify and hold the College, its officers, directors, board of trustees, agents, assigns, and employees harmless from liabilities, damages, losses and

costs, including, but not limited to reasonable attorneys' fees for any claim or lawsuit brought alleging infringement of any intellectual property right associated with Vendor's performance under this Contract, including its use, development or provision of any software, books, articles or any other materials ("Materials"). Vendor warrants that the materials are owned by or licensed to the Vendor. Vendor is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this Contract. This paragraph shall survive the expiration or termination of this Contract.

4. USE OF SERVICES

- A. Customer: (i) is solely responsible for the accuracy of all Customer Data as provided by Customer to Advanced Health Strategies; (ii) will use commercially reasonable efforts to prevent unauthorized access to the Programs and Customer Data, and will notify Advanced Health Strategies promptly of any such unauthorized access; and (iii) may use the Programs only in accordance with this Agreement and the applicable Services Agreement, the Program documentation, and applicable law.
- B. Customer shall: (i) designate a Customer administrator who will be responsible for identifying and sharing with the Company the names of the individuals who will be authorized to access and use the Programs so Advanced Health Strategies can establish individual user accounts and log-in credentials for each authorized user; (ii) require authorized users to maintain the confidentiality of their account password and shall not allow authorized users to share their account password with other authorized users, other members of the Customer workforce, or any other individual; (iii) require authorized users to utilize the Programs and access any Customer Data through secure web portals; (iv) be solely responsible for ensuring that all services provided to Customer's current and future patients through the Programs are performed by qualified, licensed health care professionals operating within the scope of their professional license and through use of their uniquely assigned user account and password; (v) employ the security measures necessary to prevent unauthorized users from accessing any keys, user ID(s), password(s), and PINs used to access the Programs; and (vi) be responsible for all activities that occur under or in connection with the user accounts set up for Customer's use of the Advanced Health Strategies Solution to provide Licensed Services.
- C. Customer may not: (i) use the Programs to knowingly or intentionally store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to knowingly or intentionally store or transmit material in violation of third-party rights (including without limitation privacy rights); (ii) knowingly or intentionally interfere with, or disrupt the integrity or performance of, the Programs, except to the extent any of the foregoing result from Customer's use of the Programs in accordance with this Agreement; or (iii) attempt to gain unauthorized access to the Programs or their related systems or networks.
- D. Throughout the Term, the Company will provide Customer with support for the Programs in accordance with the terms set forth in Section (8).
- E. Throughout the Term, the Company shall: (a) in addition to its obligations under Section 11, maintain the security and integrity of the Programs, Services, and Customer Data, and promptly notify Customer of any breach of security, or any other unauthorized access or use, of any of the foregoing; (b) provide telephone and online support to Customer, 24 hours a day, 7 days each week, as further described in Section 9; (c) make the Programs available to Customer as provided in Section 8; (d) maintain and comply with a reasonable and appropriate disaster recovery plan regarding the data center or facility from which the Programs and Services are provided (the "Data Center"); (e) backup the Customer Data and any other relevant data used in the provision of the Programs and Services on a regularly scheduled basis, storing copies of backups at a secure, remote facility; (f) provide such hardware, software, equipment, infrastructure, and other resources and technology at the Data Center, and such appropriate network bandwidth connecting the Data Center to the Internet, as is reasonably required to provide the Programs and Services in accordance with the terms of this Agreement; and (g) comply with all state and federal laws and regulations that apply to the Company with respect to the provision of the Programs and Services.

5. TERM AND TERMINATION

TERMINATION FOR DEFAULT. A "material breach" of this Contract is defined as any substantial, unexcused non-performance by failing to perform an act that is an important part of the transaction or performing an act inconsistent with the terms and conditions of the Contract. If the Vendor materially fails to fulfill its obligations under this Contract, the College will provide written notice of the deficiency by forwarding a Cure Notice citing the specific nature of the material breach. The Vendor shall have thirty (30) days to cure the breach. If the Vendor fails to cure the breach within the thirty (30) day period, the College may immediately terminate this Contract, in addition to exercising whatever legal and/or equitable remedies it chooses regarding Vendor's breach of contract.

TERMINATION FOR CONVENIENCE. The College may terminate this Contract with or without cause at any time for convenience upon sixty (60) calendar days' prior written notice to the Vendor. In the event of termination for convenience, the College shall compensate the Vendor for all authorized and accepted deliverables and/or services completed through the date of termination in accordance with the Statement of Work, which is attached hereto and incorporated herein as Exhibit "A." The College shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under this Contract. The College may withhold all payments to the Vendor for such work until such time as the College determines the exact amount due to the Vendor.

- A. The term of this Agreement shall begin on the Effective Date and shall continue until there are no Services Agreements in force and effect hereunder that have not expired or been terminated in accordance with this Agreement or the applicable Services Agreement (the entire period of time that this Agreement is in force and effect, the "Term").
- B. Each Services Agreement shall state the initial term for which it shall remain in force and effect (the "Initial Services Agreement Term"). Each Services Agreement shall automatically renew for successive periods of one (1) year each (each, a "Renewal Services Agreement Term") upon expiration of the Initial Services Agreement Term or any Renewal Services Agreement Term, unless (1) otherwise stated in the applicable Services Agreement, or (2) written notice of non-renewal is provided by Customer and received by the Company no later than sixty (60) days prior to the then-scheduled Services Agreement expiration date.

- C. In addition to any termination rights provided elsewhere in this Agreement, and without limiting its other rights and remedies, either Party may terminate this Agreement and all Services Agreements then in force and effect hereunder, immediately upon providing written notice thereof to the other Party, if:
- i. The other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving written notice reasonably describing the breach from the non-breaching Party (except that the cure period shall be only fifteen calendar days with respect to any material breach involving failure by the other Party to pay amounts due and payable under the terms of this Agreement and not disputed in good faith by the other Party);
 - ii. The other Party: (A) voluntarily commences any proceeding or files any petition seeking relief under Title 11 of the United States Code or any other federal, state, or foreign bankruptcy, insolvency, liquidation, or similar law; (B) becomes subject to any involuntary proceeding or petition seeking relief under Title 11 of the United States Code or any other federal, state, or foreign bankruptcy, insolvency, liquidation, or similar law, which proceeding or petition is not stayed or dismissed within ninety (90) days after commencement or filing; (C) applies for, or consents to, the appointment of a receiver, trustee, custodian, sequestrator, or similar official for such Party or for a substantial part of its property or assets; (D) makes a general assignment for the benefit of creditors; (E) takes corporate action for the purpose of effecting any of the foregoing; or (F) liquidates, winds up, or ceases its business operations, for any reason.
 - iii. Any change to, or enactment of, any applicable law or regulations, or published change in the interpretation thereof by any regulatory authority, would have a material adverse effect upon (A) such Party's ability to comply with applicable laws and regulations in continued performance under this Agreement, or (B) such Party's ability to perform its obligations under this Agreement, provided that, in any such case, the Parties, after good faith discussions, fail to mutually agree in writing upon a reasonable solution to the issue within a reasonable amount of time; or
 - iv. Any regulatory agency having authority over such Party directs such Party to cease or significantly limit performance of such Party under this Agreement
- D. Effects of Termination. Upon termination or expiration of this Agreement for any reason:
- i. Upon termination or expiration of this Agreement for any reason, each Party shall immediately pay the other Party for all outstanding amounts owed during the Term.
 - ii. Customer shall immediately cease using any Programs, and Advanced Health Strategies shall cease providing technical support and other Services to Customer;
 - iii. Each Party shall promptly destroy or return all Confidential Information and property of the other Party (including, but not limited to, with respect to Advanced Health Strategies' property, any copies of any Program and any Program documentation) then in such Party's possession or control, and confirm in writing its compliance with this destruction or return requirement upon request of the other Party;
 - iv. In the event of any termination or expiration of any Services Agreement, the Parties will promptly confer and develop a written transition plan, which shall include a de-installation plan that addresses conversion of the Customer Data off the Secure Platform. In addition, if Customer requests in writing that Advanced Health Strategies continue to provide or make the Programs and Services available to Customer under any Services Agreement beyond what would otherwise constitute the end of such Services Agreement, then Advanced Health Strategies shall continue to provide such Programs and Services to Customer on a month-to-month basis, for as long as requested by Customer, on the terms and conditions of this Agreement and the applicable Services Agreement, and during the period that the Company is providing access to the Programs and related Services (including, but not necessarily limited to, software support and maintenance), Customer shall continue to pay the applicable fees then applicable under such Services Agreement, on the terms of this Agreement, unless otherwise amended in writing by the Parties. Any assistance that Customer requests that is outside of the scope of the Programs and Services that the Company is to provide under the applicable Services Agreement shall be performed by Advanced Health Strategies as part of the conversion, at the Company's then-current standard rates, unless otherwise stated in the applicable Services Agreement or otherwise mutually agreed upon by the Parties in writing. Further, unless otherwise mutually agreed by the Parties in writing, upon any expiration or termination of any Services Agreement, Advanced Health Strategies shall within no more than five (5) Business Days provide a complete and accurate copy of all Customer Data then in Advanced Health Strategies' possession or control to Customer in the following format: comma separated value(.csv) or ASCII format. After sixty (60) days have expired after Advanced Health Strategies provides such copy of Customer Data to Customer, Advanced Health Strategies shall have no obligation to maintain any of the Customer Data for any reason whatsoever, and Advanced Health Strategies shall promptly and securely destroy all copies of Customer Data in Advanced Health Strategies' possession or control.
 - v. The Parties' rights to terminate this Agreement shall be in addition to, and not in lieu of, any other available rights and remedies. Furthermore, the termination or expiration of this Agreement shall not: (A) relieve either Party of any obligations that have accrued as of or before the time of such termination or expiration; or (B) prejudice any claim of either Party.

6. REPRESENTATIONS AND WARRANTIES; DISCLAIMER OF WARRANTIES

- A. Authority. Each Party represents, warrants, and covenants to the other that:
- i. It is duly formed, validly existing, and in good standing under the laws of the state indicated with respect to such Party in the preamble of this Agreement;
 - ii. The individual who signs this Agreement or any Services Agreement governed by the Agreement on behalf of such Party has the authority to enter into this Agreement or such Services Agreement on behalf of such Party;

- iii. It is duly qualified and properly licensed to do business in or with respect to: (i) each jurisdiction in which the conduct of its business in connection with this Agreement requires it to so qualify or be licensed, and (ii) with each regulatory authority having jurisdiction over it or its business operations in connection with this Agreement;
 - iv. It has and shall maintain all necessary licenses, permits, approvals, and registrations from all governmental or regulatory authorities which are required for it to perform and fulfill its obligations under this Agreement and any Services Agreement;
 - v. The execution and delivery of this Agreement by such Party, and the performance of its obligations under this Agreement: (i) require no consent, approval, order, or authorization of, or registration, declaration, or filing with, or other action by, any governmental agency or authority, except for such consents, approvals, orders, authorizations, registrations, declarations or filings which such Party has, as of the Effective Date, made or obtained; and (ii) shall not breach or violate any other agreement, judgment, order, or decree to which it is a party or by which it is bound; and
 - vi. As of the Effective Date of this Agreement, there are no pending or, to the knowledge of such Party, threatened claims, litigation, arbitrated matter, or other dispute against or involving such Party that, if decided unfavorably to such Party, would adversely impact such Party's ability to fulfill its obligations under this Agreement, and such Party knows of no basis that might give rise to any such claims, litigation, arbitration, or other dispute in the foreseeable future.
- B. Conformance to Specifications; Functionality. the Company represents, warrants, and covenants that:
- i. The Programs shall at all times perform in conformance in all material respects with the technical and functional specifications set forth in the Program documentation;
 - ii. The Program documentation (including, but not necessarily limited to, any user guide for any Program) shall be complete and shall accurately describe the applicable Program, its features and functionality, and the use thereof, so as to enable a reasonable individual to understand and utilize all aspects of the Program for the purposes for which they were intended and provided, and so as to allow Customer to fully utilize the Program as contemplated by this Agreement;
 - iii. Advanced Health Strategies shall not, at any time during the Term, materially decrease the level of technical support Services provided to Customer under this Agreement, in comparison with that previously provided to Customer under this Agreement or that generally provided by the Company to its other, similarly situated customers;
 - iv. The Services under any Services Agreement shall be performed in a timely, professional, workman- like manner by appropriately qualified, skilled, and experienced personnel, in conformance with generally accepted industry standards and practices, and in compliance with all applicable laws, rules, regulations, and ordinances; and
 - v. The functionality of the Programs will not materially decrease during the Term.
 - vi. Notwithstanding the foregoing, the Programs may from time to time, as specified in the applicable Program documentation, contain features that interoperate with online third-party services. Such third-party services are not under the control of Advanced Health Strategies, and the Company is not responsible for the temporary or permanent unavailability of such services. In addition, the Company does not warrant that the Programs are or will be free of non-material errors. Without limiting any obligations of the Company expressly set forth in this Agreement, Customer should anticipate that, as with implementation of any highly sophisticated, integrated software applications solution package, the "roll-out" process will entail discovery and debugging in the ordinary course of software errors or nonconformities. Advanced Health Strategies will respond to any software errors involving the Programs in accordance with the priorities and provisions set forth in Section (9), and the Company may provide reasonable temporary workarounds (i.e., ones that do not cause or require Customer to expend material incremental or additional time or resources) or patches for such errors, as circumstances warrant.
- C. No Disabling Code. The Company represents, warrants, and covenants that:
- i. Prior to release or delivery to Customer, the Company shall scan each version of each Program, and any other deliverable to be provided to Customer under this Agreement, using a nationally recognized virus scanning program, removing any disabling code or viruses from such Program or deliverable;
 - ii. The Company has not and shall not place any intentionally disabling code or viruses into any Programs or any other deliverables to be provided to Customer under this Agreement (e.g., viruses, key locks, back doors, trap doors, etc.) which could disrupt the use or operation of such Programs or deliverables;
 - iii. The Company shall, throughout the Term, use reasonable practices and security procedures as necessary to avoid insertion of disabling code into any Programs or deliverables to be provided to Customer; and
 - iv. In the event any disabling code is negligently or intentionally inserted by Advanced Health Strategies or its representatives or subcontractors into Customer's or any Affiliate of Customer's network, or in the event of any other breach of this Section (8)(c), The Company shall promptly remove the disabling code from the Programs or applicable deliverables, and repair any damage to the Programs, deliverables, or any related system that is caused by such disabling code, at no additional charge to Customer.
- D. Regulatory Matters. The Company represents, warrants, and covenants that the Programs will comply, and that the Programs shall permit and shall not prevent Customer from complying, with all applicable present and future regulations enacted pursuant to the Healthcare Insurance Portability and Accountability Act of 1996 ("HIPAA"), including the regulations enacted by the Department of Health and Human Services and set forth at 45 CFR Parts 160-164, as amended and supplemented by the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Action of 2009, Public Law 111-5 ("HITECH Act").
- E. Remedy; Exceptions. In the event of any breach of any of the warranties set forth in in Section (9) (b), (c), or (d), The Company shall promptly repair, modify, or replace the non-conforming Program, or re-perform the non-conforming Services, so as to comply with

such warranties. In addition, Advanced Health Strategies shall promptly issue to Customer a credit equal to the amount of subscription fees payable by Customer under the applicable Services Agreement for the month in which such breach occurs (excluding fees payable for implementation Services), provided that Customer notifies the Company of such breach within thirty (30) days after the end of the month in question and Advanced Health Strategies fails to cure such breach within the cure period specified in Section (5)(c)(i).

- F. Any such credit shall be applied to the next invoice issued by the Company with respect to such Services Agreement and shall not accumulate or carry forward. In addition, the warranties set forth in in Section (8)(b), (c), and (d) shall not apply, and Advanced Health Strategies shall have no obligation or other liability with regard to any non-compliance with such warranties, to the extent that non-compliance with such warranties is caused by: (a) modifications or alterations to the Programs made by Customer without the express prior written consent of Advanced Health Strategies; Customer’s implementation (at Customer’s site) or use of any Program in breach of this Agreement; (c) products or services not provided by Advanced Health Strategies; (d) the negligence or willful misconduct of Customer; (e) use of the Programs other than as contemplated in this Agreement or the applicable documentation; or (f) electrical malfunction.
- G. Disclaimers. ADVANCED HEALTH STRATEGIES AND ITS AFFILIATES DO NOT WARRANT OR GUARANTY THAT USE OF THE PROGRAMS WILL BE COMPLETELY UNINTERRUPTED OR ENTIRELY ERROR-FREE, OR THAT THE PROGRAMS WILL MEET ANY NEED OR REQUIREMENTS OF CUSTOMER. ADVANCED HEALTH STRATEGIES SHALL TAKE REASONABLE EFFORTS TO SECURE THE PROGRAMS AND SERVICES, BUT (WITHOUT LIMITING ANY OBLIGATIONS OF ADVANCED HEALTH STRATEGIES SET FORTH ELSEWHERE IN THIS AGREEMENT) ADVANCED HEALTH STRATEGIES DOES NOT GUARANTEE THAT THE SERVICES CANNOT BE COMPROMISED. THE SERVICES ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED FOR USE IN ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE (AND THE PARTIES ACKNOWLEDGE AND AGREE THAT, FOR THESE PURPOSES, A HOSPITAL OR HEALTH CARE ENVIRONMENT SHALL NOT BE DEEMED TO CONSTITUTE AN ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE). NO OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE MADE BY EITHER PARTY WITH RESPECT TO THIS AGREEMENT (OR BY ADVANCED HEALTH STRATEGIES WITH RESPECT TO THE PROGRAMS, PRODUCTS, TECHNICAL SUPPORT SERVICES, OR OTHER SERVICES PROVIDED BY ADVANCED HEALTH STRATEGIES HEREUNDER), AND EACH PARTY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7. SERVICE LEVELS AND SUPPORT

- A. Service Levels. Advanced Health Strategies shall make the Programs available, and shall provide the Services, in accordance with the minimum required levels of performance (“Service Levels”) set forth below in this Section.
- i. Scheduled Downtime. Scheduled downtime of the Programs will be limited to 4 hours per month and shall typically be scheduled during off-peak hours (i.e., hours of low usage of the Programs by Customer). Advanced Health Strategies shall inform Customer of any scheduled downtime at least 72 hours in advance. Exceptions may arise in which a critical issue requires repair other than during scheduled downtime. If any such unscheduled downtime is needed, Advanced Health Strategies shall provide Customer with as much advance notice as is reasonably practicable in the circumstances before making the Programs unavailable to repair or resolve the issue.
 - ii. Program Availability. The Company shall make each Program available for use by Customer at least 99% of the time during each calendar month, on a “24 x 7” basis (i.e., 24 hours a day, every day), excluding scheduled downtime (as described in Section 10(a)i, above), outages due to force majeure (i.e., events outside of the reasonable control of the Company), and outages resulting from issues with the technology used by Customer to access or use the Programs. If, with respect to any given calendar month, Advanced Health Strategies fails to make any given Program available to Customer as described in the immediately preceding sentence, Advanced Health Strategies shall promptly issue to Customer a credit or refund, as applicable, based upon the actual availability of such Program, in accordance with the table below:

<u>Availability</u>	<u>Credit/Refund</u>
	(as a % of the total monthly fees payable under the applicable Services Agreement)
Greater or = to 95% and less than 99%	15%
Greater or = to 90% and less than 95%	35%
Less than 90%	50%

- iii. Program Response Time. As an additional Service Level, Advanced Health Strategies shall, using the Secure Platform, cause each Program to provide, for Customer’s workload volume, system response times that, for 99% of the transactions or inquiries submitted by Customer during any given calendar month (excluding transactions or inquiries submitted when system back-up jobs, or similar jobs, are running), at least meet each of the minimum required levels of performance specified below (assuming Customer’s Internet connection is operating at 100 Mbps download and 10 Mbps upload speeds):

If, with respect to any given calendar month, Advanced Health Strategies fails to provide or meet any one or more of the performance thresholds specified above for any given Program, the Company shall promptly issue to Customer a credit or refund, as applicable, equal to 50% of the total monthly fees payable under the applicable Services Agreement.

B. Severity Levels. The Company shall assign to each support issue reported by Customer or discovered by Advanced Health Strategies a severity level or prioritization in accordance with the following three categories:

1. Critical – “Critical” issues are ones in which a Program is “down” (i.e., inoperable or unavailable for use by Customer) or in which major functionality of a Program is affected (e.g., users are not able to enter data or view reports, etc.).
2. High – “High” priority issues are ones that have a material impact on operation or use of a Program, but for which a reasonable workaround exists and can be promptly implemented by Advanced Health Strategies.
3. Medium – “Medium” priority issues are minor or cosmetic errors or problems (defined as those in which, although the Program is usable, it does not function as designed, but Advanced Health Strategies can provide a reasonable workaround to meet expectations).

i. Issue Response. As the Service Level for response by Advanced Health Strategies for each Critical or High severity issue, Advanced Health Strategies will provide a telephone response and acknowledgment to Customer within one hour after the issue is first reported by Customer. As the Service Level for response by Advanced Health Strategies for each Medium severity issue, the Company will provide a response to Customer, within a reasonable time after the issue is first reported by Customer, via the issue resolution software tool that Advanced Health Strategies shall use and make available for Customer’s use.

8. ISSUE RESOLUTION

1. Critical - For each Critical issue, the Company will begin work immediately upon discovering or Customer’s reporting of the issue and shall use best efforts to resolve the issue no later than 4 hours thereafter, working continuously until the issue is resolved. If the issue cannot be resolved within 4 hours, Advanced Health Strategies will work continuously on the issue, and will provide status updates to Customer every 4 hours, until resolution has been achieved.
2. High - For each High priority issue, the Company will begin work immediately discovering or Customer’s reporting of the issue and shall use all commercially reasonable efforts to resolve the issue no later than 48 hours thereafter. If the issue cannot be resolved within 48 hours, the Company will work continuously on the issue, and will provide status updates to Customer on a daily basis, until resolution has been achieved.
3. Medium – For each Medium priority issue, the Company will prioritize the issues, giving due consideration to the impact of each issue upon Customer’s business operations, and communicate priority and status to Customer through Advanced Health Strategies’ issue resolution software process and tools. Some Medium priority issues that are cosmetic or otherwise trivial (i.e., that have no material impact upon Customer) may or may not be resolved, at the Company’s sole discretion.

9. MEMBER RESPONSIBILITY

A. Member Care. Without limiting the Company’s obligations to perform in accordance with this Agreement, none of the Company’s obligations or rights under this Agreement shall impose any duty upon the Company or result in any liability whatsoever of the Company, concerning Customer’s members. Without limiting any rights or remedies of Customer available under this Agreement, at law, or in equity, Customer agrees to indemnify, defend, and hold the Company harmless from and against any action, claim, suit, demand, or proceeding brought by any third party, and to pay any judgments, damages, liability, costs, and expenses (including reasonable attorneys’ fees) incurred by Advanced Health Strategies with respect to any such third-party action, claim, suit, demand, or proceeding, to the extent arising out of, or resulting from, the care provided to Customer’s members or Advanced Health Strategies’ suspension of the Programs and technical support services, and removal of Customer’s access to the Customer Data, database queries, reports or data extracts, in accordance with the terms of this Agreement.

10. CONFIDENTIALITY

- A. Protection of Confidential Information. Each Recipient shall hold and maintain the Confidential Information of the Discloser in confidence, using at least the same degree of care that the Recipient uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care). Each Recipient shall not disclose any Confidential Information of the Discloser to any third party except as permitted by this Agreement, and shall not use any Confidential Information of the Discloser for any purpose outside the scope of this Agreement (i.e., as reasonably necessary to exercise the Recipient’s rights, and fulfill the Recipient’s obligations, under this Agreement). The Recipient shall limit access to Confidential Information of the Discloser to those of the Recipient’s employees, agents, and third-party consultants and contractors who have a need to know such Confidential Information for purposes consistent with this Agreement and who have signed confidentiality agreements with Recipient, or are otherwise subject to legally binding obligations of confidentiality, no less restrictive than the confidentiality terms of this Agreement.
- B. Restriction. Recipient shall hold all Confidential Information of the Discloser in confidence in perpetuity, for so long as the Confidential Information is not publicly available, and Recipient shall protect all such Confidential Information with the utmost care to prevent unauthorized use or disclosure. Each Recipient shall not use any Confidential Information of the Discloser except as expressly authorized in this Agreement. Each Recipient shall not disclose, orally or in writing, any Confidential Information of the Discloser to any third party, other than an employee, consultant, or agent of Recipient who is bound by obligations of Confidentiality at least as restrictive as those set forth herein. Recipient shall immediately report in writing to Discloser, and shall cooperate with Discloser in the

investigation of, any unauthorized copying, use, or disclosure of any Confidential Information of the Discloser that is known to or reasonably suspected by Recipient.

- C. Exceptions. Confidential Information shall not include, and the obligations set forth in this Section 11 shall not apply to, any information that:
- i. Is already in the public domain, or becomes available to the public, through no breach of this Agreement by Recipient;
 - ii. Was in the Recipient's possession prior to receipt from Discloser, as proven by Recipient's written records; or
 - iii. Is received by the Recipient without obligations of Confidentiality from a third party that is free to disclose such information to Recipient.
- D. Required Disclosures. Each Recipient may disclose Confidential Information of the Discloser to the extent such information is required to be disclosed by applicable statute or regulation or by judicial or administrative process, provided that, in such a case, the Recipient shall, unless prohibited by law, promptly notify the Discloser of any such required disclosure, and provide reasonable cooperation and assistance to the Discloser, at the Discloser's expense, in contesting or preventing such disclosure or otherwise protecting the Confidentiality of such Confidential Information.
- E. Injunctive Relief. Any breach by either Party of this Section 11, or of Sections 2(d), 2(e), 3, 4(a), 4(b), 8(e), 8(f), 12, or 14(b), (c), or (d) of this Agreement could cause irreparable injury or harm to the other Party. If either Party breaches (or threatens to breach) any of such Sections, the other Party shall have the right, in addition to any other remedies available to it, to seek injunctive and other equitable relief to stop or enjoin such breach, any future breach, or other related acts, it being specifically acknowledged by the Parties that any other available remedies would be an inadequate remedy for such a breach.

11. PROPRIETARY RIGHTS

- A. Reservation of Rights by Advanced Health Strategies. The software, workflow processes, and other technologies provided by the Company as part of the Programs are the proprietary property of the Company and its licensors, and, except for the rights and licenses expressly granted to Customer in this Agreement, all right, title, and interest in and to such items, including all associated Intellectual Property Rights, remain only with the Company. The Company reserves all rights to the Programs not expressly granted in this Agreement.
- B. Customer Restrictions. Customer may not:
- i. Reverse engineer the Programs or the Program documentation;
 - ii. Remove or modify any proprietary marking or restrictive legends in the Programs or documentation; or
 - iii. Access the Programs to build a competitive product or service, or copy any feature, function, or graphic of the Programs for competitive purposes.

12. CHOICE OF LAW/FORUM SELECTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona without giving effect to any conflict of law rule or provision thereof that would cause the application of the laws of any other jurisdiction. Any action to enforce this Agreement, or lawsuit relating in any way to the relationship between the Parties, shall be brought solely and exclusively in the state or federal courts located in Maricopa County, Arizona. Each Party hereby consents and submits to the jurisdiction and venue of such courts, and waives any objection that it may now or hereafter have to the venue of any suit, action, or proceeding brought in such courts, and any claim that such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum or that such court lacks jurisdiction. The prevailing Party in any litigation concerning this Agreement shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing Party.

13. CERTAIN COVENANTS

- A. HIPAA. Each Party shall comply with HIPAA, the HITECH Act, and any regulations adopted under or implementing HIPAA or the HITECH Act (including, but not limited to, the Standards for Privacy of Individually Identifiable Health Information set forth at 45 CFR Parts 160 and 164, as amended (the "Privacy Rule")). Each Party will: (i) treat all protected health information (or "PHI", as defined in HIPAA) in compliance with all applicable federal and state laws; (ii) implement and use reasonable means and appropriate safeguards to prevent the unauthorized use or disclosure of PHI; and (iii) immediately notify the other Party of any unauthorized use or disclosure of PHI.
- B. Non-Competition. During the Term, Customer shall not, and shall not permit any of its Affiliates to, directly or indirectly, alone or in association with others, license, sublicense, assign, or otherwise make available to third parties other than as permitted by the other terms of this Agreement, any Derivative Work of any Advanced Health Strategies' Technologies, or any product, software, or other service that is substantially similar to, or directly derived from, any Advanced Health Strategies' Technologies or any Derivative Work thereof.
- C. Non-Solicitation. Except with the prior written consent of the other Party, neither Party shall, during the Term and for a period of twelve (12) months after any expiration or termination of the Term, either directly or indirectly, on its own behalf or in the service of or on behalf of others, solicit, hire, or engage, or attempt to solicit, hire, or engage, in any professional capacity, any person who is then, or was at any time during the then-most recent twelve (12) months, employed by the other Party, regardless of whether such employment is pursuant to a written agreement, for a determined period, or at will. The preceding sentence does not, however, prohibit either Party from: (i) soliciting employment by placement of general advertisements for employees on any Internet site, in newspapers, or via other media of general circulation, if such advertisements are not specifically directed at the employees of the other Party; (ii) soliciting or hiring persons identified through employment search firms that are not specifically directed at the employees of the other Party; or (iii) soliciting or hiring any person who contacts the hiring Party on his or her own initiative without any prior solicitation or recruitment by the hiring Party (other than advertisements of the type contemplated by the preceding clauses of this sentence).
- D. Safeguards. The Company shall establish and maintain, throughout the Term, administrative, technical, and physical safeguards for all of Customer's Patient Information and Confidential Information in its control or possession from time to time in connection with this Agreement. Such safeguards shall be designed for the purposes of: (i) insuring the security of such information; (ii) protecting against

any anticipated threats or hazards to the security or integrity of such information; (iii) insuring the proper and secure disposal of such information; and (iv) protecting against unauthorized access to or use of information. Each Party agrees to promptly notify the other Parties if it acquires actual knowledge of any unauthorized access to or use of Patient Information, and each Party shall promptly take appropriate actions to address any such incident.

- E. Security Breaches. Subject to any obligations placed upon either Party by a law enforcement agency, Advanced Health Strategies agrees to promptly notify Customer in writing (or via email) of any actual breach in security that results in unauthorized access to Advanced Health Strategies' computer and other information systems that materially affects Customer or any individuals (e.g., patients, customers, or personnel) associated with Customer, as soon as Advanced Health Strategies becomes aware of such a security breach. Any such notification shall indicate when the unauthorized access occurred, the individuals affected, the known effect of the breach on Customer and any individuals, and the corrective action being taken by the Company to appropriately respond to, and prevent recurrence of, the incident. In addition, in the event of an actual breach in security of Advanced Health Strategies' computer or other information systems that may affect Customer, or any individuals associated with Customer, then: (i) Advanced Health Strategies shall permit an appropriately qualified, independent third-party auditor to perform an investigation (including investigation of the installation of monitoring or diagnostic software and equipment) of the Company's systems and Data Center to locate the source and scope of the breach and provide each Party with any material information related to Customer that such independent auditor discovers with respect to the breach, with all of the costs and expenses incurred in any such audit to be paid by Advanced Health Strategies; and (ii) The Company shall be responsible for, and shall pay, all costs, expenses, fines, fees, penalties, and other liability that Customer or its Affiliates incur directly arising out of or related to any such actual breach. In addition, Customer agrees to promptly notify Advanced Health Strategies in writing (or via email) of any actual or attempted breach in security of Advanced Health Strategies' computer and other information systems of which Customer becomes aware, promptly after Customer becomes aware thereof.

14. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY

- A. EXCLUSION OF INDIRECT DAMAGES. IN NO EVENT SHALL EITHER PARTY (OR ANY OF ITS AFFILIATES) BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS OR DAMAGES FOR LOSS OF USE OR LOSS OF DATA OR INFORMATION), WHETHER IN CONTRACT, TORT, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SPECIFIED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE OR IS HELD UNENFORCEABLE FOR ANY OTHER REASON.
- B. LIMITATION OF LIABILITY. ADVANCED HEALTH STRATEGIES'S CUMULATIVE AND AGGREGATE LIABILITY (TOGETHER WITH ALL OF ITS AFFILIATES) FOR ALL CLAIMS AND DAMAGES ARISING UNDER OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT WITH RESPECT TO THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE THEN-MOST RECENT ACTS OR EVENTS GIVING RISE TO ANY SUCH CLAIMS.

15. MUTUAL INDEMNIFICATION

- A. INDEMNIFICATION. For value received, the Vendor shall indemnify and hold the College, its officers, directors, board of trustees, agents, assigns, and employees harmless from liabilities, damages, losses and costs, including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the Vendor and other persons employed or utilized by the Vendor in the performance of the Contract. The Vendor further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, suppliers, agents, assigns, invitees and employees with the terms of this Contract. This paragraph shall survive the expiration or termination of this Contract.
- B. Each Party agrees to indemnify, defend, and hold harmless the other Party and its Affiliates, and any officers, directors, agents, and employees of any of the foregoing, from and against any third-party claim or demand, and shall pay all liability, damages, costs, and expenses (including reasonable legal fees and expenses), and fines, fees, and penalties assessed by any governmental or regulatory authority, that are associated with any third-party claim or demand, arising out of or related to any actual or alleged:
- i. The indemnifying Party's breach of any of its representations, warranties, covenants, or obligations under this Agreement;
 - ii. Any gross negligence, fraud, or willful misconduct on the part of the indemnifying Party or its officers, directors, employees, agents, or representatives;
 - iii. Any actions taken by the indemnified Party in accordance with, and in good faith reliance upon, information or instructions provided to the indemnified Party by the indemnifying Party or its agents or representatives;
 - iv. Obligations owed by the indemnifying Party to any third party, including, but not limited to, any third party employed, engaged, or otherwise retained by the indemnifying Party;
 - v. Any failure of the indemnifying Party to comply with applicable law in the performance of its obligations related to this Agreement.

16. DEBARMENT

- A. The Company represents, warrants and covenants that neither the Company nor any of its Affiliates, nor any employees, officers, managers, directors, staff, representatives, or subcontractors of Advanced Health Strategies or its Affiliates who are engaged in providing services under this Agreement, is currently or has previously been excluded, debarred, or otherwise ineligible for participation in any Federal Health Care Program (as defined in 42 U.S.C. Section 1320 a7b(f), or any applicable successor statutory section) or in another governmental payment program. If the Company or any of its Affiliates, or any employee, officer, director, staff, representative, or subcontractor of Advanced Health Strategies or its Affiliates who are engaged in providing services under this

Agreement, is excluded, debarred, or otherwise ineligible from participation in any Federal Health Care Program or another government payment program, Advanced Health Strategies shall notify Customer in writing within five (5) Business Days after learning of such event, and, regardless of whether such notice is given to Customer, Customer may, in such a case, immediately terminate this Agreement and all Services Agreements then in force and effect hereunder, upon providing written notice of termination to Advanced Health Strategies.

17. GENERAL TERMS

- A. Customer grants the Company the right to, during the Term, use Customer's name in the Company's general customer lists (except Customer may revoke this right at any time upon providing notice thereof to Advanced Health Strategies). Within 30 days after execution of this Agreement, the Parties will mutually agree in writing upon the terms of a press release to be issued by the Parties announcing that Customer has engaged the Company to provide services to Customer.
- B. All notices under this Agreement shall be in writing and shall be deemed to have been given when (a) personally delivered to the applicable Party; (b) sent by electronic facsimile transmission or other direct written electronic means to the applicable Party, with confirmed receipt; (c) sent by registered U.S. mail, postage prepaid, with return receipt requested, to the applicable Party (with any notice given in accordance with this clause (c) being deemed to have been received on the third (3rd) Business Day following the date on which it is mailed to the applicable Party); or (d) sent by a nationally recognized overnight or express carrier service (with any notice given in accordance with this clause (d) being deemed to have been received on the date of delivery evidenced in the online systems of the applicable carrier). Any such notices shall be sent to the applicable Party at its addresses set forth above on page 1 of Master Services Agreement, as each Party may update addresses for notices from time to time by notice given in accordance with this Section.
- C. No failure by either Party to insist upon strict performance of any of the provisions contained in this Agreement, and no failure or delay by either Party in exercising any right under this Agreement, shall operate as a waiver of any such provisions or right. No waiver of any default or breach on any one occasion shall constitute a waiver of any subsequent or other default or breach. No single or partial exercise of any such right shall preclude the further or full exercise of such right. No provision of this Agreement may be waived unless such waiver is in writing and signed by the Party against which the waiver is to be effective.
- D. Neither Party may assign or transfer this Agreement, or any right, license, or obligation under this Agreement, without the prior written consent of the other Party (which consent shall not be unreasonably withheld or delayed). Notwithstanding the foregoing, either Party may assign or transfer this Agreement, or any right, license, or obligation under this Agreement, to an Affiliate or acquirer upon a change of control of such Party without the other Party's prior written consent, upon providing written notice thereof to the other Party. A "change of control" shall mean the consummation of a transaction or a series of related transactions: (i) whereby either Party sells, conveys, or otherwise disposes of all or a majority of its assets; or (ii) involving any merger, consolidation, or other business combination or stock sale transaction in which the holders of at least a majority of the equity interests of either Party immediately prior to such transaction or series of transactions no longer hold a majority of the equity interests of such Party immediately after such transaction or series of transactions.
- E. The terms of this Agreement and any applicable Services Agreement shall supersede the terms in any purchase order or other ordering document, invoice, or acknowledgement submitted by either Party to the other. Any different or additional terms stated or referenced in any such purchase order, invoice, or acknowledgement (except for names, quantities, and addresses) shall not be binding or have any force or effect.
- F. Neither Party will be responsible for delay or failure in its performance under this Agreement to the extent such delay or failure is due to causes beyond its reasonable control, including, but not limited to, acts of God or nature, labor disputes involving other than such Party's employees, civil commotion, terrorism, sovereign acts of any federal, state, or foreign government, or shortage of materials, provided that the Party being delayed or affected: (i) gives the other Party prompt notice of the cause of delay or failure; has utilized such technology as is common or prevalent in the industry to avoid or minimize such failures or delays (e.g., the use of uninterruptible power supplies); and (iii) uses reasonable commercial efforts to promptly correct the cause of such failure or delay in performance, to minimize and mitigate the effects of such failure or delay, and to resume performance as soon as reasonably possible.
- G. The Parties are independent contractors with respect to each other and this Agreement and in performing their respective obligations hereunder. Nothing in this Agreement or in the working relationship being established and developed hereunder shall be deemed or is intended to be deemed, nor shall it cause, the Parties to constitute or be treated as partners, joint ventures, or otherwise as joint associates for profit.
- H. This Agreement and the rights and obligations hereunder shall bind and inure to the benefit of the Parties and their successors and permitted assigns. Nothing in this Agreement, expressed or implied, is intended to confer upon any person or entity, other than the Parties and their successors and permitted assigns, any rights or obligations hereunder. Other than as expressly stated in this Agreement, any remedies provided in this Agreement are in addition to, and not exclusive of, any other remedies of either Party under this Agreement or at law or in equity.
- I. If any provision of this Agreement (or any portion thereof) is determined to be invalid or unenforceable, the remaining provisions of this Agreement shall not be affected thereby, shall be binding upon the Parties, and shall be enforceable, as though said invalid or unenforceable provision (or portion thereof) were not contained in this Agreement.

This Agreement, including the Broward College Supplemental Addendum, which is attached hereto and incorporated herein, any Schedules hereto, and any Services Agreements executed by the Parties hereunder set forth the entire agreement and understanding between the Parties as to the subject matter hereof and supersede all prior discussions, agreements and understandings of any kind and every nature between the Parties. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each Party; no other act, document, usage or custom shall be deemed to amend or modify this Agreement. Customer represents that it has not relied on the availability of any future version of the Programs when executing this Agreement.

END OF TERMS AND CONDITIONS OF SERVICE

THANK YOU, WE APPERICATE YOUR BUSINESS

Advanced Health Strategies, LLC
MyCollegeDoctor.com Telehealth Product Services

1. Incorporation by Reference. The District Board of Trustees of Broward College, Florida ("BC") and the undersigned ("Vendor") hereby incorporate this Supplemental Addendum - General ("Addendum") into the Master Services Agreement between BC and Vendor (the "Agreement"). If this Addendum conflicts with the Agreement's terms, this Addendum shall control.

2. Payment. Vendor shall submit bills for compensation for goods, services and/or expenses in detail sufficient for a pre-and post-audit. The time at which payment will be due from BC will be approximately thirty (30) days from receipt of an undisputed invoice, acceptance of deliverables, and upon satisfaction of the BC conditions that are detailed herein. In lieu of all provisions in the Agreement pertaining to penalties for late payment, if BC does not issue payment within approximately thirty days of receipt of a proper invoice, BC shall pay Vendor an interest penalty from the date the invoice was due until it was paid at the rate established pursuant to Section 55.03(1), Florida Statutes, if the interest exceeds one dollar. If the term of the Agreement is beyond the current fiscal year for the State of Florida, BC's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. BC is immune and/or exempt from the payment of taxes and shall not be responsible for the payment thereof. BC shall provide an appropriate exemption certificate.

3. Relationship of the Parties. Each of the parties is an independent contractor and nothing in the Agreement shall designate any of the employees or agents of one party as employees or agents of the other.

4. Public Records Law. BC is subject to the public records laws of Florida, including records retention requirements, and any provisions in the Agreement pertaining to confidentiality obligations on the part of BC are hereby deleted and shall be of no force and effect. Vendor shall allow public access to all project documents and materials in accordance with the provisions of Chapter 119, Florida Statutes. Should Vendor assert any exemptions to the requirements of Chapter 119 and related statutes, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon Vendor and Vendor shall bear all costs and fees related to the same.

If Vendor meets the definition of "contractor" under Section 119.0701, Florida Statutes, in addition to other Agreement requirements provided by law, Vendor must comply with public records laws, and shall:

- (a) Keep and maintain public records required by BC to perform the service.
- (b) Upon request from BC, provide BC with a copy of the requested records or allow the records to

be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Vendor does not transfer the records to BC.

(d) Upon completion of the Agreement, transfer, at no cost, to BC all public records in possession of Vendor or keep and maintain public records required by BC to perform the service. If Vendor transfers all public records to BC upon completion of the Agreement, Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Vendor keeps and maintains public records upon completion of the Agreement, Vendor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to BC, upon request from BC's custodian of public records, in a format that is compatible with the information technology systems of BC.

(e) IF VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT BC AT (954) 201-7639, LEGALSERVICES@BROWARD.EDU, OR 111 EAST LAS OLAS BOULEVARD, #523, FORT LAUDERDALE, FL 33301.

IN ADDITION, VENDOR ACKNOWLEDGES THAT THE BC CANNOT AND WILL NOT PROVIDE LEGAL ADVICE OR BUSINESS ADVICE TO VENDOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. VENDOR FURTHER ACKNOWLEDGES THAT IT WILL NOT RELY ON BC OR ITS COUNSEL TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE, AND THAT VENDOR IS HEREBY ADVISED TO SEEK BUSINESS/LEGAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS AGREEMENT. VENDOR ACKNOWLEDGES THAT ITS FAILURE TO COMPLY WITH FLORIDA LAW AND THIS AGREEMENT WITH RESPECT TO PUBLIC RECORDS SHALL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT AND BE GROUNDS FOR TERMINATION.

5. Sovereign Immunity. Nothing in the Agreement shall act, or be construed to increase or alter BC's liability for tort claims beyond the waiver of sovereign

immunity limits set forth in Section 768.28, Florida Statutes.

6. Compliance. In its performance, Vendor shall, at its own expense, at all times in the term, do the following:

- a. Permits: have all applicable permits, licenses, consents, and approvals necessary;
- b. General: comply with all applicable federal, state, local and rules, regulations, and ordinances and all other governmental requirements; and
- c. Privacy: comply with all applicable state and federal laws and BC policies and procedures governing the use and/or safe-keeping of confidential, highly sensitive, and/or personally identifiable or protected health information (as may be defined by state or federal law), including, but not limited to, the Family Educational Rights and Privacy Act (FERPA), the Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach Bliley Act, and the Federal Trade Commission's Red Flags Rule (which implements Section 114 of the Fair and Accurate Credit Transactions Act of 2003). In the event that BC will share with or provide access to Vendor of any protected health information ("PHI"), as may be defined by state or federal law, BC and Vendor will enter into a separate agreement which will govern the use of the PHI. Vendor agrees to include all such terms and conditions contained in any subcontractor or agency contracts providing services on behalf of Vendor.

7. E-Verify. If the Vendor meets the definition of "contractor" under Section 448.095, Florida Statutes, in addition to other contract requirements provided by law, the Vendor shall register with and use the E-Verify system operated by the United States Department of Homeland Security to verify the work authorization status of all its employees hired during the term of this Agreement. The Vendor shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement. The Vendor must provide evidence of compliance to the College as required under Section 448.095, Florida Statutes. Failure to comply with this provision is a material breach of the Agreement, and the College may terminate the Agreement at its sole discretion without liability. The Vendor shall be liable for all costs incurred by the College resulting from the Vendor's noncompliance with the requirements of this section.

8. General Provisions.

a. State of Florida Public Entity Contracting Prohibitions. Vendor represents, warrants and covenants that it is not currently and, throughout the

term of this Agreement shall not be, ineligible for the award or continuation of this Agreement under Sections 287.133, 287.134 and 287.135, Florida Statutes. Vendor understands and accepts that this Agreement may be void, voidable or subject to immediate termination by BC if the representation, warranty and covenant set forth above is violated. BC, in the event of such termination, shall not incur any liability to Vendor for any work or materials furnished.

b. Warranties. Vendor, at a minimum, warrants that the IP, the goods, and/or services to be provided by Vendor will be free of any material defects and will operate and conform to the specifications provided in all material aspects throughout the term of the Agreement. This warranty shall be in addition to any warranties provided in the Agreement.

c. Marketing. No party shall, except with prior written consent of the other party on each occasion, make any press or media announcements concerning the Agreement or use the name, logos, or trademarks of any other party, or any version, abbreviation, or representation of them, in any advertising or other form of publicity or fundraising without the written permission of the party whose name, logo, or trademark is sought for use.

d. Insurance. BC, as a public body corporate entity, warrants and represents that it is self-funded for liability insurance, with said protection being applicable to officers and employees, while acting within the scope of their employment by or service to BC. Any provision requiring BC to provide or acquire insurance coverage other than such self-insurance shall not be effective. Vendor shall have and maintain the types and amounts of insurance that, at minimum, will cover Vendor's (or subcontractor's) exposure in performing the Agreement and at BC's request, name BC as additional insured on Vendor's policies. All policies shall be in a form and with deductible limits satisfactory to BC, with insurance companies reasonably approved by BC and authorized to do business in the State of Florida, and written as primary coverage (except for professional liability). Certificates of insurance shall be provided to BC upon request and timely renewals of such insurance shall be provided to BC. All insurance policies and certificates shall contain a provision that it will not be cancelled without giving BC thirty (30) days' written notice prior to the effective date of cancellation. Vendor, for and on behalf of itself and each of its insurers, hereby waives any and all rights of subrogation against BC for any loss or damage arising from any cause covered by any insurance required to be carried under the Agreement by any other insurance actually carried by Vendor. Vendor shall provide copies of any insurance policies upon request.

e. Third Parties. BC is not liable for the acts of third parties or the consequences of the acts of third parties. There shall be no third party beneficiaries to the Agreement.

f. Governing Law. The Agreement is governed by the laws of the State of Florida, without regards to its conflicts of law principles. Exclusive venue of any actions shall be in Broward County, Florida. BC is entitled to the benefits of sovereign immunity.

g. Travel Expenses. If BC is responsible for reimbursing Vendor for travel expenses pursuant to the Agreement, bills shall be subject to, and shall be submitted by Vendor in accordance with, § 112.061, F.S. and BC policies and procedures. BC reserves the right not to pay travel expenses unless BC approves such expenses in advance, in writing.

h. Conflicts. Vendor represents that it is aware of the requirements of Chapter 112, Florida Statutes and in compliance with the requirements thereof, and other laws and regulations concerning conflicts of interests in dealing with entities of the State of Florida. Vendor certifies that its directors and/or principal officers are not employed and/or affiliated with BC unless a current Conflict of Interest (Report of Outside Activity/Employment) form has been completed, executed by such director or officer and approved in accordance with applicable BC policies or rules. Violation of this section shall be grounds for termination of the Agreement.

i. Termination. Upon giving at least thirty (30) days' written notice to Vendor, BC may terminate the Agreement, at any time, with no further obligation to Vendor, other than to pay for any goods received or services rendered in compliance with the Agreement prior to the effective date of termination. BC shall not be liable for any early termination charges.

j. Records. Vendor agrees to keep and maintain, separate and independent records pertinent to the performance of the Agreement, in accordance with generally accepted accounting principles. BC or its authorized agent shall have the right to audit and inspect such records from time to time during the term of the Agreement, upon reasonable notice to Vendor.

k. Deletion. Any term and/or condition in the Agreement on the following subject matters are hereby deleted in their entirety and declared null and void: (a) grants of exclusivity by BC to Vendor; (b) restrictions on the hiring of Vendor's employees; (c) BC's responsibility to pay intangible taxes, property taxes, or sales taxes; (d) automatic renewals of the term of the Agreement; (e) limitations of time to bring suit or claims; (f) granting Vendor any right to audit BC; (g) Attorneys' or collection fees provisions; (h) arbitration and mediation clauses; and (i) indemnification of Vendor by BC.

l. Assignment. Vendor shall not assign, transfer, delegate, subcontract, or otherwise dispose of, whether voluntarily, involuntarily, or by operation of law, any right or obligation under the Agreement without the prior written consent of BC, not to be unreasonably withheld. Any such unapproved assignment, subcontracting or transfer is void. No subcontracting or delegation shall in any event relieve Vendor of any obligation or liability under the Agreement.

By signing below, Vendor's authorized representative agrees to incorporate this Addendum into the Agreement, and hereby executes this Addendum as of the date set forth below.

VENDOR: Advanced Health Strategies, LLC

By: _____

Name: _____

Title: _____

Date: _____