

AGREEMENT FOR SERVICES 465-S1211  
AMENDMENT II  
Behavioral Health Information System / Avatar™ Software

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This Amendment II to that Agreement for Services 465-S1211, is made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County”) and Netsmart Technologies, Inc., a Kansas corporation duly qualified to conduct business in the State of California, whose principal place of business is 4950 College Blvd., Overland Park, KS 66211 (hereinafter referred to as “Contractor”), and whose Agent for Service is C T Corporation System, 818 West Seventh Street, 2<sup>nd</sup> Floor, Los Angeles, CA 90017.

**RECITALS**

**WHEREAS**, Contractor has been engaged by County to furnish, develop, implement, and provide ongoing support for a Behavioral Health Information System specific to the County of El Dorado in accordance with Agreement for Services 465-S1211, dated May 22, 2012, and Amendment I dated December 4, 2012, incorporated herein and made by reference a part hereof; and

**WHEREAS**, beginning October 1, 2015, the Centers for Medicare & Medicaid Services is requiring all health services providers to use International Classification of Disease Revision 10 (ICD-10) coding to replace International Classification of Disease Revision 9 because it is outdated, has obsolete terms and is inconsistent with current medical practice; and

**WHEREAS**, claims submitted to the California Department of Health Care Services for services provided on or after October 1, 2015 must use ICD-10 coding in order to be processed and reimbursed; and

**WHEREAS**, Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) listing the mental disorders that are officially part of the Diagnostic and Statistical Manual of Mental Disorders system is required to replace the current version DSM-IV; and

**WHEREAS**, County requires that it’s Behavioral Health Information System known as “Avatar” be upgraded with the document imaging platform available through Contractor’s partnership with Perceptive Software that integrates imaging and organizational capabilities into Avatar. Said software shall be provided at no additional cost to County; and

**WHEREAS**, the parties hereto have mutually agreed to amend Article XIII – Compensation for Services, Section 13.02 and Section 13.04, Article XXVI – Notice to Parties, Article XXXIV – Taxpayer Identification Number (Form W-9), Article XXXVI – Administrator, Article XL – Waiver, and Article XLI – Entire Agreement; and

**WHEREAS**, the parties hereto have mutually agreed to add Article XLI – Change of Address, Article XLII – No Third Party Beneficiaries, and Article XLIII – Conflict Prevention and Resolution, and renumbering Article XLI – Entire Agreement to accommodate the aforementioned Articles.

**NOW THEREFORE**, the parties do hereby agree that Agreement for Services 465-S1211 shall be amended a second time as follows:

1) ARTICLE XIII, Section 13.04 shall be amended in its entirety to read as follows:

Section 13.02 Invoices / Remittance shall be addressed as indicated in the table below or to such other location as County or Contractor may direct per the Article titled “Notice to Parties” herein.

<b>Mail invoices to:</b>	<b>Mail remittance to:</b>
Health and Human Services Agency Attn: Finance Unit 3057 Briw Road, Suite B Placerville, CA 95667	Netsmart Technologies, Inc. P. O. Box 823519 Philadelphia, PA 19182 Attn: Accounts Receivable

2) ARTICLE XIII, Section 13.04 shall be amended in its entirety to read as follows:

Section 13.04 Fees and Charges

Payment for Services and Deliverables are conditioned on written Final Acceptance by the County Project Manager of the deliverables and services set forth in this section, said Final Acceptance in accordance with Section 5.06.

The Deliverables, Services, Fees, and Charges for which invoices may be rendered are as follows:

<b>Milestones</b>	<b>Type</b>	<b>Monthly Rate</b>	<b>Rate Discounted by 10% for 5-year term</b>	<b>Total for 5-year term</b>
Setup of a separate El Dorado SaaS Environment and Data Transfer	Deliverable			\$20,000.00
Escrow Agreement (per Exhibit E) @\$700 x 5 years	Service			\$3,500.00
Avatar Upgrades System to My Avatar: Fiscal, Project Management, Clinical, and Clinical Work Station modules.	Service			\$21,600.00
· Configuration assistance				
· Training				
· Trouble Shooting				
Modeling / Table Training	Service			\$15,800.00
Go-Live Support	Service			\$6,400.00
Point Of Service Installation / Training	Service			\$1,800.00
Info Scriber (E-Prescription) Installation / Training	Service			\$4,900.00



Milestones	Type	Monthly Rate	Rate Discounted by 10% for 5-year term	Total for 5-year term
Project Management of 12.5 days at \$1,800 per day	Service			\$22,500.00
<b>Total</b>				<b>\$96,500.00</b>
Licenses				
150 Named SaaS Users @ \$55/month		\$8,250.00		\$495,000.00
<b>Total</b>				<b>\$495,000.00</b>
Info Scriber Users (3 <sup>rd</sup> party vendor)				
Licenses				
Annual Base Fee			\$1,350.00	\$6,750.00
Named Users (7)		\$500.50	\$5,405.40	\$27,027.00
Non-prescribing Users (13)		\$169.00	\$1,825.20	\$9,126.00
<b>Total</b>			<b>\$8,580.60</b>	<b>\$42,903.00</b>
Licenses				
Point of Service Scanning License	One Time Cost			\$7,500.00
<b>Total</b>				<b>\$7,500.00</b>
Annual Maintenance				
POS Annual Support Fee per Year			\$2,000.00	\$10,000.00
<b>Total</b>				<b>\$10,000.00</b>
Avatar electronic Signature (eSIG)				
One (1) eSIG License				\$0.00
eSIG Annual Maintenance (\$2,100.00 per year x 5 years)				10,500.00
eSIG Project Management (8 hours)				1,800.00
<b>Total</b>				<b>\$12,300.00</b>
<b>Travel</b>				<b>\$9,800.00</b>
<b>Amendment II</b>				
Professional fees for upgrading Avatar with ICD-10 and DSM-5. (\$200/hour for 60 hours)	One Time Cost			12,000.00
Diagnosis Content on Demand Subscription (Beginning upon when the upgrades are installed.)		\$80.00	\$960.00/year	Not to exceed \$1,920.00
Perceptive Software. (No cost for the software license, installation, or for the maintenance.)	County to install.	No Cost	No Cost	\$0.00
<b>Total</b>				
<b>MAXIMUM NOT TO EXCEED AMOUNT</b>				<b>\$687,923.00</b>

\*Note: Monthly rates listed are for reference only and do not reflect discount of ten percent (10%) in consideration of a five (5) year term to this Agreement.

Unless otherwise authorized under this Agreement, Contractor shall not increase the maximum not-to-exceed amount due from County under this Agreement for all Services and Deliverables during the term of this Agreement.

The initial term for provision of support services for Licensed Programs will begin on contract signing through December 31, 2012, with the following January 1, 2013 being the Anniversary date. Unless prices are shown above for renewal terms after the initial term, Contractor will give County not less than sixty (60) days written notice prior to any Anniversary date (as defined in the Agreement for services) of any revised schedule of support service prices. If prices for renewal terms are not fixed above, support service pricing will not be increased for any renewal term by more than the most recent increase in the US Bureau of labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) Medical Care, or 4%, whichever is higher. All renewal terms are at the County's option.

County shall pay Contractor for each service or deliverable as described herein subject to County's receipt of the correct invoice, County's exercise of remedies set forth in this Agreement and Contractor's performance of its obligations in accordance with the Work Plan in Exhibit A.

3) ARTICLE XXVI – Notice to Parties shall be amended in its entirety to read as follows:

**ARTICLE XXVI**

**Notice to Parties:** All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be addressed as follows:

COUNTY OF EL DORADO  
HEALTH AND HUMAN SERVICES AGENCY  
3057 BRIW ROAD, SUITE A  
PLACERVILLE, CA 95667  
ATTN: CONTRACTS UNIT

With a copy to:

COUNTY OF EL DORADO  
PROCUREMENT AND CONTRACTS DIVISION  
360 FAIR LANE, LOWER LEVEL  
PLACERVILLE, CA 95667  
ATTN: PURCHASING AGENT

Or to such other location as the County directs.

Notices to Contractor shall be addressed as follows:

NETSMART TECHNOLOGIES, INC.  
4950 COLLEGE BOULEVARD  
OVERLAND PARK, KS 66211  
ATTN: EXECUTIVE VICE PRESIDENT

Or to such other location as the Contractor directs.



- 4) Article XXXIV – Taxpayer Identification Number (Form W-9) shall be amended in its entirety to read as follows:

**ARTICLE XXXIV**

**Taxpayer Identification Number (Form W-9) and County Payee Data Record Form:** All independent Consultants or Corporations providing services to County must file a Department of the Treasury Internal Revenue Service Form W-9 with County, which certifies their Taxpayer Identification Number. All independent Consultants or Corporations providing services to County may also be required to file a County-issued “Payee Data Record” form with County.

- 5) Article XXXVI – Administrator shall be amended in its entirety to read as follows:

**ARTICLE XXXVI**

**Administrator:** The County Officer or employee with responsibility for administering this Agreement is Patricia Charles-Heathers, Ph.D., Assistant Director of Health Services, or successor.

- 6) Article XL – Waiver shall be amended in its entirety to read as follows:

**ARTICLE XL**

**Waivers:** Failure of County to enforce any provision of this Agreement shall in no event be considered a waiver of any part of such provision or any other provision contained herein. No waiver by County of any breach or default by Consultant shall operate as a waiver of any succeeding breach of the same terms in the Agreement or other default or breach of any of Consultant's obligations under the Agreement. No waiver shall have any effect unless it is specific, irrevocable, and in writing.

- 7) The following Articles shall be added:

**ARTICLE XLI**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing pursuant to the provisions contained in this Agreement under the Article titled “Notice to Parties.” Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

In the event of a change in address for any County office or location referred to or impacted by this Agreement, County shall notify Contractor in writing pursuant to the provisions contained herein this Agreement under the Article titled “Notice to Parties.” Said Notice shall become a part of this Agreement and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

**ARTICLE XLII**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this agreement.

**ARTICLE XLIII**

**Conflict Prevention and Resolution:** The terms of this Agreement shall control over any conflicting terms in any referenced document, except to the extent that the end result would constitute a violation of Federal or State law. In such circumstances, and only to the extent the conflict exists, this Agreement shall be considered the controlling document.

8) Article XLI – Entire Agreement shall be renumbered and amended in its entirety to read as follows:

**ARTICLE XLIV**

**Entire Agreement:** This Agreement for Services 465-S1211, all Amendments thereto, and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

Except as herein amended, all other parts and sections of that Agreement 465-S1211 shall remain unchanged and in full force and effect.

**REQUESTING CONTRACT ADMINISTRATOR CONCURRENCE:**

By: Patricia Charles-Heathers Dated: 3/24/15  
Patricia Charles-Heathers, Ph.D.  
Assistant Director of Health Services  
Health and Human Services Agency

**REQUESTING DEPARTMENT HEAD CONCURRENCE:**

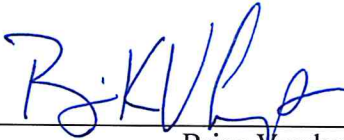
By: Don Ashton Dated: 3/24/15  
Don Ashton, M.P.A.,  
Director  
Health and Human Services Agency

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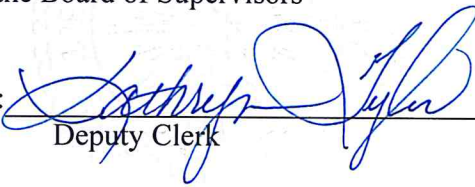
IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to that Agreement for Services 465-S1211 on the dates indicated below.

-- COUNTY OF EL DORADO --

Dated: 4-28-15

By:   
Brian Veerkamp, Chair  
Board of Supervisors  
"County"

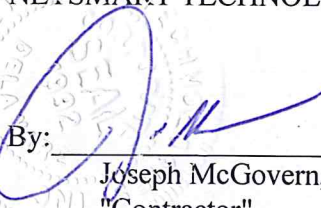
ATTEST:  
Jim Mitrising, Clerk  
of the Board of Supervisors

By:   
Deputy Clerk

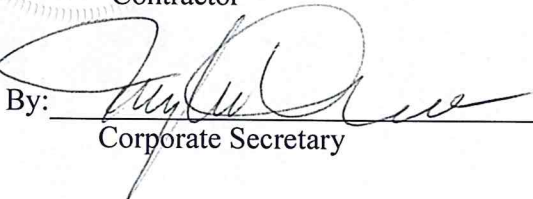
Dated: 4-28-15

-- CONTRACTOR --

NETSMART TECHNOLOGIES, INC.

By:   
Joseph McGovern, Executive Vice President  
"Contractor"

Dated: 4-23-2015

By:   
Corporate Secretary

Dated: 4-23-2015

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