



LASSEN COUNTY

Health and Social Services Department

- HSS Administration
- Public Guardian
336 Alexander Avenue
Susanville, CA 96130
(530) 251-8128
- Grant and Loans Division
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8309
- Behavioral Health
555 Hospital Lane
Susanville, CA 96130
(530) 251-8108/8112

Chestnut Annex
1400-A & B Chestnut Street
Susanville, CA 96130
(530) 251-8112
- Patients' Rights Advocate
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8322
- Public Health
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8183
- Environmental Health
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8183
- Community Social Services
336 Alexander Avenue
Susanville, CA 96130

LassenWORKS
Business & Career Network
PO Box 1359
1616 Chestnut Street
Susanville, CA 96130
(530) 251-8152

Child & Family Services
1600 Chestnut Street
Susanville, CA 96130
(530) 251-8277

Adult Services
PO Box 429
1445 Paul Bunyan Road
Susanville, CA 96130
(530) 251-8158
- HSS Fiscal
PO Box 1180
Susanville, CA 96130
(530)251-2614

Date: June 9, 2020

To: David Teeter, Chairman
Lassen County Board of Supervisors

From: Barbara Longo, Director
Health & Social Services

Subject: Agreement with FEi.com, Inc. dba FEiSystems for Fiscal Years 2020-2023

Background:

Lassen County Health and Social Services Agency (HSS) under the department of Lassen County Behavioral Health (LCBH) went out for request for proposals for a new Electronic Health Record System starting on December 17, 2019 and closed the Request for Proposals on January 31, 2020.

LCBH is seeking a new Electronic Health Record System, as our current Electronic Health Record System does not have the ability to meet reporting needs for audits, and it has been recommended by both California Department of Healthcare Services (DHCS) during our Tri-annual audit in 2018 and in our annual reviews in both 2018 and 2019 completed by Behavioral Health Concepts (BHC) that Lassen County Behavioral Health seek a new Electronic Health Record System.

FEiSystems has a strong background in Electronic Health Record Systems products and can provide consultation and training to develop and implement a new system that will be able to more accurately help LCBH in their Data Tracking and Reporting needs to meet state requirements and pass our annual reviews and Tri-Annual audits. FEiSystems currently serves multiple California Counties as well as having a contract with DHCS. FEiSystems will provide LCBH with installation and training on the new Electronic Health record System.

Fiscal Impact:

There is no impact to County General Fund. Fund will be paid out of the following budgets: Mental Health 110-0751, Alcohol and Drug 110-0771, Mental Health Services Act (MHSA) 164-0752 and Health and Social Services 110-0721.

Action Requested:

1) Approve the Agreement; and 2) authorize the CAO to execute the Agreement.



CONTRACT

between

Lassen County Behavioral Health

and

FEi.com, Inc. dba FEiSystems

This Contract is entered into by and between the **Lassen County Behavioral Health Department, located at 555 Hospital Lane, Susanville, CA 96130**, hereafter called "Client" and **FEi.com, Inc., located at 9755 Patuxent Woods Drive, Suite 300, Columbia, MD 21046**, hereinafter called "FEi" or "Contractor". This Contract, including the Scope of Work (Attachment A) and Budget (Attachment B), the Master License Agreement (Attachment C), and the Business Associate and Qualified Service Organization Agreement (Attachment D), establishes the terms and conditions. Accordingly, in consideration of the mutual promises and obligations provided herein, the Parties agree as follows:

ARTICLES

1. Designation of Authorized Client Representatives

Barbara Longo, Health and Social Services Director, is authorized, by and on behalf of the Client, to enter into this Contract. Any changes in terms, conditions, or amounts specified in this Contract must be approved by this designee.

Correspondence regarding contract and technical matters should be sent to:

Name: Tiffany Armstrong, Behavioral Health Director
Phone: (530) 251-8018
Email: TArmstrong@co.lassen.ca.us

or such other designees that Client may so designate.

2. Designation of Authorized Contractor Representatives

Rodney Conrad, Senior Vice President & General Manager of Behavioral Health, is authorized, by and on behalf of FEI, to enter into this Contract. Any changes in terms, conditions, or amounts specified in this Contract must be approved by this designee.



Correspondence regarding contract matters should be sent to:

FEi.Com, Inc.
9755 Patuxent Woods Drive, Suite 300
Columbia, Maryland 21046
Attn: Nikki Brann-Tyson
Phone: 443.393.2695
Fax: 410.715.6538
Email: Nikki.Brann-Tyson@FEISystems.com

Correspondence regarding technical matters should be sent to:

FEi.com, Inc.
9755 Patuxent Woods Drive, Suite 300
Columbia, Maryland 21046
Attn: **Alicia Woodward**
Phone: 443.380.4706
Email: Alicia.Woodward@FEISystems.com

3. Statement of Work

FEI shall perform the services and work tasks and deliver the work product to the Client as described in Attachment A, hereinafter called the "Scope of Work" or "SOW."

It is recognized and agreed that there may be additional detailing and refinement of the SOW during the performance period of this Contract and that such detailing and refinement, when provided in written form by the Client to the Contractor in the normal course of project administration, shall be deemed to be authorized services to be furnished by Contractor in performing the SOW. If the Contractor estimates that such detailing and refinement constitutes a change in the SOW which affects price, period of performance, or any other provision hereof, the Contract shall be modified with specific reference to the SOW in writing signed by the Parties' designee for contract matters outlined in Article 1 for Client and by an Authorized Representative outlined in Article 2 for Contractor.

4. Service Level Agreements

FEI's standard service level agreements are as follows:

Problem Level	Acknowledgement	Action Plan/ First Follow-up	Status Reporting and/or Resolution
Critical	2-3 hours	4-8 hours	12 hours
High	2-3 hours	8-12 hours	24 hours
Medium	4 Hours	24 hours	40 hours
Low	4 hours	40 hours	80 hours



The following provides the Severity Rating definitions:

Severity	Category	Description
Level 1	Critical	A “show stopper”; a critical system failure; no further processing is possible; users unable to perform work; no acceptable work-around, alternative, or bypass exists.
Level 2	High	Processing is able to continue but is severely impacted; users are unable to proceed with selected function or dependents; software does not operate as specified; a major function or feature is missing or not functioning which causes a degradation in service; inaccurate or incorrect data provided to customers; no acceptable work-around, alternative, or bypass is available. FEI will not be accountable for work processes that are not fully tested by DOC/PBPP during User Acceptance Testing.
Level 3	Medium	A component, minor function, or procedure is impaired (down, disabled, incorrect) however processing can continue. A mutually agreed workaround, alternative, or bypass is available.
Level 4	Low	Minor cosmetic change is required, a superficial error with no effect on operations.

FEI provides unlimited support through phone or email from the hours of 8am EST – 8pm EST, Monday through Friday, with the exception of Federal Holidays. IT staff are on call 24/7/365 for any system outages.

FEI’s production uptime guarantee is 99.5%.

5. Inspection and Acceptance

The Contractor shall notify the Client in writing when a work task is complete and deliver to Client the associated work product. Upon notification and receipt, the Client shall have a period of fifteen (15) business days to notify the Contractor of acceptance or any disagreement with satisfactory completion of the work task. After 10 business days, in the absence of such notification sent by the Client to the Contractor, it will be deemed that the work task or the delivered work product is accepted and eligible for billing in the amount defined in Article 6 of this Contract.

6. Warranty

The Contractor agrees to warranty the delivered work product for a period of 90 days following acceptance by the Client. If an error, flaw, failure or fault (i.e. a “bug”) is discovered in this warranty period, the Contractor shall, without any additional cost, respond to the Client according to the Service Level Agreement (SLA) included in Attachment A, and correct the bug according to an agreed-upon timeframe agreed-upon by both Parties in writing.

7. Invoices and Payment Terms

Invoices and Payments will be tied to the Client’s acceptance of the work product described in the Scope of Work, not the satisfaction of the warranty period. Upon such acceptance as defined in Article 4 of this Contract, the Contractor will issue invoices to the Client in accordance with the fees and payment schedule in Attachment B.



The Client agrees to the following payment terms: **Net 30**. Unpaid balances remaining beyond 45 days are subject to a 3 percent interest charge of the unpaid balance

8. Period of Performance

Performance of the SOW by the Contractor shall begin on **June 1, 2020**, and continue under the terms of this Contract to **June 30, 2024 (the "Term")**.

9. Termination

A. If the Contractor fails to provide in any manner the services required under this Contract or violates any ordinance, regulation, or law which applies to its performance, the Client may terminate this Contract and the Term by giving fifteen (15) days' written notice to the Authorized Contract Representative designated in Article 2. The Contractor shall be excused for failure to perform the services required under this Contract if such services are prevented by acts of God or other forces over which the Contractor has no control. Contractor shall be paid for all work, services, or products provided to, and accepted by, Client up to the date of termination. Client shall be deemed to have accepted work and/or services if such work and/or services are not immediately halted after notice of termination. Client shall be deemed to have accepted products over which it maintains possession.

B. Either party may terminate this Contract by giving no less than 30 days' notice in writing to the other party's representative designated in Article 1 of this Contract for the Client and Article 2 of this Contract for the Contractor.

C. In the event that the termination is by no the fault of the Contractor, the Contractor shall be paid for services performed up to the date of the termination. In the event Client determines that Contractor is at fault for such termination, Client shall pay Contractor for all services performed up to the date of notice of termination. In such event, Contractor shall not be obligated to continue to perform services for which Client will not pay.

10. Assignment

The Contractor shall not sell, assign, or in any manner transfer this Contract or its rights, duties, and obligations under this Contract without first obtaining the written consent of the Client. Any attempted assignment without such consent shall be voided. The foregoing shall not apply to assignment to any successor corporation in the event the Contractor shall change its name or merge with another corporation or in the event of a sale or divestiture by the Contractor of a subsidiary, division, or operating unit that is performing the SOW under this Contract.

11. Liability

Each party (the "Indemnifying Party") shall indemnify, defend, and hold harmless the other party, its affiliates, and their respective officers, directors, employees, representatives, agents, successors and permitted assigns (the "Indemnified Party") from and against any and all claims made or threatened by the other party or any third party and all related losses, expenses, damages, costs and liabilities, including reasonable attorneys' fees and expenses incurred in investigation or defense ("Damages"), to the extent such Damages arise out of or relate to:



- A. actual or alleged (a) injury to any person, (b) damage to any property, or (c) violation of any law, ordinance or regulation arising from or related to the performance of work in connection with this Agreement; or
- B. arise from the commercialization or utilization of any technology applied in connection with this Agreement, including, but not limited to the making, using, selling or exporting of products, processes or services derived from such technology; or
- C. any civil or criminal penalty or fine incurred by either party to the extent it is caused by either party, its employees, agents, representatives, or suppliers in connection with the performance of this Agreement.

12. Patent Indemnity

Each party agrees to hold and save harmless the other party, its successors and assigns, from any liability arising out of any action, claim, or proceeding for infringement, including proceedings under 28 USC § 1498, of (1) any United States letters patent purporting to cover any material, service, or process provided or used by the Contractor or (2) any trademarks or copyrights appearing with or included within the materials or services provided by the Contractor. This Section shall survive any termination or expiration of this Agreement for a period of up to 2 (two) years.

13. Debarred, Suspended or Proposed for Debarment

The Contractor warrants that Contractor is not currently debarred, suspended or proposed for debarment by any federal or state agency, and that it shall promptly disclose to the Client, in writing, should the Contractor be suspended, debarred, proposed for debarment, or otherwise declared ineligible for participation in federal or state procurement or non-procurement programs.

14. Confidentiality

In the performance of this Contract:

- A. Confidential or proprietary information (“Confidential Information”) is defined as any information disclosed by one Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) in a written or tangible form bearing an appropriate notice indicating the sensitive nature of such information, or if disclosed orally or visually, identified as confidential and/or proprietary at the time of disclosure. The Receiving Party shall not use for its own purposes or release to outside parties any Confidential Information that is part of the performance of this Contract without the prior written consent of the Disclosing Party. Notwithstanding the foregoing and whether or not designated as confidential, Contractor acknowledges that all patient information is highly confidential and will be treated as such into perpetuity.
- B. During the period of this Contract, and for a three (3) year period thereafter, the Receiving Party will hold any Confidential Information in confidence and will use such information only in connection with the Contract. The Receiving Party will authorize access to Confidential Information only on a need-to-know basis and will ensure that



any individual presently or hereafter in its employ will neither disclose nor use for its benefit any information regarding the corporate operations, activities, plans or opportunities of the Disclosing Party which is not generally known to the public unless such disclosure or use is authorized by the Disclosing Party in writing, or otherwise ordered or required by law or a court of law.

- C. Contractor shall, upon written request and if feasible, return or destroy all material received from the Client and all materials containing Client confidential information. If it is infeasible to return or destroy Client Confidential information, the Contractor shall extend the application of protections to such information and limit further uses and disclosures for so long as such information is maintained.
- D. Contractor shall not, nor shall any of its employees, directly or indirectly disclose to the Client, or induce the Client to use, any confidential information, ideas or materials belonging to another. Neither Contractor nor any of its employees is under any obligation to anyone else which is inconsistent with the terms hereof or which imposes any restrictions on the performance of this Contract.
- E. Contractor is not authorized to speak for or represent the Client in any dealings with any third party, or to enter into discussions or accept documentary materials or disclosures that will create any confidential relationship between the Client and any third party without the prior written approval of the Client.
- F. The obligations of secrecy and confidentiality contained in this Section shall be in effect during the Term of this Contract and shall survive termination and remain in effect for a period of five (5) years after termination of the Master License Agreement unless stated to survive longer.

15. Independent Contractor

The Contractor is an independent contractor and the employees, agents or representatives of the Contractor are not employees, agents or representatives of the Client for any purpose, including, but not limited to federal, state and local tax obligations, unemployment and worker's compensation obligations, social security, and any and all other benefits.

16. Interpretation and Construction

This Contract shall be interpreted as a unified contractual document with the Articles and the attachments having equal effect, except that in the event of any inconsistency between them, first the Master License Agreement will apply, then the Contract, then the Scope of Work, then the Business Associate Agreement, and then any supplemental provisions incorporated by reference.



This contract shall be governed and interpreted in accordance with the substantive laws of the State of Maryland, without reference to its choice of laws principles, and when applicable, the laws of the United States of America. Nothing herein shall waive the sovereign immunity of the Client or the State of Maryland. The title designations of the numbered Articles and provisions to this Contract are for convenience only and shall not affect the interpretation or construction of this Contract.

17. Severability

If any provision of this Contract is determined by a court of competent jurisdiction to be unenforceable, such provision shall be reformed and this Contract shall be construed so as to be valid, operative, and enforceable to the maximum extent permitted by law or equity while preserving its original intent. The invalidity of any part of this Contract shall not render invalid the remainder of this Contract.

18. Disputes Under This Contract

The parties shall make good faith efforts in and attempt to amicably resolve all disputes arising from, or related to, this Contract. If the parties are unable to resolve amicably such a dispute within a reasonable time, the dispute shall be adjudicated in a court of competent jurisdiction in the State of Maryland.

19. Master License Agreement

All deliverables and work product in the Scope of Work, including the Licensed Software provided by the Contractor shall be and is hereby granted to the Client under the terms and conditions of the Master License Agreement (Attachment B).

20. Entire Agreement

This Contract and its attachments contain the entire agreement and understanding of the parties regarding the subject matter herein. This Contract may be changed only in writing signed by both parties.

IN WITNESS WHEREOF the parties have executed this Contract as of the latest date set forth below.

CONTRACTOR
FEI.com, Inc. dba FEISystems

Dated: May 28, 2020

By: *Rodney E. Conrad*

COUNTY
Lassen County

Dated: _____

By: _____
Richard Egan
County Administrative Officer



Dated: _____

By: _____

Barbara Longo, Director
Health and Social Services

Approved as to Form:

Robert M. Burns
Lassen County Counsel

Dated: _____

By: _____



Scope of Work: Lassen County Behavioral Health

WITS Implementation

Attachment A

FEI.com, Inc.
9755 Patuxent Woods Drive, Ste 300
Columbia, MD 21046
TEL: 443-270-5100
FAX: 410-715-6538
www.FEISystems.com

5/12/2020

Scope of Work

Lassen County Health and Social Services, Behavioral Health, is its current Electronic Health Record system with Web Infrastructure for Treatment Services (WITS). Implementing the WITS platform will improve its behavioral health data collection, workflows and reporting across County programs, will provide a platform that will validate the structure and values of incoming data, and will allow the County to track, assess and report on activities for the individuals served.

The purpose of this Scope of Work is to accompany the contract vehicle and to outline the features, processes and schedule that will assist in the roll out of this new system to the County employees and related individuals per County requirements. The proposal has been broken into three sections:

- Phases of Delivery with Features contained in each phase
- Training and Implementation plans
- Fiscal breakdown and payment schedule

Phases of Delivery and Features by Phase

FEI's approach in the implementation of these modules includes the following steps, which will be performed in Phases. Phases of the project allow the breakdown of the entire project into more manageable and smaller scopes.

- 1) Configuration analysis: FEI will perform an onsite walkthrough of existing platform functionality, which allows the County and its key stakeholders to determine any configurations necessary, as well as to understand how to mold the data collection needs to the WITS platform.
- 2) Requirements development and review:
 - a. Phase 1: FEI expects very few configurations, which will assist in a more timely and controlled deployment of the system for Lassen users.
 - b. Phase 2: FEI anticipates more configurations and collaboration with the County to mold newer or updated features for use within the County.
 - c. In both phases, FEI will document the configuration changes in a requirements document and present to the County's Project Director for review and signoff.
- 3) Configuration and Testing: FEI performs configuration and testing of the system. FEI walks the County through all changes and presents test cases for the County's own user acceptance testing.
- 4) Implementation Planning: FEI will assist the County with several steps of implementation planning, including interviews with key staff, messaging for users, as well as training for staff on the use of the system. County Administrators will also receive training on administration of the system and reporting.
- 5) Ongoing Support, Maintenance and Hosting: Support, maintenance and hosting are provided after the system is ready for go live.

As soon after contract signing as possible, FEI will meet with Lassen County on-site to kick off the project and determine the nature of phases of the project desired by the state. FEI will provide a project plan encompassing each phase upon its initiation.

The following phases have been structured to accelerate the replacement of critical system features to Lassen County staff, while allowing additional time for features that need to be configured, or further developed, to suit the needs of the County more specifically.

Phase 1:

These are critical items, and this scope should allow FEI and Lassen County to prepare the system, testing, and implementation smoothly. This Phase will allow the County to appropriate report and track State required data; provide and manage clinical services; and bill Medi-Cal and DrugMedi-Cal. During this phase:

1. FEI will create the Lassen County site of WITS.
2. FEI will work with Lassen County to configure the key workflows and business rules. This will include any process that helps report state data or answers EQRO questions, such as:
 - a. "Contact" workflow to gather timeliness data
 - b. Crisis flow allowing for real time entry of data and evaluations
 - c. California required client level data collection in the client profile, including preferred language.
 - d. CalOMS and CSI data and uploads.
 - e. Notice of Action.
 - f. ANSA, ASAM Criteria Screen, MH Assessment; CANS and PSC35 with uploads.
 - g. Timeliness and capacity tracking using the waitlist/capacity list and timeliness tracking on contact and intake records.
 - h. Discharge/Continuation plan.
3. Clinical processes (assessments, treatment plans, ePrescribing, diagnosis, lab results (manual), recording of notes (billable or non-billable), groups, ability to record any type of service (including case notes for Child Welfare) in any level of program. This includes the ability to track and record activities for individuals who are not being treated (who do not have an admission).
4. Document storage.
5. Billing to Medi-Cal and DrugMedi-Cal and self pay/client balance tracking.
6. Reporting through SSRS.
7. Get system live, ensure County is able to set up all staff, train staff.

Some processes will be manual, but critical core processes will be up and running.

Phase 2:

These are items which will require more time to discuss and modify for Lassen through configuration of current screens and processes, or which are currently being built and will require Lassen's input. This includes:

1. Automation of several items:

- a. MMEF eligibility checking
 - b. County modifiable intake forms with electronic signatures
 - c. More formal NOA process
 - d. Automated Lab orders and results
2. A structured and easy to run visit summary report
 3. Additional alerting functionality
 4. Wrap plans
 5. Billing/tracking of funding sources (such as MHSA or other funds)
 6. Client poverty level/ability to pay
 7. Patient portal for access to clinical records
 8. Consent and Referral.
 9. Ability to add Alameda Crisis staff, as well as the Child Welfare or other county divisions, as needed, for Katie A tracking.

Additional Phases:

As needed and as budget allows, FEI will work with the County to implement optional features as stated in the RFP.

Training and Implementation Planning

FEI has proposed the following training activities, and is providing estimates of time it will take staff to complete each step.

Skill Assessment

Survey sent to users to assess skill level prior to training.

Agency Roles	Training Format	Estimated # Trainees	Duration	# of Sessions	# Instructors
All	Digital	Unlimited	5-10 min	1	n/a

Pre-Training/Set up

Users will participate in a WITS Basic training to provide guidance on set up, log in, general navigation, and basic functionality. Prior to the training, users will be provided with a unique password and log in to their WITS training environment.

Agency Roles	Training Format	Estimated # Trainees	Duration	# of Sessions	# Instructors
All	Virtual	Up to 40	1-2 hrs	1	2 FEI Trainers

Customized Training Sessions

FEI trains based on the workflows groups of users will encounter on a day to day basis, and recommends the following groupings, based on feedback in terms of number of users or additional groups of user types.

Agency Roles	Training Format	Estimated # Trainees	Duration	# of Sessions	# Instructors
WITS Administrator	Virtual	Up to 20	1 Day	1	2 FEI Trainers
SSRS Reporting	Virtual	Up to 10	4 Hours	1	2 FEI Trainers
End User Training (Clerical)	Virtual	Up to 20	4 Hours	1	2 FEI Trainers
End User Training (Clinical/Case Management)	Virtual	Up to 20	4 Hours	1	2 FEI Trainers
End User Training (Medication Support)	Virtual	Up to 20	4 Hours	1	2 FEI Trainers
End User Training (Fiscal)	Virtual	Up to 20	4 Hours	1	2 FEI Trainers
End User Training (Billing)	Virtual	Up to 20	4 Hours	1	2 FEI Trainers

Continued Learning

Additional (2) 1.5hr SSRS Reporting Trainings. These sessions will be working sessions.

Agency Roles	Training Format	Estimated # Trainees	Duration	# of Sessions	# Instructors
WITS Administrator/QA	Virtual	Up to 5	1-2hrs	2	2 FEI Trainers

While not mandatory, in our experience Counties that plan for internal training time for their staff particularly in the initial weeks/months post go-live have a higher success rate with adoption.

Agency Roles	Training Format	Estimated # Trainees	Duration	# of Sessions	# Instructors
All	Internal	n/a	1hr	weekly	n/a

Supporting Materials

FEI will provide User Manuals, Quick Reference Guides, In-Person Training, and Follow Up webinars before go-live of Phase 1. Additional training for Phase 2 items will be determined based on assessed needs and in conjunction with County administrators.

User Manuals

- WITS Basics User Guide
- WITS Administrator User Guide
- WITS End User Guides
- SSRS Reporting User Guide
- Billing Guide
- Medical User Guide

Quick Reference Guides

Smart guides are used to illustrate end user workflow and step-by-step instruction for frequently used processes in WITS.

Recording Sessions from Trainings:

Each virtual session will be recorded and sent to users for reference.

Powerpoint Decks from Training:

All Powerpoint decks used in trainings will be sent post training for ongoing reference.

WITS Links:

All training documentation can be provided to users within WITS, and in context of the modules, by linking written materials or video recordings to the WITS Site. This allows users to access training references, or the Smart Guides, as immediate points of help within the system.

Budget and Payment Schedule

Each delivery Phase will be further broken down into deliverables (e.g., requirements, development, testing). This will allow for transparency on delivery timeframes, and also for payment milestones throughout implementation.

Payment milestones for each Phase:

- 30% upon beginning of a Project Phase
- 35% upon delivery of the configuration changes for testing
- 35% upon delivery of system ready for go live
- Annual Support and Hosting – can be paid annually or quarterly in advance; monthly in arrears.
- The annual support and hosting is supplied through the end of year 3 as quoted, and may escalate thereafter at 3%/year.

One Time Costs		
Description – Mandatory Items		Cost
Phase 1		\$100,000
Virtual Training, Training Materials		\$42,500
Phase 2		\$47,500
Recurring Annual Costs - Mandatory		
Description	Details	Cost

Tier 3 Support/Hosting	Year 1	\$75,000
Tier 3 Support/Hosting	Years 2 and 3 (Annual Cost)	\$150,000
Recurring Annual Costs – Licenses		
Description	Details	Cost
ePrescribing License	Per prescriber	\$400
EPCS License	Per prescriber	\$150
ASAM Summary Screen (ASAM Intellectual Property License)	Per ASAM user	\$10-20

**ATTACHMENT B
 AGREEMENT BETWEEN
 LASSEN COUNTY
 AND
 FEI.com, Inc. dba FEISystems
 PAYMENT**

COUNTY shall pay CONTRACTOR as follows:

Year One - June 1, 2020 - June 30, 2021						
Scope #	Program/Service Description	Funding Source	Unit Type	Rate	Total # Units	Total
1.1	Develop Lassen County Site for WITS	AOD / MH / MHPA	Unit	\$30,000.00	1	\$30,000.00
1.2	Develop Workflow and Business Rules	AOD / MH / MHPA	Unit	\$10,000.00	1	\$10,000.00
1.3	Clinical/Fiscal Process Implementation Services	AOD / MH / MHPA	Unit	\$20,000.00	1	\$20,000.00
1.4	Document Storage	AOD / MH / MHPA	Unit	\$5,000.00	1	\$5,000.00
1.5.6	Billing to Medi-Cal and Drug Medi-Cal and Self-Pay/Reporting through SSRS	AOD / MH / MHPA	Unit	\$30,000.00	1	\$30,000.00
2.1	Virtual User Training	AOD / MH / MHPA	Hourly	\$147.57	288	\$42,500.00
2.2	Prescriber License for ePrescribing Software (Pre-paid)	AOD / MH / MHPA	Unit/Year	\$550.00	3	\$1,650.00
	ASAM IP License	AOD	Unit/Year	\$20.00	20	400.00
2.3	ePrescribing Implementation	AOD / MH / MHPA	Unit	\$5,000.00	1	\$5,000.00
	Year 1 Support/Hosting	AOD / HSS / MH / MHPA	Unit	\$75,000.00	1	\$75,000.00
Year One Contract Amount						\$219,550.00

Year Two - July 1, 2021 - June 30, 2022						
Scope #	Program/Service Description	Funding Source	Unit Type	Rate	Total # Units	Total
	Phase 2 Implementation	AOD / MH / MHPA	Unit	\$47,500.00	1	\$47,500.00
	Year 1 Support/Hosting	AOD / HSS / MH / MHPA	Unit	\$150,000.00	1	\$150,000.00
	Prescriber License for ePrescribing Software (Pre-paid)	AOD / MH / MHPA	Unit/Year	\$550.00	3	\$1,650.00
	ASAM IP License	AOD	Unit/Year	\$20.00	20	400.00
Year Two Contract Amount						\$199,550.00
Year Three July 1, 2022 - June 30, 2023						
Scope #	Program/Service Description	Funding Source	Unit Type	Rate	Total # Units	Total
	Year 1 Support/Hosting	AOD / HSS / MH / MHPA	Unit	\$150,000.00	1	\$150,000.00
	Prescriber License for ePrescribing Software (Pre-paid)	AOD / MH / MHPA	Unit/Year	\$550.00	3	\$1,650.00
	ASAM IP License	AOD	Unit/Year	\$20.00	20	400.00
Year Three Contract Amount						\$152,050.00
Maximum Contract Amount**						\$571,150.00

* Any services needed that exceed the Maximum Contract Amount must be authorized by an Amendment executed by both parties.

** Contingent upon the availability of funds and approval of the Board of Supervisors

^Service Hours may be moved among these tasks as required to complete implementation

END OF ATTACHMENT "B"



WITS Master License Agreement

This WITS MASTER LICENSE AGREEMENT (this “Agreement”) is entered into and effective as of the 1 day of June, 2020, by and between **FEI.com, Inc., a Maryland corporation d/b/a FEI Systems having its principal offices at 9755 Patuxent Woods Drive, Suite 300, Columbia, Maryland 21046** (hereinafter referred to as “Licensor”) and **Lassen County Behavioral Health, a governmental agency with its principal offices at 555 Hospital Lane, Susanville, CA 96130** (hereinafter referred to as “Licensee”).

WHEREAS, Licensor is, among other things, a software developer with expertise in developing computer software and systems to be used by various governmental agencies and entities for purposes of interfacing with the U.S. federal government’s treatment services system.

WHEREAS, Licensee is desirous of licensing and using Licensor’s software to be used in connection with Licensee’s treatment services system.

THEREFORE, pursuant to the terms and conditions contained herein and any attachments hereto, and for consideration of the mutual covenants and agreements herein contained and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

1. Definitions.

- 1.1. The term “Core Software” shall mean the proprietary software co-authored, co-developed, and co-owned by Licensor and the University of Maryland Bureau of Governmental Research (“BGR”) prior to the Effective Date which provides “core” functionality to and is integral in the use and operation of the Licensed Software.
- 1.2. The term “Developed Module(s)” shall mean one or more pieces of software created by Licensor at the request of one or more third parties (including but not limited to Licensor and BGR) which, when used with the Core Software, add functionality and utility to the Licensed Software. The Developed Modules in existence as of the Effective Date are listed on Schedule A, attached. For purposes of clarity, “Developed Module(s)” includes the Custom Developed Modules and Future Developed Modules.
- 1.3. The term "Licensed Software" shall mean the executable software application known as the Web Infrastructure for Treatment Services Systems (“WITS”), consisting of the Core Software, FEI Software Modules, Developed Modules, and other modifications to the Licensed Software from time to time made by Licensor, but specifically excluding such modifications related to the addition of enhancements to the software which are not necessary to the basic functions of the software, and which are not related to the repair of bugs or errors in, the software.



WITS Master License Agreement

- 1.4. The term "Scope of Work" shall mean that certain document entitled "Scope of Work" entered into by and between the parties separate from this Agreement, which sets forth the commercial terms relating to services (including but not limited to design, development, programming, implementation, and support services) associated with the Licensed Software. The Scope of Work may make reference to but will not be made a part of this Agreement.
- 1.5. The term "Custom Developed Module(s)" shall mean one or more Developed Modules created by Licensor for Licensee pursuant to the Scope of Work.
- 1.6. The term "Future Developed Module(s)" shall mean Developed Module(s) not in existence as of the Effective Date but which come into existence at some future date.
- 1.7. The term "Effective Date" shall mean the date this Agreement is signed by both parties, or at a later date specified in the Agreement once that date has arrived or passed.
- 1.8. The term "FEI Software Module(s)" shall mean one or more pieces of software created by Licensor, independently and/or using its own funds, and offered by Licensor, at its sole discretion, as a part of the Licensed Software, including without limitation, derivative works of Custom Developed Modules and Developed Modules created by Licensor, independently and/or using its own funds.

2. Grant of License.

- 2.1. In consideration of the certain license back from Licensee and other consideration hereunder, Licensor grants to Licensee a non-exclusive, perpetual, royalty free, fully paid license to use the Licensed Software in executable form, together with any and all related documentation, manuals, or instructions, either in hard copy or electronic form, subject to and in accordance with the terms and conditions of this Agreement, such software to be used for solely for the purposes of operations of Licensee's organization in connection with Licensee's treatment services and/or transfer of data relating to such treatment services.
- 2.2. Licensee shall have the right to permit its agency, departments, staff within Licensee's organization and Licensee's third party treatment services system providers to use the Licensed Software solely for the purposes of operations of the Licensee's organization in connection with Licensee's treatment services, consistent with the terms of this Agreement.



WITS Master License Agreement

- 2.3. It is understood by the parties that Licensee may choose to use as many or as few of the Developed Modules as it may desire, and Licensee may add or eliminate Developed Modules from its implementation of the Licensed Software at any time.
- 2.4. During the term of this Agreement, the Licensee shall be entitled to receive from Licensor, at no additional charge to Licensee, all upgrades and revisions to the Licensed Software as determined by Licensor to be necessary for the repair of errors or omissions, including but not limited to software bugs.
- 2.5. Upon Licensee's written request to Licensor, Licensee shall be entitled to have access to and use of the source code for the Licensed Software (but specifically excluding the FEI Software Modules) for maintenance, upkeep, and continued private development purposes only. Upon termination of this Agreement, so long as Licensee is not in breach of its confidentiality and intellectual property obligations hereunder, Licensee shall have use of the source code of the Licensed Software (but specifically excluding the FEI Software Modules) which was available up to the time of termination in perpetuity. Notwithstanding any other provision in this Agreement, so long as the Licensee is in possession of any such source code related to the Licensed Software, Licensee agrees to take reasonable efforts to protect the secrecy and confidentiality of the source code and shall not disclose the source code to anyone without the prior written consent of Licensor, at its sole discretion. In the event that Licensee desires to access and use the source code for the FEI Software Modules, such access and use shall be subject to the terms and conditions and fees in accordance with Licensor's then-current license agreement for the source code for the FEI Software Modules.

3. License Back

- 3.1. Licensee grants to Licensor an exclusive license to use, install, modify, make derivative works of, offer for sublicense, and sublicense any Custom Developed Module(s) created by Licensor for Licensee, together with any and all related documentation, manuals, or instructions, either in hard copy or electronic form at no cost/fee. Subject to the terms and conditions hereunder, Licensor agrees to take reasonable efforts to protect the secrecy and confidentiality of the Licensee's source code to the Custom Developed Module(s).
- 3.2. Licensor shall not be required to provide an accounting for or pay royalties to Licensee for any licenses, sublicenses, or other uses of the Custom Developed Module(s) or modifications, improvements or derivative works thereof which are provided to Licensor's licensees.



WITS Master License Agreement

- 3.3. For purposes of clarity, Licensor shall have the right, among other things, to use and modify the source code to the Custom Developed Module(s) for purposes of enabling the Custom Developed Module(s) to be used by third-party licensees or sublicensees of Licensor in connection with past or future licenses of the Licensed Software, subject to the obligations of confidentiality contained hereunder.
- 3.4. The obligations under this Section shall survive the termination of this Agreement.

4. Option to License Future Developed Modules.

- 4.1. From time to time during the term of this Agreement, Licensor may, at its sole discretion, inform Licensee of the existence of Future Developed Modules not in existence as of the Effective Date. Licensee shall have, at its sole discretion, the option to license such Future Developed Modules in accordance with the terms contained herein.
- 4.2. If Licensee shall desire to incorporate such Future Developed Modules into the Licensed Software, Licensee shall advise Licensor in accordance with the notice provisions hereunder, and those Future Developed Modules shall thereafter be made available to Licensee for installation and incorporation into the Licensed Software, and the identity of such Future Developed Modules shall be added to Schedule A by written amendment executed by both parties, thereby becoming part of the Licensed Software as of the date of such written amendment.
- 4.3. If Licensee elects to incorporate Future Developed Modules into the Licensed Software, there shall be no additional charge for such modules. Licensee and Licensor may separately negotiate a cost for any software configuration, customization, or installation services which may be required or requested.

5. Use of the Licensed Software.

- 5.1. Licensee agrees to take all reasonable steps to ensure that all of its employees, contractors, officers, and agents using the Licensed Software are familiar with and abide by the terms and conditions of this Agreement.
- 5.2. Licensee shall, at Licensee's sole cost and expense, purchase and provide the necessary operating system software, computer hardware, and computer-machine interface hardware required, specifications for such hardware and software requirements to be provided by Licensor.



WITS Master License Agreement

5.3. Licensee agrees that it shall not attempt to reverse engineer, reverse compile, or disassemble the computer code (or any trade secrets or algorithms embodied therein) of the Licensed Software.

6. Maintenance and Support.

6.1. Licensor shall not be obligated to provide any maintenance or support services to Licensee under this Agreement. Any maintenance and support services relating to the Licensed Software shall be set forth and governed by either the Scope of Work or a services agreement to be separately entered into by and between the parties.

7. Documentation and Manuals.

7.1. Licensor may, but shall not be obligated to, produce documentation and written instructions reasonably calculated to instruct and enable Licensee to use and take advantage of the full functionality of the Licensed Software (the "Maintenance Manual"). The Maintenance Manual may be supplied to Licensee by Licensor in a form accessible to Licensee (electronic or hard copy form). The Maintenance Manual may be updated periodically by Licensor, at no additional cost to Licensee, as upgrades, revisions, or other material changes or modifications are made to the Licensed Software, such updates also to be provided in electronic or hard copy formats.

8. Term and Termination.

8.1. This Agreement shall commence on the Effective Date and shall continue in effect thereafter until and unless terminated in accordance with this Section.

8.2. Licensee may terminate this Agreement upon thirty (30) days' prior written notice to Licensor if Licensor fails to comply with any of the material terms and conditions contained herein and if such failure to comply is not corrected within such thirty (30) days from the date of Licensee's written notice of termination to Licensor ("Termination For Cause by Licensee"). In the event of Termination For Cause by Licensee, all rights, duties, and obligations of Licensor and Licensee under this Agreement shall cease except as otherwise expressly provided hereunder.

8.3. Licensor may terminate this Agreement upon thirty (30) days' prior written notice to Licensee if Licensee fails to comply with any of the material terms and conditions contained herein and if such failure to comply is not corrected within such thirty (30) days from the date of Licensor's written notice of termination to Licensee ("Termination For Cause by Licensor"). In the event of Termination



WITS Master License Agreement

For Cause by Licensor, all rights, duties, and obligations of Licensor and Licensee under this Agreement shall expressly cease except as otherwise provided hereunder.

- 8.4. Either the Licensee or Licensor may cancel this Agreement at any time, with or without cause, upon thirty (30) days' prior written notice to the other party specifying the date of termination.

9. Ownership and Derivative Works.

- 9.1. Licensor represents and warrants that it has the full right and authority to license the Core Software and the FEI Software Modules for use by Licensee in connection with the Licensed Software. Licensor represents and warrants that it has the full right and authority to license any Custom Developed Modules and Future Developed Modules for use by Licensee in connection with the Licensed Software.
- 9.2. The Core Software and all related documentation, manuals, and instructions are protected by applicable copyright, patent, trademark, or trade secret laws. Licensee acknowledges that Licensor and the co-creator of the Core Software own all right, title and interest in and to the Core Software. Licensee agrees to take any reasonable steps necessary to protect the proprietary rights of Licensor and to avoid the infringement, direct or indirect, of such rights.
- 9.3. The FEI Software Modules and all related documentation, manuals, and instructions are protected by applicable copyright, patent, trademark, or trade secret laws. Licensee acknowledges that Licensor owns all right, title and interest in and to the FEI Software Modules. Licensee agrees to take any reasonable steps necessary to protect the proprietary rights of Licensor and to avoid the infringement, direct or indirect, of such rights.
- 9.4. The Custom Developed Modules and all related documentation, manuals, and instructions are protected by applicable copyright, patent, trademark, or trade secret laws. Licensor acknowledges that Licensee owns all right, title and interest in and to the Custom Developed Module(s). Licensor shall have the right to use the Custom Developed Module(s) as provided herein. Licensor agrees to take any reasonable steps necessary to protect the proprietary rights of Licensee and to avoid the infringement, direct or indirect, of such rights.
- 9.5. The obligations under this Section shall survive the termination of this Agreement.



WITS Master License Agreement

10. Confidentiality.

- 10.1. Except as prohibited by law or in contravention of applicable law or regulation, the parties to this Agreement agree to maintain all of the terms of this Agreement, any Exhibits, and any attached Addenda, as well as the substance of any discussions, negotiations, and correspondence related to this Agreement in strict confidence, and to keep same from any and all third parties, except such disclosures that are otherwise required by law. In the event of such disclosures, the disclosing party agrees to provide the other party advance notice of its intention to provide such disclosures, including with such notice the name and contact address and telephone number of the entity to whom such disclosures shall be made.
- 10.2. Except as prohibited by law or in contravention of applicable law or regulation, the parties to this Agreement shall make reasonable efforts and use reasonable care to protect the secrecy of all trade secrets and confidential and proprietary information and documents related to the other party, including without limitation, the Licensed Software and its source code (“Confidential Information”). Notwithstanding the foregoing, Confidential Information does not include information which: (i) was publicly known or generally known within the trade at the time of disclosure, (ii) becomes public knowledge or generally known within the trade without breach of this Agreement by either party or any of its directors, officers or employees, (iii) was information already known by the receiving party at the time of disclosure, or information independently developed by the receiving party’s personnel who did not have access to the information disclosed by the disclosing party, (iv) is required to be disclosed by law, or (v) is obtained by the receiving party, its officers or employees from third parties who are under no obligation of confidentiality with respect to the information. If the receiving party is required to disclose any Confidential Information by a court order or other specific governmental action, the receiving party may comply with such disclosure requirement, unless the disclosing party, at its own expense, is successful in having the effect of such requirement stayed pending an appeal or further review thereof, or revised, rescinded or otherwise nullified. In all events, the receiving party agrees to notify the disclosing party promptly if at any time a request or demand of any kind is made to the receiving party to disclose any of the Confidential Information. The disclosing party shall have the right, at its cost, to intervene in any proceeding in which the receiving party is being asked to disclose any of the Confidential Information.
- 10.3. The obligations of secrecy and confidentiality contained in this Section shall be in effect during the term of this Agreement and shall survive termination and



WITS Master License Agreement

remain in effect for a period of five (5) years after termination of this Agreement.

11. Infringement.

- 11.1. Licensor represents and warrants that Licensor has all right to furnish the Licensed Software in accordance with the terms and conditions of this Agreement and that the Licensed Software and Licensee's use thereof do not and shall not directly or indirectly violate or infringe upon any copyright, patent, trademark, trade secret, or other proprietary or intellectual property right of any third-party. Licensor shall indemnify and hold Licensee and its successors, officers, directors, employees, and agents harmless from and against any and all actions, claims, losses, damages, liabilities, awards, costs, and expenses (including reasonable attorneys' fees and costs) resulting from or arising out of any breach or claimed breach of the foregoing warranty of non-infringement and Licensor shall defend and settle, at its sole expense, all suits or proceedings arising therefrom.
- 11.2. Licensee shall immediately inform Licensor of any suit or proceeding against Licensee for which indemnity is claimed under the foregoing warranty of non-infringement. Licensee shall have the right to participate in the defense of any such suit or proceeding, at its own expense and through counsel of Licensee's choosing, but may not impede or hamper Licensor's defense of or efforts to settle any such suit or proceeding. Licensor shall have the sole right to conduct the defense of any such suit or proceeding and all negotiations for its settlement or compromise, unless otherwise mutually agreed to in writing between the parties hereto. Licensor shall notify Licensee of any actions, claims, or suits against Licensor based on an alleged infringement of any party's intellectual property rights in and to the Licensed Software.
- 11.3. Licensor shall have no obligation in any respect for any claim based on (A) Licensee's unauthorized or permitted modification of the Licensed Software, as delivered by Licensor, or its combination, operation, or use with any product, data, or apparatus not specified or provided by Licensor, provided that such claim solely and necessarily is based on such combination, operation, or use and such claim would be avoided by combination, operation, or use with products, data, or apparatus specified by Licensor, or (B) use of any releases other than a current release or one (1) prior release of the Licensed Software if such claim would have been avoided by use of a current release or prior release.
- 11.4. The obligations under this Section shall survive the termination of this Agreement.



WITS Master License Agreement

11.5. THIS SECTION STATES LICENSOR'S ENTIRE OBLIGATION TO LICENSEE WITH RESPECT TO ANY CLAIM OF INFRINGEMENT. ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES OF NON-INFRINGEMENT ARE EXPRESSLY AND SPECIFICALLY DISCLAIMED.

12. Limited Warranties.

- 12.1. Licensor warrants that, for a period of ninety (90) days following delivery, the Licensed Software will operate in all material aspects in accordance with the Scope of Work and any documentation, instruction, directions, or manuals provided by Licensor to Licensee when the Licensed Software is used in accordance with the uses described in the Scope of Work and any documentation, instructions, directions, or manuals.
- 12.2. Licensor warrants that, at the time the Licensed Software is provided to Licensee, no portion of the Licensed Software shall contain any "time bomb," "Trojan horse," "worm," "drop dead device," "virus," or other routine, device, or undisclosed feature designed to (i) disable, damage, or erase the Licensed Software or any portion thereof or any other data, or (ii) perform any similar actions that would preclude full use of and access to the Licensed Software by the Licensee.
- 12.3. Licensor warrants that it has the right to grant a license for the use of the Licensed Software.
- 12.4. LICENSOR DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, IN CONNECTION WITH THE LICENSED SOFTWARE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR ANY EXPRESS WARRANTIES STATED IN THIS AGREEMENT, IF ANY, THE LICENSED SOFTWARE IS PROVIDED WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH THE LICENSEE.
- 12.5. LICENSOR EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN LICENSEE WITH RESPECT TO THE LICENSED SOFTWARE OR ANY PART OF IT. THIS AGREEMENT IS NOT INTENDED TO CONFER ANY RIGHTS TO ANY THIRD PARTY BENEFICIARY, AND ONLY LICENSOR AND LICENSEE HAVE THE RIGHT TO ENFORCE ANY OF THE TERMS HEREIN. ANY AND ALL EXPRESS OR IMPLIED WARRANTIES ARE EXPRESSLY AND



WITS Master License Agreement

SPECIFICALLY DISCLAIMED BY LICENSOR AND WAIVED BY LICENSEE.

13. Limitation of Liability.

- 13.1. For purposes of clarity, Licensor has no obligation in respect to any claim arising out of Licensee's unauthorized or permitted modifications to the Licensed Software or its combination, operation, or use with any product, data, or apparatus not specified or provided by Licensor at the time of delivery.
- 13.2. IN NO EVENT SHALL EITHER PARTY BE LIABLE, ONE TO THE OTHER, FOR INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, DATA, OR GOODWILL, BUSINESS INTERRUPTION, OR FOR LIABILITY TO THIRD PARTIES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE FURNISHING, PERFORMANCE, OR USE OF THE LICENSED SOFTWARE (OR ANY PART THEREOF) PROVIDED FOR IN THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

14. Relationship of the Parties.

- 14.1. This Agreement is not intended to constitute, create, give effect to, or otherwise recognize a joint venture, partnership, or formal business entity of any kind, and the rights and obligations of the parties shall be limited to those expressly set forth herein. Nothing herein shall be construed as an obligation or be deemed to obligate the parties to enter into any future agreement with respect to the matters set forth in this Agreement or as providing for the sharing of profits or losses arising out of the efforts of either or both parties. Each party shall act as an independent contractor to the other and not as an agent of the other for any purpose whatsoever and neither party shall have any authority to bind the other or enter into any agreement on behalf of the other.

15. Construction.

- 15.1. The parties each warrant and acknowledge that they have each had equal opportunity to negotiate the terms and conditions and participate in the drafting of this Agreement. Accordingly, this Agreement shall not be construed against any one party as the drafter but shall be construed according to its terms equally as to each party. Any rule of construction against the drafter is hereby waived by each of the parties as to this Agreement.



WITS Master License Agreement

16. Disputes.

- 16.1. Except for any suit seeking injunctive relief to enforce the proprietary rights or protect the confidential information of either party, the parties will attempt in good faith to resolve promptly through negotiation any claim or controversy arising out of or relating to this Agreement. If a claim or controversy should arise, representatives of the parties shall meet at least once and will attempt in good faith to resolve the dispute. For such purpose, either party may request the other to meet within fifteen (15) days at a mutually agreed upon time and place. If the parties are not able to conduct a meeting within the fifteen (15) day period or to resolve the dispute within thirty (30) days after their first negotiating meeting (or such longer period of time as may be mutually agreed upon), either party may refer the claim or controversy to non-binding mediation by sending a written mediation request to the other party. In the event that such a request is made, the parties agree to participate in the mediation process. The parties further agree that their participation in mediation is a condition precedent to any party pursuing any other available remedy in relation to the dispute.
- 16.2. The parties must jointly appoint a mutually acceptable mediator. If the parties are unable to agree upon the appointment of a mediator within seven (7) days after a party has given notice of a desire to mediate the dispute, any party may apply to the American Arbitration Association, or such other organization or person agreed to by the parties in writing, for appointment of a mediator.
- 16.3. The parties and the mediator may join in the mediation any other party necessary for a mutually acceptable resolution of the dispute. Should the mediator at any time be unable or unwilling to serve, the parties shall select a successor mediator. The mediation procedure shall be determined by the mediator in consultation with the parties.
- 16.4. If the dispute or claim is resolved successfully through the mediation, the resolution will be documented by a written agreement executed by all parties. If the mediation does not successfully resolve the dispute or claim, the mediator shall provide written notice to the parties reflecting the same, and the parties may then proceed to seek an alternative form of resolution of the dispute or claim, in accordance with the remaining terms of this agreement and other rights and remedies afforded to them by law.
- 16.5. The parties further acknowledge and agree that mediation proceedings are settlement negotiations, and that, to the extent allowed by applicable law, all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties or their agents shall be confidential and inadmissible in any arbitration or other legal proceeding involving the



WITS Master License Agreement

parties; provided, however, that evidence which is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

- 16.6. The parties further agree to share equally the costs of the mediation; such costs will not include costs incurred by a party for representation by counsel at the mediation.

17. Excusable Delay.

- 17.1. In no event shall either party be liable one to the other for any delay or failure to perform hereunder, the delay or failure to perform due to causes beyond the control of said party, including, but not limited to, acts of God, acts of the public enemy, terrorism, civil disturbance, acts of any government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather conditions.

18. Notices.

- 18.1. All notices, orders, directives, requests, or other written communications required or permitted to be given or sent pursuant to this Agreement shall be deemed given (or issued) if sent by overnight courier or first-class mail addressed as follows:

In the case of Licensor to:

FEi.com, Inc. dba FEI Systems
9755 Patuxent Woods Drive, Suite 300
Columbia, Maryland 21046

In the case of Licensee to:

Name
Address

- 18.2. Either party may, by written notice given in accordance with the foregoing, change its address or designated recipient for notices. Any notice given as aforesaid shall be deemed to have been received on the day after the date of the overnight mail receipt or three (3) working days after deposit in the mail (first-class, postage prepaid), whichever is applicable.



WITS Master License Agreement

19. Assignment.

19.1. This Agreement is personal to Licensor and Licensee, and the rights, duties and obligations of Licensee under this Agreement may not be assigned by Licensee in whole or in part by operation of law or otherwise without the prior express written consent of Licensor, at its sole discretion, and any attempted assignment of any rights, duties or obligations hereunder without such consent shall be null and void. This Agreement shall then be binding on the parties and their permitted assigns.

20. Miscellaneous

20.1. Survival. Any provisions of this Agreement which by their nature or as drafted extend beyond its termination, including without limitation the provisions relating to the obligations of confidentiality of the parties hereunder, and any provisions which survive by action of statute, shall survive the completion, rescission, or termination of this Agreement.

20.2. Severability. In the event that any one or more of the provisions of this Agreement shall for any reason be held invalid, illegal, or unenforceable, the remaining provisions of this Agreement shall be unimpaired, and the invalid, illegal, or unenforceable provisions shall be replaced by a mutually acceptable provision, which being valid, legal, and enforceable, comes closest to the intention of the parties underlying the invalid, illegal, or unenforceable provision.

20.3. Governing Law. The validity of this Agreement, the construction and enforcement of its terms, and the interpretation of the rights and duties of the parties shall be governed by the laws of the State of Maryland, without regard to its conflict of laws principles and without regard to Maryland Uniform Computer Information Transactions Act

20.4. Entire Agreement. This Agreement and any Addenda thereto represent the entire agreement between Licensor and Licensee with respect to the subject matter herein, and Licensor and Licensee agree that all other agreements, purchase orders, proposals, order forms, representations, and other understandings dated prior to this agreement, whether written or oral, concerning the Licensed Software, are superseded in their entirety by this Agreement.

20.5. Modification, Amendment, Supplement, and Waiver. No alteration, modification, attachment, supplement, or exhibit to this Agreement shall be valid unless made in writing and signed by Licensor and Licensee. A failure or delay by either party to this Agreement to enforce, at any time, any of the



WITS Master License Agreement

provisions of this Agreement, to exercise any option which is herein provided, or to require at any time performance of any of the provisions hereof shall in no way be construed to be a waiver of any provision of this Agreement.

21. Headings.

21.1. The headings of this Agreement are for reference purposes only and shall not in any way limit or affect the meaning or interpretation of any of the terms.

**REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
SIGNATURE PAGE TO FOLLOW.**



WITS Master License Agreement

LICENSOR AND LICENSEE, HAVING READ AND UNDERSTOOD THIS AGREEMENT AND ANY EXHIBITS, ATTACHMENTS, AND ADDENDA CONSTITUTING A PART HEREOF, AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS LICENSE.

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

LICENSOR:
FEi.com, Inc.

WITNESS: _____

Rodney E. Conrad

BY: Rodney E. Conrad

TITLE: Deputy COO, GM Products

DATE: May 28, 2020

LICENSEE:
Lassen County

Dated: _____

By: _____
Richard Egan
County Administrative Officer

Dated: _____

By: _____
Barbara Longo, Director
Health and Social Services

Approved as to Form:

Robert M. Burns
Lassen County Counsel

Dated: _____

By: _____



Business Associate and Qualified Service Organization Agreement

This Business Associate and Qualified Service Organization Agreement (“BAQSOA” or “Agreement”) is made effective on the date of signature by and between [L] (“Covered Entity”) and **FEI.com, Inc., d/b/a FEI Systems** (“Business Associate”), collectively referred to as the “Parties.”

WHEREAS, Covered Entity and Business Associate are parties to a contract for services (“Contract”), whereby Business Associate agrees to perform certain services for or on behalf of Covered Entity;

WHEREAS, the relationship between Covered Entity and Business Associate is such that the Parties believe Business Associate is a “business associate” within the meaning of the HIPAA Privacy Rule;

WHEREAS, Covered Entity operates a drug and alcohol treatment program that must comply with the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “Part 2”);

WHEREAS, Business Associate is also a Qualified Service Organization (QSO) under Part 2 and must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information; and

WHEREAS, the Parties desire to set forth the terms and conditions pursuant to which Protected Health Information, provided to Business Associate by Covered Entity (“Protected Health Information”), will be handled between themselves and third parties.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **DEFINITIONS.** Unless some other meaning is clearly indicated by the context, the following terms shall have the following meaning in this Agreement:
 - a. "Electronic Protected Health Information" shall have the same meaning as the term "electronic protected health information" in 45 C.F.R. § 160.103.
 - b. "HIPAA" means the Administrative Simplification Provisions, Sections 261 through 264, of the federal Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as modified and amended by the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public law 111-5.



Business Associate and Qualified Service Organization Agreement

- c. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
 - d. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164.
 - e. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - f. "Qualified Service Organization" shall have the same meaning as the term "Qualified service organization" in 42 C.F.R. § 2.11
 - g. "Required By Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
 - h. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or the person to whom the authority involved has been delegated.
 - i. Unless otherwise defined in this Agreement, terms used herein shall have the same meaning as those terms have in the Privacy Rule.
2. **OBLIGATIONS OF BUSINESS ASSOCIATE.**
- a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By law.
 - b. Business Associate agrees to use appropriate safeguards and comply, where applicable, with subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
 - c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
 - d. Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required by 45 C.F.R. 164.410.
 - e. Business Associate agrees, in accordance with 45 C.F.R. 164.502(e)(1) and 164.308(b)(2), to ensure that any subcontractors that create, receive, maintain or transmit protected health information on behalf of Business Associate agree to the same restrictions and conditions that apply to Business Associate with respect to such information.
 - f. Business Associate agrees to make available Protected Health Information as necessary to satisfy Covered Entity's obligations in accordance with 45 C.F.R. 164.524.



Business Associate and Qualified Service Organization Agreement

Information to provide data aggregation services to Covered Entity as permitted by 45 C.F.R. - 164. 504(e)(2)(i)(B).

- d. Notwithstanding the foregoing provisions, Business Associate may not use or disclose Protected Health Information if the use or disclosure would violate any term of the Contract or other applicable law or agreements.

5. **QUALIFIED SERVICE ORGANIZATION AGREEMENT.** Covered Entity and Business Associate hereby agree that this Agreement constitutes a Qualified Service Organization Agreement (“QSOA”) as required by 42 CFR Part 2. Accordingly, information obtained by Business Associate relating to individuals who may have been diagnosed as needing, or who have received, chemical dependence treatment services shall be maintained and used only for the purposes intended under this Agreement and in conformity with all applicable provisions of 42 USC § 290dd-2 and the underlying federal regulations, 42 CFR Part 2. Accordingly, except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Confidentiality or Privacy Rules if done by Covered Entity.

6. **TERM AND TERMINATION.**

- a. Term. This Agreement shall be effective as of the effective date stated above and shall terminate when the Contract between the Parties terminates.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity may, at its option:
 - i. Provide an opportunity for Business Associate to cure the breach or end the violation, and terminate this Agreement and services provided by Business Associate, to the extent permissible by law, if Business Associate does not cure the breach or end the violation with the time specified by Covered Entity;
 - ii. Immediately terminate this Agreement and services provided by Business Associate, to the extent permissible by law; or
 - iii. If neither termination nor cure is feasible, report the violation to the Secretary as provided in the Privacy Rule.
- c. Effect of Termination.
 - i. Except as provided in the Contract or paragraph (ii) of this section or by other applicable law or agreements, upon termination of this Agreement and services provided by Business Associate, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business



Business Associate and Qualified Service Organization Agreement

Associate. Business Associate shall retain no copies of the Protected Health Information.

- ii. In the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction not feasible. Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

7. GENERAL TERMS AND CONDITIONS.

- a. Once executed, this Agreement automatically and immediately becomes part of the Contract. If this Agreement is executed prior to the execution of the Contract, it automatically and immediately becomes part of the Contract upon execution of the Contract.
- b. Except as provided in this Agreement, all terms and conditions of the Contract shall remain in force and shall apply to this Agreement as if set forth fully herein.
- c. In the event of a conflict between this Agreement and the Contract, the interpretation that is in accordance with the Privacy Rule and Part 2 shall prevail. In the event that a conflict still remains, the Contract terms shall prevail so long as they are in accordance with the Privacy Rule and Part 2.
- d. A material breach of this Agreement by Business Associate shall be considered sufficient basis for Covered Entity to terminate the Contract for cause.

8. MISCELLANEOUS.

- a. Entire Agreement. This Agreement, and all attachments, schedules and exhibits hereto, constitutes the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes any prior or contemporaneous written or oral memoranda, negotiations, arrangements, contracts or understandings of any nature or kind between the Parties with respect to the subject matter hereof.
- b. Construction of Terms. The terms of this Agreement shall be construed in light of any interpretation and/or guidance on HIPAA, Part 2, the Privacy Regulation and/or the Security Regulation issued by HHS from time to time.
- c. Survival. Paragraphs 6(c), 8(b), 9, 10, and this 8(c), and any other provisions of this Agreement that by their terms are intended to survive, shall survive the termination of this Agreement.
- d. Counterparts and Copies. This Agreement may be executed in any number of counterparts. Properly processed photocopies, facsimiles, and/or scanned document images shall be deemed to be originals.



Business Associate and Qualified Service Organization Agreement

- e. Binding Agreement. This Agreement shall be binding upon the Parties and their successors and permitted assigns.
9. **LIMITATION OF LIABILITY.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.
 10. **DEFINITIONS.** Regulatory citations in this Agreement are to the United States Code of Federal Regulations Title 45 and Title 42, as interpreted and amended from time to time by HHS, for so long as such regulations are in effect. Unless otherwise specified in this Agreement, all capitalized terms not otherwise defined shall have the meaning established for purposes of Title 42 and Title 45 parts 160 through 164 of the United States Code of Federal Regulations, as amended from time to time.

IN WITNESS WHEREOF, each of the undersigned has caused this Business Associate and Qualified Service Organization Agreement to be duly executed effective as of the Effective Date.

FEI Systems

Covered Entity

Rodney E. Conrad
Signature

Signature

Rodney E. Conrad, Deputy COO, FEI Systems
Title and Printed Name

Title and Printed Name

May 28, 2020
Date

Date