**TO:** **SOUTHERN NEVADA DISTRICT BOARD OF HEALTH**    **DATE:** April 23, 2020

**RE:** *Approval of contract with iland Internet Solutions Corporation ("iLand") to provide cloud services for hosting servers for Disaster Recovery purposes.*

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## PETITION #41-20

**That the Southern Nevada District Board of Health** *approve the Master Service Agreement C2000103 between the Southern Nevada Health District and iland Internet Solutions Corporation for cloud hosting for Disaster Recovery purposes.*

### PETITIONERS:

**Fermin Leguen, MD, MPH,** *Director of Clinical Services* *FL*
**Jason Frame,** *Chief Information Officer*

### DISCUSSION:

The Southern Nevada Health District (SNHD) currently does not have a secondary data center and is underprepared for a disaster at our primary facility. SNHD has previously procured and implemented software to allow for a cloud-based secondary data center for disaster recovery, and now we need to add the cloud hosting services.

The contract is a sole-source agreement based on iLand being a preferred partner of the software vendor (Zerto) which we are using for Disaster Recovery.

### FUNDING:

The anticipated monthly licensing and hosting costs of the cloud services is $5,011.80, or $60,141.60 annually. There is also a standard one-time setup cost of $3505.46. These costs have been budgeted into the FY20 Information Technology budgets. Funding will be from the general fund.

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## MASTER SERVICE AGREEMENT

## C2000103

This **MASTER SERVICE AGREEMENT** (this "**Agreement**") is entered on _____ (the "**Effective Date**"), between Southern Nevada Health District, a political subdivision of the State of Nevada (the "**Customer**") and iland Internet Solutions Corporation, a Texas corporation (the "**Provider**").

WHEREAS, the Provider and its affiliates provide cloud computing services in the United States;

WHEREAS, the Customer desires to retain the Provider and is affiliates to provide services from time to time and the Provider desires to provide such services from time to time; and

WHEREAS, the Customer and the Provider desire to have a master agreement that sets forth the general terms and conditions with respect to such services.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

## ARTICLE 1
## DEFINITIONS

In this Agreement:

**Section 1.1** "**Affiliate**" means any Person controlling, controlled by, or under common control with a Party. The term "control" as used in the preceding sentence means, with respect to a company, the right to exercise, directly or indirectly, more than fifty percent of the voting rights attributable to the shares of the controlled company, and with respect to any Person other than a company, the possession, directly or indirectly, of the power to direct or cause the direction of such Person's management or policies.

**Section 1.2** "**Business Hours**" means 9:00 AM to 5:00 PM local time in the location of the Provider's data center relating to the relevant Order each weekday other than holidays.

**Section 1.3** "**Claim**" or "**Claims**" means all claims, losses, liabilities, damages (excluding punitive and exemplary damages), causes of action, costs, judgments and awards, whether arising under contract, tort or other law.

**Section 1.4** "**Data Protection Laws**" means, as applicable, Nevada Revised Statutes ("**NRS**") Chapter 603A, the U.S. Health Insurance Portability and Accountability Act of 1996, the U.S. Health Information Technology for Economic and Clinical Health Act, the General Data Protection Regulation, (in each case as amended from time to time) and other applicable data protection laws and regulations.

**Section 1.5** "**Data Protection Order**" means the Providers' forms of Business Associate Agreement, Information Security Work Order, Data Protection Order, or similar written agreement between the Provider and the Customer governing the storage,

processing and use of Protected Information, including such a written agreement which is subject to the General Data Protection Legislation or the U.K. Data Protection Act of 2018.

**Section 1.6** The term "**Defend**" shall, to the extent permitted by law, include the obligation to pay reasonable attorneys' fees, court costs, experts' fees, and other reasonable costs incurred as a result of defending against a Claim as required by this Agreement.

**Section 1.7** "**Disclosing Party**" means a Party that supplies, or has supplied, Proprietary Information to another Party.

**Section 1.8** "**Emergency Change**" means a change required to either immediately restore service or to avoid an outage where no other workaround is feasible and authorization for this type of change occurs outside of the Provider's Change Management Process. This type of change is considered to be emergency maintenance under Section 4.5.

**Section 1.9** "**Order**" has the meaning set out in Section 3.1.1.

**Section 1.10** "**Parties**" means the Provider and the Customer and each is individually a "**Party**".

**Section 1.11** "**Person**" means an individual, partnership, joint venture, company, limited liability company, incorporated or unincorporated organization or other entity of any kind.

**Section 1.12** "**Proprietary Information**" means information in any form, tangible or intangible, as supplied in writing, orally or by observation, that may be disclosed by or on behalf of the Disclosing Party to the Receiving Party, that is (a) designated in writing to be confidential or proprietary supported by the appropriate state or federal law, (b) if given orally, is confirmed in writing as having been disclosed as confidential or proprietary within a reasonable time (not to exceed 48 hours) after the oral disclosure, or (c) which information would, under the circumstances, appear to a reasonable person to be confidential or proprietary.

**Section 1.13** "**Protected Information**" means individually identifiable health information or other personal information (to include credit card numbers and individuals' dates of birth and tax identification numbers) that is transmitted or maintained in any form or medium and which is subject to Data Protection Laws.

**Section 1.14** "**Receiving Party**" means a Party that receives Proprietary Information from the Disclosing Party, its Affiliates or their respective Representatives.

**Section 1.15** "**Representatives**" means employees, contractors, agents and officers.

**Section 1.16** "**Termination Notice**" has the meaning set out Section 2.3.2.

**Section 1.17** "**Third Party**" or "**Third Parties**" means any Person other than a Party.

# ARTICLE 2
## CONTRACT ADMINISTRATION

**Section 2.1   Purpose**.  This Agreement shall govern all transactions between the Customer, on one hand, and the Provider, on the other hand, except as otherwise agreed in writing among the Parties.

**Section 2.2   Application**.   The Parties hereby cancel all prior master service agreements in which the Customer is the expressly named party in the position of "the Customer" and any Provider is the expressly named party in the position of "the Provider"; provided, however, that each such prior master service agreement shall continue to govern all work commenced during the term of such prior master service agreement.

**Section 2.3   Term and Termination**.

    2.3.1   Term.  This Agreement shall commence on the date set out above (the "**Effective Date**") and continue until all Orders have expired or have been terminated as allowed under this Agreement, unless this Agreement is sooner terminated upon  (i) the date specified in a Termination Notice delivered pursuant to Section 2.3.2, or (ii) the written agreement of the Parties to terminate this Agreement.

    2.3.2   Termination Notice.  Any Party may terminate this Agreement, with or without cause, prospectively as a master service agreement with respect to new work by delivering a written notice ("**Termination Notice**") to the other Parties specifying the date on which this Agreement shall terminate, which date shall be at least sixty (60) days after the date on which such notice is delivered to the other Parties.

    2.3.3   Survival.  Notwithstanding the delivery of a Termination Notice, the terms and conditions of this Agreement shall survive the termination of this Agreement with respect to each then-current Order through termination of such Order.

**Section 2.4   Not an Order**.  This Agreement does not obligate (i) the Customer to order services from the Provider or (ii) the Provider to accept work orders from the Customer.

# ARTICLE 3
## ORDERS

**Section 3.1   Requirements**.

    3.1.1   Offer and Acceptance.  All requests for services shall be issued by the Customer.  Such requests may be in the form of work orders, purchase orders, or other similar documents.  When issued, such requests are non-binding, negotiable offers.  Such an offer becomes a binding order ("**Order**") only after the Customer and the Provider have affirmatively agreed to all terms and conditions concerning the requested services.  The failure of a Provider to respond to a work order, purchase order, or other request for work by the Customer under this Agreement shall not result in a binding Order.  If in response to a written purchase order, or other written request containing all the material terms and conditions of an agreement, a Provider performs the services set forth in such written order or written request, the Parties shall be deemed bound to the terms of the writing upon which the Provider relied in so performing.

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    3.1.2    <u>Electronic Signature</u>. The Parties expressly agree to the Uniform Electronic Transaction Act as adopted in the State of Nevada. With respect to a written Order, if an individual places the words "Signed By" before his or her name, then the Order shall be conclusively presumed to have been signed with the equivalent of a handwritten or "wet" signature.

**Section 3.2 Conflict between Order and Agreement**. If a conflict exists between an Order and this Agreement, then this Agreement shall control to the extent of the conflict.

**Section 3.3 Term of Orders**. The initial term of an Order shall be set out on the Order (such Order's "**Initial Term**"). An Order may be renewed for additional one-year terms by mutual written agreement of the Parties (each, a "**Successive Term**") unless such Order is sooner terminated prior to the final day of the then-current Initial Term or Successive Term in accordance with the Agreement or the relevant Schedule.

**Section 3.4 Changes to Resources**. Customer requested changes to the resources in an Order that has already been deployed at the time of the request shall not be effective until the Provider has confirmed that the requested changes have been performed.

**Section 3.5 Termination of Orders**. An Order may be terminated under this Agreement:

    3.5.1    as a remedy for an uncured default as set out in the default provisions of this Agreement;

    3.5.2    for extended Force Majeure conditions as set out in the Force Majeure provisions of this Agreement;

    3.5.3    by the Customer upon 30 days' advanced written notice to the Provider by emailing cancellations@iland.com; provided, however, that if the Customer terminates an Order pursuant to this Section 3.5.3, the Customer shall pay to the Provider concurrently with such termination a termination fee equal to the aggregate Monthly Fees (as defined in such Order) that would have been payable through the end of the then-current Initial Term (as defined in such Order) or Successive Term (as defined in such Order) if such Order had not been terminated. The termination fee described in this Section shall be limited to the amount of funds then and previously appropriated to the Customer for the Order at the time that the Order is terminated and the Customer shall provide the Provider reasonable supporting evidence of that amount upon the Provider's request;

    3.5.4    by the Provider by providing 30 days' advanced written notice to the Customer; provided that if a Provider terminates an Order pursuant to this Section 3.5.4 following a breach of such Order or this Agreement by the Customer, the Customer shall pay to the Provider promptly following such termination a termination fee equal to the aggregate Monthly Fees (as defined in such Order) that would have been payable through the end of the then-current Initial Term (as defined in such Order) or Successive Term (as defined in such Order) if such Order had not been terminated. The termination fee described in this Section shall be limited to the amount of funds then and previously appropriated to the Customer for the Order at the time that the Order is terminated and the Customer shall provide the Provider reasonable supporting evidence of that amount upon the Provider's request;

**3.5.5 by Non-Appropriation of Funds.** In accordance with Nevada law, Customer is a local governmental entity that relies on legislative budget approval to fund the requested services provided under Orders. Customer intends to continue any Order for its entire term and to satisfy obligations hereunder, and for each fiscal period: (a) Customer agrees to include in its budget request appropriations sufficient amounts to cover Customer's obligations under any Order; (b) Customer agrees to use all reasonable and lawful means to secure these appropriations; and (c) Customer agrees it will not use non-appropriations as a means of terminating any Order to acquire functionally equivalent products or services from a third party. Customer reasonably believes that sufficient funds will be lawfully available to satisfy its obligations under the Order(s). If Customer is appropriated insufficient funds (by appropriation, appropriation limitation, or grant) to continue payments under an order, and has no other funding source lawfully available to it for such purpose, Customer may terminate an Order with at least thirty (30) days prior written notice to the Provider at cancellations@iland.com. Upon termination, Customer will remit all amounts due and all costs reasonably incurred through the date of termination, and to the extent of lawfully available funds, through the end of the then-current fiscal period (June 30). Upon request by Provider, Customer will provide a summary of the status of funding for any Order.

3.5.6     by the Provider by notice to the Customer if the Providers' rights to use the data center specified in such Order for the purposes contemplated by such Order terminate or expire for any reason;

3.5.7     if such Order is an Order for colocation services, by the Provider immediately by notice to the Customer if the Customer has failed to remedy any of the following situations within 5 days following receipt of notice from the Provider of such situation: (a) the Customer makes any material alterations to the Colocation Rack without first obtaining the written consent of the Provider; or (b) the Customer allows any person to enter the data center, Colocation Area or the Colocation Rack (each as defined in the relevant Order) who has not been approved by the Provider in advance, provided that in each case the Customer shall pay to the Provider concurrently with such termination a termination fee equal to 100% of the aggregate Monthly Fees that would have been payable through the end of the then-current Initial Term or Successive Term if such Order had not been terminated.  The termination fee described in this Section shall be limited to the amount of funds then and previously appropriated to the Customer for the Order at the time that the Order is terminated and the Customer shall provide the Provider reasonable supporing evidence of that amount upon the Provider's request;

3.5.8     by the Provider immediately if a Customer or any of its agents, invitees, or employees enter the Providers' data center with any firearms, illegal drugs, or alcohol or are engaging in any criminal activity, eavesdropping or foreign intelligence activities, provided that in each case the Customer shall pay to the Provider concurrently with such termination a termination fee equal to 100% of the aggregate Monthly Fees that would have been payable through the end of the then-current Initial Term or Successive Term if such Order had not been terminated.  The termination fee described in this Section shall be limited to the amount of funds then and previously appropriated to the Customer for the Order at the time that the Order is terminated and the Customer shall provide the Provider reasonable supporing evidence of that amount upon the Provider's request; or

3.5.9 under such other terms and conditions as may be set out in such Order.

**Section 3.6 Consequences of Termination.**

3.6.1 Upon the termination of an Order for any reason, the Provider shall promptly (and in any event within 90 days following the termination of such Order) destroy all the Customer's data and software stored on the Cloud Resources (as defined in such Order). Such destruction shall be done in accordance with the NIST 800-88 data destruction standards. The Customer is responsible for migrating the Customer's data residing on such Cloud Resources prior to the termination of such Order at the Customer's expense.

3.6.2 Upon the termination of an Order for any reason, the Customer shall immediately uninstall and discontinue all use of any software in respect of which a software license is provided to the Customer pursuant to such Order.

3.6.3 Upon the termination of an Order for any reason other than the natural expiration of that Order, a Customer termination due to the Provider's uncured default, Force Majeure conditions, the Provider's loss of a datacenter (Section 3.5.5) or the Provider's convenience without a Customer breach of that Order, the Customer shall promptly reimburse the Provider for the depreciated value of any hardware specifically requested or required by the Customer that the Provider had to procure from third parties in order to provide services to the Customer under the Order.

**Section 3.7 Suspension of Services for Non-Payment.** The Provider may temporarily suspend providing services under any Order upon five (5) days' prior notice to the Customer if:

3.7.1 the Customer fails to pay any amount to any Provider when due; or

3.7.2 the Customer fails to pay any amount when due and has previously failed twice to pay any other amounts when due under this Agreement;

provided that, upon paying the amounts then due and payable under this Agreement, the Provider shall promptly resume providing services under such Order.

**Section 3.8 Service-Specific Provisions.** The terms set out on each Schedule accessible at http://www.iland.com/legal/service-schedule (each as may be updated from time to time at the Provider's sole discretion) are hereby deemed to be incorporated into each Order into which such Schedule's terms are to be incorporated pursuant to the terms of such Schedule. The Provider shall provide reasonable notice to the Customer whenever the terms of an applicable Schedule are updated, and such updated Schedule shall become binding on the Customer and the Provider on the thirtieth day following the date on which such notice is provided to the Customer. If, upon receiving the notice of an Schedule update under this Section 3.8 that would have a material detrimental effect on the services being provided to the Customer under an Order that is active as of the date of that notice, the Customer shall, as long as it is not otherwise in breach of this Agreement, have a thirty (30) day period from the date of that notice to terminate the affected Order without penalty

by providing a sixty (60) day advanced written notice to the Provider at cancellations@iland.com.

## ARTICLE 4
## WARRANTIES AND COVENANTS

**Section 4.1 General Service Warranty.** The Provider warrants that it will perform all services provided pursuant to this Agreement in a good and workmanlike manner and in accordance with generally accepted industry practices applicable to such services.

**Section 4.2 Express Warranties Only.** EXCEPT FOR THE WARRANTY EXPRESSLY SET OUT IN Section 4.1, THE PROVIDER EXCLUDES ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PRODUCT OR SERVICE PROVIDED BY THE PROVIDER, INCLUDING, WITHOUT LIMITATION, WARRANTIES FOR MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR SATISFACTORY QUALITY OR WHETHER AT COMMON LAW OR IN CONTRACT OR TORT OR BY STATUTE, OR OTHERWISE.

**Section 4.3 Software Licenses.** The Customer expressly acknowledges that the Provider may provide the Customer with a license or the right to use software, such as Zerto or Veeam software, under the terms of a separate license from a Third Party licensor. THE CUSTOMER EXPRESSLY ACKNOWLEDGES THAT ITS RIGHTS TO USE SUCH SOFTWARE IS LIMITED TO THE RIGHTS PROVIDED BY THE THIRD PARTY LICENSOR AND THAT ANY AND ALL CLAIMS THAT THE CUSTOMER MAY HAVE CONCERNING OR RELATING TO SUCH SOFTWARE PROVIDED TO THE CUSTOMER BY A PROVIDER, REGARDING THE PERFORMANCE OR THE FUNCTIONALITY OF SUCH SOFTWARE OR ANY SERVICES RELATED THERETO, SHALL BE BROUGHT EXCLUSIVELY AGAINST THE THIRD PARTY LICENSOR OF SUCH SOFTWARE AND NOT AGAINST A PROVIDER. THE PROVIDER DOES NOT MAKE ANY WARRANTIES CONCERNING THE PERFORMANCE OR FUNCTIONALITY OF ANY SOFTWARE (INCLUDING OR ANY SERVICES RELATED THERETO) DISTRIBUTED BY THE PROVIDER AND HEREBY DISCLAIMS AND EXCLUDES ALL SUCH WARRANTIES INCLUDING, WITHOUT LIMITATION, WARRANTIES FOR MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, OR SATISFACTORY QUALITY OR WHETHER AT COMMON LAW OR IN CONTRACT OR TORT OR BY STATUTE, OR OTHERWISE.

**Section 4.4 Acceptable Use Policy.** The Customer's use of the Provider's services shall at all times comply with the Provider's then-current Acceptable Use Policy accessible at https://www.iland.com/legal/acceptable-use-policy (as amended at the Provider's sole discretion and notified to the Customer from time to time). The Provider shall notify the Customer of complaints received by the Provider regarding each incident of alleged violation of the Provider's Acceptable Use Policy by the Customer or third parties that have gained access to the Provider's services through the Customer's credentials. The Customer shall promptly investigate all such complaints and take all necessary actions to remedy any actual violations of the Provider's Acceptable Use Policy (including without limitation indemnifying the Provider for any such violations). The Provider may identify to a complainant that the Customer, or a Third Party that gained access to the services through the Customer or its access credentials, is investigating the complaint and may provide the

complainant with the necessary information to contact the Customer directly to resolve the complaint. The Customer shall upon a Provider's request promptly identify a representative for the purposes of receiving such communications from complainants. If, upon receiving the notice of an Acceptable Use Policy update under this Section 4.4 that would have a material detrimental effect on the services being provided to the Customer under an Order that is active as of the date of that notice, the Customer shall, as long as it is not otherwise in breach of this Agreement, have a thirty (30) day period from the date of that notice to terminate the affected Order without penalty by providing a sixty (60) day advanced written notice to the Provider at cancellations@iland.com.

**Section 4.5  Service Level Agreements.**  The terms set out on the Service Level Agreements (or "SLA") accessible at https://www.iland.com/legal/sla (which may be updated from time to time at the Provider's sole discretion) are hereby deemed to be incorporated into each Order into which such SLA terms are to be incorporated pursuant to the terms of such SLA. The Provider shall provide reasonable notice to the Customer whenever the terms of an applicable SLA are updated, and such updated SLA shall become binding on the Customer and the Provider on the thirtieth (30) day following the date on which such notice is provided to the Customer. If, upon receiving the notice of an SLA update under this Section 4.5 that would have a material detrimental effect on the services being provided to the Customer under an Order that is active as of the date of that notice, the Customer shall, as long as it is not otherwise in breach of this Agreement, have a thirty (30) day period from the date of that notice to terminate the affected Order without penalty by providing a sixty (60) day advanced written notice to the Provider at cancellations@iland.com.

## ARTICLE 5
## TIMING

**Section 5.1  Time Requirements**.  If an Order specifies the time by which a service shall be performed, theProvider shall comply with such time requirement. If the Customer changes such time requirements in any Order, the Provider shall use reasonable efforts to meet such change if meeting such change is possible without any increased cost to the Provider. If incurring additional costs may improve the chances of the Provider meeting the revised timing requirement, the Provider shall so notify the Customer and provide an estimate of any such additional costs. If exercised within a reasonable time, the Customer shall have the option to request that the Provider meet the revised timing requirement and shall pay all such reasonable additional costs actually incurred by the Provider in connection with meeting such revised timing requirement.

**Section 5.2  Unspecified and New Time Requirements**.  If an Order does not specify a time by which a service shall be performed, the Customer and the Provider may agree upon such time later in writing. If the Customer and the Provider never agree on a time requirement, the Provider shall nonetheless perform the work in a diligent manner.

## ARTICLE 6
## FORCE MAJEURE

**Section 6.1  Definition of Force Majeure Event**.  "Force Majeure Event" means acts of God, floods, blizzards, ice storms, volcanic eruptions and emanations, earthquakes, thaws, named tropical storms, and hurricanes; insurrection, terrorism, revolution, piracy, and war; strikes, lockouts, and labor disputes; changes to national, state or local laws;

changes to ordinances, standards, rules and regulations of any governmental or public authorities having or asserting jurisdiction over the premises of a Party; inability to procure material, equipment, or necessary labor despite reasonable efforts; or similar causes (except financial) beyond the control of the affected Party and which, in each case, through the exercise of diligent effort, such Party cannot overcome.

**Section 6.2   Excusable Force Majeure Events**.   A Party shall be excused from complying with the terms and conditions of this Agreement and the applicable Order if, to the extent, and for as long as, such Party's compliance is delayed or prevented by a Force Majeure Event.   A Force Majeure Event shall not excuse performing duties that are unrelated to the Force Majeure Event, including, without limitation, discharging financial obligations.   No Party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to a Force Majeure Event.

**Section 6.3   Notice of Force Majeure Events**.   If a Party is rendered unable, wholly or in part, by a Force Majeure Event to perform its obligations under this Agreement or any applicable Order, that Party shall give prompt written notice detailing such Force Majeure Event to the other Party.

**Section 6.4   Termination for Extended Force Majeure Events**.   If a Force Majeure Event continues without interruption for ninety (90) days, any affected Party may cancel the applicable Order by giving written notice to the other Party.

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**ARTICLE 7**
**DEFAULT**

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**Section 7.1   Notice of Default and Opportunity to Cure**.   If Provider fails to perform its obligations or otherwise violates the terms or conditions of this Agreement or any Order and such default continues for a period of ten (10) days after receipt of a written notice describing the default, then the Customer may terminate all or part of the applicable Order.   If the Customer fails to perform its obligations or otherwise violates the terms or conditions of this Agreement or any Order and such default continues for a period of ten (10) days after receipt of a written notice describing the default, then the Provider may terminate all or part of the applicable Order.

**Section 7.2   Provider Termination for Customer's Uncured Default**.   If a Provider terminates all or part of an Order because of the Customer's uncured default, Subject to the terms of Section 3.5.5 and to the extent permitted by law, the Customer shall pay promptly to the Provider the amounts due and not previously paid for (a) services completed prior to termination, (b) other reasonable and necessary amounts directly associated with the termination of the services, including but not limited to the Provider's out-of-pocket costs associated with the cancellation or termination of any orders to purchase services, and (c) any other amounts required to be paid pursuant to such Order in connection with termination of such Order.   The Provider shall not have liability to the Customer in respect of any data stored on the hardware disposed of by a Provider pursuant to this Section 7.2.

**Section 7.3   Remedies Not Exclusive**. In addition to the remedies set out in this Agreement, the Customer and the Provider shall have all other remedies available at law or in equity except for remedies specifically excluded by this Agreement.

# ARTICLE 8
# NOTICES

**Section 8.1  Methods**.  All notices, requests, demands, and other communications specifically required or authorized by this Agreement shall be written and shall be sent by facsimile transmission to the Fax number of +1.713.868.2268, as concerns the Provider, or on the signature page of this Agreement, as concerns the Customer, or sent to the email address of legal@iland.com, as concerns the Provider, or on the signature page of this Agreement, as concerns the Customer.  A Party may change its contact information by sending a notice to the other Party complying with these notice requirements.  The Customer shall send a copy of any notice sent to a Provider to iland Billing Credits Department, 1235 North Loop West, Suite 800, Houston, Texas 77008, U.S.A.

**Section 8.2  Presumed Delivery**.  A personally delivered notice shall be conclusively presumed to have been delivered on the date reflected on a written receipt acknowledging delivery that is signed by a representative of the receiving Party.  A mailed notice or notice sent by international courier shall be conclusively presumed to have been delivered on the date reflected on the returned receipt that is signed by a representative of the receiving Party.  A facsimile notice shall be conclusively presumed to have been delivered on the date reflected on the sending facsimile machine's automated printout that reflects that the entire transmission was successfully sent to the receiving Party's facsimile telephone number then in effect.  An electronic mail notice shall be deemed delivered upon the electronic transmittal being sent unless the sender receives an electronic response within three hours of sending the transmittal that delivery of the transmittal failed.  All notices received outside of Business Hours shall be conclusively presumed to have been delivered on the next business day.

# ARTICLE 9
# CONFIDENTIALITY AND PROTECTED INFORMATION

**Section 9.1  General Confidentiality Obligations.**  Each Receiving Party shall treat the Proprietary Information of the Disclosing Party as confidential, and will take reasonable measures to protect the secrecy of and avoid disclosure or use of Proprietary Information of the Disclosing Party in order to prevent it from falling into the public domain or the possession of Persons other than those Persons authorized under this Agreement to have any such information.  Such measures shall include the degree of care that the Receiving Party utilizes to protect its own proprietary information of a similar nature. Except as set out in a Data Protection Order, and to the extent permitted by law, there shall be no restriction on the handling of information that is not Proprietary Information under this Agreement.

**Section 9.2  Permitted Disclosure and Use**.  Section 9.1 notwithstanding each Receiving Party may distribute Proprietary Information to those of its Representatives as are reasonably necessary to fulfill or enforce its obligations under this Agreement and who are under obligations of use and confidentiality with respect to the Proprietary Information no less restrictive than those set forth in this Agreement. Each Receiving Party shall use the Proprietary Information of the Disclosing Party only as is reasonably necessary to fulfill or enforce its obligations under this Agreement, unless otherwise authorized in writing by the Disclosing Party.  Additionally, the Provider may provide any of its customers or potential

customers who are bound by a non-disclosure agreement the name of the Customer and a description of the services provided by the Provider to the Customer.

**Section 9.3  Exceptions**.  The confidentiality and use obligations set forth in this ARTICLE 9 apply to all Proprietary Information except to the extent that the Receiving Party can show by written record that: (i) it possessed the information prior to its receipt from the Disclosing Party; (ii) the information was already available to the public or became so through no fault of the Receiving Party; (iii) the information is subsequently disclosed to the Receiving Party by a Third Party who has the right to disclose it free of any obligations to the Disclosing Party; (iv) the information is independently developed by the Receiving Party without purposefully attempting to circumvent the obligations under this Agreement and without reference to or use of the Disclosing Party's Proprietary Information; or (v) the information is required by law, rule or regulation to be disclosed.  The Parties acknowledge Customer is a public entity subject to Nevada's Public Records Act pursuant to Nevada Revised Statutes Chapter 239. Accordingly, documents, including this Agreement and any associated Orders, may be open to public inspection and copying; provided however that Provider shall have the right to timely object or dispute the production of any such documents, agreements or other materials in the appropriate court, and in the event of such objection Customer shall not produce any such documents, agreements, or other materials until a determination is made by a court of competent jurisdiction. Notwithstanding the previous sentence, if the Receiving Party is required by governmental, administrative, or judicial process to disclose Proprietary Information of the Disclosing Party, the Receiving Party shall, if permitted by law, prior to any such disclosure, promptly notify the Disclosing Party and shall provide the Disclosing Party assistance in any reasonable effort to obtain confidential treatment with respect to such disclosure.

**Section 9.4  Injunctive Relief**.  Each Party hereby acknowledges and agrees that the confidential information provided to such Party by another Party as described in this ARTICLE 9 is of the character as to render the same unique, and therefore agrees that in the event of any breach or threatened or potential breach of this Agreement by a Party, the other Party could be irreparably and immediately harmed and may not be made whole by monetary damages alone.  In the event of such a breach or threatened or potential breach, and without prejudice to any other rights and remedies otherwise available, the other Party shall be entitled to seek equitable relief by way of an interim or permanent injunction or decree of specific performance without the requirement of posting any bond or other security.

**Section 9.5  Provisions Concerning the Storage of Protected Information**. The Customer shall not store or transmit Protected Information via a Provider's services or any Cloud Resources (as defined in the relevant Order) unless and until the Customer and the Provider have executed a Data Protection Order concerning such Protected Information and the Cloud Resources (as defined in the relevant Order) to be used to transmit and store such Protected Information.  Following the execution of a Data Protection Order, the Customer shall not use any Cloud Resources for the storage or transmittal of Protected Information unless such Protected Information has been secured as to render the data unusable, unreadable, or indecipherable to unauthorized individuals through the use of valid encryption processes.  The Customer shall ensure that valid encryption processes, consistent with commercially reasonable industry practices, are implemented with respect to such Protected Information and shall utilize such processes on all Protected Information to be transmitted or stored within the Provider's services to ensure that such data are

encrypted (i) during transmission to the Provider for storage within the Provider's services, and (ii) at all times while stored within the Provider's services. Except as otherwise set out in the relevant Data Protection Order and to the extent permitted by law, the Customer shall defend, indemnify, and hold the Provider and its respective officers, directors and employees harmless from any and all Claims under Data Protection Laws relating to the Customer's use of the Providers' networks and services for the storage of Protected Information. Upon execution of a Data Protection Order, all Protected Information relating to such Data Protection Order shall be considered "Proprietary Information" for the purposes of this Agreement.

**Section 9.6  Protected Health Information.** To comply with the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), as amended, and the Health Information Technology for Economic and Clinical Health Act ("**HITECH**"), as amended, to protect the security, confidentiality, and integrity of Protected Health Information, the Parties will execute a Business Associate Agreement, attached hereto as Exhibit B, and expressly incorporated by reference herein as a Data Protection Order.

## ARTICLE 10
## COMPENSATION AND INVOICING

**Section 10.1 Compensation.** Each Order shall set out the Provider's compensation for the services described in such Order. If the Provider's compensation is not set forth in an Order, then the Provider's compensation with respect to such Order shall be in accordance with the Provider's then-current published price list unless otherwise agreed in writing between the Provider and the Customer.

**Section 10.2 Billing and Payment Terms.** The Provider shall issue invoices to the Customer as specified on the Customer Order. Each invoice will reflect the services to be provided by a Provider to the Customer during the upcoming billing period, except charges that are dependent on usage of service, such as burst fees, which may be invoiced in arrears. Unless specified differently on the Customer Order, the Customer shall pay each invoice within thirty (30) days following the date of such invoice. Invoices for partial months shall be prorated based on a calendar month. Unless otherwise specified on the particular invoice, all payments shall be due and payable in the local currency of the jurisdiction in which the data center identified in the relevant Order is located or, if no such data center is so identified, in U.S. dollars. The Customer shall pay any relevant set up fees and a security deposit equal to the relevant monthly recurring charge concurrently with the placement of the relevant Order. In regard to Colocation orders, Colocation customers will continue to be invoiced until they arrange with the Provider for their equipment to be removed from the Provider datacenter(s), regardless as to whether the Customer is still utilizing Provider services or whether the Customer wants their equipment disposed of or returned to them.

**Section 10.3 Late Payment Interest.** The Customer shall promptly following demand reimburse the Provider for its reasonable and necessary costs of collection incurred, including, without limitation, reasonable attorneys' fees and the Provider's costs of disconnecting and reconnecting Customers for non-payment at i-Tech rates.

**Section 10.4 Good Faith Disputes.** If the Customer, in good faith, disputes any invoice, in whole or in part, the Customer shall notify the Provider of the dispute, including sufficient detail of the nature of the claim, the amount, the relevant invoices, and

information allowing the Provider to identify the affected services, within the time required for payment of the relevant invoice. Payment of the disputed amount may be withheld until settlement of the dispute, but payment shall be made of the undisputed portion in accordance with Section 10.2. The Customer waives the right to dispute any charges not disputed within the time required for payment of the disputed invoice. Upon resolution of a dispute, the Customer shall promptly pay to the Provider such amounts as are due and payable, and if a dispute is resolved against the Customer, the Customer shall additionally pay to the Provider any fees associated with the disputed amount, such fees to be reimbursed in accordance with Section 10.3 from the date the disputed invoice was originally due and payable.

**Section 10.5 Taxes and Fees.** All charges for service are exclusive of Applicable Taxes (as defined below). The Customer will be responsible for all taxes and third party fees that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, franchise or other taxes, fees, duties, charges or surcharges, however designated, imposed on, incident to, or based upon the provision, sale or use of the service by the Customer (collectively "**Applicable Taxes**"). Customer is a governmental tax-exempt entity and shall not be responsible for any taxes for any services provided herein, whether federal or state, unless otherwise required by law. Customer will provide a valid tax exemption certificate(s) for any and all taxes for which Customer is exempt upon execution of this Agreement and the Customer acknowledges that it is solely the Customer's responsibility to provide the Provider with such certificate(s). Provider is solely responsible for taxes based upon Provider's net income, assets, payroll, property and employees. In the event that the Customer provides a valid tax exemption certificate to the Provider, the Customer shall assume responsibility for paying any taxes deemed to be lawfully owed by the Customer directly to the responsible tax authority.

**Section 10.6 Software Acquisition Costs.** Prices set out in Orders, unless designated as "Fixed Fees not Subject to Increase for the Term of this Order", shall be subject to increase if the Provider's costs of acquiring rights to third-party software or virtual appliances that forms a part of the services to be provided by the Provider to the Customer pursuant to such Order increase following the date of such Order, in which case the Provider may, upon notice to the Customer, increase the price of the relevant services by an amount commensurate with the increase in the costs of acquiring the rights to such third-party software. Any price increases allowed under this Section shall be limited to increases of seven percent (7%) per Term of an Order.

**Section 10.7 Billing Credits.** If the Provider does not meet its obligations under Section 4.5 in regard to availability during a particular month during the term, the Provider shall, at the Customer's written request, provide the applicable service credit ("Credit") set out in the chart available in the SLA accessible at https://www.iland.com/legal/sla.

## ARTICLE 11
## ALLOCATION OF RISK; LIMITATIONS ON LIABILITY

**Section 11.1 Contents of Communications.** The Provider shall have no liability or responsibility for the content of any communications transmitted via the Provider's networks and services (except for content solely created by the Provider), and the Customer shall, to the extent permitted by law, defend, indemnify, and hold the Provider, its respective officers, directors and employees harmless from any and all Claims (including Claims by

governmental entities seeking to impose penal sanctions) related to such content and Claims by third parties relating to the Customer's use of the Providers' networks and services.

**Section 11.2 No Consequential Damages.** EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW THE PROVIDER WILL NOT BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, MULTIPLE, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL OR BUSINESS PROFITS, LOSS OF REVENUE, WORK STOPPAGE, DATA LOSS, OR COMPUTER FAILURE OR MALFUNCTION, WHETHER SUCH DAMAGES ARE ALLEGED IN TORT, CONTRACT, OR OTHERWISE, EVEN IF EITHER PARTY HAS BEEN ADVISED BY THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES.

**Section 11.3 Limitation on Direct Damages.** In no event shall the Provider's total aggregate liability under this Agreement or otherwise relating to the services to be provided by the Provider to the Customer pursuant to this Agreement exceed the least of (a) the amounts paid by the Customer to the Provider under the applicable Order, (b) the aggregate fees payable by the Customer to the Provider over the term of the applicable Order, and (c) the aggregate fees payable by the Customer to the Provider during the initial year of the term of the applicable Order.

**Section 11.4 Certain Categories of Damages Specifically Excluded.** The Provider shall not have liability to the Customer in respect of:

11.4.1    the costs of reloading, replacing, or recreating any of the Customer's lost or damaged information, data or software; or

11.4.2    the loss of the Customer's information, data or software.

**The Customer acknowledges that the Providers' services are not intended to be used as the sole repository for the Customer's data, information and software, and that the Customer has been advised by the Provider to maintain a copy of all of the Customer's information, data and software on servers other than those provided or maintained by the Provider pursuant to this Agreement.**

**Section 11.5 Mitigation.** Each Party shall use reasonable efforts to mitigate damages for which another Party is liable.

## ARTICLE 12
## LEGAL ADMINISTRATION

**Section 12.1 Legal Compliance Generally.** Each Party shall comply in all material respects with all laws, ordinances, statutes, codes, rules, and regulations that apply to its services, products, materials, equipment, employees, or work sites to be used in performing its obligations under this Agreement or any Order issued under this Agreement; provided, however, that the Provider's obligations as set out in this Section 12.1 shall not impair any Provider's right to be indemnified pursuant to Section 9.5.

**Section 12.2 Governing Law**.  This Agreement and the Orders may govern services supplied by the Provider to the Customer in several different jurisdictions.  This Agreement and the Orders shall be governed by and construed in accordance with the laws of the State of Nevada (excluding principles of conflicts of laws that would require application of the substantive laws of another jurisdiction).

**Section 12.3 Dispute Resolution**.  Any controversy or dispute arising out of or relating to this Agreement or an Order, or the breach of this Agreement or an Order, that is not promptly resolved by negotiation among the Parties, shall be resolved by legal proceedings in a federal or state court having its seat in Clark County, Nevada.

**Section 12.4 Entire Agreement**.  This Agreement is the entire agreement between the Parties concerning the agreed general terms and conditions while the entire agreement for the work consists of both this Agreement and the Orders.  All prior negotiations, representations, understandings, and partial agreements concerning the subject matter of this Agreement are superseded by this Agreement and the Orders.

**Section 12.5 Amendments**.  No amendment, modification, waiver, or release of the provisions of this Agreement or any Order shall be binding unless a writing of like import exists that (a) specifically identifies the amended, modified, waived, or released obligation, (b) describes the nature of the amendment, modification, waiver, or release, and (c) is signed by each Party (if an amendment, modification, waiver, or release of the provisions of this Agreement) or is signed by each Party that is a party to the relevant Order (if an amendment, modification, waiver, or release of the provisions of an Order).

**Section 12.6 Assignment**.  No Party may assign its rights or obligations under this Agreement or any Order to any Person without the consent of the other Party.  Any purported assignment without such consent shall be void.  Any authorized or permitted assignment of an Order by a Party shall be binding on the assigning Party's assignee.  An authorized or permitted assignment shall not discharge the assigning Party from its obligations under an Order unless the other Party executes a written release or novation releasing the assigning Party.

**Section 12.7 Miscellaneous**.

    12.7.1    <u>Rules of Construction</u>.

(a)    All article and section references used in this Agreement are to articles and sections of this Agreement unless otherwise specified.

(b)    If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb).  Terms defined in the singular have corresponding meanings in the plural, and vice versa.  Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa.  The words "hereby" and "herein," and words of similar import, when used in this Agreement, shall refer to this Agreement as a whole and not any particular section or article in which such words appear.

(c)   The captions in this Agreement and each Order are for convenience only and shall not be considered a part of or affect the construction or interpretation of any provision of this Agreement.

12.7.2   <u>Severability of Provisions</u>.   If any provision of this Agreement or any Order is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement shall remain in full force and effect.   If any provision contained herein is, to any extent, held invalid or unenforceable in any respect under the laws governing this Agreement or such Order, the Parties shall take any actions necessary to render the remaining provisions of this Agreement valid and enforceable to the fullest extent permitted by law and, to the extent necessary, shall amend or otherwise modify this Agreement or such Order to replace any provision contained herein that is unenforceable with a valid and enforceable provision giving effect to the intent of the Parties to the greatest extent legally permissible.

12.7.3   <u>Publicity</u>.   The Provider may not use the Customer's name, mark, logo, design or other Customer symbol for any purpose without Customer's prior written consent. Provider agrees that Customer, in its sole discretion, may impose restrictions on the use of its name and/or logo.   Customer retains the right to terminate, with or without cause, Provider's right to use Customer's name and/or logo.

12.7.4   <u>Binding Authority</u>.   Each Party represents that the individual executing this Agreement on behalf of that Party has full right and authority to execute this instrument on behalf of that Party and to bind such Party.   The individual signing this Agreement hereby represents and warrants that they are duly authorized to execute and deliver this Agreement and that this Agreement is binding upon the Customer in accordance with its terms.

12.7.5   <u>Duplicate Originals</u>. This Agreement and any Order may be executed in duplicate originals, and each such instrument shall be deemed an original of this Agreement for all purposes.

12.7.6   <u>Rights of Third Parties</u>.   Except for the provisions of Section 9.5 and ARTICLE 11 which are intended to be enforceable by the Persons respectively referred to therein, nothing expressed or implied in this Agreement or any Order is intended or shall be construed to confer upon or give any Person, other than the Parties, any right or remedies under or by reason of this Agreement.   Notwithstanding the previous sentence, this Agreement may be terminated or varied pursuant to the terms of this Agreement by the Parties without the consent of any Third Party.

12.7.7   <u>Non-Exclusivity</u>. This Agreement is non-exclusive and both Parties remain free to enter into similar agreements with third parties.   Provider may, during the term of this Agreement or any extension thereof, perform services for any other clients, persons, or companies as Provider sees fit, so long as the performance of such services does not interfere with Provider's performance of obligations under this Agreement, and does not, in the opinion of Customer, create a conflict of interest.

12.7.8   <u>Statement of Eligibility</u>. Each Party acknowledges to the best of its knowledge, information, and belief, and to the extent required by law, neither it nor any of its respective employees/contractors is/are: i) currently excluded, debarred, suspended, or

otherwise ineligible to participate in federal health care programs or in federal procurement or non-procurement programs; and ii) has/have not been convicted of a federal or state offense that falls within the ambit of 42 USC 1320a-7(a).

12.7.9    Mutual Cooperation. The Parties shall fully cooperate with one another, and shall take any additional acts, or sign any additional documents as is reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.

12.7.10    Non-Discrimination. As Equal Opportunity Employers, the Parties have an ongoing commitment to hire, develop, recruit and assign the best and most qualified individuals possible. The Parties employ employees without regard to race, sex, color, religion, age, ancestry, national origin, marital status, status as a disabled veteran, or veteran of the Vietnam era, disability, sexual orientation or gender identity or expression. The Parties likewise agree that each will comply with all state and federal employment discrimination statutes, including but not limited to Title VII, and the American with Disabilities Act.

12.7.11    Status of Parties; Independent Contractor. Provider will provide services to Customer under this Agreement as an independent contractor. Nothing in this Agreement or the relationship between the Parties will be construed to create a joint venture or partnership, or the relationship of principal and agent, or employer and employee, or to create a co-employment or joint employer relationship.

*[SIGNATURE PAGE TO FOLLOW]*

# iland

This Master Service Agreement is hereby executed as of the Effective Date.

**For Customer:  Southern Nevada Health District**

By:_____
Fermin Leguen, MD, MPH
Acting Chief Health Officer

_____
Date

Address:
Southern Nevada Health District
280 S. Decatur Blvd.
Las Vegas, NV 89107

**For iland Internet Solutions Corporation:**

_____
Scott Sparvero, CEO

_____
Date

APPROVED AS TO FORM:

By:_____
Heather Anderson-Fintak, Esq.
Associate General Counsel
Southern Nevada Health District

# i-Tech Services Schedule

The terms and conditions set out in this i-Tech Services Schedule (this "Schedule") shall apply to each request for i-Tech services issued by the Customer to a Provider (each, an "i-Tech Order"), and shall be deemed to be incorporated, mutatis mutandis, into each i-Tech Order. Any capitalized terms used but not defined in this Schedule or the remainder of the Agreement shall have the meanings set out in the relevant i-Tech Order.

1. **Definitions**. Any capitalized terms used but not defined in this I-Tech Services Schedule shall have the meanings set out in the Master Service Agreement C2000103 ("Agreement"), by and between Southern Nevada Health District ("Customer") and iland Internet Solutions Corporation ("Provider") (individually "Party" and collectively "Parties").

(A) "After Hours" are defined as all times other than Business Hours.

(B) "i-Tech Rates Schedule" means the Provider's schedule of rates for i-Tech Services as updated from time to time in the Provider's sole discretion, a copy of which will be provided by the Provider to the Customer upon request.

(C) "i-Tech Service" shall mean technician services provided by the Provider or third parties contracted by the Provider, which may include, without limitation, (i) basic on-site, on-demand first-line maintenance and support, including power cycling equipment, and measuring power consumption, (ii) scheduled support, maintenance, installation and removal of equipment, cabling, temporary badge access, receiving or moving packages, or equipment and other related support services, and (iii) remote support, such as that performed over the internet or other connectivity to manage or troubleshoot remote equipment including networking equipment and virtual servers on the Provider's Cloud Server platform.

(D) "Virtual Server" shall mean any server or appliance hosted on the Provider's Hosted Cloud Services platform.

2. **Term**. The initial term of this Order shall commence on the Effective Date and shall end on the final day of the first full calendar month following the Effective Date, and shall thereafter renew on a month-to-month basis until terminated by 30 days' notice from one Party to the other Party; or upon termination of underlying Master Service Agreement C2000103 pursuant to the terms of that Agreement.

3. **i-Tech Service**. A Provider may provide i-Tech Service on the Customer's virtual server maintained on the Provider's servers from time to time as mutually agreed between the parties. The Customer may order i-Tech Service by contacting the Provider's customer service department or by such other means as the Provider may from time to time make available to the Customer for such purpose. A Provider shall not be obligated to provide i-Tech Service that is scheduled support beyond basic on-site, on-demand first-line maintenance and support until a scope for such i-Tech Service has been mutually agreed between the Provider and the Customer in writing. Upon a Provider's acceptance of such order (and the Parties' execution of a scope document, if requested by either Party), the Provider will perform the i-Tech Service in accordance with the Customer's directions. Pricing for i-Tech Service shall be at the rates set out on the i-Tech Rates Schedule as set forth in Attachment A, which is attached hereto and expressly incorporated by reference herein.

4. **i-Tech On-Demand Response Time Service Levels**. The Provider shall use its reasonable efforts to dispatch a technician to perform i-Tech Services requested by the Customer

to be performed on demand (1) within one hour following the time the Provider's customer service department receives and logs Customer's request with all of the necessary information requested by the Provider's customer service department to perform the i-Tech Service, for i-Tech Service to be performed during Business Hours, and (2) within two hours following the time the Provider's customer service department receives and logs the Customer's request with all of the necessary information requested by the Provider's customer service department to perform the i-Tech Service, for i-Tech Service to be performed After Hours. If a Provider breaches its obligations pursuant to the previous sentence, the Provider shall issue a credit for up to one hour of i-Tech Service to the Customer, and the Customer shall have no further right of action against the Provider in respect of such breach, and the Provider shall have no further liability to the Customer in respect of such breach.

5.  **Risk of Loss; Grant of Authority**.

(A)    The Customer acknowledges that due to the nature of the i-Tech Service, there is potential risk of damage, corruption, or loss of computer software, applications, data, and data storage media, and acknowledges that the Provider's liability for such damage or loss is limited by this Order and the Agreement.

(B)    The Customer grants to the Provider and its agents and service representatives access, security rights, and permission to open, view, modify, edit, delete, or otherwise manipulate the Customer's computer software, applications, data, and data storage media including, but not limited to, computer operating systems, word processing, spreadsheets, databases, workflow, graphics, audio, video, system drivers and libraries, and any other type of software or data that may be contained on the Customer's computer system or network, in each case to the extent reasonably necessary to allow the Provider to perform its obligations under the relevant Order.

(C)    The Customer grants to the Provider and its agents and service representatives permission to download and install software on the Customer's virtual servers, computers and network, including but not limited to virus scanners, diagnosis and repair utilities, drivers, libraries, and software requested to be installed by the Customer, in each case to the extent reasonably necessary to allow the Provider to perform its obligations under the relevant Order.

6.  **Miscellaneous**.

(A)    An i-Tech Order may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. Facsimile signatures shall be sufficient to bind the Parties to an i-Tech Order.

(B)    All i-Tech Service is billed a minimum one (1) hour charge and in 30 minutes increments thereafter. If technician travel is required, actual travel time to and from the facility (inclusive of all time away from the office for the purposes of the I-Tech Service) is billed for ALL After Hours i-Tech Service. Provider must use commercially reasonable efforts to minimize all such expenses. There is a minimum of a two hour charge on any i-Tech Service that requires shipping of equipment.

(C)    Services must be scheduled 4 business days in advance and during Business Hours to be considered "scheduled work" for purposes of the i-Tech Rates Schedule.

# iland

## Exhibit A
### i-Tech Rates Schedule

- All rates are hourly and are billed in United States dollars, as shown in the grid below.
- Telco carrier support may be required when troubleshooting power or cross connect issues. All Telco carrier support is billed through Provider at the Telco carrier's posted rates.
- Customer is responsible for any taxes on work performed, unless the Customer has provided a tax exemption certificate in accordance with Section 10.5 of the Agreement.
- Remote Support is support that can be done remotely, such as network troubleshooting, virus/hack cleaning, OS support, email support, firewall management, LEC management, etc.
- On Site Support is support that physically requires personnel on site to perform work, such as a data center escort, troubleshooting, rebooting equipment, remote hands, tracing cross connects, shipping and receiving, tape swapping, resetting power breakers, troubleshooting other power or cross connect issues, etc.

| Hourly Pricing Schedule for REMOTE or Virtual Server i-Tech Service | | | |
|---|---|---|---|
| **Business Hours** | | **After Hours** | |
| Scheduled | On Demand | Scheduled | On Demand |
| $200/HR | $225/HR | $250/HR | $300/HR |

| Hourly Pricing Schedule for DATACENTER On-Site i-Tech Service | | | |
|---|---|---|---|
| **Business Hours** | | **After Hours** | |
| Scheduled | On Demand | Scheduled | On Demand |
| $250/HR | $300/HR | $325/HR | $375/HR |

All pricing is subject to change. Provider shall provide the Customer with a thirty (30) notice prior to any price changes to this Exhibit A being effective on the Customer.

**BUSINESS ASSOCIATE AGREEMENT**
**BETWEEN**
**SOUTHERN NEVADA HEALTH DISTRICT**
**AND**
**ILAND INTERNET SOLUTIONS CORPORATION**

This Business Associate Agreement ("Agreement") is made and entered into this _____ day of _____, 2020 ("Effective Date") between the Southern Nevada Health District ("Covered Entity"), and iland Internet Solutions Corporation ("Business Associate"), (individually referred to as "Party" or collectively as "Parties").

WITNESSETH:

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

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

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

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

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

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

1.    AGREEMENTS AFFECTED BY THIS BUSINESS ASSOCIATE AGREEMENT

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

MASTER SERVICE AGREEMENT C2000103

2.    DEFINITIONS

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

i)    "Breach" means the acquisition, access, use, or disclosure of PHI a manner that is not permitted under the privacy regulations which compromises the security or privacy of the PHI. Any unpermitted access, use, or disclosure is presumed a breach absent a demonstration of a low probability that the PHI has been compromised.

ii) "Protected Health Information" (PHI) means individually identifiable health information including, without limitation, all data, documentation, demographic, medical, and financial information collected from an individual which relates to the past, present, or future physical or mental health, condition, provision of health care, or payment for the provision of health care to an individual. PHI includes without limitation "Electronic Protected Health Information" as defined below.

iii) "Electronic Protected Health Information" (ePHI) means PHI which is transmitted by Electronic Media (as defined in the HIPAA Security and Privacy Rule) or maintained in Electronic Media.

iv) "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Parts 160 and 164.

v) "Required by Law" has the same meaning as the term "required by law" in 45 CFR § 164.103.

vi) "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

3. BUSINESS ASSOCIATE CONFIDENTIALITY REQUIREMENTS (Privacy Rule)

Business Associate acknowledges and agrees:

i) To not use or disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as Required by Law.

ii) To use appropriate safeguards to prevent the use or disclosure of the PHI other than as provided for by this Agreement.

iii) In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.

iv) All PHI created, received, maintained, or transmitted by Covered Entity and disclosed or made available in any form or format by Covered Entity or its operating units to Business Associate or is created, received maintained or transmitted by Business Associate on Covered Entity's behalf shall be subject to this Agreement.

v) To use or disclose any PHI solely for meeting its obligations as set forth in the Service Agreement(s) and as would be permitted by the HIPAA Security and Privacy Rule if such use or disclosure were made by Covered Entity.

vi) Ensure all such uses and disclosures of PHI are subject to the limits set forth in 45 CFR § 164.514 regarding limited data sets and minimum necessary requirements.

vii) Ensure any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate on behalf of Covered Entity agrees to the same restriction and conditions that apply through this Agreement to Business Associate with respect to such information (45 CFR § 164.314).

viii) To fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the HIPAA Rules.

ix) Subject to the exceptions contained in the HITECH Act, Business Associate will not directly or indirectly receive remuneration for the sale or exchange of any PHI without a valid authorization from the applicable individual. Business Associate will not engage in any communication which might be deemed "marketing" under the HIPAA Rules.

# iland

4. BUSINESS ASSOCIATE SECURITY REQUIREMENTS (Security Rule)

Business Associate acknowledges and agrees:

i) To implement appropriate safeguards and internal controls to prevent the use or disclosure of PHI other than as permitted in this Agreement or by the HIPAA Rules.

ii) To use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement, or as Required by Law. This includes the implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect and secure the Covered Entity's ePHI against any reasonably anticipated threats or hazards, utilizing technology commercially available to the Business Associate. (45 CFR §§ 164.308, 164.310, 164.312). Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training, and sanctions of its workforce member. (45 CFR §164.316).

iii) To notify Covered Entity immediately of any attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. The Covered Entity hereby acknowledges that attempted unauthorized access by third parties may occur from time to time and that the Business Associate shall not have notify the Covered Entity of such attempts unless such attempts are successful.

iv) To notify Covered Entity immediately upon discovery of a breach pursuant to the terms of 45 CFR § 164.410 and cooperate in Covered Entity's breach analysis procedures, including risk assessment and final determination on whether to notify affected individuals, media, or HHS.

   a. A breach shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate or, by exercising reasonable diligence, would have been known to Business Associate.

   b. Business Associate shall provide Covered Entity with all required content of notification pursuant to 45 CFR § 164.410 and 45 CFR 404 within 15 business days of discovery of the Breach.

v) All notifications as permitted or required pursuant to this Agreement must be in writing, and shall be made by personal delivery, overnight delivery, or via U.S. certified mail, postage prepaid to Covered Entity at the address set forth below:

   Lynne Foster, Privacy Officer
   Southern Nevada Health District
   280 S. Decatur Boulevard
   Las Vegas, NV 89107

5. BUSINESS ASSOCIATE PERMITTED USES AND DISCLOSURES

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

i) Subject to the limitations of this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

ii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(b).

iii) Business Associate shall report to Covered Entity any use or disclosure of PHI which is not in compliance with the terms of this Agreement of which it becomes aware. Business Associate shall report to Covered Entity any Security Incident it becomes aware, including breaches of unsecured PHI.

iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.502(j)(1).

6. SPECIFIC USE AND DISCLOSURES

i) HHS has the right to review, audit, or investigate Business Associate's records and practices related to the use and disclosure of PHI to ensure Covered Entity's compliance with the terms of the HIPAA Rules.

ii) Upon request, provide Covered Entity with timely and appropriate access to records, electronic records, personnel, or facilities sufficient for Covered Entity to gain reasonable assurance that Business Associate is in compliance with the HIPAA Rules and the provisions of this Agreement.

iii) At Covered Entity's Request, Business Associate agrees:

a. To comply with any requests for restrictions on certain disclosures of PHI to which Covered Entity has agreed and of which Business Associate has been notified.

b. Within 15 days of a request by Covered Entity, account for disclosures of PHI and make an account of such disclosure available to Covered Entity as required by 45 CFR § 164.528.

7. TERM AND TERMINATION

i) Term. This Agreement shall be effective as of the Effective Date and shall be terminated when all PHI provided to Business Associated by the Covered Entity, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Business Associate.

ii) Subject to Article 7 of the Service Agreement, either the Covered Entity or the Business Associate shall have the right to terminate this Agreement and the Service Agreement(s) if either party determines that the other party has violated any material term of this Agreement.

iii) This Agreement shall terminate in the event that the underlying relationship, functions, or services that gives rise to the necessity of this Agreement terminates for any reason. Upon such termination, the provisions of this Agreement which expressly or by their nature survive expiration or termination will remain in effect.

iv) Upon termination of the Service Agreement(s), this Agreement, or at the request of Covered Entity, Business Associate will return or destroy all PHI received from or created or received by Business Associate on behalf of Covered Entity that Business Associate still maintains in any form and retain no copies of such information.

a. If such return or destruction is not feasible, Business Associate shall provide written assurances as to the means of continued protection of the data and extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible for so long as Business Associate maintains the same.

b. Business Associate shall consult with Covered Entity as necessary to ensure an appropriate means for the return and/or destruction of any PHI and notify the Covered Entity in writing when such destruction is complete.

c. If PHI is returned, the Parties shall document when the PHI has been received by the Covered Entity.

8. MISCELLANEOUS

i) All provisions of this Agreement shall have an interpretation that the Business Associate does not have explicit access to the Covered Entity's data, PHI or ePHI stored with the Business Associate under the Services Agreement and that the Business Associate shall comply with such provisions to the extent reasonably possible given that limitation.

ii) The Parties agree that the provisions of HIPAA and the HITECH Act that apply to Business Associate are incorporated by reference into this Agreement in their entirety.

iii) Business Associate agrees to make PHI available for amendment and incorporate any amendments to PHI in accordance with the requirements of 45 CFR § 164.526.

iv) Except as expressly stated herein or the HIPAA Rules, the Parties to this Agreement do not intend to create any rights in any third parties.

v) The obligations of Business Associate under this Section shall survive the expiration, termination, or cancellation of this Agreement, the Service Agreement(s) and/or the business relationship of the Parties, and shall continue to bind Business Associate, its subcontractors, agents, employees, contractors, successors, and assigns.

vi) This Agreement may be amended or modified only in a writing signed by the Parties. No Party may assign its respective rights and obligations under this Agreement without the prior written consent of the other Party.

vii) The Parties are independent entities, and nothing contained herein shall be construed or deemed to create a relationship of employer and employee, principal and agent, partners, or any relationship other than that of independent parties voluntarily cooperating with each other solely for the purpose of carrying out the provisions herein.

viii) This Agreement will be governed by the laws of the State of Nevada.

ix) Failure to declare a breach or the actual waiver of any particular breach of the Agreement or Service Agreement(s) or its material or nonmaterial terms by either Party shall not operate as a waiver by such Party of any of its rights or remedies as to any other breach.

x) Waiver of any term, provision or condition of this Agreement, in any one or more instances, shall not be deemed to be construed as a further waiver from any such term, provision or condition, or as a waiver of any other term, provision or condition of this Agreement.

xi) Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the HIPAA Rules.

xii) Any reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

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xiii)    In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the provisions of this Agreement will remain in full force and effect.

xiv)    This Agreement is the result of the joint efforts of Covered Entity and Business Associate, and each provision hereof has been subject to the mutual consultation, negotiation and agreement of the Parties and there shall be no construction against any Party based on any presumption of that Party's involvement in the drafting thereof.

xv)    This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument.

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

**COVERED ENTITY**

**SOUTHERN NEVADA HEALTH DISTRICT**

**BUSINESS ASSOCIATE**

**ILAND INTERNET SOLUTIONS CORPORATION**

By: _____

Name:  Fermin Leguen, MD, MPH

Title:  Acting Chief Health Officer

Date: _____

By: _____

Name: Scott Sparvero

Title:  CEO

Date:_____