

AVSS TECHNICAL ASSISTANCE AGREEMENT

This AVSS Technical Assistance Agreement (hereinafter "Agreement"), effective the **** day of **** 201* (hereinafter the "Effective Date"), is made by and between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California public corporation, (hereinafter the "University") on behalf of the Institute for Social, Behavioral, and Economic Research at its Santa Barbara campus and **** (hereinafter the "Licensee"), who holds a current and valid license from the University to possess and use the computer program known as the "Automated Vital Statistics System" (hereinafter "AVSS").

The University agrees to provide the following maintenance and technical assistance services related to the AVSS program, under the terms and conditions contained herein:

1. SCOPE OF SERVICES TO BE PROVIDED

1.1 The University shall provide technical consultation by telephone, Monday through Friday between the hours of 8 a.m. and 5 p.m. Pacific Time, to diagnose problems and to offer advice on AVSS operations.

1.2 The University shall make every reasonable effort to correct AVSS-related problems brought to the University's attention in an expeditious and timely manner or, if corrections cannot reasonably be made, to utilize the University's reasonable efforts to provide a temporary solution so as to maintain operational status while a permanent solution is being pursued.

1.3 The University shall provide to the Licensee, as available and at no additional cost, updated versions of AVSS containing user-suggested improvements and correcting programming errors that have been identified.

1.4 The University shall provide technical consultation to the Licensee in repairing or modifying the Licensee's AVSS database.

1.5 The University shall provide consultation and advice to the Licensee regarding AVSS compatibility with, and installation of, computer hardware.

1.6 The University shall provide technical assistance in the production of AVSS reports as requested by the Licensee.

1.7 Requests for AVSS modifications shall be transmitted to the University in writing via the AVSS Internet Help Desk at www.avss.ucsb.edu.

2. UNIVERSITY'S RESPONSE COMMITMENT

2.1 The University's technical assistance Help Desk is available by telephone and by the Internet Monday through Friday, 8 a.m. to 5 p.m. Pacific Time, except for University Holidays. The telephone numbers for the AVSS Help Desk are 916-449-5174 and 805-893-3214. Requests for assistance will be answered as received and, to the best of the University's ability, messages will be answered within twenty-four (24) hours.

2.2 User problems that cause a delay in or a stoppage of data entry processing and that are attributable to software deficiency shall be given "emergency" priority by the University's technical staff and shall be pursued until the problem is resolved or is determined to be unresolvable.

2.3 User problems that do not cause a delay or stoppage of data entry processing and that cannot be resolved through immediate telephone interaction will be evaluated by the University and, within two (2) working days, the University will provide to the Licensee an estimate of the time needed to solve the problem.

3. TERM OF THIS AGREEMENT

3.1 This Agreement shall become effective on the Effective Date and will terminate on ****, at 5 p.m. Pacific Time. This Agreement may be renewed annually thereafter if agreed upon in writing, and signed by both parties.

4. TERMINATION AND EFFECT OF TERMINATION

4.1 This Agreement may be terminated by the Licensee upon thirty (30) days written notice to the University of the Licensee's intent to terminate or by the University upon thirty (30) days written notice to the Licensee of the University's intent to terminate.

4.2 In the event that this Agreement is terminated by the Licensee pursuant to this Article 4, the Licensee shall remit to the University payment for all costs incurred and all work performed prior to the effective date of termination. The Licensee shall remit such payment within thirty (30) days after submission of an invoice by the University.

4.3 In the event that this Agreement is terminated by the University pursuant to this Article 4, the University shall refund to the Licensee the unused portion of any payment(s) received from the Licensee prorated from the Effective Date of this Agreement through the effective date of termination.

5. COMPENSATION

5.1 In consideration of the University's provision, during the term of this Agreement, of the services set forth in Article 1, the Licensee shall pay the University the following:

- **** and 00/100 Dollars (\$****.00) for one (1) registration district and **** and 00/100 Dollars (\$****.00) for each of **** hospitals for a total payment of **** and 00/100 Dollars (\$****.00)

5.2 The Licensee shall remit payment in full within thirty (30) days of the University's submission of an invoice to the Licensee.

6. INFRINGEMENT PROTECTION

6.1 If any software provided by the University pursuant to this Agreement is, or in the University's opinion is likely to become, the subject of a claim, suit, or proceeding of infringement, the University may: (1) procure, at no cost to the Licensee, the right to continue use of the software; or (2) replace or modify the software, at no cost to the Licensee, to make it non-infringing; or (3) if the right to continue use can not be procured for the Licensee on a reasonable basis, or if the software can not be replaced or modified to make it non-infringing, terminate the use of such software and grant the Licensee a prorated refund.

7. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

7.1 The University makes no warranties, either express or implied, as to the services provided under this Agreement and the Licensee acknowledges and agrees that the services are provided on an "as is" basis and without warranties of any kind.

7.2 The University represents and warrants that the University owns any software provided to the Licensee pursuant to this Agreement and that the University has the right to provide such software to the Licensee. Except as provided in the foregoing express warranty, the University makes no warranties, either express or implied, as to any matter whatsoever including, but not limited to, the condition of the software and warranties of merchantability and fitness for a particular purpose. The Licensee acknowledges and agrees that, except as provided in this Article 7.2, the software is provided on an "as is" basis without warranties of any kind.

7.3 The Licensee acknowledges and agrees that the University will not be liable for any indirect, consequential, or incidental damages suffered by the Licensee, or by any others, resulting from the use of the

University's provision of services or from the Licensee's use of any software provided by the University. The Licensee acknowledges and agrees that the University's aggregate liability will not exceed the amount received by the University from the Licensee pursuant to this Agreement.

8. ASSIGNMENT

8.1 This Agreement may not be assigned by the University, in whole or in part, without the prior written consent of the Licensee.

9. NOTICE

9.1 Any notice required by or made pursuant to this Agreement shall be deemed to have been properly received when delivered in person or when mailed by registered first class mail to the addresses given below.

To the Licensee: ****

To the University: ISBER – AVSS Project
 University of California
 Santa Barbara, CA 93106-2150

With a copy to: Procurement Services, 3203 SAASB
 University of California
 Santa Barbara, CA 93106-1150

10. CONFIDENTIALITY

10.1 The University agrees to maintain the confidentiality of patient records and information in accordance with all applicable state and federal laws, regulations, guidelines, and directives relating to the confidentiality of patient records.

11. GOVERNING LAW, JURISDICTION, AND FORUM

11.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of California as applied to contracts made and performed in California but excluding any laws that might direct the application of the laws of any other jurisdiction.

11.2 Each party hereby consents to the jurisdiction of the courts in the State of California for the purpose of all actions arising under or in connection with this Agreement and each party hereby agrees that the courts of the State of California will be the exclusive forum for all such actions.

12. SEVERABILITY

12.1 Should any provision of this Agreement be held unenforceable or in conflict with the law of any jurisdiction, the validity of the remaining provisions shall not be affected by such a holding.

13. NON-WAIVER

13.1 Waiver or non-enforcement by either party of a term or condition shall not constitute a waiver or non-enforcement of any other term or condition or of any subsequent breach of the same or similar term or condition.

14. NO THIRD PARTY RIGHTS

14.1 Nothing in this Agreement is intended to make any person or entity who is not a signatory to this Agreement a third-party beneficiary of any right created by this Agreement or by operation of law.

15. HEADINGS

15.1 The headings herein are for reference purposes only and shall not constitute a part hereof or be deemed to limit or expand the scope of any provision or be used to interpret the construction of this Agreement.

16. ENTIRE AGREEMENT

16.1 This Agreement constitutes the entire agreement between the parties. Any alteration, variation, or amendment hereto must be in writing and must be signed by a duly authorized representative of each party hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

16.2 If this Agreement is incorporated into or made a part of any other document authored by the Licensee, or if the Licensee appends or attaches any document to this Agreement, such document shall not be effective until it is accepted and signed by the University. In the event of a conflict between the terms of this Agreement and any appendage attached or incorporated document, the terms of this Agreement shall prevail.

17. SIGNATURES AND COUNTERPARTS

17.1 The signatories to this Agreement warrant and certify that they are authorized representatives of their respective organizations and that they hold the position and authority necessary to execute this Agreement.

17.2 This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. If this Agreement is executed in counterparts, no signatory hereto shall be bound by this Agreement until all parties named below have executed a counterpart of this Agreement.

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the dates given below.

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**THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA**

Name: _____

Jacob R. Godfrey

Title: _____

Associate Director & Material Manager
Business and Financial Services

Date: _____

Date: _____

Department Approval:

Name: Stuart Sweeney

Title: Director
Institute for Social, Behavioral, and Economic
Research

Date: _____