

**SECOND AMENDMENT TO THE AGREEMENT BETWEEN THE COUNTY OF
SANTA CLARA AND BITFOCUS INC. REGARDING THE HOMELESSNESS
MANAGEMENT INFORMATION SYSTEM**

This is the Second Amendment to the Agreement between the County of Santa Clara (“County”) and Bitfocus, Inc. (“Service Provider” or “Contractor”) entered into in May 2016, in order to establish roles, rights and responsibilities related to the Housing Authority’s Continuum of Care program grants.

The parties agree that the Agreement shall be amended as follows:

1. Section **2.1 TERM** is revised to read:

Unless this Agreement is extended or terminated earlier in accordance with the terms set forth herein, this Agreement shall commence on the Effective Date and continue until June 30, 2019.

2. Section **5. INVOICING AND PAYMENT** is revised to read:

County shall be responsible for and shall pay to Service Provider the fees as further described in Exhibit A, subject to the terms and conditions contained therein. However, the maximum compensation to be paid to the Service Provider under this Amendment shall not exceed \$237,300.

3. Section **14.12 DEBARMENT** is revised to read:

Contractor certifies, represents and warrants that it, its employees, contractors, subcontractors or agents (collectively “Contractor”) are not suspended, debarred, excluded, or ineligible for participation in Medicare, Medi-Cal or any other federal or state funded health care program, or from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the Federal General Services Administration, or Excluded Parties List System consistent with 2 C.F.R. Part 2. Contractor must notify the County immediately if, during the term of this Agreement, Contractor becomes suspended, debarred, excluded or ineligible for participation in Medicare, Medi-Cal or any other: federal or state funded health care program, as defined by 42. U.S.C. 1320a-7b(f), or from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs, or Excluded Parties List System consistent with 2 C.F.R. Part 2 issued by the Federal General Services Administration. Contractor shall defend, indemnify, and hold the County harmless for any loss or damage resulting from the conviction, debarment, exclusion or ineligibility of the Contractor.

4. Add Section **14.15 AGREEMENT EXECUTION** to read:

14.15 AGREEMENT EXECUTION

Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed Agreement, or an electronically signed Agreement, has the same force and legal effect as an Agreement executed with an original ink signature. The term “Electronic Copy of a Signed Agreement” refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed Agreement in a portable document format. The term “Electronically Signed Agreement” means an Agreement that is executed by applying an electronic signature using technology approved by the County.

5. Add Section 14.16 COMPLIANCE WITH NON-DISCRIMINATION AND EQUAL OPPORTUNITY LAWS to read:

14.16 COMPLIANCE WITH NON-DISCRIMINATION AND EQUAL OPPORTUNITY LAWS

Contractor shall comply with all applicable Laws concerning nondiscrimination and equal opportunity in employment and contracting, including but not limited to the following: Santa Clara County’s policies for contractors on nondiscrimination and equal opportunity; Title VII of the Civil Rights Act of 1964 as amended; Americans with Disabilities Act of 1990; the Age Discrimination in Employment Act of 1967; the Rehabilitation Act of 1973 (Sections 503 and 504); the Equal Pay Act of 1963; California Fair Employment and Housing Act (Gov. Code § 12900 et seq.); California Labor Code sections 1101, 1102, and 1197.5; and the Genetic Information Nondiscrimination Act of 2008. In addition to the foregoing, Contractor shall not discriminate against any subcontractor, employee, or applicant for employment because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political belief, organizational affiliation, or marital status in the recruitment, selection for training (including but not limited to apprenticeship), hiring, employment, assignment, promotion, layoff, rates of pay or other forms of compensation. Nor shall Contractor discriminate in the provision of services provided under this contract because of age, race, color, national origin, ancestry, religion, sex, gender identity, gender expression, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, or marital status.

6. Add Section 14.17 DEFINITIONS to read:

14.17 DEFINITIONS

For purposes of this Subsection, the following definitions shall apply. A “Final Judgment” shall mean a judgment, decision, determination, or order (a) which is issued by a court of law, an investigatory government agency authorized by law to enforce an applicable Law, an arbiter, or arbitration panel and (b) for which all appeals have been exhausted or the time period to appeal has expired. For pay equity Laws, relevant investigatory government agencies include the federal Equal Employment Opportunity Commission, the California Division of Labor Standards Enforcement, and the California Department of Fair Employment and Housing. Violation of a pay equity Law shall mean unlawful discrimination in compensation on the basis of an individual’s sex, gender, gender identity, gender expression, sexual orientation, race, color, ethnicity, or national origin under Title VII of the Civil Rights Act of 1964 as amended, the Equal Pay Act of 1963, California Fair Employment

and Housing Act, or California Labor Code section 1197.5, as applicable. For wage and hour Laws, relevant investigatory government agencies include the federal Department of Labor, the California Division of Labor Standards Enforcement, and the City of San Jose's Office of Equality Assurance.


7. **EXHIBIT A SERVICE FEES AND RATES** is revised to read:
July 1, 2018-June 30, 2019

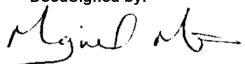
Item and Description	Billing Schedule	Maximum Amount
Ongoing Charges		
600 Clarity Enterprise Seats <ul style="list-style-type: none"> • Includes access and operation at the Enterprise level per each seat • \$20 per seat per month 	\$12,000 per month	\$144,000
60 Clarity Manager Seats <ul style="list-style-type: none"> • Includes Enterprise level access and operation, with the addition of ability to customize agency preferences, including services and programs of the selected agency. • \$50 per seat per month 	\$3,000 per month	\$36,000
4 Clarity Administrator Seats <ul style="list-style-type: none"> • Includes Enterprise and Manager level access and operation with the addition of System Administration management functions. • Includes 30 Hours of Advanced Technical Assistance per year. • \$150 per seat per month 	\$600 per month	\$7,200
Training Site License <ul style="list-style-type: none"> • Clarity Training Web Site provides an implementation specific site for training purposes and is an important part of any Clarity installation. This service provides optional ongoing training site operation, including software updates in concert with the production site. 	\$203.33 per month	\$2,500
Virtual Private Network Maintenance and Support <ul style="list-style-type: none"> • Virtual Private Network (VPN) is a Clarity premium service for clients seeking a secured connection to their database for sophisticated reporting purposes. • Includes 4 hours of customer support per year. 	\$33.33 per month	\$400
Replica Database Access and Support <ul style="list-style-type: none"> • Includes a unique VPN for direct access, given at direction of the County, to a live-time replica of the SCC HMIS database 	\$600 per month	\$7,200
Additional Clarity Seats <ul style="list-style-type: none"> • Enterprise, Manager, and Administrator seating capacity to expand utilization as system utilization expands at Seat rate. 	Invoiced upon activation and monthly forward.	\$40,000
Total (Maximum Amount)		\$237,300

All other terms and conditions of the Agreement remain in full force and effect. In the event of a conflict between the Agreement and this Second Amendment, this Second Amendment controls.

IN WITNESS WHEREOF, the parties have caused this Second Amendment to be entered into as of the day and year of execution of this Second Amendment,

County of Santa Clara

DocuSigned by:  6/27/2018
8AE98A3DD8004B0...
Ky Le, Director Date
Office of Supportive Housing

DocuSigned by:  6/28/2018
B147DF9A133D473...
Miguel Marquez Date
Chief Operating Officer

Bitfocus Inc.

DocuSigned by:  6/27/2018
0FBD7417F8A74E6...
Robert Herdzyk Date
President/CEO

Approved as to form and legality:

DocuSigned by:  6/27/2018
CF46266CAF4448...
Michaela Lewis Date
County Counsel