

AGREEMENT

Between

BROWARD COUNTY

and

EDIFY, LLC

For

GENERAL PROFESSIONAL BENEFITS CONSULTING SERVICES

FOR BROWARD COUNTY

CONTRACT YEAR January 1, 2010 - DECEMBER 31, 2012

RLI NO. R0731709R1

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GENERAL PROFESSIONAL BENEFITS CONSULTING SERVICES

FOR BROWARD COUNTY

CONTRACT YEAR ENDING DECEMBER 31, 2012

RLI NO. R0731709R1

This is an Agreement ("Agreement") made and entered into by and between BROWARD COUNTY ("COUNTY"), a political subdivision of the State of Florida,

AND

EDIFY, LLC ("CONSULTANT"), a Florida limited liability corporation, authorized to do business in the State of Florida.

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and CONSULTANT agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article. The following

definitions apply unless the context in which the word or phrase is used requires a different definition:

- 1.1 Agreement: This document, Articles 1 through 31, inclusive. Other terms and conditions are included in the exhibits and documents that are expressly incorporated by reference.
- 1.2 Board: The Board of County Commissioners of Broward County, Florida, which is the governing body of the Broward County government as created by the Broward County Charter.
- 1.3 Contract Administrator: The Director of the Broward County Human Resources Division or the Director's designee. The Contract Administrator's responsibilities are to coordinate and communicate with CONSULTANT, manage preparation of the Scope of Services and associated Work Orders, and supervise completion of the terms and conditions of this Agreement as set forth herein. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely on the instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services except as otherwise provided pursuant to this Agreement.
- 1.4 County Administrator: The administrative head of COUNTY pursuant to Sections 3.02 and 3.03 of the Broward County Charter.
- 1.5 County Attorney: The chief legal counsel for COUNTY, who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter, or the designee of the County Attorney.
- 1.6 "MAILING TIME," means the performance deadlines outlined in this Agreement which include an allowance for correspondence sent by U.S. mail and such term means four (4) business days, except in the case of a performance deadline which falls on a Saturday, Sunday or holiday. In such cases, delivery by mail may occur on the next business day.
- 1.7 Project: The services outlined in each Work Order and as set forth herein.
- 1.8 Purchasing Director: Broward County's Director of its Purchasing Division.
- 1.9 RLI: The Request for Letters of Interest for Professional Benefit Consulting Services for the Broward County Board of County Commissioners, RLI NO. **R0731709R1**.
- 1.10 Work Order: A written description of services required pursuant to Article 4 of this Agreement.

ARTICLE 2

BACKGROUND

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties herein, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based, to wit: (1) this Agreement is the result of COUNTY's RLI process; (2) CONSULTANT was chosen as the consultant to perform the services herein; and (3) negotiations pertaining to the services to be performed by CONSULTANT were undertaken between CONSULTANT and a selection committee or designee of such committee, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

TERM OF AGREEMENT

- 3.1 The term of this Agreement shall commence on January 1, 2010 and terminate on December 31, 2012.
- 3.2 COUNTY, through the Purchasing Director, shall have the option to renew this Agreement annually upon the mutual consent and agreement of COUNTY and CONSULTANT for a maximum of two (2) consecutive twelve-month periods.
- 3.3 Notwithstanding the above, COUNTY may, by and through its Contract Administrator and at his/her sole discretion, extend the term of this Agreement on a month to month basis, for a maximum of three (3) months, to allow for completion of any open Work Orders or due to ongoing negotiations for renewal.

ARTICLE 4

SCOPE OF SERVICES

- 4.1 CONSULTANT shall provide General Professional Benefit Consulting Services to COUNTY, subject to the following: CONSULTANT warrants that the terms of any Project represented in the associated Work Order reflects the same terms, conditions, and pricing as offered, negotiated, and accepted by the COUNTY related to RLI NO. **R0731709R1**, and as set forth herein. Defined tasks will be presented to the CONSULTANT for a cost quotation on either an hourly basis, flat amount, or a "not-to-exceed" amount, whichever is more cost effective for the type of task to be performed on an ad hoc or repeating monthly basis. If the

quotation is acceptable, the Contract Administrator will issue a Work Order and a Notice to Proceed as set forth below.

4.1.1 All work to be performed by CONSULTANT pursuant to the terms of this Agreement shall first be authorized by the Contract Administrator in writing by a Work Order in accordance with the requirements of this subsection.

4.1.1.1 Before any Project is commenced pursuant to a Work Order, CONSULTANT shall supply the Contract Administrator with a written estimate for all charges expected to be incurred for such Project, which estimate shall be reviewed by Contract Administrator and a final amount for CONSULTANT's compensation shall be approved as follows:

A. Any Work Order that will cost COUNTY Thirty Thousand Dollars (\$30,000.00) or less shall be executed by COUNTY, by and through its Contract Administrator, and CONSULTANT.

B. Any Work Order that will cost COUNTY more than Thirty Thousand Dollars (\$30,000.00) shall be executed by COUNTY, by and through its Purchasing Director or Board in accordance with the awarding authority under the County's Procurement Code, and CONSULTANT.

4.1.1.2 Subsequent to Contract Administrator issuing a Work Order as outlined herein, Contract Administrator will issue a Notice to Proceed (NTP) for the authorized work. CONSULTANT shall not commence such work until after receipt of the Contract Administrator's NTP.

4.1.1.3 Any charges in excess of the amount approved in the original Work Order shall require a modification thereto approved by Contract Administrator, Purchasing Director, or Board pursuant to the limits set forth above using the cumulative total of the modifications (the amount approved in the original Work Order plus the modifications thereto). Notwithstanding anything contained in this subsection, CONSULTANT's compensation shall not exceed the amount approved in the Work Order unless such additional amount received the prior written approval as outlined above.

4.1.1.4 All Work Orders issued by the Contract Administrator shall contain, as a minimum, the following information and requirements:

- A. A description of the work to be undertaken, a reference to this Agreement pursuant to which the work to be undertaken is authorized, and a statement of the method of compensation.
 - B. A budget establishing the amount of compensation, which amount shall constitute a guaranteed maximum and shall not be exceeded unless prior written approval of COUNTY is obtained. In the event COUNTY does not approve an increase in the guaranteed maximum amount, and the need for such action is not the fault of CONSULTANT, the authorization shall be terminated, and CONSULTANT shall be paid in full for all work completed to that point, but shall in no case exceed the guaranteed maximum amount. The information contained in the budget shall be in sufficient detail so as to identify the various elements of costs.
 - C. A time established for completion of the work or services undertaken by CONSULTANT or for the submission to COUNTY of documents, reports, and other information pursuant to this Agreement.
 - D. Any other additional instructions or provision relating to the Work Order pursuant to this Agreement.
 - E. Work Orders shall be dated, serially numbered, and signed.
- 4.2 CONSULTANT acknowledges and agrees that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the terms and conditions of this Agreement, except as otherwise provided pursuant to the Agreement, or as expressly authorized by the Broward County Procurement Code (Chapter 21 of the Broward County Administrative Code), or any other applicable portion of the County Administrative Code. Any change to the terms and conditions of this Agreement must be accomplished by a written amendment, executed by the parties in accordance with Article 12 of this Agreement.
- 4.3 Because CONSULTANT shall be required to recommend insurance products based upon an objective review thereof, CONSULTANT shall not be engaged as an agent or broker or participate in any capacity whatsoever in the sale or placement of employee benefit insurance coverage on behalf of COUNTY unless specifically approved by the Board. CONSULTANT shall also not provide third party administration, employee benefit insurance services, claims administration, medical management, or any other form of services which would directly or

indirectly be associated with coverage placed on behalf of COUNTY, unless approved by Board.

4.4 CONSULTANT shall return telephone calls or reply to emails from Contract Administrator or his/her designee on or before the next business day.

4.5 It is understood and agreed that this Agreement is a consulting contract for services, and the services shall include advice and recommendations. However, the final decisions in connection with the implementation of such advice and recommendations shall be made by COUNTY. Notwithstanding the foregoing sentence, nothing herein shall be deemed to affect CONSULTANT's obligations under this Agreement, including, without limitation, Articles 16 and 17 hereof.

4.6 PENALTIES:

4.6.1 PENALTY INVOICES: If COUNTY, through its Contract Administrator, finds EDIFY has incurred penalties pursuant to the terms of this Agreement and Exhibit "A," attached hereto and incorporated herein entitled "Rates and Annual Performance Guarantee," COUNTY will submit a written invoice to EDIFY detailing the alleged performance failures.

4.6.2 AGREED PENALTIES: Any time penalties are incurred by EDIFY pursuant to the terms of this Agreement, COUNTY will submit an invoice to EDIFY for payment of these penalties no later than the end of the month following the period for which penalties were assessed. Unless EDIFY files a dispute pursuant to Section 4.6.3 herein, EDIFY must pay these penalties within twenty (20) days from the date of invoice. If a penalty is not paid by EDIFY pursuant to the terms of this Agreement, COUNTY may automatically deduct the penalty amounts from EDIFY's compensation.

4.6.3 DISPUTED PENALTIES: Any time penalties are assessed by the Contract Administrator against EDIFY pursuant to the terms of this Agreement, EDIFY may appeal the assessment of such penalties to the Director of Purchasing within ten (10) days after notice of the assessment pursuant to Article 7 of this Agreement. The appeal shall be in writing and EDIFY shall state the reasons why the penalties should be reduced or not assessed. If the appeal is not resolved by mutual agreement, the Director of Purchasing shall promptly issue a decision in writing, after consulting with the County Attorney's Office. The decision shall state the reasons for the action taken, and inform EDIFY of its right to administrative review. If EDIFY disagrees with the decision of the Director of Purchasing, it may seek administrative review by filing notice with the Director of Purchasing not later than ten (10) days after the decision of the Director of Purchasing. COUNTY and EDIFY agree that the hearing procedures shall be in accordance with the provisions of Section 21.120 of the Broward County Procurement Code, as may be amended from time to time.

ARTICLE 5

PRICING AND METHOD OF BILLING AND PAYMENT

- 5.1 The pricing shown in Exhibit "A," attached hereto and incorporated herein entitled "Rates and Annual Performance Guarantee", shall apply to COUNTY. These rates reflect the maximum hourly rates that CONSULTANT may charge for any work or Project under this Agreement.
- 5.2 All Work Orders issued pursuant to this Agreement shall not exceed Five Hundred Thousand dollars (\$500,000), cumulative, over the initial term of this Agreement. Any renewals will have to be funded and approved by the Board if there are not sufficient funds remaining from the funding provided for the initial term of the contract.
- 5.3 COUNTY agrees to pay CONSULTANT, in the manner specified in Section 5.4, the compensation as set forth in each Work Order for the work actually performed and completed pursuant to this Agreement and the specific scope attached to each Work Order. It is acknowledged and agreed by CONSULTANT that the amount in each Work Order is the maximum payable and constitutes a limitation upon COUNTY's obligation to compensate CONSULTANT for the services listed therein. This maximum amount, however, does not constitute a limitation of any sort upon CONSULTANT's obligation to perform all items of work required by or which can be reasonably inferred from each Work Order. No amount shall be paid to CONSULTANT to reimburse its expenses.
- 5.4 METHOD OF BILLING AND PAYMENT
- 5.4.1 CONSULTANT shall submit invoices for compensation no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Invoices shall designate the nature of the services performed.
- 5.4.2 COUNTY shall pay CONSULTANT within thirty (30) calendar days of receipt of CONSULTANT's proper invoice, as required by the ABroward County Prompt Payment Ordinance@ (Broward County Ordinance No. 89-49, as may be amended from time to time). To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.
- 5.4.3 Payment shall be made to CONSULTANT at:

EDIFY LLC

401 East Las Olas Blvd.
Suite 1120
Ft. Lauderdale, FL 33301

ARTICLE 6

TERMINATION

- 6.1 This Agreement may be terminated for cause by action of the Board upon not less than sixty (60) days' written notice or for convenience by action of the Board upon not less than sixty (60) days' written notice by County Administrator. CONSULTANT may terminate this Agreement without cause upon not less than two hundred seventy (270) days' prior written notice, or for cause as provided in Section 6.3 upon not less than sixty (60) days' written notice. This Agreement may also be terminated by County Administrator upon such notice as County Administrator deems appropriate under the circumstances in the event County Administrator determines that termination is necessary to protect the public health, safety, or welfare.
- 6.2 COUNTY may terminate this Agreement for cause for reasons including, but not limited to, (i) CONSULTANT's failure to suitably perform its obligations under this Agreement,, (ii) CONSULTANT's failure to continuously perform its obligations under this Agreement in a manner calculated to meet or accomplish the objectives of COUNTY as set forth in this Agreement, or (iii) multiple breaches of the provisions of this Agreement by CONSULTANT notwithstanding whether any such breach was previously waived or cured.
- 6.3 In addition, either party may terminate this Agreement for cause for any of the following events:
- 6.3.1 CONSULTANT may terminate this Agreement, in the event that the payments to be made by COUNTY to CONSULTANT, as provided herein, have not been paid within sixty (60) days after invoice and said monies are not paid within ten (10) business days after written notice to COUNTY of said default.
- 6.3.2 Other than the payment of monies, if either party believes there has been a default under this Agreement, the aggrieved party shall send to the party in default written notice identifying the default. If within thirty (30) days of the date of such notice, the default has not been cured, the aggrieved party may terminate this Agreement.
- 6.3.3 In the event that CONSULTANT files a petition seeking bankruptcy protection, or enters into an arrangement with creditors because of its insolvency, then upon thirty (30) days' notice, COUNTY may declare this Agreement canceled.

- 6.3.4 CONSULTANT may terminate this Agreement upon sixty (60) days' notice, in the event CONSULTANT is no longer able to legally provide the services required under this Agreement. The notice provided herein shall state, with specificity, the reason(s) why CONSULTANT is no longer able to legally provide the services under this Agreement.
- 6.3 Notice of termination shall be provided in accordance with Article 7 of this Agreement, except that notice of termination by the County Administrator which the County Administrator deems necessary to protect the public health, safety, or welfare, may be verbal notice which shall be promptly confirmed in writing in accordance with Article 7.
- 6.4 In the event this Agreement is terminated for convenience by COUNTY, CONSULTANT shall be paid for any payments due to the date the Agreement is terminated. CONSULTANT acknowledges and agrees that ten dollars (\$10.00) of the compensation to be paid by COUNTY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for COUNTY's right to terminate this Agreement for convenience.
- 6.5 In the event this Agreement is terminated, any payments due by COUNTY to CONSULTANT shall be withheld until all documents are provided to COUNTY by CONSULTANT pursuant to Article 10 of this Agreement.

ARTICLE 7

NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended, at the place last specified. The place for giving notice shall remain the same as set forth herein until changed by giving notice in writing to the other party in the manner provided in this section. For the present, the parties designate the following:

If to COUNTY, to: Director, Human Resources Division
 Broward County Governmental Center, Room 508
 115 South Andrews Avenue
 Fort Lauderdale, Florida 33301

With a copy to: Office of the County Attorney
 Broward County Governmental Center, Room, 423

115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Attn: County Attorney

If to CONSULTANT, to: Howard Gruverman
EDIFY, LLC
401 East Las Olas Blvd.
Suite 1120
Fort Lauderdale, FL 33301

ARTICLE 8

OWNERSHIP OF DOCUMENTS

Unless otherwise prohibited by federal and/or state law, any and all reports, photographs, surveys, and other data and documents provided or created at the request of COUNTY in connection with this Agreement are and shall remain the property of COUNTY. In the event of termination of this Agreement, such reports, photographs, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of COUNTY and shall be delivered by CONSULTANT to the Contract Administrator within seven (7) days of termination of this Agreement by either party, except for records where such return is specifically prohibited by law, or where federal or state confidentiality laws specifically prohibit such return. CONSULTANT shall not be obligated to return any proprietary internal documents. CONSULTANT may maintain copies of any records or data necessary to facilitate performing any ongoing obligations under this Agreement. CONSULTANT shall maintain all financial records concerning its operation under this Agreement in accordance with sound accounting and business practices. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

ARTICLE 9

AUDIT RIGHT AND RETENTION OF RECORDS

- 9.1 COUNTY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary, in order to record complete and correct entries related to this Agreement. All books, records, and accounts of CONSULTANT shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, CONSULTANT shall make same available in written form at no cost to COUNTY.
- 9.2 CONSULTANT shall preserve and make available, upon reasonable notice, and at reasonable times for examination and audit by COUNTY, all financial records, supporting documents, statistical records, records of all transactions and services rendered to COUNTY and its employees, and any other documents pertinent to

this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable; the retention period required under HIPAA, if applicable, or, if neither the Florida Public Records Act nor HIPAA is applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the applicable retention period, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by COUNTY to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or nondisclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment upon such entry.

ARTICLE 10

INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. CONSULTANT shall be solely responsible for all services performed under this Agreement, including supervision of all services rendered pursuant to this Agreement. In providing services under this Agreement, neither CONSULTANT nor its agents shall act as officers, employees, or agents of the COUNTY. In a similar fashion, neither COUNTY nor its agents, consultants, employees, or participating employees, nor any other beneficiaries hereunder, either singly or collectively, is the agent or representative of CONSULTANT and none of them shall be liable for any act or omission of CONSULTANT or of its agents, employees, or other persons performing services for or at the request of CONSULTANT. No partnership, joint venture, or other joint relationship is created hereby. COUNTY does not extend to CONSULTANT or CONSULTANT's agents any authority of any kind to bind COUNTY in any respect whatsoever.

ARTICLE 11

ASSIGNMENTS AND PERFORMANCE

- 11.1 Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered by either party without the prior written consent of the other party. COUNTY may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by CONSULTANT of this Agreement or any right or interest herein without COUNTY's prior written consent.
- 11.2 Any purchase, sale, merger, consolidation, reorganization, or other transaction which may result in a change in control of CONSULTANT or require the assignment or transfer of this Agreement or any interest herein to any parent,

subsidiary, or affiliated corporation or partners of CONSULTANT, or to any other entity shall be deemed an assignment shall be deemed an assignment requiring the written consent of COUNTY. In the event CONSULTANT, or any portion thereof, becomes the intended subject of a purchase, sale, merger, consolidation, reorganization, or other transaction which may result in a change in control of CONSULTANT or require the assignment or transfer of this Agreement or any interest herein to any parent, subsidiary, or affiliated corporation or partners of CONSULTANT, or to any other entity, CONSULTANT shall provide notice to COUNTY pursuant to Article 7 of this Agreement no later than when notice is provided to its shareholders, and such notice shall include any request for COUNTY's consent to the assignment or transfer of this Agreement or interest, as necessary. Any COUNTY consent to an assignment or transfer of this Agreement or interest herein shall be at COUNTY's sole discretion and shall be subject to the requirement that the succeeding entity accept and agree to perform the continuing covenants of this Agreement and such entity shall further agree to continue to be responsible for compliance with and performance of the terms and conditions of this Agreement. Any attempted assignment or transfer in violation of this section shall be in all respects null and void. Any attempted assignment or transfer in violation of this section shall be in all respects null and void.

- 11.3 The services to be performed by CONSULTANT under this Agreement may, at its discretion, be performed directly by CONSULTANT or wholly or in part through a subsidiary or affiliate of CONSULTANT, or under contract with a person or entity of its choosing, provided that COUNTY is notified in writing thirty (30) days prior to such delegation of performance to an outside person or entity that is neither a subsidiary or affiliate of CONSULTANT and COUNTY approves. CONSULTANT shall remain liable to COUNTY for all acts or omissions of such subsidiaries, affiliates, or other entities.
- 11.4 CONSULTANT represents that all persons who have been selected by CONSULTANT to deliver the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in Article 4 herein and any associated Work Orders, and to provide and perform such services to COUNTY's satisfaction for the agreed compensation.

ARTICLE 12

AMENDMENTS

Other than as provided in Article 3 of this Agreement, no modification, amendment, renewal, or alteration of the terms and conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY and CONSULTANT or others delegated authority to or otherwise authorized to execute same on their behalf.

ARTICLE 13

MATERIALITY AND WAIVER OF BREACH

- 13.1 COUNTY and CONSULTANT agree that each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and, that each, therefore, is a material term hereof.
- 13.2 COUNTY and CONSULTANT mutually agree that failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 14

SEVERABILITY

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, the remaining provisions shall continue to be effective. If any portion of this Agreement is severed pursuant to this Article 14, COUNTY shall have the right to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

ARTICLE 15

COMPLIANCE WITH LAWS

- 15.1 CONSULTANT shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement. In the event any of the terms of this Agreement are inconsistent with such laws, codes, ordinances, rules, and regulations, this Agreement shall be construed to operate in conformity with the requirements of such laws, codes, ordinances, rules, and regulations.
- 15.2 HIPAA. CONSULTANT acknowledges that it must comply with HIPAA and its attendant Rules and Regulations, and CONSULTANT agrees to abide by such Rules and Regulations upon their implementation, and abide by any other laws that evolve from HIPAA, either federal or state, upon their implementation.
- 15.3 It is expressly understood by the parties that COUNTY personnel and/or their agents have access to protected health information ("PHI") that is subject to the

requirements of 45 CFR 164.052 and related regulations. In the event CONSULTANT is considered by COUNTY to be a covered entity or business associate and is required to comply with HIPAA, CONSULTANT shall fully protect individually identifiable health information as required by HIPAA and, if requested by COUNTY shall execute a Business Associate Agreement in the form attached hereto as Exhibit "C" for the purpose of complying with HIPAA. Where required, CONSULTANT shall handle and secure such PHI in compliance with HIPAA and its related regulations and, if required by HIPAA or other laws, include in its "Notice of Privacy Practices" notice of CONSULTANT's and COUNTY's uses of Participant's PHI. The requirement to comply with this provision and HIPAA shall survive the expiration or earlier termination of this Agreement. COUNTY hereby authorizes the County Administrator to sign Business Associate Agreements on its behalf.

ARTICLE 16

INDEMNIFICATION

CONSULTANT shall at all times hereafter indemnify, hold harmless and, at County Attorney's option, defend or pay for an attorney selected by the County Attorney to defend COUNTY, its officers, agents, servants, and employees against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorney's fees, court costs, and expenses, caused by or alleged to be caused by intentional or negligent acts or omissions of CONSULTANT, its employees, agents, servants, officers, subcontractors, and other persons utilized by CONSULTANT in the performance of this Agreement, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, demands, losses, liabilities, expenditures or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against COUNTY by reason of any such claim, cause of action, or demand, CONSULTANT shall, upon written notice from COUNTY, resist and defend such lawsuit or proceedings by counsel satisfactory to COUNTY or, at COUNTY's option, pay for an attorney selected by the County Attorney to defend COUNTY. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the County Attorney, COUNTY may retain any sums due to CONSULTANT under this Agreement until all of COUNTY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld pursuant to this section shall not be subject to payment of interest by COUNTY. This indemnification provision shall not be construed as obligating CONSULTANT to indemnify COUNTY for losses caused by the negligence or willful misconduct of COUNTY.

ARTICLE 17

INSURANCE

- 17.1 In order to insure the indemnification obligation contained above, CONSULTANT shall, as a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement (unless otherwise provided), the insurance coverage set forth in Sections 17.3 through 17.7, in accordance with the terms and conditions required by this Article. Each insurance policy shall clearly identify the foregoing indemnification as insured.
- 17.2 Except as otherwise permitted in this Article, such policy or policies shall be without any deductible amount and shall be issued by approved companies authorized to do business in the state of Florida and having agents upon whom service of process may be made in Broward County, Florida. CONSULTANT shall specifically protect COUNTY and the Broward County Board of County Commissioners by naming COUNTY and the Broward County Board of County Commissioners as additional insureds under the Comprehensive General Liability Policy and Excess Umbrella Liability Policy in the Certificate of Liability Insurance, the form of which is attached hereto as Exhibit "B." The official title of the certificate holder is Broward County Board of County Commissioners. This official title shall be used in all insurance documentation.
- 17.3 Comprehensive or Commercial General Liability Insurance. A Comprehensive or Commercial General Liability Insurance Policy shall be provided, which shall contain minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for bodily injury liability, and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive or Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Service Office and must include:
- Premises and/or operations.
 - Independent contractors.
 - Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification Agreement.
 - Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.
- 17.4 Business Automobile Liability. A Business Automobile Liability policy shall be provided, which shall contain minimum limits of Three Hundred Thousand Dollars (\$300,000) per occurrence, combined single limit for Bodily Injury Liability and

Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

- Owned Vehicles.
- Hired and Non-Owned Vehicles.
- Any Automobile.

17.5 Umbrella or Excess Liability. CONSULTANT may satisfy the liability limits required above for Commercial General Liability or Business Auto Liability under an Umbrella or Excess Liability policy. There is no minimum Per Occurrence limit of liability under the Umbrella or Excess Liability; however, the Annual Aggregate limit shall not be less than the highest "Each Occurrence" limit for either Commercial General Liability or Business Auto Liability. CONSULTANT agrees to endorse COUNTY as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance states that the Umbrella or Excess Liability provides coverage on a pure/true "Follow-form" basis.

17.6 Workers' Compensation Insurance. Workers' Compensation Insurance is to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the state of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employer's Liability with a limit of One Hundred Thousand Dollars (\$100,000) per each accident.

17.7 Professional (or equivalent Errors & Omissions) Liability Insurance. CONSULTANT shall maintain, for the term of this Agreement, Professional (or equivalent Errors & Omissions) Liability Insurance, including coverage for errors and omissions, in the minimum amount of One Million Dollars (\$1,000,000) per claim. The amount of the deductible is listed on the Certificate of Insurance, and is attached to this agreement as Exhibit "B." CONSULTANT shall be solely responsible for payment of the deductible. CONSULTANT shall notify COUNTY in writing within thirty (30) days of any claims filed or made against the Professional (or equivalent Errors & Omissions) Liability Insurance policy.

17.8 CONSULTANT shall furnish to the Contract Administrator Certificates of Insurance or endorsements evidencing the insurance coverage specified by this Article prior to beginning performance of work under this Agreement and annually throughout the duration of this Agreement. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Agreement, and state that such insurance is as required by this Agreement. The Certificate of Insurance shall be in form similar to and contain the information set forth in Form 00708, to be provided by the COUNTY's Risk Management

Division. CONSULTANT's failure to provide to COUNTY the Certificates of Insurance or endorsements evidencing the insurance coverage as required by this Article shall provide the basis for the termination of the Agreement.

17.9 Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of CONSULTANT is completed. All policies must be endorsed to provide COUNTY with at least thirty (30) days' notice of cancellation or change in coverage. If any of the insurance coverage expires prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

17.10 Notice of Cancellation and/or Restriction. The Certificate of Insurance will reflect thirty (30) days prior notice of cancellation and/or restriction to COUNTY.

17.11 Right to Revise or Reject. COUNTY reserves the right, but does not incur the obligation, to review and revise any insurance requirement, not limited to limits, deductibles, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work/specifications affecting the applicability of coverage. Additionally, COUNTY reserves the right, but does not incur the obligation, to review and reject any insurance policies failing to meet the criteria stated herein or any insurer providing coverage due to its poor financial condition or failure to operate legally.

ARTICLE 18

NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

18.1 CONSULTANT shall not unlawfully discriminate on the basis of race, color, national origin, sex, religion, age, marital status, political affiliation, disability, sexual orientation or any other protected category of persons, including, but not limited to, those categories protected under Broward County Code, Chapter 16½, as may be amended from time to time, in the performance of the Agreement, the solicitation for or purchase of goods or services relating to this Agreement, or in subcontracting work (if authorized) in the performance of this Agreement. CONSULTANT shall include the foregoing or similar language in its agreements with any subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 CFR Parts 23 and 26, as amended. Failure to comply with the foregoing requirements is a material breach of the Agreement, which may result in termination of this Agreement or such other remedy as COUNTY deems appropriate.

18.2 CONSULTANT shall not unlawfully discriminate against any person in its operations and activities or in its use or expenditure of funds in fulfilling its obligations under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded by COUNTY, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons.

ARTICLE 19

JURISDICTION, VENUE, GOVERNING LAW, AND WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida and when applicable, federal law. All parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder, shall be in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida or in the United States District Court, Southern District of Florida, and venue for litigation arising out of this Agreement shall be in such courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.

ARTICLE 20

CONFLICT OF INTEREST

- 20.1 CONSULTANT agrees that no principal, officer, or employee shall, during the term of this Agreement, serve as an expert witness, or an adverse or hostile witness, against COUNTY in any legal or administrative proceeding, unless such principal, officer, or employee is a party to such action and is compelled to give testimony by court process. Further, CONSULTANT agrees that neither CONSULTANT, any principal, officer, employee, nor agent shall give sworn testimony or issue a report or writing as an expression of his or her opinion which is adverse or prejudicial to the interests of COUNTY in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude CONSULTANT or any other persons from representing themselves in any action or in any administrative or legal proceeding.
- 20.2 CONSULTANT agrees that neither CONSULTANT, its principals, officers, nor its employees shall have or hold any employment relationship with any of COUNTY's fringe benefit providers or any other entities competing to provide

fringe benefits or related services to COUNTY or its employees in relation to COUNTY's employee benefits programs, have a material interest in such providers or entities during the term of this Agreement, including any renewal periods, or have a continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

ARTICLE 21

JOINT PREPARATION

Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses the mutual intent of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

ARTICLE 22

PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 31 of this Agreement shall prevail and be given effect.

ARTICLE 23

PRIOR AGREEMENTS

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

ARTICLE 24

THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor COUNTY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

ARTICLE 25

TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

ARTICLE 26

PUBLIC ENTITY CRIME ACT

- 26.1 CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted CONSULTANT list following a conviction for a Public Entity Crime may not submit a bid on a contract to provide any goods or services to COUNTY, may not submit a bid on a contract with COUNTY for the construction or repair of a public building or public work, may not submit bids on leases of real property to COUNTY, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with COUNTY, and may not transact any business with COUNTY in excess of the threshold amount provided in Section 287.017, Florida Statutes, as amended from time to time, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted CONSULTANT list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from COUNTY's competitive procurement activities.
- 26.2 In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved, or whether CONSULTANT has been placed on the convicted vendor/consultant list.

ARTICLE 27

DRUG-FREE WORKPLACE

It is a requirement of COUNTY that it enter into contracts only with firms that certify the establishment of a drug-free work place in accordance with Chapter 21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by CONSULTANT shall serve as CONSULTANT's required certification that it either has established or that it will establish a drug-free work place in accordance with Section 287.087, Florida Statutes, as may be amended from time to time, and Chapter 21.31(a)(2) of the Broward County Procurement Code, as may be amended from time to time.

ARTICLE 28

LEGISLATIVE, REGULATORY, OR ADMINISTRATIVE CHANGE

In the event there shall be a change in the relevant federal or state statutes or regulations, the adoption of new federal or state legislation, or a change in any reimbursement system, any of which are reasonably likely to materially and adversely affect the manner in which either party may perform under this Agreement or which shall make this Agreement unlawful, the parties shall immediately enter into good faith negotiations regarding a new service agreement that complies with the law, regulation, or policy and that approximates as closely as possible the position of the parties prior to the change.

ARTICLE 29

INCORPORATION BY REFERENCE

Exhibits "A," "B," and "C," attached hereto and referenced in the respective articles of this Agreement, are incorporated into and made part of this Agreement.

ARTICLE 30

MULTIPLE ORIGINALS

This Agreement may be fully executed in four (4) copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

ARTICLE 31
CONTRACT EXECUTION AUTHORITY

CONSULTANT represents that the officer who signs this Agreement on its behalf, his or her name and signature appearing on the signature page corresponding to CONSULTANT hereto, has full power and authority to execute this Agreement, and such officer's execution and CONSULTANT's performance of the Agreement is a valid and binding obligation of CONSULTANT which does not conflict with CONSULTANT's respective articles of incorporation, by-laws, or any other agreements to which CONSULTANT is bound.

(This Section intentionally left blank)

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20____, and EDIFY, LLC., signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS


County Administrator and
Ex-Officio Clerk of the Board of County
Commissioners of Broward
County, Florida

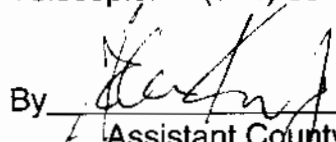
BY _____
Mayor

____ day of _____, 20____.

Insurance requirements
approved by Broward County
Risk Management Division

Approved as to form by
Office of County Attorney
Broward County, Florida
JEFFREY J. NEWTON, County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

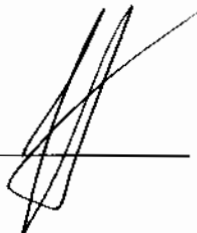
By  _____

By  _____
Assistant County Attorney

AGREEMENT BETWEEN BROWARD COUNTY AND EDIFY, LLC FOR GENERAL
BENEFIT CONSULTING SERVICES FOR BROWARD COUNTY

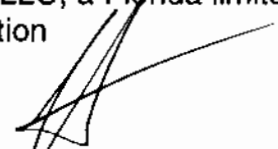
CONSULTANT

ATTEST:

Secretary 

(CORPORATE SEAL)

EDIFY, LLC, a Florida limited liability
corporation

By 

CARLOS CASTRERANO
PRESIDENT

Print/Type Name and Title

16th day of NOVEMBER 2009.

Exhibit A

RATES AND ANNUAL PERFORMANCE GUARANTEE

HOURLY RATE	2010	2011	2012	2013	2014
	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate	Hourly Rate
Principal	\$250	\$250	\$250	\$250	\$250
Lead Consultant	\$195	\$195	\$195	\$195	\$195
Lead Actuary	\$275-\$430	\$275-\$430	\$275-\$430	\$275-\$430	\$275-\$430
Actuary	\$175-\$300	\$175-\$300	\$175-\$300	\$175-\$300	\$175-\$300
Senior Consultant	\$175	\$175	\$175	\$175	\$175
Consultant	\$110	\$110	\$110	\$110	\$110
Analyst	\$75	\$75	\$75	\$75	\$75
Administrative/Clerical	\$50	\$50	\$50	\$50	\$50
Medical Professional	\$250	\$250	\$250	\$250	\$250

PERFORMANCE GUARANTEE	Penalty
<p>Project/Work Order EDIFY guarantees:</p> <ol style="list-style-type: none"> 1. The completion of all projects and work orders including all specific tasks to be performed; and 2. The completion of all projects and work orders by the timeframe specified by the COUNTY. 	EDIFY will incur a penalty of 10% of compensation for each project or work order, including all specific tasks to be performed, that EDIFY fails to complete in the timeframe specified by the COUNTY.
<p>Data Warehouse – Reporting EDIFY guarantees: Upon implementation of a data feed from COUNTY's health vendor to EDIFY or EDIFY's designated provider and issuance of a project work order to EDIFY, EDIFY agrees to provide COUNTY monthly reporting per an agreed upon content and format. EDIFY will provide COUNTY with reports with a full overview within 15 days following the last day of the previous month.</p>	10% of monthly compensation

Exhibit B

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE
11-11-2008

PRODUCER
AUTOMATIC DATA PROCESSING INS AGCY
250717 P: (877)287-1316 F: (877)287-1315
100-4401 STILL CREEK DR
BURNABY BC 00000

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
EDIFY, LLC AND EMPOWERING, LLC
401 E. LAS OLAS BLVD. STE 1120
FORT LAUDERDALE FL 33301

INSURER A: Twin City Fire Ins Co
INSURER B:
INSURER C:
INSURER D:
INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
	GENERAL LIABILITY COMMERCIAL GENERAL LIABILITY CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC <input type="checkbox"/>				EACH OCCURRENCE \$ FIRE DAMAGE (Any one fire) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/PROP AGG \$
	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS H-RED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
	EXCESS LIABILITY OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	76 WEG FO0099	01/01/09	01/01/10	X WC STATU- OTH- TORY LIMITS ER E.L. EACH ACCIDENT \$100,000 E.L. DISEASE - EA EMPLOYEE \$100,000 E.L. DISEASE - POLICY LIMIT \$500,000
	OTHER				

Digitally signed by Dawn Mehler
DN: cn=Dawn Mehler, c=US,
o=Broward County, ou=Risk
Management,
email=dmebler@broward.org,
Date: 2008.11.26 08:42:34
-0500

Dawn Mehler

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Those usual to the Insured's Operations.

BENEFITS 2:10:08 PM 4:19

CERTIFICATE HOLDER
BROWARD COUNTY BOARD OF COMMISSIONERS
HUMAN RESOURCES
115 S. Andrews Ave. Ste 514
Fort Lauderdale, FL 33301

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE (10 DAYS FOR NON-PAYMENT) TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
[Signature]

ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID AY
EDIFY-1

PRODUCER
Oswald Trippe and Company, Inc
Beacon Pointe at Weston II
2200 N Commerce Pkwy #204
Weston FL 33326
Phone: 954-389-1289 Fax: 954-389-5672

INSURED

Edify LLC
401 East Las Olas Blvd, #1120
Ft Lauderdale FL 33301

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.


INSURERS AFFORDING COVERAGE		NAIC #
INSURER A	Zurich U.S	16535
INSURER B	Landmark American Insurance Co	33138
INSURER C		
INSURER D		
INSURER E		

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

INSR LTR	ADDL INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	PPS01947771	09/28/09	09/28/10	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> COMP ded \$250.00 <input checked="" type="checkbox"/> COLL ded \$500.00	PPS01947771	09/28/09	09/28/10	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$ \$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B		OTHER Prof Liability DED \$25,000	LHR721365	03/24/09	03/24/10	Aggregate 3,000,000 Each occ 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Broward County Board of County Commissioners, Broward County, Fl is named as an Additional Insured with respects to General Liability only.

CERTIFICATE HOLDER	CANCELLATION
BROW115 Broward County Board of Commissioners Human Resources, Room 514 115 S Andrews Avenue Ft Lauderdale FL 33301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE 

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

EXHIBIT "C"
BUSINESS ASSOCIATE AGREEMENT
BETWEEN
BROWARD COUNTY, FLORIDA
AND
EDIFY, LLC

EDIFY, LLC ("EDIFY"), and BROWARD COUNTY ("COUNTY") are parties to an agreement whereby EDIFY provides certain services to COUNTY (the "Agreement"). The Agreement, entitled "GENERAL PROFESSIONAL BENEFITS CONSULTING SERVICES FOR BROWARD COUNTY," and which encompasses a contract period from January 1, 2010, up to and including December 31, 2012, addresses the parties' rights and obligations to comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing their respective duties, responsibilities, and obligations. Therefore, this business associate agreement is necessary to the Agreement to establish the parties' rights and obligations concerning the use and disclosure of patients' PHI (as defined herein) as defined in 45 CFR Part 164. In addition, the United States Department of Health and Human Services ("HHS") published final medical records privacy, security, and standard transaction regulations under 45 CFR Parts 164, 162, and 160 ("HIPAA Rules" (as defined herein), which require COUNTY and EDIFY to enter into a "business associate agreement" to comply with applicable sections of the HIPAA Rules. This business associate agreement is attached to and incorporated within the Agreement as Exhibit "C."

A. EDIFY recognizes that in its capacity in providing general benefits consulting services by contracting with COUNTY, EDIFY may be considered a Business Associate. In some instances, other business associates of COUNTY may be providing to, or receiving information from, COUNTY and/or EDIFY in connection with the services performed under the Agreement.

B. COUNTY and EDIFY agree that the following terms constitute a business associate agreement and trading partner agreement ("BA Agreement") for purposes of compliance with the HIPAA Rules relating to PHI and standard transactions. Notwithstanding anything to the contrary set forth in this BA Agreement, the following provisions shall not apply to EDIFY or COUNTY until the applicable "Compliance Dates."

TERMS OF THE BUSINESS ASSOCIATE AGREEMENT

1. Definitions. Capitalized terms not otherwise defined shall have the meaning ascribed to them in the Agreement or 45 CFR Sections 160.103 and 164.501.

(a) "Compliance Date(s)" shall mean the date established by HHS or the United States Congress for effective date of applicability and enforceability of the HIPAA Rules as amended from time to time.

(b) "Designated Record Set" shall mean a group of records maintained by or for COUNTY that is (i) the medical records and billing records about individuals maintained by or for COUNTY, (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for COUNTY to make decisions about individuals.

(c) "Health Plan" or "Plan" shall have the same meaning as the term "Health Plan" in 45 CFR Section 160.103.

(d) "HIPAA Rules" means the collective privacy, transaction and security regulations promulgated pursuant to the Health Insurance Portability and Accountability Act, as codified at 45 CFR Parts 160, 162 & 164.

(e) "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. Sections 160.103 and 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.502(g).

(f) "Member" means the enrollees, subscribers, patients, insureds, employees and/or dependents identified to EDIFY under the terms of the Agreement.

(g) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR Sections 160.103 and 164.501, limited to the information created or received by EDIFY from or on behalf of COUNTY.

(h) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, as they exist now or as they may be amended.

(i) "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.501.

(j) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(k) "Security Standards" shall mean the Security Standards, 45 CFR Parts 160, 162 and 164 as they exist now or as they may be amended.

(l) "Transactions Standards" shall mean the Standards for Electronic Transactions, 45 CFR Parts 160 and 162, as they exist now or as they may be amended.

2. **Confidentiality.** EDIFY and COUNTY acknowledge and agree as follows:

(a) Except as otherwise limited in this BA Agreement, EDIFY may use or disclose PHI to properly provide, manage and administer the services required under the Agreement and consistent with applicable law to assist COUNTY in its operations, as long as such use or disclosure would not violate the HIPAA Rules if done by COUNTY. EDIFY will take reasonable efforts to limit PHI provided to any third party to the minimum necessary to accomplish the intended use or disclosure. Permitted uses and disclosures include: providing PHI to Members on behalf of COUNTY; providing PHI to Member physicians and pharmacists for payment, treatment, and healthcare operations purposes; performing data aggregation services on behalf of COUNTY as permitted by 42 CFR Subsection 164.504(e)(2)(i)(B); and performing appropriate administrative, management, or legal activities as set forth in the Agreement. EDIFY may also remove identifiers from PHI and use or disclose such de-identified information as permitted by law and the Agreement. In addition, EDIFY may use or disclose PHI in any other manner consistent with a legally sufficient authorization executed by the Member or other individual who is the subject of such information.

(b) Unless otherwise permitted or required by this BA Agreement or by law, EDIFY agrees that it will not disclose PHI received from, or created or received by EDIFY on behalf of, COUNTY to any third party unless pursuant to a legally sufficient authorization of the applicable Member or written agreement consistent with state and federal laws that obligates an agent, subcontractor, or business associate to abide by the same restrictions and conditions on uses or disclosure of PHI that are imposed on EDIFY under this BA Agreement. COUNTY represents and warrants that it has entered into or will enter into "Business Associate Agreements" with any third parties (e.g. case managers, brokers, or third party administrators) to which COUNTY directs and authorizes EDIFY to disclose PHI.

(c) EDIFY agrees to notify COUNTY if EDIFY has knowledge that PHI has been used or disclosed by EDIFY in a manner that violates applicable law.

(d) EDIFY agrees to use appropriate safeguards, consistent with applicable law, to prevent use or disclosure of PHI from unauthorized access, alteration, deletion, and transmission, or in any manner that would violate this BA Agreement. EDIFY shall provide COUNTY with such information concerning such safeguards as COUNTY may reasonably request from time to time.

(e) EDIFY agrees to mitigate, to the extent practicable, any harmful effect that

is known to EDIFY of a use or disclosure of PHI by EDIFY in violation of this BA Agreement or the Agreement.

(f) EDIFY agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by EDIFY on behalf of COUNTY, agrees to the same restrictions and conditions that apply through this BA Agreement to EDIFY with respect to such information. Such agreement between EDIFY and the subject agent or subcontractor shall be memorialized in a Business Associate Agreement.

(g) Within fifteen (15) calendar days of a proper request from COUNTY, EDIFY agrees to provide access (upon reasonable notice during EDIFY's normal business hours), to PHI in a Designated Record Set (as defined in the HIPAA Rules), to COUNTY, or to a Member, in order to meet the requirements under 45 CFR Section 164.524.

(h) Within sixty (60) calendar days of a proper request from COUNTY, EDIFY agrees to make any appropriate amendment(s), to PHI in a Designated Record Set that COUNTY directs or agrees to pursuant to 45 CFR Section 164.526 at the request of COUNTY.

(i) EDIFY agrees to make internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by EDIFY on behalf of COUNTY, available to COUNTY within five (5) business days from the date of COUNTY's request, or at the request of COUNTY or the Secretary of HHS ("Secretary"), to the Secretary within the time designated by the Secretary, for purposes of the Secretary determining EDIFY's compliance with the HIPAA Rules.

(j) Within thirty (30) calendar days of a proper request by COUNTY, EDIFY agrees to document or make available to COUNTY or Members (for a reasonable cost-based fee), such disclosures of PHI and information related to such disclosures necessary to respond to a proper request by the subject Member or COUNTY for an accounting of disclosures of PHI, exclusive of those disclosures for payment, treatment or healthcare operations, in accordance with 45 CFR Section 164.528.

(k) To the extent feasible, upon termination of the Agreement for any reason, EDIFY shall return or destroy and retain no copies of all PHI received from, or created or received by EDIFY on behalf of COUNTY. If return or destruction of such information is not feasible, EDIFY shall continue to limit the use or disclosure of such information as set forth in this BA Agreement as if the Agreement had not been terminated. This provision shall be read in harmony with the section of the Agreement regarding retention of records for audit and public records purposes, so that the records are retained for whichever retention period is longer.

(l) COUNTY shall not request that EDIFY use or disclose PHI in any manner that would exceed that which is minimally necessary under the HIPAA Rules or that would not be permitted by a Covered Entity.

(m) Within fifteen (15) business days of a request by COUNTY, EDIFY agrees to consider restrictions on the use or disclosure of PHI agreed to by COUNTY on behalf of an individual in accordance with 45 CFR Section 164.522.

(n) The parties acknowledge that the foregoing provisions are designed to comply with the mandates of 45 CFR Part 164 with respect to the protection and privacy of PHI. Should the provisions of 45 CFR Part 164 change or be amended after the date of this BA Agreement, the parties shall engage in negotiations to amend the provisions of this BA Agreement to comply with such changes or amendments. If the parties fail to agree on reasonable amendment(s) to the provisions of this BA Agreement, either party may terminate this BA Agreement upon ninety (90) days written notice.

3. Standard Transactions. The HIPAA Rules provide for certain transaction standards for transfer of data between trading partners. While certain of the standards may or may not be adopted by COUNTY (e.g. for eligibility), EDIFY will be prepared to accept the following in accordance with 45 CFR Part 162.1502: ASCX12N 834 - Benefit Enrollment and Maintenance. The parties each hereby agree that it shall not change any definition, data condition or use of a data element or segment in a standard, add any data elements or segment to the maximum defined data set, use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the implementation specifications, or change the meaning or intent of the implementation specification, unless mutually agreed upon in writing pursuant to current HIPAA Rules.

4. Chain of Trust. EDIFY and COUNTY agree to protect the integrity and confidentiality of any PHI electronically exchanged between them and other appropriate business associates, if any.

5. Security Standards: To the extent that EDIFY creates, receives, maintains, or transmits electronic PHI, EDIFY shall:

(a) Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that EDIFY creates, receives, maintains, or transmits on behalf of COUNTY as required by the Security Standards;

(b) ensure that any agent, including a subcontractor, to whom EDIFY provides electronic PHI agrees to implement reasonable and appropriate safeguards to protect the PHI; and

(c) promptly report to COUNTY any Security Incident, as determined by EDIFY, involving PHI of which EDIFY becomes aware.

6. **Effect on the Agreement.** Except as this BA Agreement relates to the use, security and disclosure of PHI and electronic transactions, this BA Agreement is not intended to change the terms and conditions of, or the rights and obligations of the parties, under the Agreement.

7. **Interpretation.** Any ambiguity in this BA Agreement shall be resolved in favor of a meaning that permits all parties to comply with the HIPAA Rules.

8. **Effective Date.** Each party will use its reasonable best efforts to work with the other prior to the Compliance Dates to ensure that EDIFY and COUNTY comply with all applicable requirements of the law. This BA Agreement shall commence as of the earliest applicable Compliance Date and shall be coterminous with the Agreement. Notwithstanding anything to the contrary set forth herein, the provisions of this BA Agreement shall not apply to EDIFY or COUNTY until the applicable Compliance Date.

9. **No Third Party Beneficiaries.** Nothing express or implied in the Agreement or in this BA Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

10. **Breach; Termination.**

(a) Without limiting the termination rights of the parties pursuant to the Agreement, upon COUNTY's knowledge of a material breach by EDIFY of this BA Agreement, COUNTY shall notify EDIFY of such breach and EDIFY shall have thirty (30) calendar days to cure such breach. In the event EDIFY does not cure the breach, or cure is infeasible, COUNTY shall have the right to immediately terminate this BA Agreement and the Agreement, and COUNTY shall report the violation to the Secretary.

(a) any other provision under the Agreement and pursuant to federal law, each Party agrees that the Agreement may be terminated by the other Party without penalty should the other Party violate a material obligation under this Addendum.

(b) To the extent feasible, upon termination of the Agreement for any reason, EDIFY shall, and shall cause any subcontractors and agents to, return or destroy and retain no copies of all PHI received from, or created or received EDIFY on behalf of, COUNTY. If return or destruction of such information is not feasible, EDIFY shall continue to limit the use or disclosure of such information as set forth in this BA Agreement as if the Agreement had not been terminated.

11. **Indemnification.**

(a) EDIFY shall indemnify, hold harmless, and at County Attorney's option, defend or pay for an attorney selected by the County to defend COUNTY, its officers, agents, servants, and employees from and against any and all claims, cause of actions, demands, liabilities, damages, costs, losses, and expenses, including reasonable attorneys' fees and court or proceeding costs, arising out of or in connection with any (a) unauthorized use or disclosure of PHI; (b) failure in security measures affecting PHI (after the Security Standard Compliance Date); or (c) other material breach of the terms of this BA Agreement by EDIFY or any person or entity under EDIFY's control. Indemnification is conditioned upon COUNTY notifying EDIFY promptly, in writing, upon learning of any claim for which indemnification may be sought hereunder, and shall tender the defense of such claim to EDIFY. EDIFY shall not be required to indemnify COUNTY if any claim is settled without EDIFY's written consent.

[THIS SECTION INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Business Associate Agreement between BROWARD COUNTY and EDIFY, on the respective dates under each signature: BROWARD COUNTY through the County Administrator, authorized to execute same by action of the Broward County Board of County Commissioners, on the ____ day of _____, 2009, and EDIFY, signing by and through its _____, duly authorized to execute same, on the ____ day of _____, 20__.

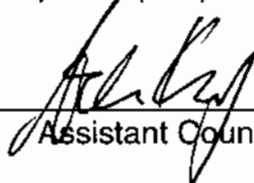
COUNTY

BROWARD COUNTY, through its
County Administrator

BY _____

_____ day of _____, 2009.

Approved as to form by
Office of the County Attorney
Broward County, Florida
JEFFREY J. NEWTON,
County Attorney
Governmental Center, Suite #423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By  _____
Assistant County Attorney

