

## ESSENCE Service Agreement

This Agreement is made on the date set forth in the signature block below (the "Effective Date") between InductiveHealth Informatics, LLC., a Delaware Limited Liability Company with its mailing address at 2870 Peachtree Road NW #915-3304, Atlanta, GA 30305 ("INDUCTIVEHEALTH") and the Tarrant County, Texas, d/b/a Tarrant County Public Health, with its principal place of business at 100 E. Weatherford, Fort Worth, Texas 76196 ("CLIENT").

**1. Grant of License to Access and Use Service.** INDUCTIVEHEALTH hereby grants to CLIENT, including to all CLIENT's Authorized Users, a non-exclusive, non-sublicensable, non-assignable, royalty-free, revocable, and worldwide license to access and use the ESSENCE service solely for CLIENT's internal business operations.

Other intellectual property will be utilized by INDUCTIVEHEALTH in the provision of the services in scope, as described in Appendix A. INDUCTIVEHEALTH will provide such services ("Services") as set forth in Appendix A.

**2. Services Fees.** CLIENT shall pay INDUCTIVEHEALTH fees per the table in Appendix A (the "Services Fee") for the Services provided under this agreement.

**3. Fees.** CLIENT shall pay the Services Fees to INDUCTIVEHEALTH according to the schedule in Appendix A. Payment is due 30 days from invoice receipt to the address below:

InductiveHealth Informatics, Inc.  
2870 Peachtree Rd NW #915-3304  
Atlanta, GA 30305-2918  
(678) 786-9260

If ACH option is available, please let InductiveHealth know.

**4. Invoicing.** InductiveHealth shall send Client two invoices:

- Invoice one shall be sent upon contract execution for all services to be performed in FY 2023 (through 9/30/2023)
- Invoice two shall be sent at the start of FY 2024 for the remainder of the services to be performed (10/1/2023-end of period of performance)
- Invoices shall be sent electronically to: [SAP-Invoice@tarrantcountytx.gov](mailto:SAP-Invoice@tarrantcountytx.gov) and [RSKumar@tarrantcounty.gov](mailto:RSKumar@tarrantcounty.gov)

**5. [Reserved]**

**6. Services Scope.** See Appendix A for the Scope of Services

**7. Service Levels.** See Appendix A for service level targets.

**8. Data Privacy.** INDUCTIVEHEALTH may collect, use and process CLIENT data only in support of CLIENT services.

9. **[Reserved]**

10. **Statistical Information.** INDUCTIVEHEALTH may anonymously compile statistical information related to the performance of the Service for purposes of improving the Service, but only if such information does not identify the data as CLIENT's or otherwise include CLIENT's name.

11. **[Reserved]**

12. **User Obligations.** See Appendix A for assumptions.

13. **Restricted Uses.** CLIENT will not

- 13.1. modify, disassemble, decompile or reverse engineer the Service,
- 13.2. probe, scan, test the vulnerability of, or circumvent any security mechanisms used by, the sites, servers, or networks connected to the Service,
- 13.3. take any action that imposes an unreasonably or disproportionately large load on the sites, servers, or networks connected to the Service,
- 13.4. copy or reproduce the Service,
- 13.5. maliciously reduce or impair the accessibility of the Service,

14. **Confidentiality Obligations.** For the purposes of this Agreement, the term "Confidential Information" shall mean information relating to either party and/or its affiliates that such party considers to be of a confidential or proprietary nature, including but not limited to information relating to Services, members, suppliers, financial conditions, budgets, financial projections, operations, management or marketing strategies, disclosed by employees or representatives of such party (the "Disclosing Party") to employees or representatives of the other party (the "Receiving Party"), or to which either party has gained access as a result of the Relationship or any due diligence or negotiations in connection therewith, except that "Confidential Information" shall not include: (i) any information which at the time of disclosure or thereafter is generally available to and known by the public, other than as a result of disclosure in violation of the obligations under this Agreement; (ii) was available to the Receiving Party on a nonconfidential basis from a source other than the Disclosing Party; provided, however, that such source did not obtain the Confidential Information by means of any breach of any obligation to the Disclosing Party; or (iii) is already known to the Receiving Party at the time of disclosure or which the Receiving Party independently developed without using Confidential Information or breaching any obligation to the Disclosing Party.

**Disclosure of Confidential Information.** The parties agree that the Receiving Party shall: (i) hold Confidential Information provided to it in confidence and not disclose Confidential Information provided to it to any other person, except to such Receiving Party's accountants, agents, attorneys, officers, directors, members, managers and employees who need to know the Confidential Information for reasons related to or necessitated by the Relationship or the negotiations in connection therewith, or as otherwise agreed to in writing by the Disclosing Party or provided herein; and (ii) safeguard and protect such Confidential Information from disclosure to third parties by the exercise of the same degree of care that the Receiving Party employs with respect to preserving and safeguarding its own confidential information, but in no event less than a reasonable degree of care.

- a. **Protected Health Information.** Notwithstanding any other provision in this Agreement, the use and disclosure of Protected Health Information as defined in 45 C.F.R. § 160.103, shall only be

made in accordance with the Master Data Sharing Agreement incorporated herein as Attachment A, and the Business Associate Agreement incorporated herein as Attachment B to this Agreement.

## **15. No Warranty**

15.1. **"As-Is"**. Unless otherwise listed in this agreement, the Services is provided "as is," with all faults, defects, bugs, and errors.

15.2. **No Warranty**. Unless otherwise listed in this agreement,

(a) INDUCTIVEHEALTH does not make any warranty regarding the Services, which includes that

(b) INDUCTIVEHEALTH disclaims to the fullest extent authorized by Law any and all warranties, whether express or implied, including any implied warranties of title, non-infringement, quiet enjoyment, integration, merchantability or fitness for a particular purpose.

## **16. Export Compliance**

16.1. **No Representation by INDUCTIVEHEALTH**. INDUCTIVEHEALTH makes no representation that the Services are appropriate or available for use outside of the United States.

16.2. **CLIENT Status**. CLIENT represents that it is not located in, under the control of, or a national or resident of any country to which the United States has embargoed the import or export of goods, on the United States Treasury Department's List of Specially Designated Nationals or United States Commerce Department's Table of Deny Orders.

**17. Term**. This Services in this agreement begin on June 1, 2023, and will continue for a period of 12 months (the "Term"). Client has the option to extend this agreement in annual increments for up to two successive annual periods.

## **18. Representations**

### **18.1. Mutual Representations**

(a) **Existence**. INDUCTIVEHEALTH is a Limited Liability Company existing under the laws of the State of Delaware. Client is a Governmental entity.

(b) **Authority and Capacity**. The parties have the authority and capacity to enter into this agreement.

(c) **Execution and Delivery**. The parties have duly executed and delivered this agreement.

(d) **Enforceability**. This agreement constitutes a legal, valid, and binding obligation, enforceable against the parties according to its terms.

(e) **No Conflicts**. Neither party is under any restriction or obligation that the party could

reasonably expect might affect the party's performance of its obligations under this agreement.

(f) **No Breach.** Neither party's execution, delivery, or performance of its obligations under this agreement will breach or result in a default under

(i) its articles, bylaws, or any unanimous shareholders agreement,  
(ii) any Law to which it is subject,  
(iii) any judgment, Order, or decree of any Governmental Authority to which it is  
subject, or  
(iv) any agreement to which it is a party or by which it is bound.

(g) **Permits, Consents, and Other Authorizations.** Each party holds all Permits and other authorizations necessary to

(i) conduct its business as it is now carried on.

**19. Ownership of Intellectual Property.** INDUCTIVEHEALTH will retain all interest in and to the Services, including all documentation, modifications, improvements, upgrades, derivative words, and all other Intellectual Property rights in connection with the Service, including INDUCTIVEHEALTH's name, logos, and trademarks reproduced through the Service.

CLIENT will retain all interest and Intellectual Property rights for surveillance data collected by INDUCTIVEHEALTH on behalf of CLIENT, including CLIENT'S name, logos and trademarks reproduced through use of the Service.

## **20. Termination**

**20.1. Termination for Material Breach.** Each party may terminate this agreement with immediate effect by delivering notice of the termination to the other party, if

(a) the other party fails to perform, has made or makes any material inaccuracy in, or otherwise materially breaches, any of its obligations, covenants, or representations, and

(b) the failure, inaccuracy, or breach continues for a period of 30 Business Days after the injured party delivers notice to the breaching party reasonably detailing the breach.

## **21. Effect of Termination**

**21.1. Refund Amounts.** CLIENT shall request in writing that INDUCTIVEHEALTH refund to CLIENT any prepaid Services Fees covering the remainder of the term of all Services after the effective date of termination. Such refund payment will be due net 30 days from receipt of request. INDUCTIVEHEALTH may offset any such refund payment with any other amounts due and unpaid from CLIENT.

**21.2. Pay Outstanding Amounts.** CLIENT shall immediately pay to INDUCTIVEHEALTH all amounts outstanding as of the date of, and any amounts outstanding as a result of, termination.

21.3. **Discontinuance of Use.** CLIENT shall cease all use of the Services upon the effective date of the termination.

21.4. **Recovery of Data.** CLIENT will have [30] days from the date of termination to retrieve any of data that CLIENT wishes to keep.

## 23. Limitation on Liability

23.1. **Mutual Limit on Liability.** Neither party will be liable for breach-of-contract damages suffered by the other party that are remote or speculative, or that could not have reasonably been foreseen on entry into this agreement.

23.2. **Maximum Liability.** INDUCTIVEHEALTH's liability under this agreement will not exceed the fees paid by CLIENT under this agreement during the 12 months preceding the date upon which the related claim arose.

## 24. Definitions

- "Authorized Users" means the list of Persons authorized to use the Services under this agreement.
- "Business Day" means a day other than a Saturday, a Sunday, or any other day on which the principal banks located in New York, New York are not open for business.
- "Data" means all of the data CLIENT creates with or uses with the Service, or otherwise related to CLIENT's use of the Services.
- "Effective Date" is defined in the introduction to this agreement.
- "Governmental Authority" means any federal, state, local, or foreign government, and any political subdivision of any of them, any agency or instrumentality of any such government or political subdivision, any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that its rules, regulations or orders have the force of law), and any arbitrator, court or tribunal of competent jurisdiction.
- "Intellectual Property" means any and all of the following in any jurisdiction throughout the world trademarks and service marks, including all applications and registrations, and the goodwill connected with the use of and symbolized by the foregoing, copyrights, including all applications and registrations related to the foregoing, trade secrets and confidential know-how, patents and patent applications, websites and internet domain name registrations, and other intellectual property and related proprietary rights, interests and protections (including all rights to sue and recover and retain damages, costs and attorneys' fees for past, present, and future infringement, and any other rights relating to any of the foregoing).
- "Law" means any law (including the common law), statute, bylaw, rule, regulation, order, ordinance, treaty, decree, judgment, and any official directive, protocol, code, guideline, notice, approval, order, policy, or other requirement of any Governmental Authority having the force of law.
- "Legal Proceeding" means any claim, investigation, hearing, legal action, or other legal, administrative, arbitral, or similar proceeding, whether civil or criminal (including any appeal or review of any of the foregoing).
- "Order" means any decision, order, judgment, award, or similar order of any court of competent jurisdiction, arbitration panel, or Governmental Authority with jurisdiction over the subject

matter, whether preliminary or final.

- "Permits" means all material licenses, franchises, permits, certificates, approvals, and authorizations, from Governmental Authorities necessary for the ownership and operation of the party's business.
- "Person" includes any corporation, company, limited liability company, partnership, Governmental Authority, joint venture, fund, trust, association, syndicate, organization, or other entity or group of persons, whether incorporated or not, and any individual.
- "Service" is defined in Appendix A.
- "Services Fee" is defined in Appendix A.

## 25. General Provisions

**25.1. Entire Agreement.** The parties intend that this agreement, together with all attachments, schedules, exhibits, and other documents that both are referenced in this agreement and refer to this agreement,

(a) represent the final expression of the parties' intent and agreement between the parties relating to the subject matter of this agreement,

(b) contain all the terms the parties agreed to relating to the subject matter, and

(c) replace all the parties' previous discussions, understandings, and agreements relating to the subject matter.

Index of attachments, schedules, exhibits and others is as follows:

- APPENDIX C – Additional Terms and Conditions to ESSENCE Service Agreement
- Attachment A – STATE OF TEXAS COUNTY OF TARRANT BUSINESS ASSOCIATE AGREEMENT
- APPENDIX B –JHU-APL EULA Attachment
- APPENDIX A – Price Proposal and Scope of Services (includes Statement of Work)

Conflicts between this Agreement and any referenced attachment, schedule or exhibit will be resolved in favor of the referenced attachment, schedule or exhibit.

**25.2. Assignment.** Neither party may assign this agreement or any of their rights or obligations under this agreement without the other party's written consent.

This excludes internal reorganizations by either party.

### 25.3. Notices

(a) **Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally-recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid[, (iv) fax][ or (v) electronic mail to the party's address specified in this agreement, or to the address that a party has notified to be that party's address for the purposes of this section.

(b) **Receipt of Notice.** A notice given under this agreement will be effective on

(i) the other party's receipt of it, or

(ii) if mailed, on the earlier of the other party's receipt of it and the [fifth] Business Day after mailing it.

25.4. **Governing Law.** This agreement shall be governed and construed, in accordance with the laws of the State of Texas, without regard to its conflict of laws rules.

25.5. **Severability.** If any part of this agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.

25.6. **Waiver**

(a) **Affirmative Waivers.** Neither party's failure nor neglect to enforce any of rights under this agreement will be deemed to be a waiver of that party's rights.

(b) **Written Waivers.** A waiver or extension is only effective if it is in writing and signed by the party granting it.

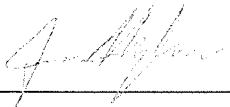
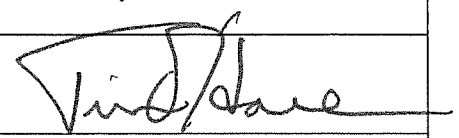
(c) **No General Waivers.** A party's failure or neglect to enforce any of its rights under this agreement will not be deemed to be a waiver of that or any other of its rights.

(d) **No Course of Dealing.** No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

25.7. **Force Majeure.** Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control, except for payment obligations.

[Signatures on following page]

Signature Block: This agreement has been executed by the parties.

Inductive Health Informatics		Tarrant County Public Health	
<b>Signature:</b>		<b>Signature:</b>	
<b>Name:</b>	James Maglione	<b>Name:</b>	Tim O'Hare
<b>Title:</b>	Director of Contracts	<b>Title:</b>	County Judge
<b>Date</b>	04/21/2023	<b>Date</b>	May 16, 2023



F0081-2023 \$45,000.00  
F0080-2050 \$90,000.00  
TOTAL \$135,000.00

APPROVED AS TO FORM:

CERTIFICATION C

AVAILABLE FUNDS: \$

Kimberly Collier Wesley

Criminal District Attorney's Office\*

Renée Tidwell

Tarrant County Auditor

\*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

## APPENDIX A – Price Proposal and Scope of Services

This Appendix A, which represents the Price Proposal and Scope of Services as submitted to and accepted by CLIENT, is hereby incorporated as an attachment to the Essence Service Agreement (the “Agreement”) as executed by and between INDUCTIVEHEALTH and CLIENT. Definitions of capitalized terms are as set for in the Agreement unless otherwise noted in this Appendix A. Services provided hereunder are as set for in Scope of Work details in the Appendix A.

### **Price Proposal: ESSENCE for Syndromic Surveillance, Anomaly Detection, and Alerting Software as a Service (SaaS)**

**Prepared By:** Kelly Loranger, Inductive Health

**Prepared On:** 4/14/2023

*Prepared For: Rasneet Kumar, Informatics Manager, Tarrant County Public Health (“Client”),  
P. (817) 248-6299, RSKumar@tarrantcounty.com*

**Proposal Description:** "To detect and combat public health threats and events, public health agencies need to continue to advance anomaly detection and syndromic surveillance capabilities. The InductiveHealth ESSENCE Software-as-a-Service (SaaS) offering for Syndromic Surveillance, Anomaly Detection, and Alerting includes deployment, hosting, and management of a technology platform for syndromic surveillance data collection, anomaly detection, and analysis. It includes a secure, jurisdiction-specific instance of the Electronic Surveillance System for the Early Notification of Community-based Epidemics (ESSENCE).

InductiveHealth is the exclusive licensee of ESSENCE for industry-leading enhanced syndromic surveillance capabilities. This important partnership with the Johns Hopkins University Applied Physics Laboratory (APL), the developers of ESSENCE, enables InductiveHealth to be at the forefront of research, development, and enhancement of advanced syndromic surveillance. ESSENCE has proven critical to the COVID-19 response at the national and state/territory levels. More than twenty-five (25) jurisdictions utilize ESSENCE to monitor and respond to public health events through anomaly detection.

InductiveHealth’s syndromic surveillance platform offering ESSENCE prepares public health agencies to conduct patient matching and integration with public health technologies such as electronic disease surveillance systems (EDSS), immunization registries, contact tracing applications and more. The platform is designed to ingest HL7 data from hospital EMR systems and positions public health agencies for future integration of multiple data sources including mortality, climate and environmental, poison, substance use, and other important health data. The Service includes a secure, jurisdiction-specific instance of the Electronic Surveillance System for the Early Notification of Community-based Epidemics (ESSENCE) hosted in the private InductiveHealth Secure Cloud currently using DC Blox Data Center provider.

**Date of Proposal:** 3/15/2023  
**Proposed Period of Performance:** 12 months to begin 06/01/2023 with 2 option years  
**Proposal Valid Until:** 5/30/2023  
**Assumptions:** See the Assumptions section below.

#### ESSENCE Fixed Monthly Fees (Services Fees)

Service Description	Per Unit Cost	Unit	Months	Total Annual Cost
ESSENCE Software as a Service (SaaS)				
Payment 1 (FY 2023)	\$11,250.00	1	4	\$45,000.00
Payment 2 (FY 2024)	\$11,250.00	1	8	\$90,000.00
Grand Total				\$135,000.00

#### Assumptions - General

- Standard pricing provides for an annual fee escalation aligned to the US Federal Consumer Price Index as published by the United States Bureau of Labor Statistics or 5% whichever is higher.
- To support the long-term sustainment of the public health agency's ESSENCE instance, if program budgets are significantly impacted, InductiveHealth will collaborate with the public health agency to review and determine scope and pricing for the ESSENCE SaaS solution beyond the period of performance defined within this proposal. InductiveHealth seeks a long-term relationship with the public health agency to deliver this solution and will make commercially reasonable efforts to revise solution pricing and scope to fit within the public health agency's long-term program budget.
- InductiveHealth will make available to Client the use of existing InductiveHealth intellectual property in the performance of this work, including processes, reusable artifacts, documentation, software, and configurations. This proposal does not convey any right or title to any existing InductiveHealth intellectual property.
- Assumes Client acceptance of JHU-APL ESSENCE License terms (see JHU-APL EULA Attachment).
- InductiveHealth will manage electronic message processing utilizing industry standard integration engines.
- Fixed Fees are incurred upon contract execution and due net 30 from invoice date. Invoicing commences on contract execution and continues unless any delay in implementation beyond 45 days is

due solely to InductiveHealth. InductiveHealth will submit one invoice for services in Tarrant County FY2023 upon contract execution, and a second invoice for services in FY2024 once the Fiscal Year begins.

7. User accounts will include, as desired, a multi-Factor Authentication (MFA) using soft token access through phone, smartphone push, and / or SMS Text.

8. Up to 120 authorized Client user accounts are included. User accounts estimated based on the number of user accounts required as determined by Client. "User accounts" are calculated monthly based on number of active users at the end of each month. InductiveHealth reserves the right to invoice Client for any user accounts in excess of authorized total.

9. Up to 180 Reporting Facilities included. A Reporting Facility is defined based on a unique MSH-4 value contained in the ADT HL7 message. In the case of non-ADT messages, a Reporting Facility is defined by the physical, secure connection to the trading partner (e.g., poison control, laboratory sending laboratory results). Any exceptions are determined at the sole discretion of InductiveHealth.

10. The total number of Reporting Facilities is calculated by querying the transactional database for all messages received electronically (regardless of the use of HL7, CSV, or other message specifications) and stratifying based on the Reporting Facility ID. InductiveHealth reserves the right to invoice Client for any Reporting Facilities in excess of authorized total.

11. Emergency Department and Urgent Care Syndromic messages are assumed to comply with the CDC HL7 Implementation Guides [<https://www.cdc.gov/nssp/technical-pubs-and-standards.html>] for syndromic surveillance for quality, completeness, and timeliness.

12. Onboarding of HL7 trading partners is dependent on the readiness of trading partners to onboard to the service and provide a compliant HL7 message based on CDC HL7 Implementation Guides [<https://www.cdc.gov/nssp/technical-pubs-and-standards.html>] for syndromic surveillance for quality, completeness, and timeliness.

13. Ongoing data processing assumes the public health agency can send all needed records to the InductiveHealth private cloud for data ingestion and processing.

14. Includes up to 1 TB of data stored, measured as the uncompressed size of the ESSENCE databases (including staging tables) at the end of the month. Assumes up to 10% annual growth in amount of data stored.

15. Includes JHU-APL ESSENCE License and related upgrades, enhancements released by JHU-APL during the period of performance.

16. Includes migration of on-premises data, feeds, and other configurations to InductiveHealth environment - targeted for 45 days from contract execution date - detailed schedule and approvals to be determined and agreed upon - based on local IT dependencies.
17. Includes management of feed to CDC'S NSSP BioSense Platform.
18. Assumes a 12-month period of performance with 2 successive annual option years.
19. Assumes timely decision-making by the client and access to stakeholders to achieve delivery timelines. Timely decision-making is defined as one to five business days.
20. Assumes that client will designate a single point of contact for InductiveHealth to coordinate implementation activities and operations.
21. Assumes business workflows and functional requirements align with standard ESSENCE and CDC (NSSP) technical workflows and parameters.
22. Migration of existing feeds assumes existing feeds are established, tested, and operational.
23. Migration of existing feeds does not include data quality remediation or record-level quality enhancements or fixes prior to migration into destination system.
24. Migration of existing feeds assumes syndromic surveillance program area data feeds only.
25. Assumes shift from CLIENT current on-premises to InductiveHealth secure cloud environment.
26. Assumes Client can provide information on current data transformations applied that are Reporting Facility specific.
27. Any customizations or support for customizations specific to the public health agency's instance will fall under additional pricing and may require separate contract with JHU/APL.
28. Standard data sources are defined as ED/Urgent Care, Inpatient, Air Quality, Weather, Death, Reportable Conditions, School, EMS, Poison Control, OTC/NRDM, ASPR, Lab, JHU CSSE. Adding new standard data sources may have one-time setup fee.
29. New non-standard data source development and integration beyond what is listed above may require separate estimation and costing – may require contracting with JHU/APL.

### **Assumptions - Client Specific**

1. Onboarding of new facility feeds (e.g., urgent care center) will be managed by public health agency.
2. We understand that the Client currently has the following standard data sources, which are included in the base price - EMS, ED, Some Urgent Care, Weather, Air Quality, Poison Control Data, and Mortality. Additional data sources may, in the discretion of InductiveHealth, require additional fees to the Client.

### **ESSENCE SaaS Statement of Work (Services)**

Services furnished under the Agreement and pursuant to this statement of work will encompass a mutually agreed Project Plan to include the below. The Project Plan will be provided to CLIENT within 14 business days of contract signature and is subject to assumptions detailed below and in this Appendix A.

1. Initial System Setup & Transition
2. Project Kick-off
3. Identify Current Surveillance Tools and Processes
4. Implement and Configure Multi-Tier Cloud Based Environment and ESSENCE data flow
5. Migrate any existing Syndromic Surveillance (SyS) Feeds
6. Establish Syndromic Surveillance (SyS) reporting to CDC / NSSP
7. Provision and Roll-Out User Accounts
8. Conduct Virtual Training
9. Go-Live Decision with Public Health Agency
10. Perform Final Independent Verification and Validation
11. Enable 365/24/7 Infrastructure Monitoring
12. Enable Disaster Recovery Jobs and Processes
13. Go-Live / Transition to Operations and Support
14. Provide support services utilizing staff with detailed knowledge of Syndromic Surveillance, including knowledge of public health business processes, understanding of national public health reporting initiatives and how states can comply, and knowledge of other state public health programs and their surveillance systems.
15. Provide a Production and Staging/Testing hosting environment for the Syndromic Surveillance Platform and supporting sub-systems, utilizing computer hardware exceeding application minimum specifications, hosted in Tier 3 data center with multiple internet backbone links.
16. Provide off-site daily system backups and a target disaster recovery time of 24–48-hour return-to-live to ensure less than one percent downtime for operations and availability.
17. Provide system performance tuning to ensure fast user interface, database, reports, and ETL performance.
18. System support services including software upgrades, and hotfix and patch deployment.
19. Secure the system using FISMA-Moderate and HIPAA-compliant security controls, verified by an independent security scanning and auditing. This includes 256bit SSL connections, end user

authentication for logging into the system, data encryption, and updated virus protection, multi-factor authentication, among other security controls.

20. Provide business hour-based help desk access via phone and email for requesting support for emergency situations and technical support. Support staff for addressing Syndromic Surveillance help requests are available Monday – Friday 8:00 AM to 5:00 PM (ET).
21. Provide a Service Level Target (SLT) of 99.5 percent uptime for the Syndromic Surveillance Platform and supporting sub-systems. Exclusive of the Standard Maintenance Window
22. Standard Maintenance Window is Friday from 10pm - 4am EST, any system or Application maintenance will occur during this window. InductiveHealth does not foresee this window being used every week.
23. Provide technical assistance support for feeds in scope during establishment of secure connections.
24. Provide support for ESSENCE-related API integration.
25. Manage the configuration management and release control process for the Syndromic Surveillance and supporting systems via a defined and agreed-upon governance process.
26. Provide new feature releases for ESSENCE application (e.g., UX refresh).
27. Provide support and maintenance for onboarding new and maintaining existing syndromic feeds using InductiveHealth's Engage, Connect, Validate, Operate methodology.

#### **Client Specific Scope for ESSENCE Software as a Service (SaaS)**

*Roles and responsibilities will be defined at initial kickoff meeting.*

## APPENDIX B –JHU-APL EULA Attachment

### InductiveHealth Informatics

### ESSENCE End User Terms and Conditions

#### Definitions

“Agreement” means the agreement entered into between Customer and InductiveHealth subject to the terms and conditions of these End User Terms.

“Customer” means an authorized licensee of the Software.

“InductiveHealth” means InductiveHealth Informatics, LLC., a Delaware corporation.

“JHU/APL” means The Johns Hopkins University Applied Physics Laboratory LLC, a Maryland Limited Liability Company.

“End User Terms” means this document, the InductiveHealth Informatics, LLC End User Terms and Conditions.

“Software” means the Electronic Surveillance System for the Early Notification of Community-Based Epidemics (ESSENCE), including proprietary software and any accompanying documentation developed by InductiveHealth, with certain rights retained by the U.S. Government, with access by Customer either on-premises or via SaaS as agreed by the parties.

#### Rights and Duties

a. Parties. Subject to a separate agreement, JHU/APL has granted InductiveHealth an exclusive license to sublicense the Software to authorized licensees subject specifically to the execution of these End User Terms by a licensee of the Software.

b. License Grant. Subject to the terms and conditions hereof, InductiveHealth grants to Customer a limited, non-exclusive, non-transferable, and royalty-free license to: (a) use the Software solely for disease surveillance within Customer’s jurisdiction; and (b) make copies of the Software only as required for use of the Software under the terms of these End User Terms, including for test and development environments, or for backup/archival purposes. This license grant is made subject to any retained rights of the U.S. Government in the Software, if any.

c. Delivery. If the Software shall be accessed by Customer on-premises, InductiveHealth shall deliver to Customer a copy of the then-current version of the Software in object code form.

d. Installation. InductiveHealth shall provide reasonable assistance to Customer, at no cost to Customer, in the installation and initial check-out of the Software.

e. Updates. InductiveHealth may make updated versions of the Software available to Customer. When InductiveHealth makes an updated version available to Customer, Customer shall take reasonable steps to deploy the updated version in a timely manner.

f. Health Information. Only if applicable, Customer shall provide to InductiveHealth data elements including protected health information in Customer’s jurisdiction, in accordance with the terms and conditions set forth in a Data Sharing Agreement and/or a Business Associate Agreement separate from these End User Terms.



**License Restrictions**

a. Restrictions on assignment, transfers and use. Except as expressly set forth in Section 2, Customer shall not: (a) assign, transfer, distribute, or sublicense the Software to any third party; (b) permit any third party to use the Software; (c) use the Software for the benefit of any third party other than the citizens in Customer's jurisdiction; (d) use the Software for any commercial purposes whatsoever.

b. Restrictions on copying and reverse engineering. Except as expressly set forth in Section 2, Customer may not, in whole or in part, reproduce, modify, translate, reverse engineer, disassemble, de-compile, create derivative works based on, or remove any proprietary notices or labels on the Software without the prior written consent of InductiveHealth. Any use, reproduction or redistribution of the Software not in accordance with the terms of these End User Terms is expressly prohibited.

c. Proprietary Notices. Customer agrees to respect and not to remove, obliterate, or cancel from view any attribution notice, including copyright, trademark, and confidentiality or other proprietary notice, mark, or legend appearing on any of the Software or output generated by the Software, and to reproduce and include same on each copy of the Software."

**Protection of Proprietary Information**

*Customer acknowledges that the Software constitute commercially valuable, proprietary products of InductiveHealth and JHU/APL ("Proprietary Information"). Customer further acknowledges that the Proprietary Information may contain trade secrets of InductiveHealth and JHU/APL, and Customer represents that it shall treat such Proprietary Information as trade secrets of InductiveHealth and JHU/APL. InductiveHealth and JHU/APL retain all rights, title and ownership in and to the Proprietary Information. These End User Terms shall not be construed to transfer or sell to Customer any rights, title, ownership, or other interest in or to the Software, except for the limited license granted hereunder.*

**Confidentiality Obligations**

*Customer shall not, at any time, use, copy, sell, transfer, publish, disclose, display or otherwise make available any Proprietary Information to any other person, firm, organization, or to any employee or agent of Customer who does not need to obtain access thereto in connection with Customer's exercise of its right under these End User Terms. Customer shall take steps to ensure that all individuals having access to the Proprietary Information observe and perform the obligations set forth in this Confidentiality section. Customer agrees to notify InductiveHealth immediately of the possession, use or knowledge of all or part of any Proprietary Information by any person or entity not authorized by these End User Terms, to have such possession, use or knowledge. Customer's obligations of confidentiality and non-disclosure shall not apply to any information which Customer can show by means of dated, documentary evidence: (a) was known to or readily ascertainable by proper means by Customer before being disclosed to Customer by InductiveHealth; (b) is or becomes available to the general public without fault or action of Customer; (c) is lawfully disclosed to Customer by a third party who is under no obligation of confidentiality to InductiveHealth with respect to such information; or (d) was independently developed by the Customer. Information that comprises a combination of features shall not be within any of the exceptions set forth above merely because individual features are known or received by Customer or are in or fall into the public domain, but only if the combination is known or received by Customer or is in or falls into the public domain as provided above.*

**Term and Termination**

- a. Term. The term of the license grant set forth in these End User Terms shall be as set forth in the Agreement (the "Term"), subject to the terms hereof.
- b. Termination. The Agreement may be terminated by mutual agreement upon sixty (60) days prior written notice. Either party may terminate the Agreement immediately in the event that the other party materially breaches the Agreement and fails to cure such breach within thirty (30) days after receiving written notice of the breach from the non-breaching party.
- c. Effects of Expiration/Termination. Upon termination of the Agreement for any reason and when the Term of this Agreement expires: (a) all license rights granted hereunder will terminate and revert to InductiveHealth or JHU/APL, as applicable; (b) Customer shall immediately discontinue use of the Software; and (c) within ten days thereafter, Customer shall either return to InductiveHealth or JHU/APL, as applicable all copies of the Software or certify in writing to that all copies or portions of such Software have been destroyed. The following sections shall survive termination of these End User Terms: Section 4 (Protection of Proprietary Information), 6(c) (Effects of Termination), 7 (Disclaimer of Warranties), 8 (Limitation of Liability), 9 (Audit Rights) and 11 (Miscellaneous).
- d. Effects of Termination of the InductiveHealth and JHU/APL License. Should InductiveHealth no longer have the ability to sublicense the Software, APL may, at APL's sole discretion, assume the rights and obligation of InductiveHealth with regard to the End User Terms."

**Disclaimer of Warranties**

NO WARRANTY. THE SOFTWARE AND DOCUMENTATION IS PROVIDED TO CUSTOMER "AS IS" WITHOUT WARRANTY OF ANY KIND. INDUCTIVEHEALTH AND ITS LICENSOR JHU/APL DOES NOT WARRANT THAT (i) THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR (ii) THE DATA PRODUCED BY THE SOFTWARE WILL BE ERROR FREE. INDUCTIVEHEALTH AND ITS LICENSOR JHU/APL DISCLAIM ALL WARRANTIES IN THE SOFTWARE AND DOCUMENTATION AND ANY DATA PRODUCED BY THE SOFTWARE, WHETHER EXPRESS OR IMPLIED, INCLUDING (BUT NOT LIMITED TO) ANY AND ALL IMPLIED WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR SYSTEM INTEGRATION.

**Limitation of Liability**

CUSTOMER ASSUMES THE ENTIRE RISK AND LIABILITY FOR USING THE SOFTWARE OR THE DATA PRODUCED THEREBY. IN NO EVENT SHALL JHU/APL BE LIABLE TO CUSTOMER FOR ANY DIRECT, ACTUAL, INDIRECT, CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES ARISING FROM THE USE OF, OR INABILITY TO USE, THE SOFTWARE OR THE DATA PRODUCED THEREBY, INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION OR LOSS OF DATA EVEN IF JHU/APL HAS BEEN ADVISED OF THE PROBABILITY OF SUCH DAMAGES.

**Audit Rights** InductiveHealth (and its licensor JHU/APL), at its own expense, shall have the right at any time during the term of these End User Terms, and upon termination of these End User Terms, to request, in a manner consistent with reasonable business practices, documentation from the Customer identifying (i) the type, (ii) location, i.e., address, and (iii) network access limitations, of the machines having the Software installed thereon for the purpose of verifying whether Customer's use of the Software has been in compliance with the terms and conditions of these End User Terms. An authorized officer of the Customer shall certify in writing that such documents are a true and accurate record of Customer's use of the Software.

#### **Compliance with Third Party Terms and Conditions**

To the extent applicable:

- a. Customer agrees to comply with all applicable terms of the Amazon Web Services (AWS) Customer Agreement and the AWS GovCloud (US) Service Terms, which are available at: <https://aws.amazon.com/agreement/> and <https://aws.amazon.com/service-terms/>, respectively, as may be amended from time to time.
- b. To the extent permitted by the laws and Constitution of the State of Texas, Customer agrees to indemnify InductiveHealth and JHU/APL against any and all claims in connection with or arising out of Customer's breach of or non-compliance with the AWS or AWS GovCloud (US) Customer Agreement or Service Terms."

#### **Miscellaneous**

- a. Assignment. Customer shall not assign or otherwise transfer these End User Terms and any rights granted therein without the prior written consent of InductiveHealth. Any attempt to assign in contravention of this Section shall be null and void and of no effect.
- b. Product Support. Customer acknowledges that they are limited to Contracting with JHU/APL and/or InductiveHealth to operate and/or support ESSENCE.
- c. Relationship of the Parties. The relationship of the parties established by these End User Terms is solely that of independent contractors, and nothing contained in these End User Terms will be construed to: (a) give any party the power to direct or control the day-to-day activities of the other; (b) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; or (c) make either party an agent for the other for any purpose whatsoever. Except as specifically set forth in these End User Terms, neither party nor its agents or employees is the representative of the other for any purpose and neither has the power or authority to act as agent, to represent, act for, bind or otherwise create or assume any obligations on behalf of the other.
- d. Construction. These End User Terms may not be modified or amended except by a writing, which is signed by authorized representatives of each of the parties. The failure of either party to exercise any right or the waiver of either party of any breach will not prevent a subsequent exercise of such right or be deemed a waiver of any subsequent breach of the same or any other term of these End User Terms. If any provision of these End User Terms is deemed invalid, illegal or unenforceable by a court of competent jurisdiction under any applicable statute or rule of law, it is to that extent to be deemed omitted. The remainder of these End User Terms shall be valid and enforceable to the maximum extent possible.

Captions are inserted only for convenience and are in no way to be construed as part of these End User Terms.

e. Equitable Remedies. Customer agrees that in addition to any other remedies available under these End User Terms, by law or otherwise, InductiveHealth may seek an injunction against any breach by Customer of such obligations without the necessity of posting bond.

f. Force Majeure. Neither party shall be considered in default or liable for any delay or failure to perform any provisions of these End User Terms if such delay or failure arises out of labor disputes, fire, casualties, acts of the public enemy, sovereign acts or regulations or any other similar causes beyond the reasonable control of the parties.

g. Entire Agreement. The parties represent these End User Terms is the entire agreement between InductiveHealth, JHU/APL and Customer with respect to the subject matter of these End User Terms, and InductiveHealth and Customer agree that all other prior agreements, proposals, representations and other understandings concerning these End User Terms, whether oral or written, are superseded and replaced in their entirety by these End User Terms.

h. Compliance with Applicable Laws. Customer shall comply with all laws that may apply with respect to the import, export, manufacture, distribution, or use of the Software. i. Export Control. The Software is subject to export controls under the jurisdiction of the U.S. Department of Commerce. Customer shall comply with all applicable U.S. Export Control laws and regulations in connection with Customer's use of the Software. Customer shall not export or re-export the Software.

j. Third Party Software Notice. The Software utilizes certain software, including programs and/or libraries in object code form, which may be owned or controlled by a party other than InductiveHealth ("Third Party Software"). Any such Third-Party Software is subject to the terms of its accompanying Third-Party Software license."

## APPENDIX C – Additional Terms and Conditions to ESSENCE Service Agreement

### Standard Hosting

#### 1. Confidentiality, Integrity, Availability (CIA)

InductiveHealth Informatics LLC shall protect the Confidentiality, Integrity, and Availability (CIA) of all Tarrant County Data ensuring extra levels of security. All Tarrant County information must remain private and permit redaction of protected information before publication. Audit trails cannot be altered.

#### 2. Breach Notification

InductiveHealth Informatics LLC agrees that upon discovery of unauthorized access to Tarrant County Data, InductiveHealth Informatics LLC shall notify Tarrant County both orally and in writing. In no event shall the notification be made more than forty-eight (48) hours after InductiveHealth Informatics LLC knows or reasonably suspect unauthorized access has or may have occurred. In the event of a suspected unauthorized Access, InductiveHealth Informatics LLC agrees to reasonably coordinate with Tarrant County to investigate the occurrence.

#### 3. Data

All Tarrant County data will remain in the 48 contiguous United States at all times.

#### 4. Right to Audit

Tarrant County reserves the right to audit InductiveHealth Informatics LLC datacenters which house Tarrant County Data or receive SSAE 16 SOC Type II audits from a reputable security advisory service firm (e.g., EY, Deloitte, KPMG, PWC, Coalfire, etc.) at Tarrant County's expense.

### Criminal Background Check

*InductiveHealth Informatics LLC personnel accessing Tarrant County data or facilities may be required to undergo a fingerprint-based Criminal Justice Information Services (CJIS) Background Check, a Human Resources Criminal Background Check, or a Sheriff's Criminal Background Check. Criminal Background Checks will be paid for by Tarrant County.*

1. InductiveHealth Informatics LLC must provide information, including, but not limited to, employee name, date of birth, a clear copy of employee's driver's license, and a copy of employee's social security card for each individual required to pass a Criminal Background Check.
2. Award of a contract could be affected by the InductiveHealth Informatics LLC refusal to agree to these terms.
3. Failure of InductiveHealth Informatics LLC to supply personnel who pass a Criminal Background Check could affect the award of the contract or could result in the termination of the contract.
4. The Criminal Background Check applies to the individual and not the Company.
5. Passing status must be maintained by Vendor personnel for the duration of the contract.
6. Background checks on employees will be performed in the employee's home county at the expense of Tarrant County."

### Data

*InductiveHealth Informatics LLC supports Tarrant County's right to retain absolute data access and ownership of all Tarrant County data hosted within the solution.*

*InductiveHealth Informatics LLC warrants that all data will be exportable in ESSENCE standard export formats in a readable and usable ESSENCE format upon contract termination, expiration, or cancellation of services at no additional charge to Tarrant County. Data destruction or data purge will not occur until expressed written permission is received by InductiveHealth Informatics LLC from Tarrant County, after which a written certification of data destruction will be required.*

### **Indemnification**

7.1 of the AWS Customer Agreement contains an indemnification clause,

In addition, sections 53.9, 54.2.3, 54.8.1, and 59.8 of the Service-Terms contain indemnification clauses.

**Any indemnification requirements in the AWS Customer Agreement and AWS GovCloud Service terms are only applicable to the extent permitted by the laws and Constitution of the State of Texas.**

**Vendor Certification Addendum to Tarrant County Contracts**  
**Entered Into on or After September 1, 2021**  
**Required by New Texas State Laws**  
**[Not required if all contracting parties are governments]**

This Addendum relates to the following contract: ESSENCE for Syndromic Surveillance, Anomaly Detection, and Alerting Software as a Service (SaaS) [Enter description of contract above]

**FISCAL FUNDING ACKNOWLEDGMENT**

Notwithstanding any language to the contrary, Vendor acknowledges TARRANT COUNTY is a governmental entity and agrees TARRANT COUNTY (customer) may terminate this Agreement for future fiscal years if sufficient funding is not appropriated or allocated.

**LEGAL COMPLIANCE**

In providing the services required by this Agreement, Vendor must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Vendor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

For All County Contracts Entered into on or after September 1, 2021, Vendor Must Certify:

Vendor is EXEMPT from Certification regarding Energy Companies and Firearm Entities or Firearm Trade Associations:

Vendor is a sole proprietorship OR is a non-profit entity OR Vendor is a company that does NOT have 10 or more full-time employees AND/OR this contract does NOT have a value of \$ 100,000.00 or more that is to be paid wholly or partly from public funds of the governmental entity.

If the Vendor Cannot Certify that it is EXEMPT as Above, Vendor Must Certify as Follows:

Vendor is NOT EXEMPT and Certifies as follows:

Boycott of Energy Companies Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 13), Vendor verifies that it does not boycott energy companies and will not boycott energy companies during the term of the above-described contract. "Boycott energy company" is defined in Section 809.001(1) (added by 87th Legislature, S.B. 13) and means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company: (A) engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based

energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; or (B) does business with a company described by subsection (A).

Discrimination against Firearm Entities or Firearm Trade Associations Prohibited. In compliance with Section 2274.002 of the Texas Government Code (added by 87th Legislature, S.B. 19), Vendor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the above-described contract] against a firearm entity or firearm trade association. "Discriminate against a firearm entity or firearm trade association" is defined in Section 2274.001(3) (added by 87th Legislature, S.B. 19) and means, with respect to the entity or association, to: (i) refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; (ii) refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or (iii) terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; the term *does not include*: (i) the established policies of a merchant, retail seller, or platform that restrict or prohibit the listing or selling of ammunition, firearms, or firearm accessories; and (ii) a company's refusal to engage in the trade of any goods or services, decision to refrain from continuing an existing business relationship, or decision to terminate an existing business relationship: (aa) to comply with federal, state, or local law, policy, or regulations or a directive by a regulatory agency; or (bb) for any traditional business reason that is specific to the customer or potential customer and not based solely on an entity's or association's status as a firearm entity or firearm trade association.

Vendor Hereby Certifies (Mark Applicable Certification):

☐ Vendor is EXEMPT from Certification as set out above.

☒ Vendor is NOT EXEMPT from Certification as set out above, and Vendor Certifies that it does not and will not Boycott Energy Companies and that it does not and will not engage in prohibited Discrimination against Firearm Entities or Firearm Trade Associations.

CERTIFIED by:

  
\_\_\_\_\_  
Signature of Certifying Person

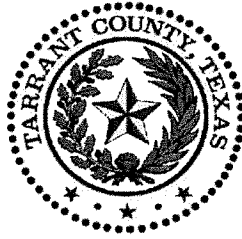
James Maglione  
\_\_\_\_\_  
Printed Name of Certifying Person

Director of Contracts  
\_\_\_\_\_  
Title of Certifying Person



InductiveHealth Informatics  
Name of Vendor Company

4/5/2023  
Date Certified



**Debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order.**

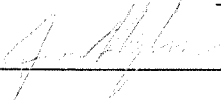
**Debarment:**

**Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.**

Your signature certifies that neither you or your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

James Maglione, Director of Contracts \_\_\_\_\_ (Name)  
InductiveHealth Informatics \_\_\_\_\_ (Company)  
2870 Peachtree Rd NW #915-3304 \_\_\_\_\_ (Address)  
Atlanta, GA, 30305 \_\_\_\_\_ (Address)  
078692538 \_\_\_\_\_ (DUNS Number)

PHONE 678-786-9260 -- FAX 800-991-2996 "Attn: InductiveHealth #3304"  
EMAIL contracts@inductivehealth.com \_\_\_\_\_

 \_\_\_\_\_ Signature 4/5/2023 \_\_\_\_\_ Date

STATE OF TEXAS §

§ BUSINESS ASSOCIATE AGREEMENT

COUNTY OF TARRANT §

This Business Associate Agreement ("BA Agreement") is between Tarrant County, Texas, ("COUNTY"), and InductiveHealth Informatics, LLC., ("Business Associate"), for the purpose of complying with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule"), and the Standards for Security of Electronic Protected Health Information (the "Security Rule") promulgated thereunder, and the Health Information Technology for Economic and Clinical Health Act (Division A, Title XIII and Division B, Title IV, of the American Recovery and Reinvestment Act of 2009, Pub. L 111-5) (the "HITECH Act"), and the regulations implementing the HITECH Act and other applicable law with regard to the provision of services to Tarrant County Public Health.

Business Associate and COUNTY are engaged in a business relationship whereby Business Associate provides certain services to COUNTY ("Business Relationship").

As part of this Business Relationship, Business Associate performs or assists in performing a function or activity on behalf of COUNTY that involves the use and/or disclosure of Protected Health Information (as defined in 45 CFR § 164.501).

## 1. Definitions

"Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR § 160.103, and in reference to the party to this agreement shall mean the COUNTY.

"Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR § 160.103, and in reference to the party to this agreement, shall mean InductiveHealth Informatics, LLC.

Terms used but not otherwise defined in the BA Agreement shall have the same meaning given to such terms in HIPAA, the HITECH Act, or any implementing regulations promulgated thereunder, including but not limited to the Privacy Rule and the Security Rule.

## 2. Purpose

Business Associate has a legal and ethical responsibility to safeguard the privacy of individuals and protect the confidentiality of their health information. Business Associate may hear things that relate to Protected Health Information or read or see computer or paper files containing confidential or Protected Health Information, even though Business Associate may not be directly involved in providing services. Business Associate may create documents containing Protected Health Information if directed to do so by COUNTY. Because Business Associate may have contact with Protected Health Information, COUNTY requests that Business Associate agrees to the following as a condition of Business Associate's assignment.

### 3. Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in the Business Relationship or this BA Agreement, Business Associate may:

- 3.1 use and/or disclose Protected Health Information to perform functions, activities, or services for or on behalf of COUNTY, provided that such use and/or disclosure,
  - (a) would not violate the Privacy Rule if done by COUNTY;
  - (b) is reasonably limited to the minimum necessary information to accomplish the intended purpose of the use or disclosure;
  - (c) is in compliance with each applicable requirement of 45 CFR § 164.504(e);
  - (d) is in compliance with the HITECH Act and its implementing regulations;
- 3.2 use or disclose Protected Health Information as required by law;
- 3.3 use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;
- 3.4 use Protected Health Information to provide Data Aggregation services relating to the health care operations of COUNTY.

All other uses and/or disclosures not authorized by the Business Relationship, or this BA Agreement are prohibited.

- 3.5 Business Associate agrees to use and disclose confidential information only in the following manner:

- Performing responsibilities as noted in Essence SaaS agreement. Sharing PHI to any other entity other than COUNTY is prohibited and is in breach of this agreement.
- As required for the collection of syndromic surveillance information, anomaly detection, alerting and analysis
- As needed to develop, test or refine deliverables as described in the SOW
- Should the scope of work be expanded beyond the standard data sources, (EMS, ED, Some Urgent Care, Weather, Air Quality, Poison Control Data, Mortality), this BAA must be reviewed with the expanded proposed scope of work.

### 4. Responsibilities of Business Associate

With regard to the use and/or disclosure of Protected Health Information, Business Associate agrees:

- 4.1** not to use and/or disclose Protected Health Information other than as permitted or required by the Business Relationship or this BA Agreement or as Required by Law;
- 4.2** to use appropriate safeguards to prevent the use and/or disclosure of Protected Health Information other than as provided for by the Business Relationship or this BA Agreement;
- 4.3** to protect any Protected Health Information taken off-site from COUNTY from disclosure to others, and to return all Protected Health Information in any form to COUNTY or destroy such Protected Health Information in a manner that renders it unreadable and unusable by anyone else, if COUNTY agrees to the destruction;
- 4.4** to comply with the Security Rule provisions set forth in 45 CFR Part 164, Subpart C, including provisions relating to Security Standards General Rules (45 CFR § 164.306), Administrative Safeguards (45 CFR § 164.308), Physical Safeguards (45 CFR § 164.310), Technical Safeguards (45 CFR § 164.312), Organizational Requirements (45 CFR § 164.314) and Policies and Documentation (45 CFR § 164.316), and to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information Business Associate creates, receives, maintains, or transmits on behalf of COUNTY.
- 4.5** to report to COUNTY any Security Incident of which it becomes aware within 2 business days, and to report any potential Breach of Unsecured Protected Health Information within 2 business days of discovery. Any such report shall include the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during any such Security Incident or potential Breach. Any such report shall also include all other information known to Business Associate at the time of the report (such as the type of Protected Health Information involved in the event, the nature of the information, etc.) or promptly thereafter as such other information becomes available;
- 4.6** to notify COUNTY in writing within 2 business days of any use and/or disclosure of Protected Health Information that is not provided for by the Business Relationship or this BA Agreement;
- 4.7** to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BA Agreement, or as the result of any Security Incident or potential Breach, using mitigation actions that are disclosed to COUNTY in advance and authorized by COUNTY, all at the sole cost and expense of Business Associate;
- 4.8** to work cooperatively with COUNTY in connection with COUNTY's investigation of any potential Breach and in connection with any notices COUNTY

determines are required as a result, and to refrain from giving any notice itself unless COUNTY expressly agrees in advance and in writing to Business Associate giving notice and to the form, content and method of delivery of such notice, all at the sole cost and expense of Business Associate;

- 4.9** to ensure that all agents and/or subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree in writing to the same restrictions and conditions that apply to Business Associate with respect to such Protected Health Information;
- 4.10** to provide access (at the request of, and in the time and manner designated by COUNTY) to Protected Health Information in a Designated Record Set to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR § 164.524 and to notify COUNTY of any requests for access it receives from an individual within 2 business days of receipt;
- 4.11** to make any amendment(s) (at the request of, and in the time and manner designated by COUNTY) to Protected Health Information in a Designated Record Set that COUNTY directs pursuant to 45 CFR § 164.526 and to notify COUNTY of any amendment requests it receives from an individual within 2 business days of receipt;
- 4.12** to document such disclosures of Protected Health Information and information related to such disclosures as would be required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528;
- 4.13** to provide to COUNTY, in a time and manner designated by COUNTY, information collected in accordance with 4.12 of this BA Agreement, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 (and HITECH Act § 13405(c) when such requirements are effective as to COUNTY);
- 4.14** to the extent Business Associate is to carry out an obligation of COUNTY under the Privacy Rule provisions set forth at 45 CFR Part 164, Subpart E (any such obligation to be carried out only when so directed by COUNTY pursuant to the Business Relationship or this BA Agreement), to comply with the requirements of the Privacy Rule that apply to COUNTY in the performance of such obligation;
- 4.15** to make its internal practices, books, and records relating to the use and/or disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of COUNTY available to COUNTY;
- 4.16** to cooperate with any investigation by the Secretary of Health and Human Services, or his agent, or an oversight agency, in a time and manner designated by COUNTY or the Secretary, for purposes of determining if COUNTY or Business Associate is in compliance with the Privacy Rule;

- 4.17** if Business Associate is aware of a pattern of activity or practice by COUNTY that constitutes a material breach or violation of COUNTY's obligations under this BA Agreement,
- (a) to give written notice of such pattern or practice to COUNTY within 2 business days of its discovery and to take reasonable steps to cure the breach or end the violation,
- (b) if Business Associate determines that such steps appear to have been unsuccessful, to give COUNTY written notice of such determination and to report the problem to the Secretary and provide COUNTY with a copy of any such report at least 2 business days in advance of its submission to the Secretary.

## **5. Responsibilities of COUNTY with Respect to Protected Health Information**

If deemed applicable by COUNTY, COUNTY shall:

- 5.1** provide Business Associate with the notice of privacy practices that COUNTY produces in accordance with 45 CFR §164.520 as well as any changes to such notice;
- 5.2** provide Business Associate with any changes in, or revocation of, permission by Individual to the use and/or disclosure of Protected Health Information, if such changes affect Business Associate's permitted or required uses and/or disclosures;
- 5.3** notify Business Associate of any restriction to the use and/or disclosure of Protected Health Information that COUNTY has agreed to in accordance with 45 CFR § 164.522.

## **6. Sanctions**

Business Associate understands that violation of this agreement may result in sanctions, including, but not limited to, termination of the ability to perform services on behalf of COUNTY.

## **7. Disclosures Required by Law**

Nothing in this agreement prevents Business Associate from making a disclosure of Protected Health Information, if required by law to make such a disclosure.

## **8. Term and Termination**

- 8.1 Term.** This agreement will begin on the date that it is approved in Commissioner's Court, and will terminate when all of the Protected Health Information provided by COUNTY to Business Associate or created or received by Business Associate on behalf of COUNTY is destroyed or returned to COUNTY, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such Protected Health Information, in accordance with 8.3 below, or at termination of the Business Relationship between COUNTY and Business Associate.

**8.2 Termination for Cause.** COUNTY may immediately terminate the Business Relationship and/or this BA Agreement if COUNTY determines that Business Associate has breached a material term of this BA Agreement.

**8.3 Effect of Termination.** Upon termination of the Business Relationship and/or this BA Agreement, for any reason, Business Associate agrees to return or destroy all Protected Health Information received from COUNTY or created or received by Business Associate on behalf of COUNTY. If permitted by COUNTY, Protected Health Information shall be destroyed in a manner that renders it unreadable and unusable by anyone else. Discharge or termination, whether voluntary or not, shall not affect Business Associate's ongoing obligation to safeguard the confidentiality of Protected Health Information and to return or destroy any such information in Business Associate's possession.

This Section 8.3 shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate.

In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide in writing to COUNTY notification of the conditions that make return or destruction infeasible. Upon mutual written agreement of the Parties, Business Associate shall extend the protections of this BA Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information for as long as Business Associate maintains such Protected Health Information.

## **9. Miscellaneous**

### **9.1 INDEMNIFICATION.**

**NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE UNDERLYING AGREEMENT(S), AT BUSINESS ASSOCIATE'S EXPENSE, BUSINESS ASSOCIATE AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS COVERED ENTITY AND COVERED ENTITY'S EMPLOYEES (THE "INDEMNITEES") AGAINST ALL DAMAGES, FINES, PENALTIES, COSTS OR EXPENSES (INCLUDING REASONABLE FEES OF ATTORNEYS AND EXPERTS) AND ALL LIABILITY TO THIRD PARTIES ARISING FROM ANY MATERIAL BREACH OF THIS AGREEMENT BY BUSINESS ASSOCIATE OR ITS EMPLOYEES, DIRECTORS, OFFICERS, SUBCONTRACTORS, AGENTS OR OTHER MEMBERS OF BUSINESS ASSOCIATE'S WORKFORCE. BUSINESS ASSOCIATE'S OBLIGATION TO INDEMNIFY THE INDEMNITEES SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.**

**COUNTY MAY EMPLOY ATTORNEYS SELECTED BY IT TO DEFEND ANY SUCH ACTION, THE COSTS AND EXPENSES OF WHICH WILL REMAIN THE RESPONSIBILITY OF BUSINESS ASSOCIATE. COUNTY WILL PROVIDE BUSINESS ASSOCIATE WITH TIMELY NOTICE OF THE EXISTENCE OF SUCH PROCEEDINGS AND SUCH INFORMATION, DOCUMENTS AND OTHER COOPERATION AS REASONABLY NECESSARY TO ASSIST BUSINESS ASSOCIATE IN ESTABLISHING A DEFENSE TO SUCH ACTION.**



**THESE INDEMNITIES SURVIVE TERMINATION OF THIS BA AGREEMENT, AND COUNTY RESERVES THE RIGHT, AT ITS OPTION AND EXPENSE, TO PARTICIPATE IN THE DEFENSE OF ANY SUIT OR PROCEEDING THROUGH COUNSEL OF ITS OWN CHOOSING.**

**9.2 Survival.** The respective rights and obligations of Business Associate survive the termination of the Business Relationship and/or this BA Agreement.

**9.3 Notices.** Any notices pertaining to this BA Agreement must be given in writing and will be deemed duly given when personally delivered to a Party or a Party's authorized representative, as listed below, or sent by means of a reputable overnight carrier, or sent by means of certified mail, return receipt requested, postage prepaid. A notice sent by certified mail shall be deemed given on the date of receipt or refusal of receipt. All notices shall be addressed to the appropriate Party as follows:

**If to Business Associate:**  
InductiveHealth Informatics, LLC.,  
2870 Peachtree Rd. NW #915-3304  
Atlanta, GA 30305

**If to Covered Entity:**  
Tarrant County Public Health  
1101 South Main Street, Suite 2500  
Fort Worth, TX 76104

Attn: James Maglione

Attn: Privacy Officer

**9.4 Amendments.** This BA Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. The Parties, however, agree to amend this Agreement from time to time as necessary, in order to allow COUNTY to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA, the HITECH Act and its implementing regulations.

**9.5 Interpretation.** Any ambiguity in this BA Agreement shall be resolved in favor of a meaning that permits COUNTY to comply with the Privacy Rule.

**9.6 Third Parties.** Nothing in this BA Agreement is intended, nor shall be deemed, to confer any benefits on any third party.

**9.7 Assignments.** Neither Party may assign its rights or obligations under this BA Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld.

**9.8 Independent Contractor.** This BA Agreement does not create any relationship between the Parties other than that of independent parties contracting with each other for the sole purpose of effecting the provisions of this BA Agreement and any other agreements between them evidencing their Business Relationship.

**9.9 Governing Law and Venue.** This BA Agreement will be interpreted under the laws of the State of Texas. The venue for any lawsuit arising out of this BA Agreement will be the Fort Worth Division of the Northern District of Texas, if the lawsuit arises in Federal Court, or Tarrant County, Texas, if the matter arises in State Court.

**9.10 Third Party Interpretation.** This agreement shall not be interpreted to inure to the benefit of a third party not a party to this contract. This agreement may not be interpreted to waive any statutory or common law defense, immunity, including governmental and sovereign immunity, or any limitation of liability, responsibility, or damage to any Party to this contract, Party's agent, or Party's employee, otherwise provided by law.

**9.11 Form 1295 Compliance.** InductiveHealth Informatics, LLC. acknowledges and agrees that it has fully, accurately, and completely disclosed all interested parties by completing Form 1295 and has acknowledged the completeness of this disclosure by filing the Form 1295 with the Texas Ethics Commission as required by law.

**9.12 Compliance with Laws.** In providing the services required by this Agreement, BA must observe and comply with all applicable federal, state, and local statutes, ordinances, rules, and regulations, including, without limitation, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and non-discrimination laws and regulations. Vendor shall be responsible for ensuring its compliance with any laws and regulations applicable to its business, including maintaining any necessary licenses and permits.

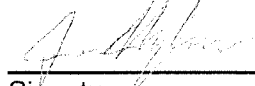
**9.13 Required Attachments.** This BA Agreement will be considered incomplete without the submission of the completed Form 1295 as referenced in section 9.11. COUNTY shall be responsible to include instructions for completing Form 1295, attached as Exhibit A, to this BA Agreement prior to Business Associate review and execution. For the purposes of this BA Agreement, the following statement applies in regard to Form 1295:

- ☒ Submission of the Form 1295 is a required component of this BA Agreement. Example Form 1295 is attached, and BA must follow instructions to file online with the Texas Ethics Commission prior to approval of this BA Agreement by COUNTY.
- ☐ The Parties involved in this BA Agreement are governmental entities and are not required by the Texas Ethics Commission to complete their Form 1295.

Approved on this 16 day of May, 2023, by Commissioners Court Order  
No. 140907.

**SIGNED AND EXECUTED** this 16 day of May, 2023.

**BUSINESS ASSOCIATE** InductiveHealth Informatics



Signature

James Maglione

Printed Name

Director of Contracts

Title

4/5/2023

Date

**COUNTY OF TARRANT  
STATE of TEXAS**



Tim O'Hare

County Judge

**APPROVED AS TO FORM:**

Kimberly Colliet Wesley

Criminal District Attorney's Office\*

\*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2023-1003682

Date Filed:  
04/05/2023

Date Acknowledged:  
MJR 4/10/2023

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Forefront Topco, LLC dba InductiveHealth Informatics, LLC  
Atlanta, GA United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

Tarrant County

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

TBD  
ESSENCE SaaS

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	17th Street Mavericks, LLC	Atlanta, GA United States	X	
	Diversis Capital Partners II, L.P.	Los Angeles, CA United States	X	

5 Check only if there is NO Interested Party.

☐

## 6 UNSWORN DECLARATION

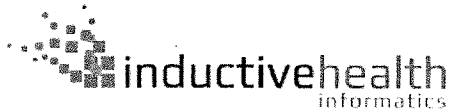
My name is \_\_\_\_\_, and my date of birth is \_\_\_\_\_.

My address is \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.  
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(month) (year)

\_\_\_\_\_  
Signature of authorized agent of contracting business entity  
(Declarant)



February 22, 2023

InductiveHealth Informatics, LLC.  
2870 Peachtree Rd NW #915-3304  
Atlanta, GA 30305-2918  
[solutions@inductivehealth.com](mailto:solutions@inductivehealth.com)  
[www.inductivehealth.com](http://www.inductivehealth.com)

Rasneet Kumar  
Informatics Manager  
Tarrant County Public Health  
E: [RSKumar@tarrantcounty.com](mailto:RSKumar@tarrantcounty.com)

RE: InductiveHealth Informatics - Sole Source Justification for Early Notification of Community-based Epidemics (ESSENCE) solution

Ms. Kumar,

This letter serves to provide details on the InductiveHealth Informatics, LLC. ("InductiveHealth") solution for the Early Notification of Community-based Epidemics (ESSENCE) application currently used by Tarrant County and the entire Texas Region 2-3 for syndromic surveillance, relative to sole source procurement under Texas Local Government Code, Section 262.024(a)(7)<sup>1</sup>.

InductiveHealth is the exclusive licensee<sup>2</sup> of ESSENCE for industry-leading enhanced syndromic surveillance capabilities. Through InductiveHealth's commercial partnership with the Johns Hopkins University Applied Physics Laboratory (JHU APL)<sup>3</sup>, InductiveHealth is at the forefront of research, development, and enhancement of advanced syndromic surveillance. More than twenty-five (25) jurisdictions utilize ESSENCE to monitor and respond to public health events through anomaly detection. ESSENCE has proven critical to the COVID-19 response at the national and state/territory levels.

InductiveHealth's syndromic surveillance solution offering for ESSENCE prepares public health agencies to conduct patient matching and integration with public health technologies such as electronic disease surveillance systems (EDSS), immunization registries, contact tracing applications and more. The solution is designed to ingest HL7 data from hospital EMR systems and positions public health agencies for future integration of multiple data sources including mortality, climate and environmental, poison, substance use, and other important health data.

We look forward to the opportunity to serve Tarrant County and all of Texas Region 2-3 with this important capability.

Should you have any further questions or if we can provide any additional details, please let us know.

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<sup>1</sup> Texas Local Government Code, Section 262.024(a)(7). Accessed via <https://statutes.capitol.texas.gov/Docs/LG/htm/LG.262.htm>

<sup>2</sup> <https://www.jhuapl.edu/PressRelease/210114-APL-ESSENCE-inductive-health-informatics-partnership>

<sup>3</sup> Reference enclosed Attachment A - Notice of Transition of Operational and Maintenance Support Agreements for State and Local ESSENCE Instances



Regards,

A handwritten signature in dark ink, appearing to read "J. Maglione". The signature is fluid and cursive, written over a light gray background.

James Maglione  
Director of Finance and Contracts  
InductiveHealth Informatics, LLC.  
714-390-1465  
[contracts@inductivehealth.com](mailto:contracts@inductivehealth.com)

Enclosures: Attachment A - Notice of Transition of Operational and Maintenance Support Agreements for State and Local ESSENCE Instances