AGREEMENT FOR PROVISION OF
PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES
BETWEEN
COUNTY OF ORANGE
AND
CERNER CORPORATION
JANUARY 14, 2022 THROUGH MAY 31, 2023

THIS AGREEMENT entered into this 14th day of January 2022 (effective date), is by and between the COUNTY OF ORANGE, a political subdivision of State of California (COUNTY), and CERNER CORPORATION, a Delaware For-Profit Corporation (CONTRACTOR). COUNTY and CONTRACTOR may sometimes be referred to herein individually as "Party" or collectively as "Parties". This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W I T N E S S E T H:

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of Public Health Electronic Health Record Services described herein;

WHEREAS, Public Health Electronic Health Record Services are set forth in detail in Exhibit A, B, C, D, E, F, and G; and

WHEREAS, CONTRACTOR is agreeable to the rendering of aforesaid Public Health Electronic Health Record Services on the terms and conditions hereinafter set forth:

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and promises contained herein, COUNTY and CONTRACTOR do hereby agree as follows:

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1 **EXHIBIT H**

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1	**REFERENCED CONTRACT**
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3	**PROVISIONS** Term: January 14, 2022 through May 31, 2023
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5	**Maximum Obligation:** **$1,794,634**
6	
7	**Basis for Reimbursement:** Negotiated Amount
8	
9	**Payment Method:** In Arrears
10	
11	**CONTRACTOR DUNS Number:** 04-241-0688
12	
13	**CONTRACTOR TAX ID Number:** 43-1196944
14	
15	**Notices to COUNTY and CONTRACTOR:**
16	
17	COUNTY: County of Orange
18	Health Care Agency
19	Contract Development and Management
20	405 West 5th Street, Suite 600
21	Santa Ana, CA 92701
22	Attn: Contract Administrator
23	
24	CONTRACTOR: Cerner Corporation
25	2800 Rockcreek Parkway
26	Kansas City, Missouri 64117
27	Attn: Mark Erceg, Executive Vice President and CFO
28	E-Mail: mark.erceg@cerner.com
29	CERNER #: OPT-0268545
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I. ACRONYMS

The following standard definitions are for reference purposes only and may or may not apply in their entirety throughout this Agreement:

A.	AA	Alcoholics Anonymous
B.	AB 109	Assembly Bill 109, 2011 Public Safety Realignment
C.	ABC	Allied Behavioral Care
D.	ACH	Acute Care Hospital
E.	ADAS	Alcohol and Drug Abuse Services
F.	ADL	Activities of Daily Living
G.	ADP	Alcohol and Drug Program
E.	AES	Advanced Encryption Standard
F.	AFLP	Adolescent Family Life Program
G.	AIDS	Acquired Immune Deficiency Syndrome
H.	AIM	Access for Infants and Mothers
I.	AMHS	Adult Mental Health Services
J.	ARRA	American Recovery and Reinvestment Act of 2009
K.	ASAM PPC	American Society of Addiction Medicine Patient Placement Criteria
L.	ASI	Addiction Severity Index
M.	ASIST	Applied Suicide Intervention Skills Training
N.	ASO	Administrative Services Organization
O.	ASRS	Alcohol and Drug Programs Reporting System
P.	BBS	Board of Behavioral Sciences
Q.	BCP	Business Continuity Plan
R.	BH	Base Hospital
S.	BHS	Behavioral Health Services
T.	CalOMS	California Outcomes Measurement System
U.	CalWORKs	California Work Opportunity and Responsibility for Kids
V.	CAP	Corrective Action Plan
W.	CAT	Centralized Assessment Team
X.	CCC	California Civil Code
Y.	CCLD	(California) Community Care Licensing Division
Z.	CCR	California Code of Regulations
AA.	CDCR	California Department of Corrections and Rehabilitation
AB.	CDSS	California Department of Social Services
AC.	CERC	Children's Emergency Receiving Center
AD.	CESI	Client Evaluation of Self at Intake
AE.	CEST	Client Evaluation of Self and Treatment

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1	AF.	CFDA	Catalog of Federal Domestic Assistance
2	AG.	CFR	Code of Federal Regulations
3	AH.	CHDP	Child Health and Disability Prevention
4	AI.	CHHS	California Health and Human Services Agency
5	AJ.	CHPP	COUNTY HIPAA Policies and Procedures
6	AK.	CHS	Correctional Health Services
7	AL.	CIPA	California Information Practices Act
8	AM.	CMPPA	Computer Matching and Privacy Protection Act
9	AN.	COI	Certificate of Insurance
10	AO.	CPA	Certified Public Accountant
11	AP.	CSI	Client and Services Information
12	AQ.	CSW	Clinical Social Worker
13	AR.	CYBHS	Children and Youth Behavioral Health Services
14	AS.	DATAR	Drug Abuse Treatment Access Report
15	AT.	DCR	Data Collection and Reporting
16	AU.	DD	Dually Diagnosed
17	AV.	DEA	Drug Enforcement Agency
18	AW.	DHCS	California Department of Health Care Services
19	AX.	D/MC	Drug/Medi-Cal
20	AY.	DMV	California Department of Motor Vehicles
21	AZ.	DoD	US Department of Defense
22	BA.	DPFS	Drug Program Fiscal Systems
23	BB.	DRC	Probation's Day Reporting Center
24	BC.	DRP	Disaster Recovery Plan
25	BD.	DRS	Designated Record Set
26	BE.	DSM	Diagnostic and Statistical Manual of Mental Disorders
27	BF.	DSM-IV	Diagnostic and Statistical Manual of Mental Disorders. 4th Edition
28	BG.	DSM-V	Diagnostic and Statistical Manual of Mental Disorders. 5th Edition
29	BH.	EBP	Evidence-Based Practice
30	BI.	EDN	Electronic Disease Notification System
31	BJ.	EEOC	Equal Employment Opportunity Commission
32	BK.	EHR	Electronic Health Records
33	BL.	ePHI	Electronic Protected Health Information
34	BM.	EPSDT	Early and Periodic Screening, Diagnosis, and Treatment
35	BN.	ERC	Emergency Receiving Center
36	BO.FFS		Fee For service
37	BP.	FIPS	Federal Information Processing Standards

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1	BQ.	FQHC	Federally Qualified Health Center
2	BR.	FSP	Full Service Partnership
3	BS.	FTE	Full Time Equivalent
4	BT.	GAAP	Generally Accepted Accounting Principles
5	BU.	HAB	Federal HIV/AIDS Bureau
6	BV.	HCA	County of Orange Health Care Agency
7	BW.	HHS	Federal Health and Human Services Agency
8	BX.	HIPAA	Health Insurance Portability and Accountability Act of 1996, Public
9			Law 104-191
10	BY.	HITECH Act	The Health Information Technology for Economic and Clinical Health
11			Act, Public Law 111-005
12	BZ.	HIV	Human Immunodeficiency Virus
13	CA.	HRSA	Federal Health Resources and Services Administration
14	CB.	HSC	California Health and Safety Code
15	CC.	IBNR	Incurred But Not Reported
16	CD.	ID	Identification
17	CE.	IEA	Information Exchange Agreement
18	CF.	IMD	Institute for Mental Disease
19	CG.	IOM	Institute of Medicine
20	CH.	IRIS	Integrated Records and Information System
21	CI.	ISO	Insurance Services Office
22	CJ.	ITC	Indigent Trauma Care
23	CK.	LCSW	Licensed Clinical Social Worker
24	CL.	LGBTQI	Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex
25	CM.	LPS	Lanterman/Petris/Short (Act)
26	CO.	LPT	Licensed Psychiatric Technician
27	CP.	MAT	Medication Assisted Treatment
28	CQ.	MEDS	Medi-Cal Eligibility Determination System
29	CR.	MFT	Marriage and Family Therapist
30	CS.	MH	Mental Health
31	CT.	MHIS	Mental Health Inpatient Services
32	CU.	MIHS	Medical and Institutional Health Services
33	CV.	MHP	Mental Health Plan
34	CW.	MHRC	Mental Health Rehabilitation Centers
35	CX.	MHS	Mental Health Specialist
36	CY.	MHSA	Mental Health Services Act
37	CZ.	MORS	Milestones of Recovery Scale

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1	DA.	MS	Mandatory Supervision
2	DB.	MSN	Medical Safety Net
3	DC.	MTP	Master Treatment Plan
4	DD.	NA	Narcotics Anonymous
5	DE.	NIATx	Network Improvement of Addiction Treatment
6	DF.	NIH	National Institutes of Health
7	DG.	NIST	National Institute of Standards and Technology
8	DH.	NOA	Notice of Action
9	DI.	NP	Nurse Practitioner
10	DJ.	NPDB	National Provider Data Bank
11	DK.	NPI	National Provider Identifier
12	DL.	NPP	Notice of Privacy Practices
13	DM.	OCEMS	Orange County Emergency Medical Services
14	DN.	OCJS	Orange County Jail System
15	DO.	OC-MEDS	Orange County Medical Emergency Data System
16	DP.	OCPD	Orange County Probation Department
17	DQ.	OCR	Federal Office for Civil Rights
18	DR.	OCSD	Orange County Sheriff's Department
19	DS.	OIG	Federal Office of Inspector General
20	DT.	OMB	Federal Office of Management and Budget
21	DU.	OPM	Federal Office of Personnel Management
22	DV.	ORR	Federal Office of Refugee Resettlement
23	DW.	P&P	Policy and Procedure
24	DX.	PA DSS	Payment Application Data Security Standard
25	DY.	PAF	Partnership Assessment Form
26	DZ.	PAR	Prior Authorization Request
27	EA.	PBM	Pharmaceutical Benefits Management
28	EB.	PC	California Penal Code
29	EC.	PCI DSS	Payment Card Industry Data Security Standard
30	ED.	PCP	Primary Care Provider
31	EE.	PCS	Post-Release Community Supervision
32	EF.	PHI	Protected Health Information
33	EG.	PI	Personal Information
34	EH.	PII	Personally Identifiable Information
35	EI.	PRA	California Public Records Act
36	EJ.	PSAI/ACT	Perinatal Substance Abuse Services Initiative/Assessment and
37			Coordination Team

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HCA ASR 21-000735

1	EK.	PSC	Professional Services Contract
2	EL.	PTRC	Paramedic Trauma Receiving Center
3	EM.	QI	Quality Improvement
4	EN.	QIC	Quality Improvement Committee
5	EO.	RHAP	Refugee Health Assessment Program
6	EP.	RHEIS	Refugee Health Electronic Information System
7	EQ.	RN	Registered Nurse
8	ER.	RSA	Remote Site Access
9	ES.	SAPTBG	Substance Abuse Prevention and Treatment Block Grant
10	ET.	SD/MC	Short-Doyle Medi-Cal
11	EU.	SIR	Self-Insured Retention
12	EV.	SMA	Statewide Maximum Allowable (rate)
13	EW.	SNF	Skilled Nursing Facility
14	EX.	SR	Supervised Release
15	EY.	SRP	Supervised Release Participant
16	EZ.	SSA	County of Orange Social Services Agency
17	FA.	SSI	Supplemental Security Income
18	FB.	STP	Special Treatment Program
19	FC.	SUD	Substance Use Disorder
20	FD.	TAR	Treatment Authorization Request
21	FE.	TAY	Transitional Age Youth
22	FF.	TB	Tuberculosis
23	FG.	TBS	Therapeutic Behavioral Services
24	FH.	TRC	Therapeutic Residential Center
25	FI.	TTY	Teletypewriter
26	FJ.	TUPP	Tobacco Use Prevention Program
27	FK.	UMDAP	Uniform Method of Determining Ability to Pay
28	FL.	UOS	Units of Service
29	FM.	USC	United States Code
30	FN.	VOLAGs	Volunteer Agencies
31	FO.	W&IC	California Welfare and Institutions Code
32	FP.	WIC	Women, Infants and Children

II. ALTERATION OF TERMS

A. This Agreement, together with Exhibits A, B, C, D, E, F, G, and H attached[DJ1] hereto and incorporated herein by this reference, fully expresses the complete understanding of COUNTY and CONTRACTOR with respect to the subject matter of and obligations under this Agreement. This

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1 Agreement shall constitute the sole and entire binding Agreement between the parties as it relates to the
2 services and licenses provided herein, except that this Agreement shall not supersede the Agreement for
3 the provision of Maintenance and Support Services that covers the period July 1, 2017 through June 30,
4 2022 (as amended, the "2017-22 Agreement"). All other prior proposals, offers, discussions, preliminary
5 understandings, and other communications relative to this Agreement, oral or written, shall be
6 considered superseded, and any such terms, conditions or provisions are effective only to the extent that
7 they have been negotiated as part of this Agreement

8   B.   No addition to, or alteration of the terms of this Agreement or any Exhibits, whether written or
9 verbal, made by the parties, their officers, employees or agents shall be valid unless made in the form of
10 a written amendment to this Agreement, which has been formally approved and executed by both parties.

11
12 ### III. CHOICE OF LAW AND FORUM

13   A.   The formation, interpretation, and performance of this Agreement shall be governed by the laws
14 of the State of California, provided that no article of this Agreement shall be interpreted for or against a
15 party because that party or its legal representative drafted such article, and this Agreement shall be
16 construed as if jointly prepared by the parties. Any legal proceeding with respect to this Agreement
17 shall be filed in the appropriate court of the State of California in Orange County, California. The
18 Parties agree to waive any rule of law or legal decision that would require interpretation of any
19 ambiguities in this Agreement against the Party that has drafted the Agreement.

20   B.   In the event of a dispute between the Parties, CONTRACTOR and COUNTY agree to make a
21 good faith effort to dispose of their disputes within a reasonable period of time through the
22 CONTRACTOR's Project Manager and COUNTY's Project Director. However, if the
23 CONTRACTOR's Project Manager and COUNTY's Project Director do not reach a resolution to the
24 disputed matter, such matter shall be brought to the attention of the Health Care Agency's Agency
25 Director or his or her designee and the CONTRACTOR's management team to work cooperatively to
26 resolve the dispute amicably. In the event that a resolution at such management levels does not occur,
27 either Party may submit the dispute to binding arbitration in Orange County, California under the then-
28 prevailing rules of the American Arbitration Association, Inc., a New York corporation. Unless either
29 Party objects to arbitration as a means to resolve the disputed matter, the CONTRACTOR and
30 COUNTY agree that the arbitration shall be through a single arbitrator, who shall be experienced in
31 information technology matters. Judgment upon any award in such arbitration may be entered and
32 enforced in any court of competent jurisdiction. Notwithstanding any provision of this Agreement to the
33 contrary, each Party acknowledges that any breach of any of its obligations with respect to the other
34 party's proprietary rights will result in an irreparable injury for which money damages will not be an
35 adequate remedy and that, in such event, the non-breaching party shall be entitled to injunctive relief in
36 addition to any other relief a court may deem proper.
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C. In the event the CONTRACTOR or COUNTY objects to arbitration, either Party reserves the right to initiate any legal proceeding it deems appropriate in accordance with Subparagraph A. of this Paragraph.

D. COUNTY and CONTRACTOR agree that, in the event of a dispute notwithstanding, they will continue without delay to carry out all their responsibilities under this Agreement until such time the matter is disposed of.

E. Notwithstanding the foregoing, COUNTY shall have the right to terminate this Agreement if CONTRACTOR is in breach of any of its obligations stated in this Agreement and that breach remains uncured following any applicable cure period specified in this Agreement.

IV. **COMPLIANCE**

A. COMPLIANCE PROGRAM - ADMINISTRATOR has established a Compliance Program for the purpose of ensuring adherence to all rules and regulations related to federal and state health care programs.

1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the policies and procedures relating to ADMINISTRATOR's Compliance Program, Code of Conduct and access to General Compliance and Annual Provider Trainings.

2. CONTRACTOR has the option to provide ADMINISTRATOR with proof of its own Compliance Program, Code of Conduct and any Compliance related policies and procedures. CONTRACTOR's Compliance Program, Code of Conduct and any related policies and procedures shall be verified by ADMINISTRATOR's Compliance Department to ensure they include all required elements by ADMINISTRATOR's Compliance Officer as described in this Paragraph IV (COMPLIANCE). These elements include:

      a. Designation of a Compliance Officer and/or compliance staff.

      b. Written standards, policies and/or procedures.

      c. Compliance related training and/or education program and proof of completion.

      d. Communication methods for reporting concerns to the Compliance Officer.

      e. Methodology for conducting internal monitoring and auditing.

      f. Methodology for detecting and correcting offenses.

      g. Methodology/Procedure for enforcing disciplinary standards.

3. If CONTRACTOR does not provide proof of its own Compliance program to ADMINISTRATOR, CONTRACTOR shall acknowledge to comply with ADMINISTRATOR's Compliance Program and Code of Conduct, the CONTRACTOR shall submit to the ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement a signed acknowledgement that CONTRACTOR shall comply with ADMINISTRATOR's Compliance Program and Code of Conduct.

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4.   If CONTRACTOR elects to have its own Compliance Program, Code of Conduct and any Compliance related policies and procedures review by ADMINISTRATOR, then CONTRACTOR shall submit a copy of its compliance Program, code of Conduct and all relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of execution of this Agreement. ADMINISTRATOR's Compliance Officer, or designee, shall review said documents within a reasonable time, which shall not exceed forty five (45) calendar days, and determine if CONTRACTOR's proposed compliance program and code of conduct contain all required elements to the ADMINISTRATOR's satisfaction as consistent with the HCA's Compliance Program and Code of Conduct.   ADMINISTRATOR shall inform CONTRACTOR of any missing required elements and CONTRACTOR shall revise its compliance program and code of conduct to meet ADMINISTRATOR's required elements within thirty (30) calendar days after ADMINISTRATOR's Compliance Officer's determination and resubmit the same for review by the ADMINISTRATOR.

5.   Upon written confirmation from ADMINISTRATOR's Compliance Officer that the CONTRACTOR's compliance program, code of conduct and any Compliance related policies and procedures contain all required elements, CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of CONTRACTOR's compliance program, code of conduct, related policies and procedures and contact information for the ADMINISTRATOR's Compliance Program.

B.   SANCTION SCREENING – CONTRACTOR shall screen all Covered Individuals employed or retained to provide services directly related to this Agreement semi-annually to ensure that they are not designated as Ineligible Persons, as pursuant to this Agreement. Screening shall be conducted against the General Services Administration's Excluded Parties List System or System for Award Management, the Health and Human Services/Office of Inspector General List of Excluded Individuals/Entities, and the California Medi-Cal Suspended and Ineligible Provider List and/or any other list or system as identified by the ADMINISTRATOR.

1.   For purposes of this Paragraph IV (COMPLIANCE), Covered Individuals includes all employees, interns, volunteers, contractors, subcontractors, and agents of CONTRACTOR who perform services directly related to this Agreement. Notwithstanding the above, this term does not include part-time or per-diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than one hundred sixty (160) hours per year; except that any such individuals shall become Covered Individuals at the point when they work more than one hundred sixty (160) hours during the calendar year. CONTRACTOR shall ensure that all Covered Individuals relative to this Agreement are made aware of ADMINISTRATOR's Compliance Program, Code of Conduct and related policies and procedures (or CONTRACTOR's own compliance program, code of conduct and related policies and procedures if CONTRACTOR has elected to use its own).

2.   An Ineligible Person shall be any individual or entity who:

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a. is currently excluded, suspended, debarred or otherwise ineligible to participate in federal and state health care programs; or

b. has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal and state health care programs after a period of exclusion, suspension, debarment, or ineligibility.

3. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement. CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this Agreement.

4. CONTRACTOR shall screen all current Covered Individuals and subcontractors semi-annually to ensure that they have not become Ineligible Persons. CONTRACTOR shall also request that its subcontractors use their best efforts to verify that they are eligible to participate in all federal and State of California health programs and have not been excluded or debarred from participation in any federal or state health care programs, and to further represent to CONTRACTOR that they do not have any Ineligible Person in their employ or under contract.

5. Covered Individuals shall be required to disclose to CONTRACTOR immediately any debarment, exclusion, or other event that makes the Covered Individual an Ineligible Person. CONTRACTOR shall notify ADMINISTRATOR immediately upon CONTRACTOR becoming aware if a Covered Individual providing services directly relative to this Agreement becomes debarred, excluded, or otherwise becomes an Ineligible Person.

6. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing federal and state funded health care services by contract with COUNTY in the event that they are currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency. If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person, CONTRACTOR shall remove such individual from responsibility for, or involvement with, COUNTY business operations related to this Agreement.

7. CONTRACTOR shall notify ADMINISTRATOR, and remove from participating in any activity associated with this Agreement, immediately upon CONTRACTOR's becoming aware if a Covered Individual or entity is currently excluded, suspended or debarred, or is identified as such after being sanction screened. CONTRACTOR's failure to immediately remove an excluded, suspended or debarred Covered Individual or entity, as stated herein, may result in appropriate repayment by, or sanction(s) to, CONTRACTOR corresponding to the value of services provided by the ineligible Covered Individual or entity. CONTRACTOR shall promptly make such payments within forty-five (45) business days after notification thereof by ADMINISTRATOR.

C. GENERAL COMPLIANCE TRAINING – ADMINISTRATOR shall make General Compliance Training available to Covered Individuals.

1. If CONTRACTOR has acknowledged to comply with ADMINISTRATOR's Compliance Program, it shall use its best efforts to encourage completion by all Covered Individuals of the General

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Compliance Training when offered; provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated representative to complete the General Compliance Training when offered.

2. Such training will be made available to Covered Individuals within thirty (30) calendar days of employment or engagement.

3. Such training will be made available to each Covered Individual annually.

4. ADMINISTRATOR will track training completion while CONTRACTOR shall provide copies of training certification upon request.

5. Each Covered Individual attending a group training shall certify, in writing, attendance at compliance training. ADMINISTRATOR shall provide instruction on group training completion while CONTRACTOR shall retain the training certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

D. SPECIALIZED PROVIDER TRAINING – ADMINISTRATOR shall make Specialized Provider Training, where appropriate, available to Covered Individuals and shall notify CONTRACTOR of the Covered Individuals or categories of Covered Individuals for whom that training is appropriate.

1. CONTRACTOR shall ensure completion of Specialized Provider Training by all of those Covered Individuals relative to this Agreement.

2. Such training will be made available to Covered Individuals within thirty (30) calendar days of employment or engagement.

3. Such training will be made available to each Covered Individual annually.

4. ADMINISTRATOR will track online completion of training while CONTRACTOR shall provide copies of the certifications upon request.

5. Each Covered Individual attending a group training shall certify, in writing, attendance at compliance training. ADMINISTRATOR shall provide instructions on completing the training in a group setting while CONTRACTOR shall retain the certifications. Upon written request by ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

E. Failure of CONTRACTOR to comply with the obligations stated in this Paragraph IV (COMPLIANCE) shall constitute a breach of the Agreement on the part of CONTRACTOR and ground for COUNTY to terminate the Agreement. Unless the circumstances require a sooner period of cure, CONTRACTOR shall have thirty (30) calendar days from the date of the written notice of default to cure any defaults grounded on this Paragraph IV (COMPLIANCE) prior to ADMINISTRATOR's right to terminate this Agreement on the basis of such default.

V. <u>CONFIDENTIALITY</u>

A. All records and information concerning any and all matters referred to CONTRACTOR by COUNTY shall be considered as Confidential Information and kept confidential by CONTRACTOR and CONTRACTOR's officers, employees, agents, subcontractors, and sub-tiers. Confidential Information obtained by either party in the performance of this Agreement shall be treated as strictly

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confidential and shall not be used by the other for any purpose other than the performance of this Agreement.

B. Except as expressly permitted by this Agreement, CONTRACTOR and COUNTY will not, nor will they permit their respective employees, agents, attorneys or independent contractors to, disclose other than as provided in this Agreement, use, copy, distribute, sell, license, publish, reproduce or otherwise make available Confidential Information of the other party. CONTRACTOR and COUNTY will each:

1. Secure and protect the other party's Confidential Information by using the same or greater level of care than it uses to protect its own confidential and proprietary information of like kind, but in no event, less than a reasonable degree of care, and

2. Advise each of their respective employees, agents, attorneys and independent contractors who have access to such Confidential Information of the terms of this Paragraph V.

C. Notwithstanding the foregoing, either party may disclose the other party's Confidential Information to the extent required by applicable law or regulation or by order of a court or other governmental entity, in which case such party will so notify the other party as soon as practicable and in any event at least ten (10) business days prior to such party making such required disclosure.

D. Upon execution of this Agreement and subject to the terms and conditions set forth in Exhibit C, CONTRACTOR agrees to grant to COUNTY licensed access to the restricted portions of Cerner.com. Cerner.com contains certain copyrighted, proprietary, and confidential information. Confidential Information obtained pursuant to the first sentence of this Subparagraph D. in the performance of this Agreement shall be treated as strictly confidential and shall not be used by COUNTY for any purpose other than the performance of this Agreement.

E. CONTRACTOR's client list is considered proprietary, and as such CONTRACTOR shall only be obligated to supply to COUNTY, upon request, such CONTRACTOR's client list information to which CONTRACTOR has received permission from the client to do so.

VI. CONFLICT OF INTEREST

A. The Orange County Board of Supervisors' policy prohibits its public employees from engaging in activities involving conflict of interest. CONTRACTOR shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interest of COUNTY. This obligation shall apply to CONTRACTOR, CONTRACTOR's officers, employees and agents, relatives, sub-tier contractors, and third parties associated with accomplishing work and services hereunder as outlined in the California Political Reform Act of 1974 and Government Code 87103.

B. CONTRACTOR's efforts shall include, but not be limited to, establishing precautions to prevent its officers, employees and agents from making, receiving, providing, or offering gifts, entertainment, payments, loans, or other considerations, which could be deemed to appear to influence individuals to act contrary to the best interest of COUNTY.

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VII. CONTRACTOR LIMITATION OF LIABILITY

A. Except as provided in Paragraph XIII, in no case shall CONTRACTOR be liable for any special, incidental or consequential damages based upon breach of warranty, breach of contract, negligence, strict tort, or any other legal theory. Such excluded special, incidental, or consequential damages include, but are not limited to, loss of profits, loss of savings or revenue, loss of use of the Equipment, downtime, the claims of third parties, and injury to property.

B. To the extent that CONTRACTOR'S Maintenance and Support Services contains third parties' equipment and sublicensed software, CONTRACTOR'S liability with respect to such third parties' equipment and sublicensed software shall be limited pursuant to such limitations as are passed through to COUNTY through the respective third parties' end-user terms and to the extent that CONTRACTOR is able to collect with good faith effort from such third parties under their promised end-user warranties.

C. Notwithstanding Subparagraph B and except Subparagraphs A and X of Paragraph XIII, CONTRACTOR's maximum liability for all claims whatsoever arising under this Agreement shall be limited to the amount paid by COUNTY to CONTRACTOR for Support services under this Agreement during the previous twelve (12) month period.

VIII. DELEGATION ASSIGNMENT, AND SUBCONTRACTS

A. CONTRACTOR may not delegate or assign the obligations hereunder, either in whole or in part, without prior written consent of COUNTY; provided, however, obligations undertaken by CONTRACTOR pursuant to this Agreement may be carried out by means of subcontracts, upon approval by ADMINISTRATOR, which approval shall not be unreasonably withheld.

B. Any change in CONTRACTOR's business structure, including but not limited to, the sale or transfer of more than fifty percent (50%) of the assets or stocks of CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an assignment pursuant to this Paragraph. Any attempted assignment or delegation in derogation of this Paragraph shall be void.

C. COUNTY may assign this Agreement to any successor governmental agency or authority upon written notice to CONTRACTOR, but no such assignment shall be construed to expand the permitted scope of use hereunder.

D. In the event CONTRACTOR is allowed to subcontract, COUNTY shall look to CONTRACTOR for results of its subcontractors. CONTRACTOR agrees to be responsible for all the subcontractor's acts and omissions to the same extent as if the subcontractors were employees of CONTRACTOR.

E. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY pursuant to this Agreement and the terms of this Agreement shall prevail over those of all such subcontracts or assignments.

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F. Nothing contained in this Paragraph shall be construed to prohibit CONTRACTOR from acquiring Equipment or Sublicensed Software (or services related thereto) from the Equipment's and Sublicensed Software's manufacturers or third party providers or to require CONTRACTOR to obtain approval for such acquisitions.

IX. EMPLOYEE ELIGIBILITY VERIFICATION

CONTRACTOR warrants that it shall fully comply with all federal and state statutes and regulations regarding the employment of aliens and others and to ensure that employees, subcontractors, and consultants performing work under this Agreement meet the citizenship or alien status requirements set forth in federal statutes and regulations.   CONTRACTOR shall obtain, from all employees, subcontractors, and consultants performing work hereunder, all verification and other documentation of employment eligibility status required by federal or state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such documentation for all covered employees, subcontractors, and consultants for the period prescribed by the law.

X. FACILITIES, PAYMENTS AND SERVICES

A. CONTRACTOR agrees to provide the activities and reports in accordance with Exhibit A to this Agreement. CONTRACTOR shall operate continuously throughout the term of this Agreement.

B. Compensation shall be in the amount and paid pursuant to the terms of Paragraph V. of Exhibit A attached hereto.

C. CONTRACTOR agrees to accept the specified compensation as full remuneration for the licensing of all Licensed Software and the performing all services and furnishing all staffing and materials and other expenses called for as set forth under this Agreement; and for any reasonably foreseeable difficulties, which may arise or be encountered in the execution of the services until fulfillment of this Agreement; and for performance by CONTRACTOR of all its duties and obligations hereunder.

D. Payment shall be made to CONTRACTOR within thirty (30) calendar days upon the receipt by the COUNTY's Auditor Controller of an approved invoice. COUNTY agrees to process all requests for payment by CONTRACTOR within five (5) business days.

XI. FREIGHT ON BOARD PRICES

Equipment is priced Freight on Board (F.O.B.) from the manufacturer's plant. CONTRACTOR will arrange, pre-pay, and invoice COUNTY for insurance and shipping with respect to delivery of the Equipment. CONTRACTOR will provide documentation substantiating such actual insurance and shipping costs with the invoice. If COUNTY has agreed in writing to a shipment date, COUNTY agrees to pay all cancellation, re-stocking, storage and additional transportation fees incurred as a result of

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failure to accept delivery of the Equipment or Sublicensed Software, except if such failure to accept delivery is a result of the COUNTY examining the Equipment or Sublicensed Software in a timely manner and determining that it is not as contracted for in which case CONTRACTOR agrees to pay such fees.

XII. HEADINGS NOT CONTROLLING

Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

XIII. INDEMNIFICATION AND INSURANCE

A. CONTRACTOR agrees to indemnify and hold COUNTY, its elected and appointed officials, officers, directors, employees, agents and those special districts and agencies for which COUNTY's Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any claims, liabilities, obligations, judgments, causes of actions, costs and expenses (including reasonable attorneys' fees) (together, "claims") which are asserted against COUNTY arising out of or resulting from CONTRACTOR's performance under this Agreement, where such claims are caused by the negligence, recklessness, or willful misconduct of CONTRACTOR, its officers, employees or agents, except that CONTRACTOR shall not be obligated to indemnify COUNTY or COUNTY INDEMNITEES to the extent that the claims arose from COUNTY's failure to use the CONTRACTOR'S system in accordance with the Documentation or applicable standards of good clinical practice. CONTRACTOR shall defend against and negotiate for settlement and compromise of the same only upon approval of counsel proposed by CONTRACTOR, which approval shall not unreasonably be withheld or delayed, and provided that any settlement or compromise shall provide for a full release of COUNTY. Notwithstanding the foregoing, CONTRACTOR'S obligation under Subparagraph Y, below, shall apply to all third party intellectual property infringement claims, liabilities obligations, judgments, causes of actions, costs and expenses (include reasonable attorneys' fees) asserted against COUNTY arising out of or resulting from the use of the System by COUNTY regardless of CONTRACTOR'S, or its officers', employees' or agents', negligence or misconduct. If judgment is entered against CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active negligence, recklessness, or willful misconduct of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees, agents, directors, members, shareholders and/or affiliates harmless from any claims, liabilities, obligations, judgments, causes of actions, costs and expenses (including reasonable attorney's fees) (together "claims") which are asserted against CONTRACTOR arising out of the use of the System by COUNTY (except for claims that fall within the scope of Subparagraph Y. below) or resulting from COUNTY's performance under this Agreement where such claims are caused by the negligence,

recklessness, or willful misconduct of COUNTY, its officers, employees or agents, except that COUNTY shall not be obligated to indemnify CONTRACTOR, its officers, employees, agents, directors, members, shareholders and/or affiliates if COUNTY has used CONTRACTOR'S system in accordance with the Documentation and applicable standards of good clinical practice. If judgment is entered against COUNTY and CONTRACTOR by a court of competent jurisdiction because of the concurrent active negligence, recklessness, or willful misconduct of CONTRACTOR or its officers, employees, agents, directors, members, shareholders and/or affiliates, COUNTY and CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

C. Except for Subparagraph Y, below, each Party agrees to provide the indemnifying party with written notification of any claim related to this Agreement within ten (10) business days of notice thereof, and in the event the indemnifying party is subsequently named a party to such claim, each party shall cooperate with the indemnifying party in its defense.

D. Prior to the provision of services under this Agreement, the CONTRACTOR agrees to purchase all required insurance at CONTRACTOR's expense, including all endorsements required herein, necessary to satisfy the COUNTY that the insurance provisions of this Agreement have been complied with. CONTRACTOR agrees to keep such insurance coverage in effect during the entire term of this Agreement, and provide Certificates of Insurance and endorsements annually upon renewal to COUNTY during the entire term of this Agreement. In addition, all subcontractors performing work on behalf of CONTRACTOR pursuant to this Agreement shall obtain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR.

E. CONTRACTOR shall ensure that all subcontractors performing work on behalf of CONTRACTOR pursuant to this agreement shall be covered under CONTRACTOR's insurance as an Additional Insured or maintain insurance subject to the same terms and conditions as set forth herein for CONTRACTOR. CONTRACTOR shall not allow subcontractors to work if subcontractors have less than the level of coverage required by COUNTY from CONTRACTOR under this agreement. It is the obligation of CONTRACTOR to provide notice of the insurance requirements to every subcontractor and to receive proof of insurance prior to allowing any subcontractor to begin work. Such proof of insurance must be maintained by CONTRACTOR through the entirety of this agreement for inspection by COUNTY representative(s) at any reasonable time.

F. All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a zero (0) by the appropriate line of coverage.

G. If CONTRACTOR fails to maintain insurance acceptable to the COUNTY for the full term of this Agreement, the COUNTY may terminate this Agreement.

H. QUALIFIED INSURER

    1. The policy or policies of insurance must be issued by an insurer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current

edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).

2. If the insurance carrier does not have an A.M. Best Rating of A-/VIII, the CEO/Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial ratings.

3. The policy or policies of insurance maintained by CONTRACTOR shall provide the minimum limits and coverage as set forth below:

Coverage	**Minimum Limits**
Commercial General Liability	$1,000,000 per occurrence
	$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	$1,000,000 per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	$1,000,000 per occurrence
Network Security & Privacy Liability	$20,000,000 per claims made
Technology Errors & Omissions	$1,000,000 per claims made
	$1,000,000 aggregate
Employee Dishonesty	$1,000,000 per occurrence

I. REQUIRED COVERAGE FORMS

1. The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

2. The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 0012, CA 00 20, or a substitute form providing coverage at least as broad.

J. REQUIRED ENDORSEMENTS – The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds, or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN AGREEMENT*.

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2. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

K. The Network Security and Privacy Liability policy shall contain the following endorsements which shall accompany the Certificate of Insurance:

1. An Additional Insured endorsement naming the County of Orange, its elected and appointed officials, officers, employees, and agents as Additional Insureds for its vicarious liability.

2. A primary and non-contributing endorsement evidencing that the CONTRACTOR's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

L. The County of Orange shall be the loss payee on the Employee Dishonesty coverage. A Loss Payee endorsement evidencing that the County of Orange is a Loss Payee shall accompany the Certificate of Insurance.

M. If CONTRACTOR's Technology Errors & Omissions and/or Network Security & Privacy Liability are "Claims Made" policy(ies), CONTRACTOR shall agree to maintain coverage for two (2) years following the term of this Agreement.

N. The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, its elected and appointed officials, officers, employees, and agents, or provide blanket coverage, which will state *AS REQUIRED BY WRITTEN AGREEMENT*.

O. All insurance policies required by this Agreement shall waive all rights of subrogation against the County of Orange, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

P. CONTRACTOR shall notify COUNTY in writing within thirty (30) calendar days of any policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to COUNTY. Failure to provide written notice of cancellation may constitute a material breach of this Agreement, upon which COUNTY may suspend or terminate this Agreement.

Q. The Commercial General Liability policy shall contain a severability of interests clause also known as a "separation of insureds" clause (standard in the ISO CG 0001 policy).

R. Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

S. If CONTRACTOR fails to provide the insurance certificates and endorsements within seven (7) days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

T. COUNTY expressly retains the right to require CONTRACTOR to increase or decrease insurance of any of the above insurance types throughout the term of this Agreement, which increases

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shall be mutually agreed upon. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect COUNTY.

U. COUNTY shall notify CONTRACTOR in writing of changes in the insurance requirements. If CONTRACTOR does not deposit copies of acceptable Certificates of Insurance and endorsements with COUNTY incorporating such changes within thirty (30) calendar days of receipt of such notice, this Agreement may be in breach without further notice to CONTRACTOR, and COUNTY shall be entitled to all legal remedies.

V. The procuring of such required policy or policies of insurance shall not be construed to limit CONTRACTOR's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement, nor act in any way to reduce the policy coverage and limits available from the insurer.

W. SUBMISSION OF INSURANCE DOCUMENTS

    1. The COI and endorsements shall be provided to COUNTY as follows:

        a. Prior to the start date of this Agreement.

        b. Within ten (10) calendar days of expiration date for each policy.

        c. Within thirty (30) calendar days upon receipt of written notice by COUNTY regarding changes to any of the insurance types as set forth in Subparagraph G. of this Paragraph.

    2. The COI and endorsements shall be provided to the COUNTY at the address as referenced in the Referenced Contract Provisions of this Agreement.

    3. In no cases shall assurances by CONTRACTOR, its employees, agents, including any insurance agent, be construed as adequate evidence of insurance. COUNTY will only accept valid COI's and endorsements

X. COUNTY warrants that it is self-insured or maintains policies of insurance placed with reputable insurance companies licensed to do business in the State of California which insures the perils of bodily injury, medical, professional liability, and property damage. Upon request by CONTRACTOR, COUNTY shall provide evidence of such insurance.

Y. CONTRACTOR warrants that it has authority to grant COUNTY licenses to use the Licensed Software and the solutions provided in the form of Services (the "Licensed Solutions") described in this Agreement and that the Licensed Software and Licensed Solutions do not infringe upon or violate any United States patent, copyright, trade secret, trademark or any other proprietary right of any third party.

    1. In the event of any claim by any third party against the COUNTY with respect to the breach of the foregoing, COUNTY shall within ten (10) business days notify CONTRACTOR in writing. Contingent upon such notification, CONTRACTOR agrees to indemnify and save harmless the COUNTY at the expense of CONTRACTOR from and against any and all suits, judgments, costs, damages, losses, claims, demands, actions, causes of actions, proceedings, expenses or liabilities of any nature which were asserted or brought against or incurred by the COUNTY arising from or out of such claim, whether or not such claim is successful. Contingent upon the notification stated herein and upon COUNTY's approval of counsel proposed by CONTRACTOR, which approval shall not unreasonably

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be withheld or delayed, CONTRACTOR shall defend against and negotiate for settlement or compromise the same; provided, however, that any settlement or compromise shall provide for a full release of COUNTY.

2. If an injunction is obtained against COUNTY's use of any item of Licensed Software or Licensed Solutions by reason of an infringement described above, or if in CONTRACTOR's reasonable opinion any item of Licensed Software or Licensed Solutions is likely to become the subject of a claim of such infringement, CONTRACTOR will at its option and at its own expense procure the right for COUNTY to continue using the item of Licensed Software or Licensed Solutions which is the subject of the infringement claim, replace or modify such item so that it becomes non-infringing while retaining the full functionality in all material respects or grant COUNTY a refund of all fees paid by the COUNTY for the Licensed Software or Licensed Solutions (depreciated over a five-year, straight line basis) in exchange for termination of any related license and the return of such item of Licensed Software or Licensed Solutions.

3. CONTRACTOR shall not have any obligation to COUNTY under any provision of this Paragraph if the infringement claim is based upon the use of any item of Licensed Software or Licensed Solutions in combination with any software program or equipment, or any part thereof, not furnished or recommended in writing by CONTRACTOR, or the use of Licensed Software or Licensed Solutions in an environment in which its operation was not authorized by CONTRACTOR as of the Effective Date.

4. COUNTY'S rights under this Paragraph constitute its sole and exclusive remedy and CONTRACTOR's sole and exclusive obligations with respect to any infringement of any proprietary rights of any third party claimed by virtue of any use by the COUNTY of the Licensed Software or Licensed Solutions.

XIV. INFORMATION MANAGEMENT TOOLS

A. COUNTY acknowledges and agrees that CONTRACTOR has not represented that the System has the ability to diagnose disease, prescribe treatment or perform other tasks that constitute the practice of medicine or of other professional disciplines. COUNTY acknowledges that CONTRACTOR;

1. Has no control of or responsibility for COUNTY's use of the Content, and

2. Has no liability to any person or institution for any change made to data or information added to Content by COUNTY or any party other than CONTRACTOR.

B. In addition, all Content has been developed and reviewed by CONTRACTOR based upon published data and the experiences of qualified professionals whenever possible; however, it is COUNTY'S responsibility to validate all Content against its standard operating procedures, and all federal, state and local regulations. CONTRACTOR will not be responsible for any errors, misstatements, inaccuracies, or omissions in the Content delivered to COUNTY, although every effort has been made to ensure its quality and accuracy. To the extent CONTRACTOR discovers a material

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1 error, misstatement, inaccuracy, or omission in its Content, CONTRACTOR will notify COUNTY
2 through CONTRACTOR's standard notification procedures.
3
4 ### XV. INSPECTIONS AND AUDITS
5 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
6 of the State of California, the Secretary of the United States Department of Health and Human Services,
7 the Comptroller General of the United States, or any other of their authorized representatives, shall have
8 access to any books, documents, and records of CONTRACTOR that are directly pertinent to this
9 Agreement, as necessary to audit and verify CONTRACTOR's charges to COUNTY hereunder. Such
10 persons may at all reasonable times inspect the records.
11 B. CONTRACTOR shall actively participate and cooperate with any person specified in
12 Subparagraph A. above in any evaluation provided pursuant to this Agreement, and shall provide the
13 above–mentioned persons adequate office space to conduct such evaluation.
14 C. AUDIT RESPONSE: If the audit reveals that money is payable from one party to the other, that
15 is, reimbursement by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to
16 CONTRACTOR, said funds shall be due and payable from one party to the other within sixty (60)
17 calendar days of receipt of the audit results. If reimbursement is due from CONTRACTOR to
18 COUNTY, and such reimbursement is not received within said sixty (60) calendar days, COUNTY may,
19 in addition to any other remedies provided by law, reduce any amount owed CONTRACTOR by an
20 amount not to exceed the reimbursement due COUNTY.
21
22 ### XVI. LICENSES AND LAWS
23 A. CONTRACTOR, its officers, agents, employees, and subcontractors shall, throughout the term
24 of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers and
25 exemptions necessary for the provision of the services hereunder and required by the laws and
26 regulations of the United States State of California, COUNTY, and any other applicable governmental
27 agencies. CONTRACTOR shall notify ADMINISTRATOR within five (5) business days and in writing
28 of its inability to obtain or maintain, irrespective of the pendency of any appeal, such permits, licenses,
29 approvals, certificates, waivers and exemptions. Said inability shall be cause for termination of this
30 Agreement.
31 B. CONTRACTOR shall comply with all laws, rules or regulations applicable to the services
32 provided hereunder as any may now exist or be hereafter changed. The cost of compliance with any
33 such laws, rules or regulations will be made free of charge to COUNTY, if made available generally and
34 at no charge to CONTRACTOR's customer base. For federal requirements not made generally
35 available at no charge, the cost of compliance will be prorated among CONTRACTOR's customer base
36 in the United States. If any new requirements apply to COUNTY's state only, the cost of compliance
37 will be prorated among CONTRACTOR's customers in that state for the applicable services. If such

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requirements apply only to COUNTY's county or municipality, the cost of compliance will be charged to COUNTY, provided however that COUNTY shall provide its approval of any required changes prior to CONTRACTOR's making such changes and incurring any associated fees. With respect to the cost of compliance as described in this Paragraph, the cost will be assessed to COUNTY in the form of a one-time fee. For updates to meet federal and state requirements where CONTRACTOR assesses COUNTY fees, CONTRACTOR will provide COUNTY with notice of such fee and documentation citing the applicable laws, rules and/or regulations and requiring such change.

XVII. LITERATURE AND ADVERTISMENTS

A. Any written information or literature, including educational or promotional materials, distributed by CONTRACTOR to any person or organization for purposes directly or indirectly related to this Agreement must be approved in advance and in writing by ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution of written materials shall include, but not be limited to, pamphlets, brochures, flyers, newspaper or magazine ads, and electronic media such as the Internet.

B. Any advertisement through radio, television broadcast, or the Internet, for educational or promotional purposes, made by CONTRACTOR for purposes directly or indirectly related to this Agreement must be approved in advance and in writing by ADMINISTRATOR.

C. If CONTRACTOR uses social media (such as Facebook, Twitter, YouTube or other publicly available social media sites) in support of the services described within this Agreement, CONTRACTOR shall develop social media policies and procedures and have them available to ADMINISTRATOR upon reasonable notice. CONTRACTOR shall inform ADMINISTRATOR of all forms of social media used to either directly or indirectly support the services described within this Agreement. CONTRACTOR shall comply with COUNTY Social Media Use Policy and Procedures as they pertain to any social media developed in support of the services described within this Agreement. CONTRACTOR shall also include any required funding statement information on such social media when required by ADMINISTRATOR.

D. Nothing contained herein shall be construed to prohibit CONTRACTOR from showing the COUNTY as a client on CONTRACTOR's client list or from reporting the transaction pursuant to requirements of appropriate government agencies (e.g., the SEC).

XVIII. MAXIMUM OBLIGATION

A. The Total Maximum Obligation of COUNTY for services provided in accordance with this Agreement is specified in the Referenced Contract Provisions of this Agreement.

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XIX. <u>MINIMUM WAGE LAWS</u>

A. Pursuant to the United States of America Fair Labor Standards Act of 1938, as amended, and State of California Labor Code, §1178.5, CONTRACTOR   shall pay no less than the greater of the federal or California Minimum Wage to all its employees that directly or indirectly provide services pursuant to this Agreement, in any manner whatsoever. CONTRACTOR shall require that all its contractors or other persons providing services pursuant to this Agreement on behalf of CONTRACTOR also pay their employees no less than the greater of the federal or California Minimum Wage.

B. CONTRACTOR shall comply and require its contractors to comply with all other federal and State of California laws for minimum wage, overtime pay, record keeping, and child labor standards pursuant to providing services pursuant to this Agreement.

C. Notwithstanding the minimum wage requirements provided for in this clause, CONTRACTOR, where applicable, shall comply with the prevailing wage and related requirements, as provided for in accordance with the provisions of Article 2 of Chapter 1, Part 7, Division 2 of the Labor Code of the State of California (§§1770, et seq.), as it now exists or may hereafter be amended.

XX. <u>NO HIRE</u>

CONTRACTOR and COUNTY agree that, without the prior consent of the other party, neither will offer employment to or discuss employment with any of the other Parties' associates or employees until one year after this Agreement is terminated, provided the foregoing provision will not prohibit a general non-targeted solicitation of employment in the ordinary course of business or prevent either party from employing any employee who contacts such party at his or her own initiative without any direct or indirect solicitation by or encouragement from such party.

XXI. <u>NONDISCRIMINATION</u>

A. EMPLOYMENT

1. During the term of this Agreement, CONTRACTOR shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Additionally, during the term of this Agreement, CONTRACTOR shall require in its subcontracts that subcontractors shall not unlawfully discriminate against any employee or applicant for employment because of his/her race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

2. CONTRACTOR and its Covered Individuals shall not discriminate against employees or applicants for employment in the areas of employment, promotion, demotion or transfer; recruitment or

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recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship.

3. CONTRACTOR shall not discriminate between employees with spouses and employees with domestic partners, or discriminate between same gender domestic partners and spouses of those employees, in the provision of benefits.

4. CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices from CONTRACTOR and/or the United States Equal Employment Opportunity Commission setting forth the provisions of the Equal Opportunity clause.

5. All solicitations or advertisements for employees placed by or on behalf of CONTRACTOR and/or subcontractor shall state that all qualified applicants will receive consideration for employment without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Such requirements shall be deemed fulfilled by use of the term EOE/Disability/Vet or the phrase "an equal opportunity employer/Disability/Vet".

6. CONTRACTOR shall give written notice of its commitments under this Nondiscrimination Paragraph to each labor union or representative of workers with which CONTRACTOR and/or subcontractor has a collective bargaining agreement or other contract or understanding.

B. SERVICES, BENEFITS AND FACILITIES – CONTRACTOR and/or subcontractor shall not discriminate in the provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status in accordance with Title IX of the Education Amendments of 1972 as they relate to 20 USC §1681 - §1688; Title VI of the Civil Rights Act of 1964 (42 USC §2000d); the Age Discrimination Act of 1975 (42 USC §6101); Title 9, Division 4, Chapter 6, Article 1 (§10800, et seq.) of the California Code of Regulations; and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 USC 2000ff, et seq. as applicable, and all other pertinent rules and regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all may now exist or be hereafter amended or changed. For the purpose of this Nondiscrimination Paragraph, Discrimination includes, but is not limited to the following based on one or more of the factors identified above:

1. Denying a client or potential client any service, benefit, or accommodation.

2. Providing any service or benefit to a client which is different or is provided in a different manner or at a different time from that provided to other clients.

3. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit.

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4. Treating a client differently from others in satisfying any admission requirement or condition, or eligibility requirement or condition, which individuals must meet in order to be provided any service or benefit.

5. Assignment of times or places for the provision of services.

C. COMPLAINT PROCESS – CONTRACTOR shall establish procedures for advising all clients through a written statement that CONTRACTOR's and/or subcontractor's clients may file all complaints alleging discrimination in the delivery of services with CONTRACTOR, subcontractor, and ADMINISTRATOR.

1. Whenever possible, problems shall be resolved informally and at the point of service. CONTRACTOR shall establish an internal informal problem resolution process for clients not able to resolve such problems at the point of service. Clients may initiate a grievance or complaint directly with CONTRACTOR either orally or in writing.

2. Within the time limits procedurally imposed, the complainant shall be notified in writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file an appeal.

D. PERSONS WITH DISABILITIES - CONTRACTOR and/or subcontractor agree to comply with the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, (29 USC 794 et seq., as implemented in 45 CFR 84.1 et seq.), and the Americans with Disabilities Act of 1990 as amended (42 USC 12101 et seq.; as implemented in 29 CFR 1630), as applicable, pertaining to the prohibition of discrimination against qualified persons with disabilities in all programs or activities; and if applicable, as implemented in Title 45, CFR, §84.1 et seq., as they exist now or may be hereafter amended together with succeeding legislation.

E. RETALIATION – Neither CONTRACTOR nor subcontractor, nor its employees or agents, shall intimidate, coerce, or take adverse action against any person for the purpose of interfering with rights secured by federal or state laws, or because such person has filed a complaint, certified, assisted or otherwise participated in an investigation, proceeding, hearing or any other activity undertaken to enforce rights secured by federal or state law.

F. CONTRACTOR shall include the nondiscrimination and compliance provisions of this Nondiscrimination Paragraph in all subcontracts for the direct performance of services under this Agreement.

XXII. **NOTICES**

A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements authorized or required by this Agreement shall be effective:

1. When written and deposited in the United States mail, first class postage prepaid and addressed as specified on Page 4 of this Agreement or as otherwise directed by ADMINISTRATOR;

2. When faxed, transmission confirmed;

3. When sent by electronic mail; or

4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other expedited delivery service.

B. Termination Notices shall be addressed as specified in the Referenced Contract Provisions of this Agreement or as otherwise directed by ADMINISTRATOR and shall be effective when faxed, transmission confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel Service, or other expedited delivery service.

C. Either party, including subcontractors, shall notify the other party, in writing, upon becoming aware of any occurrence of a serious nature which may expose either party or any of such other parties to liability. Such occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or damage to any COUNTY property in possession of CONTRACTOR or any subcontractors.

D. Any and all notices, requests, demands, and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' routine exchange of information and cooperation during the term of the work and services.

E. For purposes of this Agreement, any notice to be provided by COUNTY may be given by ADMINISTRATOR.

XXIII. PROTECTIVE EQUIPMENTS

COUNTY shall supply to CONTRACTOR representatives who work at or visit the COUNTY site the same protective equipment and clothing that COUNTY employees use and wear when operating in the same or comparable environments owned or controlled by the COUNTY.

XXIV. RECORDS MANAGEMENT AND MAINTENANCE

A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term of this Agreement, prepare, maintain and manage records appropriate to the services provided and in accordance with this Agreement and all applicable requirements.

B. CONTRACTOR shall ensure appropriate financial records related to cost reporting, expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.

C. CONTRACTOR shall ensure compliance with requirements applicable to CONTRACTOR pertaining to the privacy and security of personally identifiable information (hereinafter "PII"). CONTRACTOR shall, immediately upon discovery of a Breach of privacy and/or security of PII by CONTRACTOR, notify ADMINISTRATOR of such breach by telephone, email, or facsimile.

D. CONTRACTOR may be required to pay any reasonable costs associated with a Breach of privacy and/or security of PII to the extent such Breach is due to CONTRACTOR's sole fault.

E. CONTRACTOR shall retain all financial records for a minimum of seven (7) years from the commencement of this Agreement, unless a longer period is required due to legal proceedings such as litigations and/or settlement of claims.

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F. CONTRACTOR shall make records available upon request pertaining to the costs of services, participant fees, charges, billings, and revenues available at one (1) location within the limits of the County of Orange.

G. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR may provide written approval to CONTRACTOR to maintain records in a single location, identified by CONTRACTOR.

H. CONTRACTOR may be required to retain all records involving litigation proceedings and settlement of claims respecting this Agreement for a longer term which will be agreed to by the parties.

XXV. SEVERABILITY

If a court of competent jurisdiction declares any provision of this Agreement or application thereof to any person or circumstances to be invalid or if any provision of this Agreement contravenes any federal, state or county statute, ordinance, or regulation, the remaining provisions of this Agreement or the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain in full force and effect, and to that extent the provisions of this Agreement are severable.

XXVI. SITE VISITS AND COUNTY CREDITS

COUNTY agrees that CONTRACTOR may bring its prospective Clients to COUNTY's site in order to observe the System in operation. CONTRACTOR will provide to COUNTY details on the site visit process and responsibilities thirty (30) days prior to conducting a site visit. COUNTY agrees to cooperate fully with CONTRACTOR in these site visits and to brief CONTRACTOR personnel in advance as to the substance of opinions and comments COUNTY intends to give with respect to CONTRACTOR and the System. CONTRACTOR and COUNTY will work cooperatively to minimize disruptions at COUNTY's site and to showcase both COUNTY's institution as well as CONTRACTOR and the System in the best possible light. CONTRACTOR will schedule such visits in advance and only at times mutually acceptable to both COUNTY and to CONTRACTOR. In no event shall CONTRACTOR or any prospective client of CONTRACTOR have access to any Confidential Information of COUNTY or any patient information or other private information. A single site visit may include more than one representative from one or more prospective CONTRACTOR clients. For each site visit hosted, COUNTY may receive credits which may be applied (within twenty-four (24) months from the date of certificate issuance) toward a maximum of thirty percent (30%) of the total list price of Licensed Software, or toward the tuition portion of any CONTRACTOR-sponsored education course (to a maximum of fifty percent (50%) of the tuition for learning services) or to professional services. Such credits are not convertible to cash and may only be used toward the license of Licensed Software, to the payment of tuition for education classes, or to professional services as specified above. The site credits may not be applied toward the acquisition of Equipment or Sublicensed Software, or to defray the cost of Maintenance or Support.

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XXVII. STATUS OF CONTRACTOR

CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement.   CONTRACTOR is entirely responsible for compensating staff, subcontractors, and consultants employed by CONTRACTOR.   This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR's employees, agents, consultants, or subcontractors.   CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents, consultants, or subcontractors as they relate to the services to be provided during the course and scope of their employment.   CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be entitled to any rights or privileges of COUNTY employees and shall not be considered in any manner to be COUNTY employees.

XXVIII. TERM

The term of this Agreement shall commence as specified in the Referenced Contract Provisions of this Agreement or the execution date, whichever is later. This Agreement shall terminate as specified in the Referenced Contract Provisions of this Agreement, unless otherwise sooner terminated as provided in this Agreement; provided, however, each party shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

XXIX. TERMINATION

A. TERMINATION BY COUNTY: COUNTY shall have the right to terminate this Agreement upon written notice to CONTRACTOR upon the occurrence of any of the following events:

1. Contingent Funding

a. Any obligation of COUNTY under this Agreement is contingent upon the following:

1) The continued availability of federal, state and county funds for reimbursement of COUNTY's expenditures, and

2) Inclusion of sufficient funding for the services hereunder in the applicable budget approved by the Board of Supervisors.

b. In the event such funding is subsequently reduced or terminated, COUNTY may terminate or renegotiate this Agreement upon one hundred twenty (120) calendar day written notice given CONTRACTOR. COUNTY agrees to provide CONTRACTOR reasonable notice of any changes in funding and to pay CONTRACTOR for any ongoing work being performed by CONTRACTOR through to a reasonable point of termination. COUNTY agrees to return the portion of any products to CONTRACTOR not paid for in full should funding for this initiative be discontinued.

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2. Breach of Agreement

a. The failure to comply with any of the material articles, conditions, covenants, or provisions of this Agreement shall be a material breach of this Agreement and shall constitute grounds for termination of this Agreement, provided that in such event of a material breach by CONTRACTOR, COUNTY's ADMINISTRATOR:

1) Shall notify CONTRACTOR in writing of the breach and afford CONTRACTOR:

a) ten (10) calendar days within which to cure the breach before COUNTY will exercise its right to terminate this Agreement, or

b) sixty (60) calendar days within which to cure the breach if such breach is related to an error in the Licensed Software.

b. In the event of a material breach, ADMINISTRATOR may, in its sole discretion and in addition to any other remedies available at law, in equity or otherwise specified in this Agreement, discontinue payment to CONTRACTOR (but CONTRACTOR shall continue to perform its other obligations hereunder) for and during the period in which CONTRACTOR is in breach.

c. In the event of a material breach, ADMINISTRATOR may offset against any monies billed by CONTRACTOR but yet unpaid by COUNTY those monies disallowed pursuant to Subparagraph b., above.

3. Insolvency

a. CONTRACTOR becomes insolvent or has availed itself of, or has been subjected to by any third party, a proceeding in bankruptcy, in which CONTRACTOR is named debtor and same has not been discharged or terminated within sixty (60) calendar days; and/or

b. CONTRACTOR liquidates, dissolves, or ceases doing business.

B. TERMINATION BY CONTRACTOR: CONTRACTOR shall have the right to terminate this Agreement upon written notice to COUNTY upon the occurrence of any of the following events:

1. Breach of Agreement: The failure to comply with any of the material articles, conditions, covenants, or provisions of this Agreement shall be a material breach of this Agreement. In such event of a material breach by COUNTY, CONTRACTOR:

a. Shall afford COUNTY written notice of the breach and such reasonable time as may be necessary (not to exceed sixty (60) days absent CONTRACTOR's written approval) to cure the breach thereafter; and

b. May, in its sole discretion and in addition to any other remedies available at law, in equity or otherwise specified in this Agreement, discontinue services to COUNTY for and during the period in which COUNTY is in breach.

2. Insolvency: COUNTY becomes insolvent or has availed itself, or has been subjected to by any third party, a proceeding in bankruptcy, in which COUNTY is named debtor and same has not been discharged or terminated within sixty (60) calendar days.

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3. In the event that this Agreement is terminated due to an uncured default of the COUNTY's hereunder, CONTRACTOR may declare all Agreement payments to the end of the COUNTY's then current fiscal year to be due, including any delinquent Agreement payments from prior budget years. In no event shall CONTRACTOR be entitled to the remedy of acceleration of the total Agreement payments due over the term of this Agreement. The parties acknowledge and agree that the limitations set forth above are required by Article 16, §l8 of the California Constitution. Notwithstanding the foregoing, CONTRACTOR may have other rights or civil remedies to seek relief due to the COUNTY's default under this Agreement. Such rights or remedies may include a right to continue the COUNTY's responsibility to perform under this Agreement and sue for payments as they become due.

C. RIGHTS UPON TERMINATION DUE TO MATERIAL BREACH: If this Agreement terminates pursuant to Subparagraph XXIX.A.2., the following shall apply:

1. COUNTY shall identify all copies of the Licensed Software furnished hereunder.

2. Within thirty (30) calendar days after receiving notice from COUNTY that the Licensed Software, and any other products provided by CONTRACTOR that COUNTY has not paid for, are available in a secure location at COUNTY's site for pick-up by CONTRACTOR, CONTRACTOR shall within thirty (30) calendar days refund to COUNTY payments made for the Licensed Software hereunder (depreciated over a five-year straight line basis). COUNTY shall then within thirty (30) calendar days release to CONTRACTOR the materials described above. CONTRACTOR shall be responsible for the costs of removal of such items.

D. ORDERLY TERMINATION:

1. After receipt of a written Notice of Termination by COUNTY or a Notice of Termination by CONTRACTOR, CONTRACTOR shall submit to COUNTY a termination invoice. Such invoice shall be submitted no later than thirty (30) calendar days from the effective date of termination, unless one or more extensions in writing are granted by COUNTY upon request of CONTRACTOR made in writing within such thirty (30) calendar day period or authorized extension thereof. Upon any such termination, COUNTY agrees to pay CONTRACTOR for all products and services delivered or performed prior to termination, which meet the requirements of this Agreement provided, however, that such compensation shall not exceed the total compensation set forth in this Agreement as the total compensation may be reduced by payments already otherwise made and as further reduced by work not terminated.

2. Upon such termination or other expiration of this Agreement, each party shall within thirty (30) calendar days return to the other all papers, materials and other properties and Confidential Information of the other held by each for purposes of execution of this Agreement. In addition, each party will assist the other party in orderly termination of this Agreement and the transfer of all assets, tangible and intangible, as may be necessary for the orderly, non-disrupted business continuation of each party.

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E. TERMINATION OF SUPPORT SERVICES: Without affecting COUNTY's termination rights in connection with an uncured material breach by CONTRACTOR, COUNTY may not terminate Support before the end of twelve (12) months after First Productive Use of the applicable Licensed Software, provided however, after such period, COUNTY may terminate Support for any module of Licensed Software currently in place through this Agreement upon ninety (90) calendar days prior written notice to CONTRACTOR. CONTRACTOR may terminate Support for any module of Licensed Software currently in place through this Agreement upon ninety (90) calendar days prior written notice if COUNTY:

1. Fails to install the most current New Release of an item of Licensed Software within twenty-four (24) months of the date CONTRACTOR makes such release generally available to its clients, or

2. Fails to pay invoices and fails to cure such failure within thirty (30) calendar days of written notice from CONTRACTOR, or

3. Fails to upgrade to a current Release if any third-party products which are material to the productive use by the Licensed Software are no longer supported by the third-party suppliers (i.e., if a third-party product upgrade is required by a third-party supplier, CONTRACTOR will extend this upgrade requirement to COUNTY). CONTRACTOR will have no obligation to provide assistance with problems caused by Equipment or Sublicensed Software failure where COUNTY is not on Maintenance with CONTRACTOR.

F. TERMINATION OF MAINTENANCE SERVICES: Without affecting COUNTY's termination rights in connection with an uncured material breach by CONTRACTOR, either party may terminate Maintenance upon sixty (60) calendar days prior written notice except as otherwise provided by the supplier. CONTRACTOR shall, however, only terminate Maintenance services in the event that;

1. COUNTY fails to pay invoices for Maintenance and fails to cure such failure within thirty (30) days of written notice thereof, or

2. CONTRACTOR's Third Party Maintenance Suppliers refuse to provide Maintenance to COUNTY due to COUNTY's failure to maintain a specified environment. Such termination of Maintenance shall be effective upon the renewal date. All unpaid charges under this Paragraph shall become immediately due and payable upon such termination.

G. Upon earlier termination of this AGREEMENT, CONTRACTOR's and COUNTY's obligations pursuant to the Payments Paragraph of Exhibit A to this Agreement shall be adjusted to reflect the early termination. The termination or expiration of this Agreement shall not affect in any way the duties that either party owes the other party, pertaining to services provided during the term of this Agreement which would or could extend beyond the date this Agreement terminates or expires.

H. REMEDIES NOT EXCLUSIVE: Except as otherwise expressly provided herein, the right to terminate this Agreement and the other remedies for breach set forth in this Agreement are cumulative as to one another and as to any others provided by law, rather than exclusive; and, except as otherwise

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expressly provided herein the expression of certain remedies in this Agreement does not preclude resort by either party to any other remedies provided by law.

I.   FORCE MAJEURE: Neither party shall be assessed with liquidated damages or held in breach during any delay beyond the time named for the performance of this Agreement caused by an act of God, war, civil disturbance, labor dispute, or other similar cause beyond its reasonable control, provided such party gives the other party written notice of the cause of the delay within ten calendar days of the start of the delay. Notice shall be given in accordance with Paragraph XXII. of this Agreement.

XXX. WAIVER OF DEFAULT OR BREACH

Waiver of any default shall not be considered a waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver of any default or any breach shall not be considered a modification of the terms of this Agreement.

XXXI. WARRANTIES

A. EQUIPMENT, SOFTWARE, AND SYSTEM

1. Pass-Through Provisions: CONTRACTOR shall assign and pass through to COUNTY any Equipment and/or Sublicensed Software end-user warranties as set forth by the supplier of such Equipment and/or Sublicensed Software in Exhibit E. CONTRACTOR shall interface directly with said supplier of any Equipment and/or Sublicensed Software in the event of any breach of any such warranty as COUNTY may notify CONTRACTOR.

2. CONTRACTOR's Warranty: CONTRACTOR warrants that, beginning upon the date of First Productive Use and extending during such period as COUNTY is on Support, the Licensed Software will perform in all material respects the functions described in the applicable Product Descriptions or Documentation when operated in accordance with the Documentation and in the environment for which CONTRACTOR designed the Licensed Software to operate.

a. In the event of a breach of this warranty, CONTRACTOR will repair or replace the failing item of Licensed Software so that it does perform in accordance with such warranty.

b. If, however, after repeated efforts (not to exceed three months from the date CONTRACTOR receives written notice from COUNTY concerning the warranty breach), CONTRACTOR is unable to repair or replace the failing item of Licensed Software so that it performs in accordance with such warranty and the failing item of Licensed Software is material to the operation of the entire System, COUNTY may, at CONTRACTOR's expense, return the failing item of Licensed Software and receive a refund of all license fees paid for the item of Licensed Software (calculated on a five year straight line depreciated basis) as well as the System Support fees paid for the item of Licensed Software since the failure was first reported to CONTRACTOR. COUNTY's rights under this

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Paragraph constitute its sole and exclusive remedy and CONTRACTOR's sole and exclusive obligations with respect to any breach of this warranty.

      3. <u>CONTRACTOR Disclaimer of All Other Warranties</u>: The CONTRACTOR warranties contained in this Agreement and the Exhibits hereto extend to and are for the benefit of COUNTY and its permitted successors and assigns only. Unless otherwise provided in this Agreement, including the Exhibits thereto, CONTRACTOR makes no representations or warranties concerning either the Equipment, the Sublicensed Software (or other programs supplied to COUNTY by CONTRACTOR and which are directly licensed to COUNTY by a third party, or which are supplied by a third party to COUNTY), the Licensed Software, the System, subscription services, Maintenance or Support, nor does CONTRACTOR undertake any further obligations whatsoever. The foregoing warranties are in lieu of, and CONTRACTOR hereby expressly disclaims, all other warranties, both express and implied, including but not limited to the implied warranties of merchantability and of fitness for a particular purpose and non- infringement with respect to any and all products or services (or portions thereof provided hereunder.

B. Each party represents and warrants that the person executing this Agreement on behalf of and for such party is an authorized agent who has actual authority to bind such party to each and every term, condition and obligation of this Agreement and that all requirements of such party have been fulfilled to provide such actual authority.

XXXII. WORK PRODUCT

Title to all Work Product is and will remain the sole and exclusive property of CONTRACTOR. CONTRACTOR may use such Work Product for internal purposes as well as for other clients, so long as CONTRACTOR does not use any Confidential Information belonging to COUNTY. CONTRACTOR hereby grants to COUNTY a non-exclusive, non-transferable license to use the Work Product supplied to COUNTY by CONTRACTOR for COUNTY's own internal purposes and for no other purpose whatsoever.

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1   IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange,
2   State of California.
3
4   CERNER CORPORATION
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6
7
8   BY: _Teresa Waller_____   DATED: 11/22/2021_____
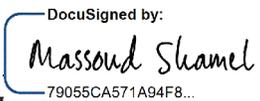   B10ED247A5B4451...
9
10   TITLE: __Sr Director, Contract Management_____
11
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16
17   COUNTY OF ORANGE
18
19
20
21   BY: _____   DATED: _____
22   HEALTH CARE AGENCY
23
24
25
26
27   APPROVED AS TO FORM
28   OFFICE OF THE COUNTY COUNSEL
29   ORANGE COUNTY, CALIFORNIA
30
31
32   BY: _Massoud Shamel_____   DATED: 11/23/2021_____
         79055CA571A94F8...
33   DEPUTY
34
35   If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
     President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
36   or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
     or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
37   signature alone is required by ADMINISTRATOR.

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EXHIBIT A

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

I. **DEFINITIONS**

A.   The Parties agree to the following terms and definitions, and to those terms and definitions which, for convenience, are set forth elsewhere in the Agreement:

1.   Agreement shall mean this Agreement, the signature page, any amendments, Exhibits and Attachments.

2.   At Risk Amount shall mean the maximum amount of Service Level Credits (SLCs) that CONTRACTOR may allocate to the COUNTY for Service Level Failures (SLFs) in any given month, and is calculated by multiplying that month's actual monthly AMS fee by the risk percentage.

3.   Attachment shall mean any document so designated and affixed to and made part of this Agreement or any Exhibit to this Agreement.

4.   Business Day shall mean Monday through Friday 8am to 5pm Central Standard Time, excluding CONTRACTOR recognized holidays.

5.   CONTRACTOR shall mean Cerner Corporation, a Delaware corporation, and its permitted successors and assigns.

6.   Confidential Information shall mean all technical, business, financial and other information that is disclosed by either party to the other, whether orally or in writing, all individually-identifiable patient information, information relating to the status of installation or Implementation of the System, the System, Work Product and all non-publicly available information related to CONTRACTOR products, services and/or methodologies. "Confidential Information" will not include any information:

a.   That is publicly available through no breach of this Agreement by COUNTY or CONTRACTOR,

b.   That is independently developed or was previously known by COUNTY or CONTRACTOR,

c.   That is rightfully acquired by COUNTY or CONTRACTOR from a third party who is not in breach of an agreement to keep such information confidential, or

d.   That is subject to disclosure pursuant to Paragraph IV. of this Exhibit A.

7.   Configuration Change shall mean a requested change to a reference build.

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8. <u>Content</u> means the methodologies, knowledge-based healthcare assessments and clinical pathways, medical vocabularies, third party software rules and alerts, and insights provided by Cerner under this Agreement.

9. <u>COUNTY</u> shall mean the County of Orange, a political subdivision of the State of California.

10. <u>Data</u> means all (a) data that is collected, stored, or generated through the use of the Licensed Software and (b) CONTRACTOR-requested data that is not collected, stored, nor generated through the use of any Licensed Software, in each case requested by CONTRACTOR and subsequently transmitted to, or retrieved by CONTRACTOR for storage.

11. <u>Designated Facility</u> shall mean the COUNTY location that will house the host data center and the host Licensed Software identified in Exhibit F of the Agreement.

12. <u>Documentation</u> shall mean the printed and on-line materials that assist COUNTY in using the System. CONTRACTOR and its suppliers reserve the right to modify Documentation to reflect changes in Sublicensed Software and Licensed Software during the life of the Agreement, none of which shall adversely affect the operation or specifications for the System.

13. <u>Effective Date</u> shall mean the date on which this Agreement becomes effective and is set forth on the Signature Page.

14. <u>Equipment Operating System Sublicensed Software</u> shall mean the operating system software.

15. <u>Escrow Agreement</u> shall mean the Source Code Escrow Agreement referenced in Subparagraph VIII.F.4 below.[DJ2].

16. <u>First Productive Use</u> shall mean with respect to a module of Licensed Software or the entire System, COUNTY's first use of such module or the System, as the case may be, to send patient, health plan or materials information for clinical, financial or operational use, excluding beta, testing or other non-operational use.

17. <u>Full Time Equivalents (FTE)</u> shall mean the sum of all categories of full time personnel working for the County of Orange, Health Care Agency. Full Time Equivalents are calculated on the basis that two part-time persons equal one full-time person.

18. <u>Implementation</u> shall mean the process by which the Licensed Software and System are optimized for use in COUNTY's clinical, financial and administrative environment.

19. <u>Incident</u> shall mean an unplanned interruption or reduction in quality of a CONTRACTOR production solution or service.

20. <u>Licensed Software</u> shall mean the machine readable forms of specific computer software programs developed by CONTRACTOR and all items of Documentation supplied by CONTRACTOR with respect to the computer software program portion of the Licensed Software. It also includes any New Releases to which COUNTY is entitled under this Agreement, as well as any Content and Computer-Based Training (CBT) computer software developed by CONTRACTOR. Except as provided

EXHIBIT A

CERNER CORPORATION

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in Escrow Agreement, "Licensed Software" shall not include source code of any kind, nor shall it include Sublicensed Software or any program licensed to COUNTY by any third party.

21. "Lights On" is a reference to a web-based CONTRACTOR module that is used to create benchmarks for system performance across all CONTRACTOR clients and is used for comparative purposes.

22. Limited Term Employee shall mean employees of HCA that are not classified as FTEs and are hired for a specific time period and project and who are paid with grant money received by COUNTY specific to the project.

23. Maintenance shall mean the services provided to COUNTY for Equipment and Sublicensed Software set forth in Exhibit F to this Agreement. Relevant pass-through provisions regarding specific services may be provided by a Maintenance supplier.

24. Material Error shall mean either an error that adversely affects operation of the entire System or that creates a serious loss of functionality important in the daily operation of a single module (e.g., Blood Bank) and for which a work around is not available.

25 Measurement Period shall mean the first month following the Transition Period and each full month thereafter during the Term.

26. New Release shall mean the distinctly identified (e.g. Release HNAM.2000.XX for CONTRACTOR products), comprehensive collection and packaging of an upgrade or modification to the Licensed Software and supporting Documentation components at a distinct point in time within a product's life cycle that CONTRACTOR makes generally commercially available.

27. Payers shall mean entities, including but not limited to, clearinghouses, print facilities and insurance carriers that receive Transactions submitted by Clients through the Transaction Services as identified from time to time by CONTRACTOR.

28. Permitted Facility shall mean an entity identified as such in Exhibit F.

29. Permitted User or User shall mean authorized employees of COUNTY and its authorized third party contractors and providers which have access to the System and who will have a unique password and sign-on ID.

30 Problem shall mean the root cause of one or more existing or potential Incidents.

31. Product Descriptions shall mean the Software Product Descriptions (SPD's) for the System.

32. Provider shall mean a member of a healthcare team whose services are billable to at least one Payer or health plan.

33. Scope of Use shall mean the limitations on COUNTY's use of the System.

34. Service Level Agreement (SLA) shall mean the duration CONTRACTOR will have to resolve/update each incident/request that will have penalties associated.

35. Service Level Agreement (SLA) shall mean the duration CONTRACTOR will have to resolve/update each incident/request that will have penalties associated.\

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36. Service Level Objective (SLO) shall mean a goal for the duration CONTRACTORT will have to resolve/update each incident/request that will have penalties associated.

37. SolutionWorks shall mean CONTRACTOR'S level three (3) support organization focused on providing a personal, positive support experience for CONTRACTOR clients; effectively detecting, preventing, responding to, and resolving issues. SolutionWorks provides deep troubleshooting and resolution to complex system issues.

38. Sublicensed Software shall mean all Equipment Operating System Sublicensed Software and Third Party Application Sublicensed Software and/or third party content.

39. Submitter ID shall mean a department or facility requiring independent invoices.

40. Support shall mean CONTRACTOR's ongoing effort to keep the Licensed Software set forth in Exhibit B, in working order in compliance with the Product Descriptions or to sustain the useful life of the System, including technical services which require contact with COUNTY or its Permitted Users of the System in person, via electronic mail or telephone, in order to help the COUNTY or its Permitted Users resolve a problem that such COUNTY has reported. Support in the Agreement shall also encompass Managed Services, Shared Computing Services, Application Service Providers, Subscriptions, Term Licensed Software and Transaction Services.

41. System shall mean the Equipment, Sublicensed Software and Licensed Software which collectively constitute the discrete Integrated Health Management Information System that has the functionality and conforms to the needs of the COUNTY.

42. Ticket shall mean the work requested by COUNTY for CONTRACTOR to troubleshoot and repair, or add configuration changes to the productions solutions.

43. Third Party Application Sublicensed Software shall mean any application software and databases not proprietary to CONTRACTOR.

44. Transactions shall mean transactions submitted by Client for the Transaction Services, whether or not a Payer accepts or favorably adjudicates such transactions.

45. Transition Period shall mean the period of time required to transition AMS from COUNTY'S current supplier to CONTRACTOR. The Transition Period is up to three (3) months from the initial transition event. COUNTY agrees that it will direct its current supplier to cooperate in good faith with CONTRACTOR and provide all information and assistance necessary for CONTRACT to complete the transition.

46. Work Product shall mean any customized or custom computer software programs, Documentation, techniques, methodologies, inventions, analysis, frameworks, software, or procedures developed, conceived or introduced by CONTRACTOR in the course of or as the result of CONTRACTOR performing professional services, installation services, Implementation services, issue resolution or other Support services, whether acting alone or in conjunction with COUNTY or its employees, affiliates or others.

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B. CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to modify the Definitions Paragraph of this Exhibit A to the Agreement.

II. PATENT / COPYRIGHT MATERIALS

Unless otherwise expressly provided in this Agreement, CONTRACTOR shall be solely responsible for clearing or securing the right to use any patented or copyrighted materials included in the Licensed Software supplied by or through CONTRACTOR in the performance of this Agreement.

III. TITLE OF DATA

All materials, documents, Data, source code for data structures, or information obtained from COUNTY data files or any COUNTY medium furnished to CONTRACTOR in the performance of this Agreement will at all times remain the property of COUNTY. Such Data or information may not be used or copied for direct or indirect use by CONTRACTOR after completion or termination of this Agreement. All materials, documents, Data, or information, including copies, must be returned to COUNTY at the end of this Agreement.

IV. CALIFORNIA PUBLIC RECORDS ACT

A. Agreements and their derivative materials may be subject to public disclosure pursuant to the California Public Records Act. Specifically, since agreements and their contents become the exclusive property of COUNTY, they may be considered a matter of public record and may be regarded as public records. Certain exceptions may be those elements of each agreement, which are denoted trade secrets as that term is defined in California Government Code Section 6254.7 and which are so marked as "Trade Secret," "Confidential" or "Proprietary." If it is necessary to include proprietary/trade secret information in any of CONTRACTOR's documents, COUNTY recommends that CONTRACTOR clearly and prominently mark the information it believes falls into this category. COUNTY is not the owner of the trade secret, nor the agent or employee of CONTRACTOR, and therefore cannot refuse to disclose the information requested under a Public Record Act request.

B. In the event of a request for such records, COUNTY shall notify CONTRACTOR within forty eight (48) hours if disclosure is requested of the designated property/trade secret information, in order to permit CONTRACTOR to seek a court order, or other relief it deems necessary to prevent disclosure.

V. PAYMENTS

A. BASIS FOR REIMBURSEMENT – As compensation to CONTRACTOR for the Services described in this Exhibit A, and in Exhibits B and E of this Agreement, which amount shall be inclusive of applicable sales tax, COUNTY shall pay CONTRACTOR monthly in arrears; provided, however, that the total of such payments shall not exceed the COUNTY's Maximum Obligation per period. The actual monthly amount paid to CONTRACTOR shall be determined by the Equipment, Licensed Software, and

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Sublicensed Software inventories set forth in Exhibits B and E of this Agreement, which may be amended, in writing, by mutual agreement of the Parties.

Description	One-Time Fees	Monthly Fees
SOLUTIONS		
Licensed Software	36,401.00	- -
Software Support	- -	487.00
Subscription Services	- -	334.00
(Application Services (ASP)	120,000.00	10,000.00
Shared Computing Services	44,500.00	3,716.00
EQUIPMENT		
Equipment and Installation (if applicable)	1,488.46	- -
SUBLICENSED SOFTWARE		
Sublicensed Software and Installation (if applicable)	36,000.00	- -
Sublicensed Software Maintenance – Year 1 Total	5,760.00	- -
Sublicensed Software Maintenance -Year 2 Total	2,400.00	
PROFESSIONAL SERVICES		
Fixed Fee	1,299,463.00	- -
TOTALS:	**1,543,612.46**	**14,537.00**

ONE-TIME FEES

Description	Payment Number	Percent (%) Of Total Due	Payment Due
Licensed Software	1	50%	On the Effective Date
	2	50%	90 days following the Effective Date
Application Services	1	100%	On the Effective Date
Shared Computing Services	1	100%	On the Effective Date
Equipment	1	100%	Upon Shipment
Sublicensed Software and Installation (if applicable)	1	100%	Upon Shipment
Professional Services: Fixed Fee	1	50%	On the Effective Date
	2	25%	90 days following the Effective Date
	3	25%	180 days following the Effective Date

MONTHLY RECURRING FEES

Description	Percent (%) Of Total Due	Payment Due
Software Support	100%	Monthly in arrears
Subscription Services	100%	Monthly in arrears
Application Services	100%	Monthly in arrears
Shared Computing Services	100%	Monthly in arrears
Sublicensed Software Maintenance	100%	Monthly in arrears

2.   The above listed amounts may be amended, in writing, by mutual agreement of the Parties as necessary throughout the term of the Agreement based upon amendment, in writing, by mutual agreement of the Parties, of the inventories set forth in Exhibits B and F of the Agreement.

3.   The amounts referenced in Subparagraph V.A.1. above, shall be deemed payment in full for Support Services and Maintenance fees for all Equipment, Sublicensed Software, Licensed Software,

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Subscriptions, Term Licensed Software, Shared Computing Services, Managed Services, Application Service Providers, and Transaction Services purchased through CONTRACTOR and in First Productive Use as of the date of execution through the termination date, as such dates are identified in the Referenced Contract Provisions Paragraph of the Agreement.

4. Both parties agree that should COUNTY receive any computer software purchased from CONTRACTOR and/or CONTRACTOR's Subsidiaries electronically, these transactions are sales tax exempt under California Code Regulation 1502 (f) (1) (D).

B. PAYMENT METHOD

1. CONTRACTOR shall submit a single invoice per month, in arrears, per category as follows: Licensed Software Support, Equipment Maintenance, Subscription Services, Application Services Provider (ASP) and Shared Computing Services, Managed Services, Application Management Services, Transaction Services (with the exception of any overage charges that may apply), and Sublicensed Software Maintenance.

2. COUNTY shall pay CONTRACTOR upon receipt of a properly completed invoice, in arrears, within thirty (30) calendar days following the end of each coverage month. CONTRACTOR'S billings shall be on a form approved or supplied by ADMINISTRATOR and provide such information as is required by ADMINISTRATOR.

C. All billings to COUNTY shall be supported, at CONTRACTOR'S facility, by source documentation including, but not limited to, ledgers, journals, time sheets, invoices, bank statement, canceled checks, receipts, receiving records, and records of service provided.

D. ADMINISTRATOR may withhold or delay any payment due CONTRACTOR if CONTRACTOR fails to comply with any material provision of this Agreement; provided, however, CONTRACTOR has been given written notice of the alleged breach and has failed to cure the alleged breach within thirty (30) calendar days.

E. CONTRACTOR shall not claim reimbursement for services provided beyond the expiration and/or termination of the Agreement, except as may otherwise be provided under this Agreement.

F. CONTRACTOR shall be responsible for providing acceptable invoices to ADMINISTRATOR for payment and obtaining prior approvals as required herein. Incomplete or incorrect invoices shall be returned to CONTRACTOR for correction. Documentation, including but not limited to copies of receipts, shall be required by ADMINISTRATOR along with the supporting invoices.

G. COUNTY shall pay all Equipment, Licensed Software, Sublicensed Software and Support Services, monthly Maintenance and Support fees for each prospective year, beginning July 1 of each year, in which the Agreement shall be in effect, after the parties review and mutually agree, in writing, on the Equipment, Licensed Software, Sublicensed Software and Support Services inventory for which Support and Maintenance will be provided in the next fiscal year, including the costs of said Support and Maintenance, from July 1 and extending through June 30. The Parties agree that costs associated with the purchase of additional equipment, licensed software, sublicensed and/or software Support Services, and

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corresponding maintenance, may be included in the inventory to be authorized and expended at sole discretion of ADMINISTRATOR, as referenced in Subparagraphs V.A.1.a.1., V.A.1.a.2., V.A.1.a.7., V.A.1.b.6., V.A.1.b.7.a., V.A.1.b.7.b., V.A.1.c.1., V.A.1.c.2., V.A.1.c.7., and V.A.2..

H. COUNTY acknowledges and agrees that CONTRACTOR may assign its interest in or otherwise grant a security interest in payments due pursuant to this Agreement in whole or in part to an assignee. COUNTY shall acknowledge every such assignment or granting of a security interest as shall be designated by written notice given by CONTRACTOR to COUNTY. CONTRACTOR will continue to perform its obligations under this Agreement to COUNTY following such assignment or granting of a security interest.

VI. REPORTS AND MEETINGS

A. CONTRACTOR shall submit, on forms provided or approved by ADMINISTRATOR, financial and/or programmatic reports as requested by ADMINISTRATOR concerning CONTRACTOR's activities as they relate to the Agreement. ADMINISTRATOR will be specific as to the nature of the information requested and allow thirty (30) calendar days for CONTRACTOR to respond.

B. In order to implement the requirement above, COUNTY's Project Director, ADMINISTRATOR, and CONTRACTOR's Project Director will meet periodically at COUNTY's offices on reasonable notice to discuss each party's performance and progress under this Agreement. If requested, CONTRACTOR's Project Director and other project personnel shall attend all such meetings. Each party shall provide such information that is requested by the other party for the purpose of monitoring progress under this Agreement.

VII. RESPONSIBILITY OF CONTRACTOR

A. CONTRACTOR shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall perform such professional services as may be necessary to accomplish the work required to be performed under this Agreement and in accordance with this Agreement.

B. CONTRACTOR shall provide services and other relevant documents necessary to complete the services and fulfill the requirements as set forth within this Agreement.

C. CONTRACTOR and COUNTY will make commercially reasonable efforts to make sure that all persons employed by either party have satisfactory qualifications indicating their ability to accept the kind of responsibility anticipated in the type of work and services set forth hereunder.

VIII. SERVICES

A. CONTRACTOR shall provide Maintenance and Support Services as described in this Exhibit A, and Exhibits B and F to the Agreement, and COUNTY shall reimburse CONTRACTOR for said Maintenance and Support Services as outlined in Paragraph V. of this Exhibit A to the Agreement.

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B.   Both parties agree that COUNTY shall no longer purchase maintenance on certain Hewlett Packard ('HP') Equipment and Sublicensed Software supporting the System through CONTRACTOR and that CONTRACTOR shall continue to support all other contracted Equipment, Licensed Software and Sublicensed Software at levels specified in this Agreement. If COUNTY experiences issues with any CONTRACTOR software after loading HP code releases or patches, CONTRACTOR agrees to provide support to COUNTY; provided, however, that if the issue is found to be related to HP Equipment or Sublicensed Software, COUNTY shall reimburse CONTRACTOR as mutually agreed upon by both parties. If this issue is found to be related to CONTRACTOR's Licensed Software or Sublicensed Software Supported or Maintained directly by CONTRACTOR, then there shall be no additional charge to COUNTY for the Support or Maintenance. CONTRACTOR shall continue to test and validate all software patches, releases, and updates released by HP related to CONTRACTOR supported Licensed Software and Sublicensed Software and provide recommendations to COUNTY for any necessary installations. COUNTY will not load any software patches and/or perform any HP equipment upgrades or replacements without prior written concurrence and approval from CONTRACTOR. HP may release software patches, releases and updates on an ongoing basis as part of HP's normal product lifecycle management and provide recommendations to COUNTY regarding installation of such patches, releases and updates in accordance with generally accepted industry standards.

C.   LICENSED SOFTWARE SUPPORT:

1.   Support for the Licensed Software shall consist of preventative maintenance, remedial maintenance and correction of defects with respect to the Licensed Software during the period for which COUNTY pays for Support and shall continue until terminated as provided in the Agreement. CONTRACTOR shall provide qualified trained service personnel for performing Support bug fixes and software replacement services in the event of Licensed Software failure. CONTRACTOR shall respond pursuant to the procedures regarding reported problems in Paragraph IX. of this Exhibit A to the Agreement to prioritize and categorize System Maintenance and Support. CONTRACTOR shall maintain and, upon request of COUNTY, furnish COUNTY with a written malfunction incident report as provided for in Paragraph IX. of this Exhibit A to the Agreement. In the event of the occurrence of any critical problem of the type described in Paragraph IX. of this Exhibit A to the Agreement, which is not resolved within twenty four (24) hours, COUNTY may require that CONTRACTOR provide on-site technical support personnel at no additional cost; provided, however, that CONTRACTOR shall not be obligated to provide such on-site technical support if it can demonstrate to COUNTY, in COUNTY's reasonable discretion, that such on-site technical support is not necessary or would not help to resolve such critical problem.

2.   Support Fees: In the event that COUNTY's Scope of Use count increases, based upon mutual agreement of the Parties, during the term of the Agreement (notwithstanding the terms of Paragraph G. of Exhibit B to the Agreement) in an amount that exceeds the current Scope of Use limits

outlined in Paragraph C. of Exhibit B to this Agreement, this count increase, in addition to any other increased costs, shall become the new base line figures which may increase the total costs of Support Fees, provided that COUNTY has paid CONTRACTOR the applicable Scope of Use expansion fees.

3. <u>New Releases</u>: CONTRACTOR shall furnish COUNTY with New Releases of the Licensed Software so long as COUNTY remains on Support. The New Release shall be offered to the COUNTY in written form (CD) or in electronic form through cerner.com not later than the first date the New Release is available for sale or use by any other commercial customer of CONTRACTOR. Except as set forth in Subparagraph XXIX.F. of the Agreement, COUNTY shall have no obligation to implement any New Release. The obligation of CONTRACTOR under this Paragraph to provide notice to COUNTY of the existence and availability of any New Release is not contingent or dependent upon COUNTY's purchase of Support at any time during the New Release. All New Releases made by CONTRACTOR during the Support period shall be developed so that the New Releases are fully compatible with the then existing Licensed Software, as well as any previously installed New Releases. At the time it delivers and commences the installation of any New Release, CONTRACTOR shall also deliver the revised Documentation. The price of each New Release is included in the Support fee, but does not include additional Equipment or CONTRACTOR Implementation services related thereto.

D. ADDITIONAL SERVICES: CONTRACTOR shall charge COUNTY for any such additional services or assistance. If COUNTY requests such additional services, CONTRACTOR shall inform COUNTY that the services requested constitute additional services. Upon written approval by COUNTY in the form of an amendment to this Agreement, CONTRACTOR shall provide the requested service at an amount mutually agreed upon by both Parties.

E. SOFTWARE LICENSE:

1. <u>License Grant</u>**:** Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable, fully paid, irrevocable and perpetual license to use the Licensed Software solely as specified in this Agreement. This license shall include all New Releases to the Licensed Software provided pursuant to the terms of this Paragraph VIII.E.1. of this Exhibit A to the Agreement and Subparagraph XXIX.F. of the Agreement hereby and shall apply to the Permitted Facilities, and all Permitted Users of the Permitted Facilities.

2. <u>Scope of Use</u>:

a. Permitted Users may use the Licensed Software solely in accordance with the Scope of Use specifications defined in Exhibit B. COUNTY may subsequently expand its Scope of Use and number of Permitted Users by paying CONTRACTOR's fee as set forth in Exhibit B for expansion of COUNTY's Scope of Use pursuant to the forms and procedures set forth in Exhibit B.

b. CONTRACTOR shall provide COUNTY with a copy of the Licensed Software. COUNTY shall have the right to make sufficient back-up and archival copies to support its permitted use of the Licensed Software, provided that the intellectual property contained in such copies shall remain the property of CONTRACTOR. No right to use, print, copy, modify, create derivative works of, adapt,

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translate, distribute, disclose, decompile or reverse engineer the Licensed Software is granted, except as expressly set forth in this Agreement. CONTRACTOR hereby reserves all rights not expressly granted hereunder.

c. The Licensed Software shall reside at the Designated Facility, or, upon written notice to CONTRACTOR, COUNTY's designated data processing location which shall become a Designated Facility upon such notice. COUNTY may, upon advance written notice to CONTRACTOR, permanently move the Licensed Software to a different data processing location under the control of COUNTY. COUNTY shall not outsource its operation of the Licensed Software to any third party without CONTRACTOR's prior written consent.

3. Sublicense Grant: Subject to the terms and conditions of this Agreement, CONTRACTOR grants to COUNTY a non-exclusive, non-transferable sublicense to use the Sublicensed Software on the terms and conditions which are set forth for end-users in the underlying license granted to CONTRACTOR by the Sublicensed Software supplier. If execution by COUNTY of a separate sublicense agreement is required by a Sublicensed Software supplier, CONTRACTOR shall so inform COUNTY. In such case, COUNTY shall either execute same or be denied access to that portion of the Sublicensed Software. If COUNTY declines to execute the supplier's sublicense agreement, CONTRACTOR shall assist COUNTY in negotiating changes to the standard terms. CONTRACTOR shall have no responsibility for any impairment to Equipment, Sublicensed Software or Licensed Software functionality, reliability or performance occasioned by the absence of such item of Sublicensed Software until such sublicense has been obtained and, if necessary, executed by COUNTY. CONTRACTOR has recommended the use of such Equipment and Sublicensed Software in connection with the System and represents that the Equipment and Sublicensed Software will operate properly within (i.e., be integrated to work with) the System. CONTRACTOR does not make any warranties or guarantees regarding functionality, reliability or performance of the Equipment and/or Sublicensed Software. In the event of any warranty, claim or support relating to any Equipment or Sublicensed Software, CONTRACTOR shall interface with the manufacturer of the Equipment or licensor of such Sublicensed Software to obtain all necessary support or remedies available pursuant to applicable warranties from the manufacturer or licensor or CONTRACTOR's support obligations hereunder.

F. SOFTWARE OWNERSHIP

1. Intellectual Property Rights:

a. COUNTY acknowledges that the Licensed Software is Confidential Information of and proprietary to CONTRACTOR, and all rights and patents, copyrights, trade secrets, and trademarks existing in respect of the Licensed Software are retained by CONTRACTOR. In respect to the operation, maintenance and enhancement, if any, to the System, COUNTY will take all reasonable steps to maintain CONTRACTOR's rights in the Software, at least to the same extent COUNTY takes with respect to the protection of its own Confidential Information and proprietary software, which steps shall consist of those set forth below in this Paragraph. COUNTY also agrees that it will not sell, transfer, publish,

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display, dispose or make the Licensed Software (or any copies of the Licensed Software) available to third parties, except that:

    1) Nothing contained herein limits, conditions, or constrains in any respect the right and the ability of COUNTY to disseminate, publish, disclose, sell, or otherwise make available to any party the Data collected by the System or reports of such Data generated by COUNTY using the Licensed Software, in whole or in part: and

    2) COUNTY may disclose the Licensed Software to any consultant, independent contractor, provider, or other third party retained by the COUNTY in connection with the use or operation of the Licensed Software provided, however, that in such event the COUNTY shall obtain the written agreement of the consultant, independent contractor, provider, or other third party to whom any such disclosure is made, not to disclose any such information to third parties, copy of any such information, or use any such information for any commercial purpose other than the satisfaction of contractual obligations of such parties to COUNTY, and the written agreement to take reasonable steps to protect the proprietary interest of CONTRACTOR in Licensed Software, consistent with the obligations of the COUNTY set forth herein. The obligations of COUNTY herein do not extend or apply to any information or Data comprising all or part of the Licensed Software which is in the public domain, by reason of any acts, activities or failures to act which are not a direct result of action or inaction by COUNTY.

    b. In connection with the statement above that COUNTY may disclose the Licensed Software to certain consultant, independent contractor, provider, or other third parties under the circumstances described in that statement, COUNTY agrees that:

    1) Prior to complying, COUNTY shall notify CONTRACTOR to the extent reasonably practicable if COUNTY determines that the law or an order of a court or other government agency requires a non-permitted disclosure or use of the Licensed Software;

    2) COUNTY shall maintain written records of the number and location of all copies of the Licensed Software;

    3) COUNTY shall reproduce (and refrain from removing or destroying) all copyright and proprietary rights notices that are placed upon or within the Licensed Software;

    4) COUNTY shall erase or otherwise destroy, prior to disposing of media, all portions of the Licensed Software contained on such media; and

    5) COUNTY shall notify CONTRACTOR within five (5) business days in writing upon learning of any unauthorized disclosure or use of the Licensed Software, and cooperate fully with CONTRACTOR, within five (5) business days, to cure any unauthorized disclosure or use of the Licensed Software.

    2. <u>Possession and Use of Source Code</u>: If Source Code is obtained by COUNTY under the provisions of Subparagraph VIII.F.4. below, such Source Code shall remain subject to every license restriction, proprietary rights protection, and other COUNTY obligations specified in this Agreement.

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COUNTY may use Source Code for the sole purpose of supporting its use of the Licensed Software as expressly permitted under this Agreement, and for no other purpose whatsoever. When Source Code resides in a central processing unit, COUNTY shall limit access to its authorized employees who have a need to know in order to support the Licensed Software. COUNTY shall at all times implement strict access security measures in order to prevent unauthorized disclosure, use, or removal of Source Code. COUNTY also agrees that all persons with access to the Source Code shall execute confidentiality agreements consistent with the obligations of COUNTY hereunder.

3. Software Ownership:

a. COUNTY will not decompile or disassemble any Licensed Software provided under this Agreement. COUNTY will make and maintain copies of the Licensed Software for archiving, disaster recovery, backup, fault tolerance, and parallel processing procedures of the Licensed Software and each copy will contain all legends and notices and will be subject to the same conditions and restrictions as the original.

b. If COUNTY's computers on which any item of Licensed Software is licensed become temporarily unavailable, use and license of such software may be temporarily transferred to an alternative COUNTY computer.

c. This Agreement does not transfer to COUNTY title to any intellectual property contained in any Licensed Software, Documentation or proprietary information. Documentation licensed hereunder does not include any materials designed for or used in the Maintenance of Equipment. The COUNTY shall take all reasonable precautions to safeguard the Licensed Software, manuals, documents, and media and to use its commercially reasonable best efforts not to make available the Licensed Software in any form to any third party, except for COUNTY employees, consultants, independent contractors, providers or other third parties under contract with COUNTY directly concerned with COUNTY's licensed use of the System, subject to the conditions set forth in Subparagraph VIII.F.1., above.

4. Source Code Escrow:

a. CONTRACTOR hereby agrees to deposit, at its sole expense, the Licensed Software, in source code form (the "Source Code"), into escrow pursuant to the terms of that certain High Technology Escrow Agreement (the "Source Code Escrow Agreement") dated January 1, 1996, between CONTRACTOR and U.S. Bank (the "Escrow Agent"). [DJ3]The Escrow Agent shall be required pursuant to the terms of the Source Code Escrow Agreement and this Paragraph, to deliver a copy of the Source Code to COUNTY in the event that any of the following conditions ("Release Conditions") occur:

1) CONTRACTOR fails to meet any of its material Support obligations hereunder and fails to cure such failure with thirty (30) calendar days of written notice thereof COUNTY;

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2) CONTRACTOR fails to provide a New Release or version of any Licensed Software module adding new functionality or significantly improving existing functionality within thirty six (36) months of the previous New Release or version;

3) CONTRACTOR becomes insolvent or has availed itself of, or has been subjected to by any third party, a proceeding in bankruptcy in which CONTRACTOR is named debtor and the same has not been discharged or terminated within sixty (60) calendar days; or

4) CONTRACTOR liquidates, dissolves or ceases to conduct business and has not assigned its obligations hereunder to a permitted successor, in accordance with the terms of this Agreement. Escrow Agent shall recognize the occurrence of any of the Release Conditions as circumstances under which the Escrowed Property shall be delivered to COUNTY in accordance with terms of Section 7 of the High Technology Escrow Agreement.

b. CONTRACTOR will deliver the Escrow Agent a new copy of all Source Code, including the Source Code for any New Release, no less than once every year without COUNTY's request to do so. In the event that a Release Condition occurs and, at such time, CONTRACTOR has issued a New Release but has not deposited the Source Code for such New Release with the Escrow Agent, CONTRACTOR shall, upon COUNTY's request, within five (5) business days deliver a copy of the Source Code for such New Release to COUNTY. In the event the Source Code or any part of it is destroyed or corrupted after entering into the possession of COUNTY, upon COUNTY's request, CONTRACTOR shall provide a replacement copy of the Source Code within thirty (30) calendar days of receipt of COUNTY's written request.

G. EQUIPMENT AND SUBLICENSED SOFTWARE MAINTENANCE:

1. CONTRACTOR Maintenance: So long as COUNTY has purchased the Equipment from a CONTRACTOR certified hardware vendor, CONTRACTOR shall provide Maintenance to COUNTY for such Equipment and Equipment Operating System Sublicensed Software. Such Maintenance shall be at the option of COUNTY and shall become effective immediately upon the later of;

a. The expiration of any applicable warranty, or

b. The earlier of;

1) Installation, or

2) Thirty (30) days after shipment

unless COUNTY notifies CONTRACTOR in writing prior to the installation of the Equipment or Sublicensed Software that COUNTY does not wish to acquire Maintenance service from CONTRACTOR. CONTRACTOR may subcontract all or part of its performance under this paragraph to a third party maintenance vendor.

2. Maintenance Services are:

a. Detection of defects in the Equipment;

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b.   Testing to determine whether the Licensed Software will operate on the Equipment and with the Equipment Operating System Sublicensed Software in accordance with the warranties specified in this Agreement;

c.   Delivery of all new versions of Equipment Operating System Sublicensed Software that CONTRACTOR is entitled to make available to its clients;

d.   COUNTY's right to receive revisions, patches, modifications, updates, or other fixes of the Equipment Operating System Sublicensed Software;

e.   Remedial Maintenance of the Equipment; and

f.   Field change orders; and

g.   Such other Maintenance as is specifically required in this Agreement.

3.   Maintenance does not include any services other than those services identified above. Unless otherwise provided, COUNTY shall receive Maintenance services from CONTRACTOR by contacting the same Immediate Response Center and service center through which COUNTY receives Support for the Licensed Software. COUNTY understands that Maintenance does not include any services for Equipment or Equipment Operating System Sublicensed Software that are not specifically identified in this Paragraph.

4.   COUNTY understands that with respect to the Equipment and Equipment Operating System Sublicensed Software, CONTRACTOR shall be responsible for detecting defects, identifying the source of a defect and verifying that the Licensed Software is not the source of the defect. CONTRACTOR and its suppliers shall be further responsible for correcting any problems which can be cured through the above-specified Maintenance services. With respect to the Equipment and Sublicensed Software, additional maintenance services are (unless otherwise covered as "Support" or "Maintenance" services which COUNTY is entitled to receive):

a.   Developing a solution, workaround or managing activities related to system issues where problem determination has concluded that the issue does not reside within the Licensed Software;

b.   Resolving a system issue which resides in the Sublicensed Software or Equipment which is not resolved through the above specified Maintenance; and

c.   Those problems which require skills other than those necessary to provide Licensed Software Support services to resolve the problem (e.g., managing COUNTY's disk space, extending COUNTY's Oracle database, recovering files caused by a disk drive failure, clearing Oracle archive files, or correcting general system problems caused by an equipment or sublicensed software outage). If COUNTY has not purchased the requisite additional maintenance services (to the extent not otherwise covered as "Support" or "Maintenance" services which COUNTY is entitled to receive), then CONTRACTOR shall have the right to bill COUNTY, at CONTRACTOR's then current rates, for the services performed with respect to such additional maintenance services.

5.   COUNTY may, at its option, elect to purchase additional maintenance services for the Equipment or Sublicensed Software not included above. The services and fees for such additional

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Equipment and Sublicensed Software additional maintenance services may be set forth in a separate contract.

6. To facilitate the provision of Maintenance and additional maintenance services for Equipment and Sublicensed Software, it is recommended that COUNTY have a twenty four (24) hours a day, seven (7) days a week infrastructure to address internal System additional maintenance requirements.

7. Maintenance Fees: CONTRACTOR may increase Maintenance fees concurrent with increases assessed by the manufacturers or suppliers of any Maintenance services in an amount equal to the percentage increases in Maintenance services affected by the manufacturers or suppliers. Should a manufacturer or supplier decrease the price of Maintenance, CONTRACTOR shall decrease the fees charged to COUNTY by an equal percentage. CONTRACTOR shall notify COUNTY in advance and in writing of such changes, increases or decreases, which may be enacted through written, mutual agreement of the Parties in the form of a letter of concurrence or amendment to this Agreement. as referenced in Subparagraphs V.A.1.a.6., V.A.1.a.7.a), V.A.1.a.12., V.A.1.b.1., V.A.1.b.2., V.A.1.b.7., V.A.1.c.1., V.A.1.c.2., V.A.1.c.7., and V.A.2..

8. Maintenance Period and Renewals: COUNTY shall purchase Maintenance services on an annual basis. Maintenance shall be renewable annually on the supplier's normal renewal date, or as otherwise specified by the supplier. CONTRACTOR shall provide notice of Maintenance renewal to COUNTY, and Maintenance shall be renewed accordingly unless COUNTY notifies CONTRACTOR to the contrary in writing.

H. BH and PH EHR - CONTRACTOR and COUNTY agree to provide applicable Management Services, Maintenance, and Support related to the terms and conditions of the BH and PH EHR as outlined:

1. Patient Portal/HealtheLife - The Application Services include a non-exclusive, non-transferable license to the software component PY-27580-PKG CONTRACTOR Patient Portal.

   a. Project Scope - CONTRACTOR's Application Services include the following:

      1) Secure hosting in CONTRACTOR's N+1 Technology Center

      2) Hardware and maintenance

      3) Data Center operations (24 x 7 x 365)

      4) Technical (IT) support

      5) Network connectivity to COUNTY site

      6) Offsite tape backup

      7) Implementation services

   b. CONTRACTOR Technology Center (CTC) - The CTC is an N+1, dual-fed, redundant data operation intended to provide uninterrupted power and service for CONTRACTOR clients. The CTC is designed to significantly reduce COUNTY downtime. It operates under supervision twenty-four

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(24) hours per day, seven (7) days per week, three hundred and sixty-five (365) days of the year (24 x 7 x 365).

No.	Responsibility Description
1.1	**CTC Facility Engineering, Management and Monitoring**
1.1.1	Provide the facility to house all computing and network equipment with highly redundant power sources and environmental controls
1.1.2	Includes CTC facility equipment design and engineering, with monitoring and management of operating environments; includes multiple uninterruptible power supplies (UPS) and backup generators, computer room chillers and air conditioning systems
1.2	**Physical Equipment and Environment**
1.2.1	Provide all CTC computing hardware, hardware maintenance and inventory management in support of the software provided by CONTRACTOR
1.3	**CTC Physical Security**
1.3.1	1.3.1 Includes Physical security with recorded camera monitors throughout key internal and all external access points
1.3.2	1.3.2 All primary doors are secured and controlled by card access, with biometric readers in high-security areas. Multiple secured access points must be crossed to access the data center floor. Secured doors are electronic fails-secure strikes and backed by emergency power sources.

c. Network operations - The following paragraphs in this section describe the network infrastructures that must work in unison to provide seamless hosted application delivery to end-users. CONTRACTOR provides and manages the CTC network and communications within the CTC and connecting to the public internet. COUNTY and its clients are responsible for installation, support and management of non-CONTRACTOR provisioned networks, including local network and connection to the public internet.

1) CTC Network Operations - The CTC Network Operations encompass all network equipment, consoles and management necessary to support connectivity to the hosted equipment at the CTC. CMS will install, support, manage and maintain this equipment and software in a manner consistent with vendor recommendations and CONTRACTOR best practices.

2) COUNTY Provided Local Area Network/Wide Area Network - COUNTY and its client's and User's Local Area Network and Wide Area Network will consist of any communications circuits, WAN termination equipment and Local Area Network equipment needed to connect the end-users to the CONTRACTOR system, including access to the public Internet. These circuits and equipment will be managed and maintained by COUNTY, its clients or Users, including supporting

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connectivity across the Internet to CONTRACTOR's network. CONTRACTOR will assist COUNTY in troubleshooting issues that may involve COUNTY's network; however, CONTRACTOR reserves the right to charge for the time, materials and travel expenses involved in resolution of problems that are determined to originate within COUNTY's or its client's or User's network.

No	Responsibility Description
2.1	**CTC Network Operations**
2.1.1	Includes all required network equipment within the CTC, such as routers, switches, load balancers, equipment consoles, and the 24 x 7 x 365 days per year management of same.
2.1.2	Provide connectivity between the CTC and the public Internet.

d. <u>CONTRACTOR Millennium Systems Management</u> - CONTRACTOR's Systems Management Services will provide for the management, security and performance of the computing systems required to operate the CONTRACTOR Millennium application(s). The "computing system" includes host nodes running the CONTRACTOR Millennium database as well as the CONTRACTOR Millennium bus, communication clients, and interface engine. This aspect of the computing system is commonly referred to as the "backend" systems, and also includes the storage technology and media. The back-end systems also include the required operating systems (OS) and layered-products necessary for the Millennium environment to operate. The computing system also includes the Microsoft-based application server resources necessary to provide access to the CONTRACTOR Millennium environment and execute the Millennium applications and server requirements to facilitate printing (excluding COUNTY print servers required for and on the COUNTY LAN). In the context of CONTRACTOR's Application Services, this aspect of the computing system is referred to as the "front-end" systems. The front-end systems also include the required operating systems (OS) and layered-product licenses necessary for the Millennium environment to operate. Lastly, the computing system includes management and monitoring systems and software to monitor and report on system health, security, capacity and availability.

e. <u>Database Administration</u> - CONTRACTOR will provide the ability to implement and maintain database access, performance and availability in a consistent and efficient manner across all Application Service CONTRACTOR Millennium database environments for COUNTY. COUNTY's responsibility is to maintain the content and integrity of the database. CONTRACTOR will:

1) Install and maintain Database Management System (DBMS) software for the Application Services as defined within this document.

2) Provide the appropriate database management methodologies, resources and tools to manage, troubleshoot, back up and recover the database environments.

3) Monitor and report on database performance and capacity.

4) Provide DBMS storage management.

5) Monitor and manage database security

    f.   Applications Management - Applications management is defined as the support required to manage the software application level of the CONTRACTOR Millennium system. In the Application Services model, CONTRACTOR's primary function with applications management is in the areas of Service Package management, application server management, and to monitor and report on application processes.

    g.   Interface Management - CONTRACTOR to maintain interface.

    h.   Administration and Problem Management - Problem Management is hereby defined as the identification, assessment of impact, reporting, tracking, escalation, notification, and resolution of problems that occur in the CTC services. COUNTY is responsible for maintaining a staffed help desk that will provide the first line of support for its clients and users and data coordination calls. This line of support must be able to distinguish application issues versus connectivity or infrastructure issues.

    i.   Data Integration

      1) Connectivity

        a)   All data sent inbound to IQHealth (Patient Portal) from an external network will pass through the CONTRACTOR secure datacenter. Connectivity will use the existing VPN connection from COUNTY's network to the CONTRACTOR datacenter.

        b)   Other VPN solutions or network connections to the datacenter will be evaluated on a case by case basis.

        c)   COUNTYs will need to provide technical resources whenever possible to assist with the support of the VPN.

        d)   Additional hardware and software will be necessary in order to establish connectivity to the COUNTY's EMR and the CONTRACTOR hosted IQHealth (Patient Portal) solution. These costs will be incurred by the COUNTY.

      2) Support and Training

        a)   CONTRACTOR shall provide the following with respect to support and training for the COUNTY:

        b)   Consumer and clinician telephone support available 8a – 5p Monday – Friday CST.

  2. Disaster Recovery – this service will terminate upon First Productive Use of the Remote Hosted system.

    a. Services Overview

      1) CONTRACTOR Corporation will employ its healthcare IT expertise, systems knowledge and technical resources to deliver a Disaster Recovery (DR) solution for HNA Millennium applications. The service will provide COUNTY the necessary resources to establish and maintain a reliable disaster recovery solution without the high cost of maintaining and securing additional //

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IT facilities and infrastructure. Under this model, COUNTY will subscribe to CONTRACTOR's DR services provided at the CTC.

2)   The CTC is a secure facility that provides a highly available HNA Millennium computing and network operating environment. This facility houses the hardware, IT expertise, security and connectivity necessary to provide COUNTY with a DR solution. CONTRACTOR's DR solution will ensure the availability of mission critical systems with the highest level of security and performance. The application processing and data storage are hosted at the CTC and are maintained by a group of CONTRACTOR system experts. CONTRACTOR will manage and staff for system maintenance, backups, upgrades, and provides customer assistance. In the event of a disaster declaration, CONTRACTOR will monitor the system to ensure high performance and to identify potential issues before they arise.

3)   CONTRACTOR's DR model is based on a monthly support subscription fee. For this fee, CONTRACTOR will house and maintain a copy of COUNTY's production HNA Millennium database and code warehouse as well as manage connectivity from the CTC to the specified COUNTY location. Connectivity includes all networking equipment supplied by CONTRACTOR and located at COUNTY site. Upon disaster declaration, CONTRACTOR will make available the appropriate computer equipment required to run the production domain, as described in fee assumptions (see Section 4). At that point, CONTRACTOR will manage the hardware, software domain, and Millennium environment.

b.   Definitions - As used in this CONTRACTOR System Schedule, the following terms have the meanings set forth below. Terms not otherwise defined herein have the meanings set forth in the Agreement.

1)   <u>Disaster</u> – A significant event making the COUNTY hosted production hardware inoperable.

2)   <u>Disaster Declaration</u> - A point in time in which COUNTY has communicated in a live telephone conversation that a Disaster has occurred and Recovery processes will be invoked.

3)   <u>Recovered</u> - The point in time when users have the ability to access the activated Disaster Recovery (DR) production system (N configuration, not N+1 nor H/A):

a)   The functionality available to COUNTY prior to the Disaster event is available for use by COUNTY and is operating with the exception of the solutions listed in Excluded Solution Paragraph of Exhibit B section L.3.a.

b)   Available historical data has been recovered for COUNTY's use with the exception of: data created within the COUNTY's Recovery Point Objective (RPO), and data inherently lost as a result of database corruption.

4)   <u>Recovery Point Objective (RPO)</u> - The point in time (prior to the outage) to which data will be restored.

c.   Definition of Ongoing Project Scope

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1) CONTRACTOR will propose to provide technical consultation services to manage the automated disaster recovery solution for COUNTY's UX based Millennium system using Oracle 11G (or applicable more current version) Standby Database hosted from the CTC. This scope of services section defines the scope and responsibility of each party in providing the ongoing solution. The management scope will provide the following components:

a) Maintain WAN connectivity between the CTC and COUNTY's facility

b) Receiving and applying online redo logs

c) Manage DR Citrix farm at CTC with COUNTY configuration

d) Provide Print Services environment for Millennium printing

e) Maintain operational DR procedures for PROD environment (including fail-over/fail-back)

f) Provide documented Service Level Arrangements including necessary Change Control procedures required to maintain the DR environment

g) Manage and maintain DR configuration at the CTC

h) Create regularly scheduled backup copy of standby database.

d. DR Services Capacity Scope Limits - DR Services Fees are based on the Capacity Scope Limits defined in Table 1 below:

TABLE 1: Capacity Scope Limits

Metric	Limit
Production Domains	(1)
Backend Hardware (Note – CPU's are Processor Cores for scope purposes.)	(16) UX CPU's
Disk Space (Prod Database)	(2.0) Terabytes
Concurrent Logons (Peak)	(300) Concurrent Logons
Chart Servers (Single CPU)	(1) Chart Server
Telco Connections	(1) 12 Mbps Connections

e. Capacity Metric Descriptions:

1) Production Domains: Number of Production Domains Supported by DR Solution

2) Backend Hardware: Upon disaster declaration, CONTRACTOR will activate the contracted amount of backend hardware capacity. The actual backend hardware capacity activated will meet or exceed the performance of what has been contracted for. (Note – Backend hardware capacity provided may not be the identical model, configuration, processor type and speed, etc., but will be comparable hardware that will meet or exceed performance of contracted capacity.) (While in standby mode, a small node will be allocated for receiving redo logs.)

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3) Disk Space: Amount of disk space required for production database.

4) Concurrent Logons: Front-end "peak" concurrent logons (e.g. Citrix). In the event of a disaster, CONTRACTOR will activate an appropriate number of Front End servers to support contracted number of "peak" concurrent logons.

5) Chart Servers: Upon disaster declaration, CONTRACTOR will activate the contracted number of chart servers.

6) Telco Connections: Number and Capacity of Telco Connections from CTC to COUNTY. Connections are typically Frame Relay or ATM. (Bandwidth sizing is an estimate, based on estimated "peak" redo log sizes and concurrent logon assumptions documented within this CONTRACTOR System Schedule. Actual bandwidth requirements may vary depending on variables such as; size and frequency of redo logs, interface traffic, or level of circuit redundancy required. If bandwidth requirement/configuration is increased, monthly fee will be increased accordingly).

7) There will be an opportunity to review capacity scope assumptions on a periodic basis (no less than once per year) and, if necessary, increase the Hot Site Standby fees and Hot Site Production fees to reflect additional capacity and/or changed configurations.

8) This CONTRACTOR System Schedule covers only the items identified herein. This scope is limited to the CONTRACTOR Millennium application residing/processing on VMS, UX, or AIX Backend nodes and specifically does not include add-on solutions such as PowerInsight, Millennium Objects, CAMM, MMF, Patient Keeper, CareMobile, CONTRACTOR Classic, etc. Please see full list in Included Solutions and Excluded Solutions paragraphs of this section.

f. COUNTY Obligations

1) Ensure hardware required for the services are available and operational and provide access to CONTRACTOR.

2) Designate a representative to be the project manager. This individual will be the focal point for CONTRACTOR relative to this project and will have the authority to act on COUNTY's behalf in matters regarding this project

3) Provide the performing CONTRACTOR Associate "root" access to the systems being serviced as needed for application and database level DR toolset configuration and operation

4) Ensure all host definitions have been generated and are available for connection

5) Provide all necessary host interface information, including, but not limited to destination address, local adapter address, exchange ID, and remote and local LU names, etc.

6) Provide appropriate operator guidelines for any requested equipment that will be used in the configuration and connection process.

7) Approve the content and completion of the testing

8) Authorize CONTRACTOR to install the DR related code on to production servers when authorized COUNTY staff has validated appropriate work plans

9) Provide space and power for all required network equipment

10) Upgrade to required prerequisite of Oracle 11g or higher

11) Ensure HP-UX 11.23 (or higher) operating system release is in production

12) Fully maintain Citrix as the thin COUNTY desktop solution

13) Ensure network infrastructure is in place to facilitate remote connectivity

14) Manage firewall between COUNTY site and CTC

15) Ensure demonstrable Change Control process is in place for COUNTY Prod Environment

g. Disaster Recovery Solution Operational Modes - There will be two (2) primary modes of operation once the Disaster Recovery Service has been implemented.

1) Steady State (i.e. Hot Site Standby Mode) operations are all services required to keep the standby environment synchronized and ready to serve as COUNTY's production environment.

2) Disaster Mode (i.e. Hot Site Production Mode) is the activation of the standby environment as COUNTY's production environment. During this time, the COUNTY's production system will be running at CTC. Upon completion of recovery back to COUNTY site (i.e. production running at COUNTY data center), the Disaster Recovery Solution returns to Standby Mode.

a) Recovery will involve the effort (i.e. professional services) required to switch COUNTY's production environment back to COUNTY's data center. Certain tasks, as documented below, will be CONTRACTOR tasks during recovery and are covered by the base disaster fees. Any requested Services outside those define in this document are billed on a time and materials basis.

h. Steady State Mode (I.E. Hot Site Standby Mode) - Once the Initial Implementation is complete and tested, the DR solution will move to the Steady State Phase. The primary activity of this phase will be the ongoing synchronization of the standby system located at the CTC with the production environment at COUNTY site. (See Section 6. DR Operational Modes - Responsibility Matrix for addition detail).

i. Millennium Upgrades - WAN Circuits for CONTRACTOR DR solution are designed for average peak volumes on normal business days. Millennium upgrades can produce archive log volumes many times that of a normal business day in a short period of time. Still, the archive logs can only be moved as fast as the circuit will allow. During an upgrade, it is the COUNTY's responsibility to increase the archive log destination to hold the logs until all logs can be transferred to the DR system in the CONTRACTOR data center. The RPO objective of 15-30 minutes will not apply during the upgrade period.

j. System Management and Monitoring - In addition to the automated synchronization and manual change control, CernerWorks (CONTRACTOR's managed services division, which provides Remote Hosting services to COUNTY) will provide the following system management and monitoring services of the standby system:

1) Monitoring of system hardware

2) Daily confirmation of all automated updates to the standby environment

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3) Electronic notification of archive log failure

4) Disk space monitoring

5) Network monitoring

6) Periodic backup on standby database

k. DR System Validation Options - Validation testing will be performed to insure the readiness and soundness of the standby environment. The monthly recurring fees will include the number and type of activation tests per year, as defined in the Monthly Recurring Fees section of this CONTRACTOR System Schedule. If additional Level 1 or 2 Activation Tests are required, there will be an additional fee.

1) DR Solution Graceful switch over Activation - This test will use a graceful switchover from COUNTY production environment to the DR system at the CTC and can be used to validate the core components of the DR solution and the activation process.   The graceful switchover test offers a validation of retrieving all data from the source production domain through the point in time when the database is shutdown. Performing a graceful shutdown of the production database allows all data to be completely written to the database. The environment at the CTC is activated, made available to COUNTY, and tested. In this scenario, both databases are identical and no data is lost. To ensure continued availability of the DR solution, a separate copy of the DR database will be created at CTC and used for the test activation. End users will not be moved over to the DR environment for this test. When all data has been transferred to CTC and the database can be opened, the source production environment can be brought back up for end user access.

2) DR solution Activation - This test will be performed to validate the core components of the DR solution and the activation process. These core components are the database and the code warehouse for the back-end as well as the front-end systems. To ensure continued availability of the DR solution, a separate copy of the DR database will be created at CTC and used for the test activation. This level of activation testing does not require a down-time for the source production environment and will not affect end users in any way. In the event COUNTY and CONTRACTOR identify issues during the test activation that warrant a re-test, COUNTY and CONTRACTOR will work together to reschedule an additional test activation. If the cause of the testing failure is the fault of CONTRACTOR, the subsequent retesting event will be performed at no additional fees. If the cause of the testing failure is not due to the fault of CONTRACTOR, COUNTY can request a subsequent retesting event for $3,000.

l. Disaster Mode (I. E. Hot Site Production Mode) - In the event COUNTY can no longer access their on-site production environment, the CONTRACTOR DR solution will be activated. This is known as Disaster Mode. In this mode, COUNTY's production environment will be located at the CTC and CONTRACTOR will act as COUNTY's data center and IT support staff. (Reference DR Operational Modes - Responsibility Matrix below for addition detail).

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1   1)   Disaster Declaration - The Disaster Mode is initiated by a disaster declaration from
2   COUNTY. COUNTY may break the disaster declaration into two phases. The phases are described in the
3   following table:

4   a) Phase 1 - The Pre-Disaster Alert (optional): This phase puts CTC on alert that
5   COUNTY is addressing an issue that could result in a Disaster Declaration. The notification insures that
6   all necessary CTC personnel are readily available to support COUNTY in the event of a disaster
7   declaration.

8   b) Phase 2 - This phase involves the activation of the standby database as
9   COUNTY's production environment.

10   2)   Maintaining Disaster Mode - Once COUNTY is running in Disaster Mode, the
11   responsibility for management of COUNTY's production environment will shift to CONTRACTOR.
12   Ongoing communication will be essential to successful disaster mode operations. A minimum of one
13   conference call per day will be required during the first week of the disaster operation. COUNTY will be
14   responsible for these telecommunication charges. After the first week of operations, COUNTY and
15   CONTRACTOR will determine the future communication schedule. This schedule is dependent upon:

16   `   a)   Number of unresolved issues
17   b)   Estimated length of time in Disaster mode
18   c)   Availability of COUNTY resources

19   3) Code Freeze - A code freeze of a minimum of thirty (30) days will be in effect. The
20   code freeze will begin day one (1) of Disaster Mode operations. This code freeze is intended to allow
21   system operation to stabilize. Exceptions will be made if they meet one or more of the following criteria:

22   a)   it is determined that patient care is compromised
23   b)   COUNTY is impacted financially
24   c)   system stability is in question
25   d)   The termination of the code freeze at the end of the thirty (30) days will be a
26   mutual decision between CONTRACTOR and COUNTY site. Once the code freeze has been lifted,
27   COUNTY will abide by CernerWorks change management procedures. In addition, a domain strategy
28   will be formulated at that time.

29   m. DR Operational Modes - Responsibility Matrix

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No	Responsibility Description	MODE		OWNER	
		Steady State	DR Mode	CONTRACTOR	COUNTY
17.1	**CTC Facility Environment**				
17.1.1	Provide the Technology Center facility required to house the computing and network environment	X	X	X	
17.1.2	Provide the Technology Center hardware	X	X	X	
17.1.3	Manage, monitor and control the CTC	X	X	X	
17.1.4	Provide UPS/temperature-controlled environment for CONTRACTOR equipment at COUNTY site (e.g. network equipment, RRD servers, etc.)	X	X		X
17.1.5	Provide appropriate rack space for CONTRACTOR equipment at COUNTY site	X	X		X
17.2	**CTC Facility Management and Monitoring**				
17.2.1	CTC power monitoring for generator	X	X	X	
17.2.2	Monitoring of Chiller system for pressure, temp, alarm and standby	X	X	X	
17.2.3	Monitoring of electrical room for moisture, UPS availability	X	X	X	
17.2.4	Monitoring of CTC computer room air-conditioning units, including air conditioning, power, moisture, humidity and temperature	X	X	X	
17.2.5	Monitoring of CTC Auto Transfer Switches. Monitors and activates UPS/generator system as incoming power dictates.	X	X	X	
17.2.6	Monitoring and control of the Technology Center	X	X	X	
17.2.7	Facility operation and maintenance	X	X	X	
17.3	**CTC Physical Security**				
17.3.1	Camera monitoring is provided throughout the data center and exterior entries. Multiple cameras provide views of the data center and all access points, which are visible at all times to the on-site operators. All cameras continuously record to tape for future viewing and investigation.	X	X	X	
17.3.2	All primary doors are controlled by card access, with biometric readers in high-security areas. Multiple access points must be	X	X	X	

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No	Responsibility Description	MODE		OWNER	
		Steady State	DR Mode	CONTRACTOR	COUNTY
	crossed to access the data center floor.				
17.3.3	All secured doors are electronic fail-secure strikes. All door hardware and monitoring are backed by emergency power.	X	X	X	
17.3.4	Access to host facility is site-restricted via a badge-activated access system which is controlled by CONTRACTOR's security personnel	X	X	X	
17.3.5	Entry/exit points of service center are monitored via closed-circuit TV	X	X	X	
17.4	**CTC Network Operations**				
17.4.1	All required network equipment within the CTC, such as routers, switches, load balancers and consoles	X	X	X	
17.4.2	Network management of hardware and software, including routers, switches, load balancers and firewalls	X	X	X	
17.4.3	Redundant power circuits and power distribution	X	X	X	
17.4.4	24 x 7 x 365 on-site network support with level 2 and 3 backup available by pager	X	X	X	
17.4.5	Monitoring CONTRACTOR-provided applications response time, including round trip latency	X	X	X	
17.4.6	Network management, support, installation, and configuration of CONTRACTOR-provided WAN circuits and WAN equipment	X	X	X	
17.5	**CONTRACTOR-Provided Wide Area Network (WAN) Communications Network Operations**				
17.5.1	Hardware to terminate the CONTRACTOR-provided WAN and provide secure connection at the CTC and COUNTY location. This will include routers, switches, out-of-band management.	X	X	X	
17.5.2	Network management including monitoring systems, device management and polling systems.	X	X	X	
17.5.3	Monitoring of CONTRACTOR-provided network routers,	X	X	X	

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No	Responsibility Description	MODE		OWNER	
		Steady State	DR Mode	CONTRACTOR	COUNTY
	including utilization, memory, exception reporting, syslog, configuration management, ACL hits/denies				
17.5.4	Monitoring of CONTRACTOR-provided WAN links ups/downs, error thresholds, bandwidth, CIR packet flow/loss	X	X	X	
17.5.5	Cost of communications circuit(s) from the CTC to COUNTY location.	X	X		X
17.5.6	UPS protection for CONTRACTOR-provided circuits and equipment. Two separate power circuits are required.	X	X		X
17.5.7	Analog (POTS) line for out-of-band management	X	X		X
17.5.8	Internal Local Area Network switches, routers or firewalls required to attach to the CONTRACTOR-provided equipment to facilitate communications to end users, printers, foreign systems, medical devices or other COUNTY- owned equipment	X	X		X
17.5.9	Rack space for WAN termination equipment	X	X		X
17.5.10	Monitoring of COUNTY Gateway ups/downs, router, switch, power	X	X		X
17.6	**COUNTY Local Area/Wide Area Network Operations**				
17.6.1	Network management, support, installation, and configuration of COUNTY-provided WAN circuits and WAN equipment	X	X		X
17.6.2	Network management, support, installation, and configuration of COUNTY LAN infrastructure	X	X		X
17.6.3	Management of network printers, terminal servers, PCs, terminals or other COUNTY-side equipment	X	X		X
17.7	**Hardware and Software Acquisition and Provisioning**				
17.7.1	Provide "back-end" computing systems consisting of CPU, memory and data storage required to operate the Millennium production environment.	X	X	X	
17.7.2	Disk space to house COUNTY production database, plus one-year's growth at rate determined at project kick-off.	X	X	X	

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No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
		MODE		OWNER	
17.7.3	Provide Operating System and layered-product software licenses for back-end systems required to operate the Millennium production environment.	X	X	X	
17.7.4	Provide "front-end" computing systems necessary to facilitate COUNTY access to the Millennium production environment.	X	X	X	
17.7.5	Provide Operating System and layered-product software licenses for front-end systems required to operate the Millennium production environment (excluding Citrix licenses).	X	X	X	
17.7.6	Provide systems and software necessary for CernerWorks to manage and monitor back-end and front-end systems.	X	X	X	
17.7.7	Provide servers required for charting and front-end Millennium printing.		X	X	
17.7.8	Provide servers, modems, digi-boards, and phone lines required for Remote Report Distribution.	X	X		X
17.7.9	Provide systems required for COUNTY access to COUNTY's Local Area Network (e.g. local authentication, primary/backup domain controllers) and other non-Millennium functionality.	X	X		X
17.7.10	Provide systems required for COUNTY local printing from non-Millennium applications.	X	X		X
17.8	**Management and Monitoring**				
17.8.1	Apply OS and layered-product service packs to front-end and back-end systems as required to maintain system health, security, availability and capacity.	X	X	X	
17.8.2	Monitor the computing systems (24 x 7) to report and alert on compromised system health, security, availability and capacity.	X	X	X	
17.8.3	Reboot back-end and front-end computing systems on a recurring schedule to optimize performance of the computing environment	X	X	X	
17.8.4	Monitor charting application services (Charting and Remote	X	X		X

No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
		MODE		**OWNER**	
	Report Distribution) for successful completion.				
17.8.5	Resubmit and/or reroute any failed print jobs.	X	X		X
17.8.6	Monitor Remote Report Distribution (RRD) environment (POTS connectivity, modem status and power)	X	X		X
17.9	**Security Administration**				
17.9.1	Provide system software and hardware security controls.		X	X	
17.9.2	Monitor system security errors, exceptions and attempted violations as dictated by standard procedures.		X	X	
17.9.3	Host facility physical security measures and controls	X	X	X	
17.9.4	Secure backup media with check-in and checkout procedures		X	X	
17.9.5	Store COUNTY's backup media in a manner that will protect the confidentiality of the data stored on them and ensure that the data remain COUNTY's property		X	X	
17.9.6	Run and monitor continuous intrusion detection software on both host and network-based systems		X	X	
17.9.7	Provide secure environment for on-site and off-site storage for backups		X	X	
17.9.8	Virus detection and correction as required		X	X	
17.9.9	Provide corporate IT Security Manager to monitor and enforce security procedures and resolve exception report issues.		X	X	
17.9.10	Provide logical security using lockdown procedures post production		X	X	
17.9.11	Assign and manage accounts for COUNTY users to access systems	X	X		X
17.9.12	Designate assigned security representative to ensure personnel have appropriate access and be responsible for review of access controls, etc.	X	X		X
17.10	**Third-Party Software**				
17.10.1	Purchase of database software and ongoing software maintenance fees.	X	X	X	

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No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
		MODE		**OWNER**	
17.10.2	Provide DR licenses for Citrix	X	X		X
17.11	**Software Installation and Upgrade**				
17.11.1	Installation, management, and upgrading of database software necessary to support Millennium on systems located at CTC in conjunction with COUNTY production system.	X	X	X	
17.11.2	Certification of environment after database or other software upgrade.	X	X		X
17.11.3	Perform refreshes to standby database as needed	X		X	
17.12	**Performance Management and Monitoring**				
17.12.1	Monitor database alert logs.		X	X	
17.12.2	Monitor database number of extents remaining.		X	X	
17.12.3	Monitor database free space.		X	X	
17.12.4	Monitor database free space deficit.		X	X	
17.12.5	Monitor database instance status.		X	X	
17.12.6	Monitor database lock conflicts.		X	X	
17.12.7	Monitor database rollback segment for extents left.		X	X	
17.12.8	Monitor database percent of space available in rollback segment.		X	X	
17.12.9	Monitor percent of space available in table space.		X	X	
17.12.10	Monitor status of TNS and BEQ listeners.		X	X	
17.12.11	Reorg/defragment Database objects/table space		X	X	
17.12.12	Analysis and tuning of RDBMS processes		X	X	
17.12.13	Monitor basic database performance characteristics such as SGA and I/O		X	X	
17.12.14	RDBMS resource monitoring		X	X	
17.12.15	Monitor and manage file and table space		X	X	
17.12.16	Purge and archiving	X	X		X
17.12.17	Operations jobs required to maintain database relationships	X	X		X
17.13	**Backup, Restore and Recovery on DR systems at the CTC**				
17.13.1	Perform system backups nightly, weekly, and monthly as	X	X	X	

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| No | Responsibility Description | MODE | | OWNER | |
		Steady State	DR Mode	CONTRACTOR	COUNTY
	specified in standard backup procedure				
17.13.2	Tape rotation	X	X	X	
17.13.3	Verify backup logs	X	X	X	
17.13.4	Maintain and document backup requirements	X	X	X	
17.13.5	Coordinate offsite storage functions, including logging, tracking, labeling, ordering, receiving and sending tapes	X	X	X	
17.13.6	Restore system data as required	X	X	X	
17.13.7	Define system-wide recovery and backup requirements	X	X	X	
17.13.8	Schedule and test routine recovery procedures	X	X	X	
17.13.9	Perform the required frequency of replacement for all tape disks in storage		X	X	
17.13.10	Backup of COUNTY-based PCs and servers located at the CTC	X	X	X	
17.13.11	Verification of restored environment.	X	X		X
17.14	**Service/Distribution Package Management**				
17.14.1	Provide Certification domain as required		X	X	
17.14.2	Perform back-end special instructions for Service/Distribution Package loads	X	X		X
17.14.3	Perform front-end special instructions for Service/Distribution Package loads	X	X		X
17.14.4	Monitor software notifications (i.e. flashes, advisories, CKN, etc.) for issues related to patient care, financial burden, or performance	X	X		X
17.14.5	Request Service/Distribution Packages as needed to keep system at a supportable level (as defined above)	X	X		X
17.14.6	Perform application special instructions for Service/Distribution Package loads as needed	X	X		X
17.14.7	Perform Service/Distribution Package certification guidelines as needed	X	X		X
17.14.8	Test Service/Distribution Packages/application enhancements,	X	X		X

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No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
		MODE		**OWNER**	
	fixes, and upgrades and ensure the integrity of the resulting data.				
17.14.9	Perform and manage the process for local installations of the Millennium application on COUNTY PC's		X		X
17.15	**Monitoring tasks**				
17.15.1	Monitor application servers for appropriate number/ups/downs		X	X	
17.15.2	Monitor orphaned journal transactions		X	X	
17.15.3	Monitor chart request maintenance	X	X		X
17.15.4	Verify chart status	X	X		X
17.16	**Audit reports and logs**				
17.16.1	Review/monitor audit reports and logs	X	X		X
17.16.2	Perform COUNTY audits/reports/tools	X	X		X
17.17	**User accounts**				
17.17.1	Establish ongoing setup and maintenance of user accounts for Millennium products	X	X		X
17.18	**Maintenance Activities**				
17.18.1	Cycle application servers as needed		X	X	
17.18.2	Maintain Windows Terminal Server (WTS) locations database	X	X		X
17.18.3	Maintenance of fax stations	X	X		X
17.18.4	Perform event code/event set changes as required	X	X		X
17.18.5	Provide and maintain application-specific security such as task access, positions, and role setup	X	X		X
17.18.6	Train end users on application	X	X		X
17.18.7	Maintain information as necessary in Device Viewer	X	X		X
17.19	**Millennium Software Operations (Opsview Monitor, Opsview Scheduler)**				
17.19.1	Perform Daylight Savings Time management activities on equipment located at CTC.	X	X	X	
17.19.2	Notify COUNTY help desk of issues found that affect service		X	X	
17.19.3	Set up and review purges and operations jobs.	X	X		X

No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
		MODE		**OWNER**	
17.19.4	Run/review Millennium operations.	X	X		X
17.19.5	Add/remove operations jobs.	X	X		X
17.19.6	Monitor operations for successful completion.	X	X		X
17.19.7	Restart production jobs as required.	X	X		X
17.20	**Interface Monitoring**				
17.20.1	Monitor CONTRACTOR inbound/outbound interface queue counts and over-threshold alarms		X	X	
17.20.2	Monitor CONTRACTOR inbound/outbound cycle times		X	X	
17.20.3	Monitor FSI connectivity		X	X	X
17.20.4	Monitor MDI connectivity	X	X		X
17.21	**Interface Management**				
17.21.1	Notify COUNTY help desk of issues found that affect service.		X	X	
17.21.2	Notify CernerWorks when cycling interface or of known ups/downs		X		X
17.21.3	Cycle MDI interface as necessary		X	X	X
17.21.4	Review posting logs	X	X		X
17.21.5	Review error logs	X	X		X
17.21.6	Notify CernerWorks help desk of issues found that affect service		X		X
17.21.7	Operation and maintenance of FSI	X	X		X
17.21.8	Operation and maintenance of MDI	X	X		X
17.22	**Change Management**				
17.22.1	Provide and maintain an automated change management system for the centralized reporting and tracking of manual changes made by CONTRACTOR personnel.	X	X	X	
17.22.2	Conduct scheduled change management meetings.	X	X	X	X
17.22.3	Attend scheduled change management meetings.	X	X	X	X
17.22.4	Provide a weekly maintenance window.	X	X		X
17.22.5	Allow for a weekly global maintenance window.	X	X		X
17.22.6	Notify CernerWorks of planned outages on COUNTY side.	X	X		X

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| No | Responsibility Description | MODE | | OWNER | |
		Steady State	DR Mode	CONTRACTOR	COUNTY
17.22.7	Designate at least two individuals responsible for signing PECA forms.	X	X		X
17.22.8	Notify CernerWorks of changes to COUNTY production environment	X	X		X
17.22.9	Certify all changes prior to moving them to production.	X	X		X
17.22.10	Test application enhancements, fixes, and upgrades and assure the integrity of the resulting data.	X	X		X
17.22.11	Provide and maintain authorization list for disaster declaration.	X	X		X
17.22.12	Provide a single point of contact for change management activities.	X	X	X	X
17.23	**Problem Management**				
17.23.1	Provide and maintain a method for proper escalation of problems within CernerWorks management	X	X	X	
17.23.2	Log all incidents and problems in accordance with documented processes.	X	X	X	
17.23.3	Maintain ownership of all problems related to DR services through closure or until mutual agreement that the problem is not within DR's scope of responsibility.	X	X	X	
17.23.4	Provide appropriate contact numbers or other information necessary to communicate with key Technology Center support staff.	X	X	X	
17.23.5	Perform post-mortem reviews on problems that affect DR availability, including root cause analysis if possible.	X	X	X	
17.23.6	Notify COUNTY of issues found that affect DR service.	X	X	X	
17.23.7	Staff operations 24 x 7.	X	X	X	
17.23.8	Provide on-call technical staff 24 x 7.	X	X	X	
17.23.9	Ensure proper notification and escalation in accordance with standard operating procedures	X	X	X	
17.23.10	Assign IT Coordinator for primary contact by CONTRACTOR Technology group as per CONTRACTOR standard escalation	X	X		X

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No	Responsibility Description	Steady State	DR Mode	CONTRACTOR	COUNTY
	procedures.				
17.23.11	Provide and maintain a method for proper escalation of problems within COUNTY's management	X	X		X
17.23.12	Maintain COUNTY Help Desk to provide first line of support for users	X	X		X
17.24	**Service Management**				
17.24.1	Create Incident Reports for outages.	X	X	X	
17.24.2	Maintain inventory of installed products.	X	X	X	
17.24.3	Provide COUNTY with detailed reporting and statistics on reported problems.		X	X	

Note: Columns "Steady State" and "DR Mode" are under the "MODE" header; "CONTRACTOR" and "COUNTY" are under the "OWNER" header.

n.   <u>Recovery Back to County Data Center – Responsibility Matrix</u> - The following shows major project tasks and the responsible party associated with a recovery project. In addition, COUNTY is responsible for all additional tasks associated with recovery and operation of production processing at COUNTY data center.

No	Responsibility Description	CONTRACTOR	COUNTY
18.1	Provide backup of back-end CONTRACTOR code warehouse.	X	
18.2	Provide backup of front-end CONTRACTOR code warehouse.	X	
18.3	Provide RMAN backup of production database.	X	
18.4	Send remaining production redo logs from production database at CTC to system located at COUNTY site.	X	

Note: "CONTRACTOR" and "COUNTY" columns are under the "OWNER" header.

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No	Responsibility Description	OWNER	
		CONTRACTOR	COUNTY
18.5	Configure COUNTY production running at CTC to send Database archive logs to system located at COUNTY site.	X	
18.6	Perform cold backup of COUNTY production database located at CTC.	X	
18.7	Perform backup of COUNTY production back-end CONTRACTOR code warehouse located at CTC.	X	
18.8	Perform backup of COUNTY production front-end code warehouse located at CTC.	X	
18.9	Apply redo logs to COUNTY site production database.	X	
18.10	Place production database located at COUNTY site in production mode.	X	
18.11	Perform graceful shutdown of production system located at CTC and logs at designated time	X	
18.12	Install and configure operating system on COUNTY site backend system(s).		X
18.13	Restore back-end CONTRACTOR code warehouse on COUNTY site back-end system(s).		X
18.14	Install and configure operating system on COUNTY site front-end system(s).		X
18.15	Restore front-end CONTRACTOR code warehouse on COUNTY site file share and system(s).		X
18.16	Create COUNTY site production and non-production domain(s).		X
18.17	Restore RMAN backup to COUNTY site production database.		X
18.18	Apply archive logs to COUNTY site production database.		X
18.10	Startup of CONTRACTOR environment and release to user community.		X
18.20	Verification of restored environment.		X

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o. <u>Disaster Mode Estimated Activation Time</u>

1) CONTRACTOR will develop and maintain a disaster recovery process and configure the alternate data center, hardware, network and related components to successfully activate the Production Domain within six (6) hours, excluding COUNTY Responsibilities (i.e. if there is a dependency on COUNTY to perform a COUNTY Responsibility before CONTRACTOR can proceed to the next step in the disaster recovery process, the time COUNTY uses to perform their COUNTY Responsibilities shall be subtracted from the overall calculation of activation time). Please see COUNTY Responsibilities outlined in section 20 'DR Activation – COUNTY Responsibilities'. The time required to activate the DR system and make it available for COUNTY use may vary due to several factors (e.g., some tasks are executed by the COUNTY; others depend on the size of the database, etc.). CONTRACTOR will use commercially reasonable efforts to restore production systems to full capacity.

2) For purposes of tracking Disaster Activation Time, the Disaster start time will begin at the time of Disaster Declaration. The Disaster mode Activation end time will be the point in time when users have the ability to access the activated DR production system. All available information will be recovered. The estimated RPO for Hot Site DR services is 15-30 minutes of data loss.

3) The following list shows sequence of events, details which events will occur in parallel, and the estimated time these tasks are expected to require within the 6 hour RTO:

    a) Window of time for situation assessment and disaster declaration

        (1) Add node capacity (60 minutes)

        (2) Configure and activate systems

            (a) Configure Citrix farm (60 minutes per server, all servers done in parallel)

            (b) Configure Chart Servers (60 minutes per server, all servers done in parallel)

            (c) Apply archive logs to standby database (Time depends on size of archive logs and standby database lag interval [approximately 40-50 seconds per archive log]. This is done in parallel with Citrix and Chart Server configuration)

        (3) Activate and backup database (backup time depends on size of database, approximately 1GB per minute). This step has been factored into the 6 hour RTO.

        (4) Allow users on the system

    b) COUNTY specific estimated activation time will be developed during the initial implementation phase. The estimated activation time will be derived, based on COUNTY specific factors and details finalized during the implementation phase.

p. <u>DR Activation-County Obligations</u> - COUNTY responsibilities after a disaster has been declared and the decision to activate the DR domain is made:

1) Networking – alter any DNS settings to allow end users to connect to a different location (this will be discussed and planned during the project phase)

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2) Fat COUNTY device updates – these devices connect directly to the BE system so they will need configuration updates to reach a new IP address.

3) Start communicating to end users that the DR environment will be accessed along with any needed instructions for access and function limitations (bolt-ons).

4) Testing of DR domain once activated – super users to perform a level of testing that they are comfortable with to ensure all functionalities are operating as expected. This usually includes a high level application test of major functions (not full integration testing), spot check of print devices, all end user access methods (CTX, web-based solutions, fat COUNTY's, hand-helds, etc.)

5) Tell CONTRACTOR when they want to turn on interfaces to catch up. Usually done at some point during the testing.

6) Tell CONTRACTOR when they want us to start Operations Jobs. Usually done at some point during the testing.

7) Tell CONTRACTOR when they are ready to let end users back on the system. We will then open access for all users.

q. Recovery - The Recovery to COUNTY site is the process of replicating the production environment from the CTC back to COUNTY data center. (See Section 18 Recovery Back to COUNTY Data Center – Responsibility Matrix below for additional detail specific to recovery).

1) Recovery to COUNTY Site Time Frame - The Recovery to COUNTY Site time frame will be determined by a project plan jointly developed by CONTRACTOR and COUNTY. Each DR situation is unique and will be handled on a case by case basis.

2) Recovery to COUNTY Site Responsibilities - During Recovery to COUNTY site, it is COUNTY's responsibility to restore COUNTY site production environment to a production ready status. CONTRACTOR will provide COUNTY with production tape/CD backups of COUNTY production database, and the front-end and backend CONTRACTOR Millennium code. Once it is determined that COUNTY is ready to resume control of the production environment, CONTRACTOR will complete the following tasks with COUNTY support:

a) Configure vendor and internally developed tools to synchronize stand by environment located at COUNTY site with production environment located at CTC.

b) Gracefully switch the database back to COUNTY.

c) Bring up the database at COUNTY site as a production database

d) Return the CTC to Steady State mode.

e) Once the production environment is returned to COUNTY, COUNTY will release CONTRACTOR to reconfigure the CTC environment to standby status. The activation and ongoing support of the production environment at COUNTY site, after the return of the database will be COUNTY's responsibility. At this point, COUNTY will return to Steady State Mode.

r. "Disaster Mode" Uptime Goal - This section describes the Disaster Mode production environment system uptime goal and calculation for Equipment, OS, layered products, and network

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connectivity for which CTC operations have support responsibility. The system uptime goal is ninety-nine percent (99%), while in Disaster Mode. CONTRACTOR and COUNTY will work together to manage the many variables that could potentially impact system availability during a disaster event, and will strive to maintain optimal system uptime.

          1) Formula - System Availability will be calculated for the duration of each disaster event using the following formula (and will be rounded up to the next one tenth of a percentage point):

          a) System Availability = [(Base Time – Unscheduled Downtime) / (Base Time)] x one-hundred (100)

          b) "Base Time" equals the product of the number of days in the applicable disaster event multiplied by twenty-four (24) hours multiplied by sixty (60) minutes.

          c) "Unscheduled Downtime" equals the time (in minutes) during which the Production System is not operational (excluding "Scheduled Downtime" and time where the failure is caused by COUNTY's improper action, omission or failure with regard to an area for which COUNTY is responsible, such as database or other configuration or the Local Area Network) from the router connection at COUNTY's site to and through the CTC based on the measuring methodology documented below. Declaration of Unscheduled Downtime will be a mutual decision between COUNTY and CONTRACTOR.

          d) "Scheduled Downtime" equals the aggregate total of all minutes of planned and scheduled maintenance performed during the disaster event to perform any necessary hardware, OS, network, database, application software maintenance, repair, upgrades, and updates. CONTRACTOR will work with COUNTY to determine and use commercially reasonable efforts to schedule downtime after regular business hours, during times that minimize the disruption to operations. The amount of scheduled downtime will be discussed and mutually agreed upon.

          2) Measuring System Availability - Equipment, network routers, switches, circuits, OS and layered products provided by CONTRACTOR will be monitored using automated Monitoring tools. In addition, call center logs will be checked that show a resolution relating to System Availability issues. For purposes of tracking downtime duration, the Unscheduled Downtime will begin at the time at which the impact is clearly identified by COUNTY and communicated to CernerWorks via a live telephone conversation, and the conclusion time will be when COUNTY's users are able to use the System.

     s. <u>Additional Provisions</u>

          1) If COUNTY experiences a disaster event and declares a disaster, all fees outlined in section t." Disaster Event Periodic Service Fees" will apply.

          2) If at any time, after COUNTY has declared a disaster per this Disaster During Implementation Provision, it is determined that recovery of COUNTY's Production Domain is not possible in the CTC the fees outlined in section t. "Disaster Event Periodic Service Fees" will be prorated up to that point in time.

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t. Disaster Event Periodic Service Fees - COUNTY agrees to pay the following DR Services fees, as applicable, in the event of a disaster declaration.

Service (See Additional Description Below)	Fees
Disaster Declaration Fee (per Instance)	$35,000 per Instance
Hot Site Production Fees (Weekly): (Fee is in addition to the Monthly DR Service Fee) (Minimum of one weeks fees per Disaster Declaration.)	$35,000 per week
Fail-back Services Fee (Base Support Services)	No charge (The scope of the services provided by CONTRACTOR for the graceful fail-back is as described in Section 18.) (COUNTY is responsible for installing, configuring, and having an operational system at COUNTY site to fail-back to.)
Fail-back Services Fees (Additional Support Services)	$TBD based on scope of additional work (If COUNTY requests assistance rebuilding or preparing COUNTY system for a graceful fail-back, CONTRACTOR will charge professional service fees based on COUNTY's documented rate or CONTRACTOR's default rate for the appropriate resources.)

1) Disaster Declaration Fee (per Instance): Disaster Declaration fee will be billed at the time a disaster has been declared by COUNTY and COUNTY has requested that CONTRACTOR begin work towards recovering the COUNTY production system. Upon disaster declaration hardware capacity and configuration, as described in scope section, will be provided for the Production environment.

2) Hot Site Production Fees (Weekly): The weekly Hot Site Production Fee will apply for the duration of time that COUNTY workload is hosted at the CTC. For the duration of the disaster, CONTRACTOR will provide hardware capacity as set forth in Table 1 Capacity Scope Limits of this CONTRACTOR System Schedule. The Hot Site Production weekly fee is for a production domain only. If the Hot Site Production service is activated for such an extended period of time that COUNTY requires non-production domains (i.e. cert, build, train, etc.), additional fees will apply. Non-production domains will be priced on a case by case basis dependent on type of domain and how long it's required. There would be a one-time fee and weekly fee for non-production domains.

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3) Note – In the event of a disaster, COUNTY will pursue reactivation of the Millennium system in COUNTYs data center in a reasonable amount of time, or will work in good faith on long-term RHO hosting agreement with CONTRACTOR.

P2Sentinel Enterprise Solution as a Service for Disaster Recovery

a. Solution Description - P2Sentinel Enterprise Solution as a Services (P2 SaaS) model for use in the CONTRACTOR hosted Disaster Recovery environment (Powered by SenSage) is a comprehensive, enterprise-level audit logging solution for tracking end user access to confidential patient data -- enabling a capability to audit how patient information is accessed throughout an enterprise. Under HIPAA, provider organizations must implement a system of accountability with regards to how patient information is accessed, used and disclosed.

b. Service Overview - CONTRACTOR proposes to provide technical consultation services to implement the P2Sentinel Enterprise solution in a Solution as a Service (SaaS) model for use in the CONTRACTOR hosted Disaster Recovery environment. Advanced configuration of the application is not provided as part of this engagement.

1) Disaster Recovery - The solution is installed on the DR system for use in the disaster recovery environment. Data has been pulled from the production environment running in a disaster recovery state hosted by CONTRACTOR.

    a) Maintain P2Sentinel Software and Linux OS (if required)

    b) Review and adjust Millennium auditing events

    c) Maintain COUNTY specific standards and processes

    d) Maintain log adapters for infrastructure application audit logs.

    e) Systems management activities including backup procedures

2) Activation - In the event a disaster is declared by the COUNTY, COUNTY will notify CONTRACTOR of desire for activation of the P2 SaaS solution. CONTRACTOR will promptly respond and begin work to activate the system. The P2 SaaS solution will be active within twelve (12) hours of notification from the COUNTY.

3) Monthly Fees - Upon activation of the P2 SaaS solution, monthly fees will be required. These monthly fees based upon present scope of the COUNTY Disaster Recovery environment will be fifteen thousand ($15,000) per month the solution is active. Expansion or modification to the disaster recovery environment may deem additional P2 SaaS monthly fees as necessary. CONTRACTOR will discuss in good faith impacts to environment and will work with the COUNTY on amending the scope associated with the P2 SaaS solution.

4) Test Activations (CTS-P2-HCM)

    a) Test activations represented on the part # CTS-P2-HCM within this contract can be performed with appropriate notice from COUNTY. CONTRACTOR requests a minimum of

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four (4) weeks' notice prior to test activation. Test activations are recommended to be performed in conjunction with CernerWorks test activations of COUNTY's Disaster Recovery environment.

        b) CernerWorks conducts 1 (one) test activation of the Disaster Recovery environment per year for 4 year term; Should P2 SaaS test activations be desired during the term of this Agreement, these may be purchased on a separate agreement for the price of $4,000 per test activation.

        5) Migration Services - In the event a disaster is declared and the COUNTY's Disaster Recovery environment and P2 SaaS solution activated, additional services will be required for the migration of the P2 SaaS data into the COUNTY's restored COUNTY Hosted P2 environment. These services will vary based upon the amount of audit data needing to be migrated as a result of the time period the Disaster Recovery environment has been in productive use.

        a) Assumptions - For proper knowledge transfer we strongly recommend that the COUNTY be familiar with the core technologies used in this solution.

      c. Scope of Services - CONTRACTOR's Application Services include the following:

        1) Secure hosting in CTC designed to provide uninterrupted services.

        2) Hardware, Third Party Layered Software is included.

        3) Network connectivity to COUNTY site for CONTRACTOR hosted systems, or Internet Connectivity for COUNTY hosted systems.

        4) Backup of critical systems data Audit Logs and Customized Reports.

        5) Ongoing technology and software upgrade services for the Application Services

      d. Responsibilities

        1) CONTRACTOR's Responsibilities

        a) Provide the hardware, Third Party Layered Software, storage, backups, and secured connectivity presence to the Internet and management services necessary to provide the hosted Application Services.

        b) Routine system maintenance requiring downtime (as needed) will occur Sundays between 2:00 a.m. and 10:00 a.m. (Central Time); this required downtime may affect the availability of the CONTRACTOR hosted Disaster Recovery environment.

        c) "Web Based Training" defined as a training session delivered via the web for COUNTY identified users of the Application Services. One (1) Web Based Training session will be provided by CONTRACTOR.

        2) COUNTY Responsibilities

        a) Procure, install, maintain, manage, and provide internet connectivity to all pertinent COUNTY site devices which meet CONTRACTOR minimum system requirements (e.g. user workstations, audit source systems and audit system listener)

        b) Identify and authorize users for using the reporting of the Application Services.

        c) Define and maintain audit configuration in the source system, monitor and manage the process used to send data to CONTRACTOR.

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d) Identify primary COUNTY contact to work with CONTRACTOR.

3. ePrescribe

a. Solution Description - CONTRACTOR supports up to One Hundred (100) Physicians/Providers. EPrescribing solutions use third party companies to supply the electronic prescribing network, also known as the 'gateway' for electronic data transmission. CONTRACTOR's approach to connecting to the transmission network is the CONTRACTOR Hub, which connects to the ePrescribing network. Regulatory requirements recently changed to allow for ePrescribing for controlled substances (Classes I – VI), however these requirements are broad-reaching and encompass much more than the CONTRACTOR ePrescribe solution. Additional solutions and technology may be needed to support DEA defined advanced authentication protocols as well as ensuring the proper policies and procedures are in place. This will also be dependent upon the receiving pharmacy organization and systems meeting such regulatory requirements. Based on these variables, the ePrescribing of controlled substances is not included in the scope of the implementation.

b. Solution Capabilities

1) CONTRACTOR ePrescribing allows prescribers to electronically transmit new prescriptions directly to a pharmacy through a secure, HIPAA compliant communication link.

2) Prescribers have the ability to receive and respond to electronic refill requests sent from Pharmacies.

3) The system performs Rx benefit eligibility checking automatically for qualified users and encounters.

4) The system displays formulary information with a visual indicator when an active pharmacy benefit available, and there is a eligible formulary item for that benefit.

5) The system will query for and display external Rx history information for patients when available.

c. Contractor HUB (connection and pharmacy directory and routing information)

1) COUNTYs will use CONTRACTOR Hub, which establishes connectivity to SureScripts. COUNTY can leverage existing VPN with CONTRACTOR assuming capacity is sufficient.

2) Separate Licenses are required for the following services within the CONTRACTOR Hub:

3) Interoperability

4) CONTRACTOR-Hub allows systems to communicate in a seamless manner

5) Built on a Sonic Software ESB using an SOA that ensures it is an enterprise class system

6) Built to allow CONTRACTOR Millennium domains to interact with third party service provider, SureScripts using web services

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7) HNAM systems interface to the CONTRACTOR Hub through IBM's WebSphere MQ peer-to-peer messaging system

8) Pharmacy directory is housed centrally

9) Contains > ninety-five (95)% of the pharmacies in the US (primarily retail)

10) Of these Pharmacies greater than sixty (60%) of these pharmacies are electronically enabled (EDI pharmacies)

11) If a recipient pharmacy is not electronically enabled (EDI), then the prescription will be converted to a fax. Faxing will occur via one (1) of the options below:

12) SureScripts faxing service will send the fax to a non-EDI Pharmacy (using SureScripts formats) using a COUNTY's local RRD infrastructure and Millennium requisitions

    d.   ePrescriber Registration

1) Prescribers must be registered with the CONTRACTOR Hub and SureScripts in order for a prescriber to be capable of sending and/or receiving prescriptions electronically. Initially this was done by contacting the CONTRACTOR Hub team and providing the required demographic data for the prescriber (name, phone and fax contact numbers, NPI#). The CONTRACTOR Hub team then provided COUNTY a personnel alias for the prescriber that was built in HNA-user

2) All Providers in the Organization/Facility that can prescribe Prescriptions should be registered

3) SPI alias (including phone, fax, address)

    e.   Connectivity

1) CONTRACTOR Hub team maintains interface connectivity for one (1) non-production domains and one (1) production domain

    f.   Deliverables

1) Enhanced patient safety through the prevention of prescribing errors due to illegible handwriting and/or lack of knowledge about duplicate/contraindicated medications prescribe by another provider (obtained via medical history).

2) Improves physician and pharmacy efficiencies by reducing or eliminating phone calls and call-backs for questions or clarifications.

3) Increases patient compliance through prescribe access to patient specific formulary data, as well as expediting the filling of the prescription at the pharmacy.

4) Improves patient satisfaction and convenience by reducing waiting times at the pharmacy.

   4.   Electronic Lab Reporting

    a.   Data Connections

1) COUNTY domain to Electronic Lab Reportingdata center using a secure transmit to deliver reportable data daily

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2) Electronic Lab Reportingdomain to the Department of Health domain using a secure transmit to deliver reportable data daily

    b.   Rules and Mapping

        1) Patented Jurisdictional Logic will be used to determine the data which is reportable and in the specific format in which it is to be sent to the Department of Health

        2) Standardized Mapping provided for COUNTY using Electronic Lab Reporting's common nomenclature as well as LOINC and SNOMED codes

    c.   Results Storing and Viewing

        1) After results are sent to the state, results in Business Objects are stored for ninety (90) days. After the 90 day period the results

        2) will be permanently stored outside of Business Objects for COUNTY

        3) After the results are sent to the state, results in the HL7 have long term storage

    d.   Produce Reports - CONTRACTOR will send an HL7 daily to the required Department of Health as contracted by COUNTY (State, County, and/or City). CONTRACTOR will provide COUNTY with a copy of the daily HL7 file as well as COUNTY specific reports in Business Objects.

    e.   Deliverables

        1) Automates reporting to public health organizations

        2) Provides faster turnaround time and more complete data

        3) Improves community security with early detection

5. Cerner Direct

    a.   Integration

        1) Provide capability of sending and receiving of encrypted messages with recipients using any trusted Direct Project–compatible system

        2) CONTRACTOR will work with COUNTY to maintain secure messaging within Millennium through Message Center and Remote Report Distribution (RRD)

    b.   Foreign System Interface (FSI)

        1) Maintain Interface to CONTRACTOR Hub (VPN connection to the CONTRACTOR Hub)

6. Transaction Services/Eligibility Verification and Address Validation

    a.   Scope of Use Limits

Solution Description	Scope of Use Metric	Scope of Use Limit	Scope of Use Metric Description
Cerner Address Validation	Eligibility Requests	12,000	Monthly volume of inquiries regarding patient insurance and benefit coverage verification

Cerner Eligibility and Benefits Verification	Eligibility and Spend Down Req	12,000	Monthly volume of inquiries regarding patient insurance and benefit coverage verification

    b.   Scope of Use Expansion - In the event any scope of use limit set forth herein is exceeded, COUNTY agrees to expand scope of use at CONTRACTOR'S then-existing rates. COUNTY'S scope of use will be measured periodically by CONTRACOR'S system tools, or, for metrics that cannot be measured within the System, COUNTY will provide the relevant information to CONTRACTOR at least one (1) time(s) per year.

    c.   Subscription

    1)   Minimum Monthly Fees. COUNTY agrees to pay to CONTRACTOR a minimum monthly fee for the Transaction Services based upon an expected monthly transaction volume as mutually agreed upon by COUNTY and CONTRACTOR, and as set forth in Section III of this Attachment. The minimum monthly fee(s) shall be invoiced each month in advance, beginning upon First Productive Use.

    2)   Transaction Overage Fees. In the event COUNTY'S transaction volume in any given month exceeds the scope of use limit(s) for the Transaction Services as set forth above, the additional transaction overage fee(s) will apply

    3)   Contractor Transaction Services has partnerships and connections in place with TeleVox, SearchAmerica, United States Postal Service, Relay Health, Emdeon, Ingenix, Practice Insight, Megas, Unicor Medical and MedAssets

    d.   Address Verification

    1)   Cerner Address Validation works with the United States Postal Service (USPS) and is a supporting service that adds address checking functionality to existing Cerner solutions. Cerner's Transaction Services hosts a centralized database containing all valid residential addresses and utilizes the Address Matching System and Delivery Point Validation Tools from the United States Postal Service

    2)   Service will notify end user if the address is not a valid residential address or the address does not exist

    3)   Service will auto-fill City and State when end user enters 5-digit ZIP Code

    4)   Service will provide a list of valid ZIP codes when end user enters City and State

    5)   Service will notify end user if an address is not a valid residential mail destination or does not exist

    6)   Service will return formatted addresses to United States Postal Service standards when end user completes an address entry

    7)   Appends, updates or corrects ZIP + 4 codes

    8)   Corrects spelling errors and adds missing address elements

    9)   Formats addresses to United States Postal Service standards

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10) Formats addresses to United States Postal Service standards is required to leverage other services and to qualify for postage discounts offered by United States Postal Service

11) Registration Management is a pre-requisite for Address Validation

   e.   Eligibility and Benefits Verification

1) Includes enrollment for 20 payers, Millennium integration, & non-integrated web portal

2) Connectivity using HTTPs

3) Real-time X12 270/271 transaction set

4) Includes design, build, test, train, and go-live following MethodM

5) CONTRACTOR Registration Management is required

6) Includes enrollment for 20 Payers, Millennium integration, & non-integrated web portal

7) Connectivity using HTTPs, or TCP/IP

8) Real-time X12 270/271 4010A1 transaction set

  7. Application Management Services (AMS)

    a. Configuration, Setup and Engagement Description - This Scope includes in-depth operational model presentations with COUNTY application leaders, help desk manager, and information system (IS) analysts, multiple planning sessions with COUNTY leaders and the help desk manger, report setup, engagement meeting setup, change management setup, standard operating procedure documentation, Ticket backlog transition planning, maintenance and monitoring tools setup, proactive checks including recommended priority and action plan, content review, and service record interface implementation. A description of each of the processes is set forth below.

    b. Transition Planning Events - CONTRACTOR will establish a planning session via teleconference to present transition plan and schedule COUNTY education event to begin transition at COUNTY'S primary facility within ninety (90) business days prior to the scheduled service start date. Prior to the visit, CONTRACTOR will identify COUNTY personnel needed during this visit. Objectives of the meeting include, but are not limited to:

1) Create visibility/rapport and begin building relationships and commitment to the partnership;

2) Establish ongoing weekly planning sessions with the appropriate COUNTY leaders to initiate or develop specific processes, such as change management and configuration request processes;

3) Establish a configuration change request process;

4) CONTRACTOR solution architect(s) and COUNTY change management subject matter experts (SMEs) analysts will participate in separate solution specific sessions:

    a) Solution reviews: introduce/create leveraged Documentation to improve AMS COUNTY-specific knowledge and mitigate COUNTY time when troubleshooting.

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b) Introduce work plans: introduce/create leveraged Documentation to minimize COUNTY time investment during configuration process

c) Review road map: integration architect will work with COUNTY to understand road maps and assist with domain strategy

d) Establish COUNTY contacts

e) Help COUNTY understand how to maximize CONTRACTOR support services

5) Prior to event, CONTRACTOR will perform Bedrock/solution-specific proactive audits on current production domain and present findings

c. COUNTY Help Desk Interface - The Cerner Client Help Desk ("CCHD") interface is a bidirectional interface that provides connectivity from COUNTY'S level one help desk ticket system to CONTRACTOR's ticket system. This allows the COUNTY to create a ticket in COUNTY'S current system to generate a service record in CONTRACTOR'S ticket system. Ticket originates in COUNTY system and includes bidirectional updates. All updates to either COUNTY'S or CONTRACTOR'S ticket record will be captured in both systems and an activity will be created in both systems. CONTRACTOR will use its service record assignment created by the CONTRACTOR tool to track the ticket within CONTRACTOR. Ticket must be initiated with the COUNTY'S ticketing system. During the transition, CONTRACTOR will review specifications, create and manage the project plan, and provide resources to build the interface on the eService side provided COUNTY'S current ticketing system can accommodate an interface.

d. Incident Management Ticket Backlog System - During the transition stage, CONTRACTOR will review existing COUNTY and CONTRACTOR Incident Management Tickets for the Managed Software, and will transition the appropriate Incidents to CONTRACTOR support. CONTRACTOR will review existing COUNTY configuration request Tickets for the Managed Software, and will transition vetted, prioritized Tickets that COUNTY resources are able to fully engage with on a weekly basis to CONTRACTOR support upon AMS go live, as set forth in the "Scope of Use Limits" section of this Scope. CONTRACTOR will work to prioritize both the Incident management and configuration request Tickets with COUNTY and work toward resolution of such requests. Tickets currently logged with SolutionWorks will remain with SolutionWorks until closure.

e. Change Management - During the transition stage, CONTRACTOR will work with COUNTY to set up and maintain a change management process. CONTRACTOR will draft a standard operating procedure document that outlines processes and polices specific to AMS

f. COUNTY Governance Structure - COUNTY employees are responsible for setting priorities, providing general decision-making, overall organizational road mapping, defining organizational policies and procedures, developing communication strategy and defining and communicating key strategies and tactics to meet organizational goals. During the transition stage, CONTRACTOR will provide suggestions for COUNTY's governance structure, but it is the COUNTY's responsibility to identify departmental representatives, technical and clinical stakeholders, and executive

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oversight to participate in COUNTY governance. COUNTY will provide an application manager or equivalent for AMS engagement leadership to engage with daily.

g. AMS Change Management Group - The governance structure will also contain a group responsible for approving or rejecting changes to reference data proposed by departmental workflow SMEs (a "Change Management Group"). The Change Management Group will be responsible for setting priorities as they relate to end-user requests, approving system changes and change schedules, engage with CONTRACTOR to provide change request design, and manage communication and education strategies related to the change requests. CONTRACTOR engagement leader will serve as the AMS representative on the Change Management Group. During the transition stage, CONTRACTOR will provide the structure for the COUNTY's Change Management Group, but it is COUNTY's responsibility to identify solution and departmental representatives, technical and clinical stakeholders, and executive oversight to participate in this Change Management Group to serve as production approvers. COUNTY SMEs will vet end-user requests for change for appropriateness prior to submitting to AMS.

h. Support and Monitoring Tools

1) Bedrock Packages - CONTRACTOR tool used to build multiples of the same items such as orders in *Cerner Millennium* to ensure consistency and quality. COUNTY must allow CONTRACTOR to keep the *Bedrock* code level within three (3) months of the current code level.

2) AMS Dashboard - A standalone monitoring tool designed for *Cerner Millennium* that enables several functions to be monitored from one solution. COUNTY must allow CONTRACTOR to keep the AMS Dashboard code level within three (3) months of the current code level. COUNTY must grant access for CONTRACTOR tools to communicate with the system and database.

3) During the transition, CONTRACTOR shall request the installation of the above packages

i. Proactive Review - CONTRACTOR shall conduct ongoing analysis of the Managed Software to determine preferences, purging, and other settings that may impact the optimal use of the System. All settings found to be not aligned with recommendations will be documented and presented to COUNTY to determine priorities, at which point CONTRACTOR will begin the necessary proactive changes following approved change management practices. If COUNTY chooses not to pursue specific recommendations, CONTRACTOR shall note the recommendation as "overridden", and shall provide a report of all "overridden" recommendations at the next quarterly on-site review.

j. Standard Operating Procedure(SOP) Documentation

1) CONTRACTOR will provide COUNTY with the following Documentation of AMS procedures:

a) Work instructions outlining the process for Ticket logging, tracking, and the various Incident, service, and change request issue statuses that CONTRACTOR and COUNTY will use;

b) SOP outlining various tasks that will be performed as part of operations monitoring. The SOP will document the notification and tracking of issues.

k. Quarterly Reviews - Once per quarter, CONTRACTOR will conduct a formal review, which may include discussions regarding service and operations progress and metrics, benefits, and COUNTY feedback.

l. Travel Expenses - The AMS fees set forth in the Agreement do not include travel, lodging, per diem, or other out-of-pocket expenses incurred by CONTRACTOR personnel during the initial AMS transition period, on-site reviews, or subsequent visits. Such expenses must be pre-approved by ADMINISTRATOR, and shall be enacted through written, mutual agreement of the Parties in the form of a letter of concurrence or amendment to this Agreement. CONTRACTOR shall provide ADMINISTRATOR an estimate of period travel expenses within thirty (30) calendar days of contract Effective Date. CONTRACTOR shall bill approved travel expenses to COUNTY monthly, as incurred. Any estimate of expenses can change based on variables such as airfare and location of COUNTY's facility(s).

m. Application Management

1) Application Management is the set of services and updates required to ensure the Managed Software is available for end users. Support includes changes to the Managed Software that does not require the addition of new functionality (i.e. adding medications integration) or new solutions. Each party agrees to perform its respective Application Management responsibilities as set forth in Table 1 below. **All CONTRACTOR tasks outlined in Table 1 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

2) CONTRACTOR and COUNTY will use Tickets in the CONTRACTOR service tracking tool to track Managed Software Incidents, service, and change requests. End users must access COUNTY's help desk to enter issue requests which will transmit across the CCHD interface into the CONTRACTOR tracking tool. In the event that an interface is not possible, COUNTY's level one (1) help desk will log the Tickets into the Contrator tracking tool. Examples of change requests (examples below may not be representative of the Managed Software):

a) Modification to existing orders, tasks, preferences, and users

b) Addition of code sets (pre-defined lists) and alias (interface mapping)

c) Building PowerForms, discrete task assays, orders (nursing and interdisciplinary documentation)

d) Adding event sets (results viewing)

No.	Table 1: Application Management Responsibility Matrix	CONTRACTOR	COUNTY
1.1	**User Accounts**		
1.1.1	Designate security representative and provide definition of		X

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No.	Table 1: Application Management Responsibility Matrix	CONTRACTOR	COUNTY
	required roles, positions and solution specific security profiles. Notify CONTRACTOR of any changes to user security, such as termination and role change		
1.1.2	Support user database for solution-specific security such as task access, positions, and role setup	X	
1.1.3	Maintain individual users' accounts at the global level only as approved through change management	X	
1.1.4	Add new users' and manage the individual users' accounts		X
1.1.5	CONTRACTOR will create and manage user accounts for CONTRACTOR AMS associates	X	
1.2	**Maintenance Activities**		
1.2.1	Maintenance of remote report distribution settings using CONTRACTOR maintenance tools	X	
1.2.2	Capture customized workflows outside of CONTRACTOR recommendations	X	
1.2.3	Conduct end-user training		X
1.2.4	Build and maintain reference database elements using CONTRACTOR build tools	X	
1.2.5	Identify and provide printer and printer location(s) list		X
1.2.6	Maintain change management of local installations (fat client) of the Managed Software on COUNTY personal computers		X
1.2.7	Perform event code/event set changes as required	X	
1.2.8	Maintain solution-specific security based on COUNTY-supplied guidelines	X	
1.2.9	Maintain solution-level Microsoft Windows Terminal Server (WTS) locations	X	
1.2.10	Manage WTS locations		X
1.3	**Second Level Application Support**		
1.3.1	Provide troubleshooting expertise, Incident and Problem resolution	X	
1.3.2	Recommend short-term and long-term alternative resolutions to Incidents and Problems	X	

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No.	Table 1: Application Management Responsibility Matrix	CONTRACTOR	COUNTY
1.3.3	Follow CONTRACTOR policies for handling patient data	X	
1.3.4	Provide COUNTY with monthly service reports	X	
1.3.5	Provide accurate Ticket description and example Provide point of contact who can verify request is complete		X
1.3.6	Provide internal COUNTY help desk that serves as the initial point of contact for end users to address level 1 (one) type scenarios, on-site hardware, and application training support		X
1.3.7	Perform Daylight Savings Time management activities for the Managed Software	X	
1.3.8	Troubleshoot and resolve foreign system and medical device interface errors on the CONTRACTOR-side of Managed Software interfaces	X	
1.3.9	Troubleshoot and resolve foreign system and medical device interface errors on COUNTY-side of interface		X
1.3.10	Departmental workflow tasks (i.e., person combines, cancelling orders, resulting orders)		X
1.4	**Operations Management**		
1.4.1	Monitor purge job activity to ensure purges are completing successfully	X	
1.4.2	Set up and maintain purges and operations jobs	X	
1.4.3	Add/remove operations jobs	X	
1.4.4	Provide purge retention criteria		X
1.4.5	Set purge retention criteria for purge jobs and schedule jobs to run	X	
1.4.6	Complete event management threshold document and provide continuous directives regarding desired management of operations jobs and interfaces thirty (30) days prior to the AMS go-live date		X
1.5	**CCHD Interface**		
1.5.1	Provide specifications for the level one help desk ticket system and, if applicable, provide Application Program Interface access		X

No.	Table 1: Application Management Responsibility Matrix	CONTRACTOR	COUNTY
1.5.2	Review specifications, create, and manage project plan	X	
1.5.3	Provide resources to build interface on the eService side	X	
1.5.4	Provide resources to assist with technical questions and COUNTY workflow within ticketing system		X

n.   Custom Report and Rule Management - CCL report or rule (hereafter referred to as a "Custom Report and Rule") management is the maintenance of COUNTY Custom Reports and Rules and Discern rules.   This includes an inventory of all reports, rules and Discern rules that are used in COUNTY's *Cerner Millennium* production system. CONTRACTOR will make modifications to existing production Custom Reports and Rules, Custom Rules or rules to address changes requested by COUNTY as well as those required for release upgrades and content updates.   Each party agrees to perform its respective Custom Report or Rule management responsibilities as set forth in Table 2 below. Creation of new Custom Reports or Rules and modifications to existing production Custom Reports and Rule impacting more than twenty-five percent (25%) of the code shall be considered new Custom Report and Rule development. If new Custom Report or Rules development services are included in the "Scope of Use Limits" section, COUNTY is entitled to development of the number of new reports or rules set forth therein. **All CONTRACTOR tasks outlined in Table 2 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

No.	Table 2: Custom Report and Rule Management	CONTRACTOR	COUNTY
2.1	**Custom Report and Rule Request**		
2.1.1	Request modification to Custom Reports or Rules or *Discern* rule; provide requirement and mockup of change		X
2.1.2	Troubleshoot issues with Custom Reports or Rules or *Discern* rules in production	X	
2.1.3	Manage requests using tracking tool and report status to COUNTY	X	
2.1.4	Modify and test Custom Reports and Rules and *Discern* rules	X	
2.1.5	Within 30 days, validate and sign off on Custom Reports or Rules and assure the integrity of the resulting data		X

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No.			CONTRACTOR	COUNTY
	2.1.6	Provide Incident management and maintenance of Custom Reports and Rules not developed by CONTRACTOR until stabilized; New reports and rules will be considered stable 30 days from First Productive Use provided there are no documented issues from the validation process		X
	2.1.7	Request Custom Report and Rule or *Discern* rule modifications; provide requirement and mock up for the request		X
	2.1.8	Customization of *P2Sentinel* reports		X
2.2		***MPages* Request**		
	2.2.1	Localization of CONTRACTOR-developed *MPages* utilizing a *Bedrock* wizard	X	
	2.2.2	Development or localization of *MPages*		X

  o. Content Management - CONTRACTOR will provide updates of content packages to COUNTY, which includes standard content such as Multum, ICD-10, CPT-4, as well as code content included in exception service packages as needed. Each party agrees to perform its respective content management responsibilities as set forth in Table 3 below. NHIQM updates are excluded from content management. **All CONTRACTOR tasks outlined in Table 3 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

No.	Table 3: Content Management		CONTRACTOR	COUNTY
3.1	**Package Management**			
3.1.1	Maintain standard content updates subject to the "Scope of Use Limits" section of this Scope		X	
3.1.2	Install content and service packages and perform technical special instructions (if not remote hosted by CONTRACTOR or utilizing Operational Management Services (OMS), otherwise this becomes a Contrator responsibility)			X
3.1.3	Perform application related front-end special instructions for service package loads		X	
3.1.4	Provide regression test scripts		X	

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No.			CONTRACTOR	COUNTY
	3.1.5	Monitor Licensed Software notifications (i.e., flashes, advisories, *Cerner Knowledge Network*, etc.) and take necessary action	X	
	3.1.6	Validate service packages/solution enhancements and fixes, and assure the integrity of the resulting data. COUNTY is responsible for final approval/sign off		X
	3.1.7	Perform and manage the process for local installations (fat client) of the Managed Software on COUNTY personal computers		X

p.   Application Monitoring - CONTRACTOR shall provide twenty-four (24) hour a day, seven (7) day a week, every day of the year ("24 x 7 x 365") service to monitor and correct errors with interfaces, chart servers, operations jobs, remote report distribution (RRD), and printing. Profiles will also be created to inventory and baseline transaction volumes. Each party agrees to perform its respective responsibilities as set forth in Table 4 below. **All CONTRACTOR tasks outlined in Table 4 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

No.	Table 4: Application Monitoring	CONTRACTOR	COUNTY
4.1	***Cerner Millennium*: Management**		
4.1.1	Notify COUNTY help desk of Incidents found that affect service and require COUNTY intervention	X	
4.1.2	Remove or inactivate non-current items monitored or managed by CONTRACTOR (such as printers, operations jobs, and interfaces) with COUNTY approval	X	
4.1.3	Notify CONTRACTOR of additions, removals, or non-standard configuration changes within COUNTY's interface engine, prior to implemented/completed changes		X
4.2	***Cerner Millennium*: Interfaces Monitoring**		
4.2.1	Monitor *Cerner Millennium* outbound interface queue counts and status to ensure the active outbound interfaces are operational	X	
4.2.2	Monitor *Cerner Millennium* inbound interfaces status to ensure the active inbound interface is running	X	

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No.	Table 4: Application Monitoring	CONTRACTOR	COUNTY
4.2.3	Monitor *Cerner Millennium* server status for medical device interface and bedside medical device interface	X	
4.2.4	Operation and maintenance of non-CONTRACTOR side of foreign system and medical device interface		X
4.3	***Cerner Millennium*: Clinical Reporting (Win32) Monitoring**		
4.3.1	Monitor chart server status and settings	X	
4.3.2	Monitor chart request status and resubmit unsuccessful charts	X	
4.3.3	Review chart server errors, configurations, and propose recommended changes	X	
4.4	***Cerner Millennium*: Operations Job Monitoring**		
4.4.1	Monitor *Cerner Millennium* scheduled operations jobs to ensure scheduled tasks trigger and process without error	X	
4.4.2	Restart operations jobs as required	X	
4.4.3	Provide rerun instructions for an operations job error	X	
4.4.4	Document and report operations job issues	X	
4.5	***Cerner Millennium*: Remote Report Distribution Monitoring**		
4.5.1	Monitor *Cerner Millennium* remote-report distribution (RRD) server and RRD service status	X	
4.5.2	Monitor *Cerner Millennium* RRD communication port status	X	
4.5.3	Investigate RRD fax errors and retransmit as needed	X	
4.5.4	Manage RRD hardware (fax station, connectivity, modem status, and power)		X
4.5.5	Deliver fax-related training communication to end users		X
4.6	***Cerner Millennium*: Print Queue Monitoring**		
4.6.1	Monitor *Cerner Millennium* backend print queues for hung processes	X	
4.6.2	Enable down or cycle hung backend print queues	X	
4.6.3	Manage printer hardware devices and local connectivity		X
4.6.4	Monitor COUNTY-owned print server queues		X
4.7	***Cerner Millennium*: XR Clinical Reporting Monitoring**		

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No.	Table 4: Application Monitoring	CONTRACTOR	COUNTY
4.7.1	Monitor WebSphere application server status	X	
4.7.2	Monitor report request status	X	

q.   Change Management - COUNTY and CONTRACTOR will follow a formal process for changes made to the Managed Software. CONTRACTOR will provide a copy of the change management procedure to COUNTY. This process (i) ensures that changes occur in a controlled environment so that all parties understand the potential impact of an impending change and (ii) identifies potentially affected systems and processes prior to implementation of the change(s). COUNTY will authorize all changes that affect production domains as specified in the standard change management procedure. COUNTY agrees to cooperate with CONTRACTOR regarding providing reasonable and appropriate Configuration Change windows and participating in the testing as reasonably required.   Each party agrees to perform its respective change management responsibilities as set forth in Table 5 below. **All CONTRACTOR tasks outlined in Table 5 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

No.	Table 5: Change Management	CONTRACTOR	COUNTY
5.1	**Change Management**		
5.1.1	Provide plan for COUNTY's Change Management Group	X	
5.1.2	Identify representatives to comprise COUNTY's Change Management Group and perform COUNTY responsibilities as set forth in the structure		X
5.1.3	Provide and maintain an automated change management system for the centralized reporting and tracking of changes made by CONTRACTOR personnel	X	
5.1.4	Establish change management process that includes formal vetting and prioritization of requests for change by COUNTY		X
5.1.5	Perform project management		X
5.1.6	Provide reporting to COUNTY executive management	X	
5.1.7	Facilitate and participate in weekly AMS change management meetings	X	X
5.1.8	Agree to weekly production change window schedule	X	X

No.	Table 5: Change Management	CONTRACTOR	COUNTY
5.1.9	Communicate planned outages to end users		X
5.1.10	COUNTY will be a verbal authorization production environment change authorization (PECA) approver and will designate an AMS engagement leader and integration architect on the PECA approval list		X
5.1.11	Communicate system changes on non-Managed Software to the CONTRACTOR team as necessary		X
5.1.12	Test all changes to the Managed Software prior to submitting to COUNTY for validation	X	
5.1.13	Validate all changes to the Managed Software prior to moving them to production in a certification domain and immediately upon completion of the change in production		X
5.1.14	Test solution enhancements and defect fixes to ensure the integrity of the resulting data		X
5.1.15	Provide 6-month notice to CONTRACTOR of material changes to COUNTY growth in the scope of the Managed Software (e.g., order volumes, users), as set forth in the "Scope of Use Expansion" section of this Scope		X
5.1.16	Provide guidelines for governance structure to support change management activities and meetings	X	
5.1.17	Identify representatives to execute and participate within a governance structure		X
5.2	**Service Management**		
5.2.1	Provide monthly statistics and management reports to COUNTY on service level attainment	X	

  r. Incident and Problem Management - Incident management is the identification, assessment of impact, reporting, tracking, escalation, notification, and resolution of Incidents that occur in the Managed Software. Problem management is the identification of root cause and corrective or preventative action for one or more Incidents. COUNTY is responsible for maintaining a staffed help desk that will provide the first line of support of users and data coordination calls. This line of support will distinguish issues with the Managed Software versus connectivity or infrastructure Incidents. In addition,

COUNTY agrees to designate workflow SMEs at COUNTY facility to address solution-specific Incidents. Each party agrees to perform its respective Incident and Problem management responsibilities as set forth in Table 6 below. **All CONTRACTOR tasks outlined in Table 6 below apply only to the solutions defined as "Managed Software" in the "Scope of Use Limits" section of this Scope.**

No.	Table 6: Incident and Problem Management	CONTRACTOR	COUNTY
6.1	**Incident and Problem Management**		
6.1.1	Provide single point of contact for proper escalation of Incidents and Problems	X	X
6.1.2	Log all Incidents in accordance with the documented processes set forth in this Agreement		X
6.1.3	Maintain ownership of all Incidents and Problems related to AMS through closure or until agreement that the Incident or Problem is not within CONTRACTOR's scope of responsibility	X	
6.1.4	Perform root cause analysis on Problems that affect service level standards	X	
6.1.5	Notify COUNTY help desk of Incidents found that affect service	X	
6.1.6	Staff operations twenty-four (24) hours per day, seven (7) days per week ("24 x 7")	X	
6.1.7	Provide on-call solution staff 24 x 7	X	
6.1.8	Ensure proper notification and escalation of Incidents and Problems in accordance with standard operating procedures	X	
6.1.9	Differentiate between solution and connectivity Incidents, manage non-Managed Software Incidents and Problems with appropriate teams		X
6.1.10	Provide escalation process within COUNTY's organization		X
6.1.11	Assign information technology coordinator as primary contact according to CONTRACTOR standard escalation processes		X
6.1.12	Provide assistance for third-party software issues and engage the appropriate third-party support teams when possible. SLAs do not apply.	X	
6.2	**Level 1 Help Desk**		
6.2.1	Maintain COUNTY help desk on a 24 x 7 basis to provide first line of support to end users and average first call resolution of twenty-five (25%) per month (excludes password resets)		X
6.2.2	Answer basic system questions		X
6.2.3	Route user Tickets to the appropriate party		X

No.	Table 6: Incident and Problem Management	CONTRACTOR	COUNTY
6.2.4	Gather relevant contact information and log all Tickets		X
6.2.5	Maintain a library of electronic and printed system reference materials for use in answering user questions and resolving basic Problems		X
6.2.6	Perform password resets		X
6.3	**Workflow and Change Management Subject Matter Experts**		
6.3.1	Remain engaged on high/critical Incident calls as needed		X
6.3.2	Assist in validation of the resolution of an Incident as well as provide additional details for issue investigation as needed		X
6.3.3	Assist with end-user communication (downtimes, code changes, process changes, etc.)		X
6.3.4	Provide workflow training assistance		X

s.   Service Level Agreement - CONTRACTOR will meet or exceed the SLAs during the Measurement Period. SLAs are subject to Service Level Credits (SLCs) as defined herein. SLAs will not apply during the Transition Period.

t.   Service Level Review - On each 12-month anniversary of the end of the Transition Period, upon COUNTY's request, COUNTY and CONTRACTOR will review the weighting factor allocation and adjust such allocation as mutually agreed. Upon completion of the annual review, the parties will update the weighting factors to reflect the agreement reached.

u.   Service Level Failure ("SLF") An SLF will be deemed to occur whenever CONTRACTOR's level of performance for a particular service level fails to meet an SLA in a given month.

v.   Service Level Credits ("SLC")

1)   Each category will be assigned a weighting factor. No single SLA may have a weighting factor exceeding four percent (4%), and the total of the weighting factors for all SLA categories cannot exceed the risk percentage of 14% of the actual monthly charges for AMS.

2)   For each SLF, CONTRACTOR will provide COUNTY with a SLC that will be computed by multiplying the weighting factor for that category and actual monthly charges. For example, if CONTRACTOR has failed to meet its SLA for a category with a weighting factor of three percent (3%), and the actual monthly charge for AMS was $100,000, the SLC is calculated as follows:

a)   SLC = Weighting factor x actual monthly charges

b)   SLC = three percent (3% or 0.03) of $100,000 = $3,000

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c) In this example, the SLC for that month for that specific category would be $3,000.

3) For each Incident priority, CONTRACTOR will apply an escalator increase incremental to the priority-weighting factor. For example, if CONTRACTOR has failed to meet its SLA for an Incident priority with a weighting factor of three percent (3%) with the resolution time met for only seventy-five percent (75%) of the calls, and the actual monthly charge for AMS was $100,000, the SLC is calculated as follows:

a) SLC = Weighting factor x actual monthly charges

b) Escalator = Weighting factor x 2

c) SLC = three percent (3% or 0.03) of $100,000 = $3,000 x 2 = $6,000

d) In example, the SLC for that month for that priority would be $6,000.

4) The total amount of SLCs that CONTRACTOR incurs with respect to SLF occurring each month will be credited to COUNTY on the invoice delivered the month immediately following the month in which the SLFs giving rise to such SLCs occurred. For example, the amount of SLCs granted to SLFs occurring in August will be credited on the invoice delivered in September.

w. Root Causes - CONTRACTOR will work to identify root causes related to SLFs and correct causes of Problems for which CONTRACTOR is responsible under the Agreement. COUNTY will correct causes of Problems and attempt to minimize the recurrence of such Problems that prevents or could reasonably be expected to prevent CONTRACTOR from meeting the SLA.

x. Excused Service Levels - CONTRACTOR will be relieved of responsibility for meeting any SLA to the extent caused or affected by:

1) The actions or inaction of COUNTY or its affiliates, third-party suppliers, or services recipients;

2) COUNTY's prioritization of available resources;

3) Changes made to the environment by COUNTY that were not communicated in accordance with the change management process;

4) Events beyond the reasonable control of CONTRACTOR, including but not limited to war, sabotage, insurrection, riots, civil disobedience and the like, acts of governments and agencies thereof, fires, or acts of God;

5) COUNTY not allowing CONTRACTOR to keep the *Bedrock* and AMS Toolkit packages within three (3) months of the current code. The AMS Toolkit package is required to keep the AMS Event Management Dashboard monitoring and management tools operational;

6) COUNTY not having Lights-On installed and contributing data to the Lights-On network

7) Recommendations not pursued by COUNTY which affect CONTRACTOR's ability to meet SLA or monitoring expectations can result in forfeiture of SLCs;

8) Failure to call into CONTRACTOR service line for critical or high Incidents; or

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9) Non-production domains.

y. Service Level Measurements – Application Incident Resolution SLA – All COUNTY-reported application Incidents will be analyzed upon receipt and categorized as set forth in the table below:

Table 7			
Priority	**Resolution Time SLA**	**Weighting Factor**	**Frequency**
Application Incident Resolution			
Critical	Ninety percent (90%) within six (6) hours	Three percent (3%)	Monthly
High	Ninety percent (90%) within eighteen (18) hours	Two percent (2%)	Monthly
Moderate	Ninety percent (90%) within three (3) business days	Two percent (2%)	Monthly
Minor	Ninety percent (90%) within six (6) business days	One percent (1%)	Monthly
Application Configuration			
Critical	Ninety percent (90%) within twenty-four (24) hours	Three percent (3%)	Monthly
High	Ninety percent (90%) within forty-eight (48) hours	Two percent (2%)	Monthly
Escalator			
Each Priority	Eighty-five percent (85%) or less (but not less than eighty percent (80%))	Weighting Factor x 1.5	
Each Priority	Seventy-nine point nine percent (79.9%) or less (but not less than seventy percent (70%))	Weighting Factor x 2	
Each Priority	Sixty-nine point nine percent (69.9%) or less (but not less than sixty percent (60%))	Weighting Factor x 2.5	
Each Priority	Fifty-nine point nine percent (59.9%) or below	Weighting Factor x 3	

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1) The total Weighting Factor cannot exceed a total of fourteen percent (14%).

2) A single Weighting Factor cannot exceed four percent (4%).

3) Each Priority Definition must have a minimum of ten (10) Tickets logged within the monthly measurement period to qualify for SLA penalties.

4) Service level attainment calculation: *Number of Tickets (by Priority) closed meeting the SLA attainment divided by the number of Tickets closed (by Priority) x 100*

5) Duplicate Tickets will be treated as a single SLA.

6) Note: Tickets received by AMS that are determined to be out-of-scope and are transferred to other CONTRACTOR support organizations for resolution and closure will be excluded when calculating service level attainment.

z. Incident Code Descriptions

Table 8: Incident Code Descriptions	
Incident	**Description**
Critical	1) Majority (greater than 50%) of concurrent users across all locations are unable to process transactions or access managed solutions critical to their ability to conduct daily business **AND** 2) No bypass or alternative is available **AND/OR** 3) Major financial impact or patient care or safety conditions exist 4) Note: Critical Incidents must be called into the CONTRACTOR AMS service number immediately after logging the request.
High	5) Significant percentage twenty-five to fifty percent (25-50%) of concurrent users are unable to process transactions or access managed solutions required to conduct daily business **OR** 6) A component of Managed Software required to complete a critical workflow is non-functional for more than one (1) user **AND** 7) No bypass or alternative is available **AND/OR** 8) Financial impact or patient care or safety conditions exist 9) Note: High Incidents must be called into the Cerner AMS service number immediately after logging the request.
Moderate	10) A component, minor solution, or procedure is down, unusable, or difficult to use. There is some operational impact but no immediate impact on service delivery, financial, or patient care. An acceptable workaround, alternative or bypass exists. One or more COUNTY locations are impacted. Problems that would be considered critical or high that have a workaround, alternative, or bypass available will be

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Table 8: Incident Code Descriptions	
Incident	**Description**
	assigned as a moderate Incident.
Minor	11) A component, procedure or personal application (not critical to COUNTY) is unusable. No impact to business, single Incident failure, and a workaround, alternative, or bypass is available. Deferred maintenance is acceptable.
Resolution Time	12) The Application Incident Response SLA performance time for a resolution will be calculated as the difference between the time a request is "opened" in CONTRACTOR tracking tool and the time the request is documented as "closed" in CONTRACTOR tracking tool, less the time the Incident is in "Client Action" in CONTRACTOR tracking tool. An Incident is considered in "Client Action" when CONTRACTOR is asking COUNTY a question or when CONTRACTOR is requesting information from COUNTY or for the duration of COUNTY validation. 13) The Application Incident Response SLA performance time for requests needing a software change (software defect or software enhancement) will be calculated from the time the request is "opened" in CONTRACTOR tracking tool until the time the request is identified as needing a software change, less the time the request is in "Client Action" in CONTRACTOR tracking tool. The request will be closed in the CONTRACTOR tracking tool at the time the software change is identified and will be tracked via CONTRACTOR software release process.
Remedy	14) COUNTY'S RIGHTS UNDER THIS SECTION (SERVICE LEVEL AGREEMENT) CONSTITUTE ITS SOLE AND EXCLUSIVE REMEDY AND CONTRACTOR'S SOLE AND EXCLUSIVE OBLIGATIONS WITH RESPECT TO ANY SERVICE LEVEL FAILURE.

aa. Application Configuration Change SLA and SLO

Table 9: Application Configuration Change SLA and SLO
Application Configuration requests are changes to support existing functionality in the Managed Software. All Application Configuration requests will be analyzed upon receipt. CONTRACTOR and COUNTY will agree upon the category unless otherwise already defined. Requests may be grouped together into single projects, with agreement by CONTRACTOR and COUNTY. The custom groupings may affect how the request will be categorized (due to the level of complexity involved in the complete project).

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Table 9: Application Configuration Change SLA and SLO		
Entitlement	**Description**	
Critical	The request will resolve an issue with patient care or have a positive financial impact.	
High	The request is of a time-critical nature that will not necessarily affect patient care or create a financial impact to COUNTY.	
Entitlement	**Description**	**SLO**
Basic	Examples of basic configuration include updates to an existing orderable, printer, appointment type, etc. For Clairvia, five hundred (500) rows or less mapped per acuity update will be considered Basic.	Five (5) business days
Advanced	Examples of advanced configuration include updates to an existing power-form, chart form, new orderable, etc. For Clairvia, 501 to 2000 rows mapped per acuity update will be considered Advanced.	Ten (10) business days
Complex	Examples of complex configuration include updates to an existing interface script, new chart format, etc. For Clairvia, two thousand and one (2001) to five thousand (5000) rows mapped per acuity update will be considered Complex.	Fifteen (15) business days
Entitlement	**Description**	**SLO**
Requiring Scope Definition	These requests will be for efforts that require a scope to be defined. Examples of these types of requests would be updates to existing Custom Reports, *Discern* rules, person management rule, etc. Both parties will agree upon the turnaround time for these types of requests after the scope has been determined and mutually agreed upon. CONTRACTOR is responsible for developing a business design and associated scope for such requests. For Clairvia, five thousand and one (5001) rows and greater mapped per acuity update will be considered Requiring Scope Definition.	Negotiated at time of scoping
Performance Time	Application Configuration Change SLO performance time will be calculated as the difference between the time a request is "opened" (after COUNTY approves request) in CONTRACTOR tracking tool and the time the request is documented as "closed" (after the change is moved into the production environment and validated by COUNTY) in CONTRACTOR tracking tool, less the time the request is in "Client Action" in CONTRACTOR tracking tool. Issue is considered in "Client Action" when CONTRACTOR is asking COUNTY a question or when CONTRACTOR is requesting information from COUNTY. Application Configuration Change SLO performance time for requests needing a software change (software defect or software enhancement) will be calculated from the	

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Table 9:
Application Configuration Change SLA and SLO
time the request is "opened" in CONTRACTOR tracking tool until the time the request is identified as needing a software change, less the time the request is in "Client Action" in CONTRACTOR tracking tool. The request is considered in "Client Action" when CONTRACTOR is asking COUNTY a question or when CONTRACTOR is requesting information from COUNTY."

8. Shared Computing Services

a. **County Responsibilities.** County agrees to comply with all applicable laws, rules, and regulations as they relate to its use of the Services and its provision of the Services to Users. County or its Users must obtain all appropriate and necessary authorizations and consents to use or disclose any personally identifiable information in compliance with all federal and state privacy laws, rules, and regulations. County must have security and privacy policies and procedures in place that govern its Users' ability to access information on or through the Services and to prevent unauthorized access, use, and disclosure of personally identifiable information including, but not limited to, protected health information.

b. **Medical Record.** The Services do not constitute a medical record. County and its Users are responsible for ensuring that the information sent through the Services is incorporated into the applicable patient's medical record as necessary. County acknowledges that the health information exchanged by Users may not include the individual's full and complete medical record or history. Contractor may leverage a public cloud infrastructure to provide the Services.

c. **Access to Data.** Contractor may use and disclose the Data as necessary to perform, analyze and improve the Services, to the extent permitted by law. Contractor may use and disclose performance and usage data for any purpose permitted by law so long as the data does not contain protected health information as defined under HIPAA or Client-specific identifiable information. Data means data that is collected, stored, processed or generated through County's use of the Services.

d. **Right to Aggregate.** Contractor may use or disclose protected health information, as defined by 45 C.F.R. 160.103, to provide data aggregation services as permitted by 45 C.F.R. 164.504(e)(2)(i)(B), including use for statistical compilations, reports and all other purposes allowed under applicable law.

e. **De-identify and Use Rights.** Contractor may de-identify protected health information in accordance with the standards set forth in 45 C.F.R. 164.514(b) and may use or disclose such data unless prohibited by applicable law.

f. **Information Management Tools.** County acknowledges and agrees that the Services are information management tools, many of which contemplate and require the involvement of professional medical personnel, and because medical information changes rapidly, some of the medical

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information and formulas may be out of date. Information provided is not intended to be a substitute for the advice and professional judgment of a physician or other professional medical personnel. County acknowledges and agrees that physicians and other medical personnel should never delay treatment or make a treatment decision based solely upon information provided through the Services. County further acknowledges and agrees that the Services are not intended to diagnose disease, prescribe treatment, or perform any other tasks that constitute or may constitute the practice of medicine or of other professional or academic disciplines.

9. Application Services (ASP) Lab Sequence

a. Definitions

1) **Computing System** consists of the Cerner-owned server(s) and Data storage required to provide the remote hosting services set forth herein.

2) **Cerner Technology Center(s) (CTC)** means the data center facilities intended to provide uninterrupted power and service for Cerner-hosted solutions. Each CTC is designed to significantly reduce downtime and operate under supervision 24 hours per day, 7 days per week ("24 x 7"), every day of the year. Cerner will provide the CTC facility space, cooling, power and management, infrastructure components, and security required to provide the in-scope application services.

b. Deliverables

1) Configuration/Setup Description. Contractor will configure and set up the initial infrastructure required for work to begin on the application services project. This configuration and setup may include activities such as the initial procurement, installation, and testing of backend equipment, operating system, database, storage equipment, front-end servers, and tools.

2) Scope of Services. Contractors application services include the following:

a) Secure hosting in Cerner's Technology Center

b) Hardware and maintenance

c) Data Center operations (24x7x365)

d) Technical support and management (24x7x365)

3) Responsibilities: Application services include the servers, third party layered software, monitoring and management, hardware infrastructure, network infrastructure, storage and backups, and data center infrastructure required by Contractor to host the Lab Sequence solution. Contractor and County agree to perform their respective responsibilities, as set forth in the table below

Network Operations	Contractor	County
Provide and manage all network equipment within the CTC such as routers, switches, load balancers, and consoles.	X	
Provide connectivity between the CTC and the internet.	X	

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Equipment and Third Party Layered Software Provisioning and Acquisition		
Provide all servers, storage, and layered software required to support the in-scope application services. Contractor will retain all right, title, and interest in and to such hardware and software.	X	
Provide the systems required for end user access (e.g. network authentication), local printing and workstation software installation (e.g. "thick" client installations, desktop links, etc.).		X
Maintain responsibility for operating system and software licenses for third party products located on County front-end systems, desktops/laptops, and other devices (e.g., web browser, PDF reader, etc.).		X
Computing Systems Management		
Provide systems management services for the management, security, and performance of the Computing Systems required to operate the application services. Perform system backups including offsite storage as specified in standard backup policy to a secured environment.	X	
Maintain responsibility for backup of County-owned devices and servers, as applicable. Assign and manage end user accounts for access to applications or other peripherals as needed to ensure personnel have appropriate access.		X
Applications Management		
Provide technical support for the management of the application(s) such as installation of software updates, new releases, and cycling of application services.	X	
Train end users on the solution(s).		X
Disaster Recovery (DR) Services		
Use commercially-reasonable efforts to recover the application services as quickly as possible in the event of a disaster.	X	

IX. SYSTEM SUPPORT REQUIREMENTS

A. The CONTRACTOR acknowledges that COUNTY operates certain facilities that provide services twenty four (24) hours a day seven (7) days a week. And as such CONTRACTOR agrees to provide Support twenty four (24) hours a day, seven (7) days a week, with the exception of IQ Health/Patient Portal Consumer and Clinician Support which shall be provided Monday through Friday, 8:00 am to 5:00 central standard/daylight time.

B. CONTRACTOR shall provide an avenue for submission of Support requests at a minimum in the following methods:

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1.   Web Site access; and

2.   Via Telephone

C.   Type and Severity of Events: All events reported to CONTRACTOR shall have undergone an initial assessment and evaluation by the COUNTY Information Technology team to determine to the best of its knowledge, the likely root cause of the event and if the event is related to local internal issues, which includes training and non-CONTRACTOR network related equipment and environment Request for Support includes the following types of events:

1.   Critical System Events shall include the following:

a.   Situation where system stability, integrity, performance and/or availability are compromised.

b.   Issues resulting in a greatly reduced availability of system/application and/or those have an immediate and adverse effect on operations.

c.   Planned and unplanned downtimes of system, including actual or anticipated system crashes or sudden failures.

2.   Critical Application Events shall include the following;

a.   Sudden application failures.

b.   Licensed Software defects that impact system/application availability, operation, workflows, and quality and accuracy, and present associated risks.

3.   Critical Functional Events shall include Licensed Software changes required due to any local, state, and/or federal regulatory requirements.

4.   Non-Critical Events shall include the following;

a.   Software events that have an adverse impact on operations, workflow, accuracy, or quality, and may have acceptable and reasonable temporary workarounds.

b.   Normal operational production support and incidents arising in the normal course of business and/or during the installation of any required Licensed Software.

D.   CONTRACTOR Response Methodology:

1.   For all Critical Events, acknowledgement and action shall be taken as indicated below.

a.   CONTRACTOR's goal for resolution of all Critical System Events shall be resolution within twenty four (24) hours. CONTRACTOR shall stay actively engaged and will remain actively engaged until such issue is no longer classified as critical. CONTRACTOR acknowledges that special efforts and/or arrangements may have to be made with the objective of returning the system to at least a stable pre-event state.

b.   All Critical Application Events shall be acknowledged by the CONTRACTOR promptly, and CONTRACTOR shall stay actively engaged in resolving the issue and providing any necessary solutions until such issue is no longer classified as critical.

c.   CONTRACTOR will make good faith efforts to resolve Critical Functional Events to comply with requirements within the required timelines as set forth in the requirements.

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CONTRACTOR may charge Client for work performed as a result of a Critical Functional Event, in addition to Client's Support fees.

       d.   All Critical Events must be addressed and resolved to the satisfaction of the COUNTY. For all Non-Critical Events, standard operating policy shall include reporting the issue to the CONTRACTOR via any of the methods indicated in Subparagraph B. above.

       2.   Based on the nature of the event, including but not limited to Licensed Software functional compliance with regulatory changes, CONTRACTOR may charge COUNTY at an agreed upon rate.

       3.   Response by CONTRACTOR shall be based on the following Support execution methodology and shall include at least the following items:

       a.   CONTRACTOR shall make reasonable efforts to provide an acknowledgment of COUNTY stated event within twenty four (24) hours from the time reported.

       b.   CONTRACTOR's goal is to validate reported event and, if necessary, re-state and re-classify actual event based on CONTRACTOR subject matter expertise and Licensed Software knowledge, in collaboration with COUNTY, within forty eight (48) hours.

       c.   CONTRACTOR shall provide web based tracking system to document and report progress on all events.

       d.   CONTRACTOR shall provide periodic feedback and updates on CONTRACTOR's tracking website as progress occurs.

       e.   CONTRACTOR shall provide contact information on assigned CONTRACTOR support person and alternate contact information, actions being taken, and expected resolution date/time.

       f.   CONTRACTOR shall use good faith efforts to provide a status of the troubleshooting and analysis of open issues within fifteen (15) days after the COUNTY has reported them.

       g.   CONTRACTOR shall make available the assigned CONTRACTOR support individual via telephone for additional follow-up.

       h.   CONTRACTOR shall provide short-term or alternate workarounds if available, and/or Licensed Software modifications when necessary.

       i.   Provided that COUNTY remain on the most current version of Licensed Software, CONTRACTOR shall provide only fully tested and proven software solutions. Until COUNTY upgrades to the most current version of Licensed Software, for CRITICAL issues, CONTRACTOR and COUNTY will mutually agree on a process to test the issue resolution in a COUNTY non-production domain.

       j.   CONTRACTOR shall provide support during installation of Licensed Software patches and fixes, to assist COUNTY with questions or clarifications of issues that might arise.

       k.   CONTRACTOR shall maintain all historical Support documentation for at least two years in an easily accessible method and format for COUNTY personnel to review.

       l.   CONTRACTOR shall ensure that all support requests, except for Question priority support requests, are accepted and closed by COUNTY and not by CONTRACTOR.

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m. COUNTY shall ensure that appropriate remote access is granted to CONTRACTOR personnel. Access to COUNTY information shall be controlled and protected by COUNTY and provided to CONTRACTOR authorized personnel only.

n. CONTRACTOR support personnel that have access to the system and related resources, in all events, shall obtain prior permission from COUNTY before performing any changes remotely. Proper documentation shall be maintained and appropriate communication shall be made regarding all activities. Appropriate change management principles shall be followed.

o. CONTRACTOR shall provide an effective protocol for event escalation and follow-up.

p. CONTRACTOR shall provide Support remotely. If CONTRACTOR and COUNTY agree, CONTRACTOR may provide Support on-site for an additional fee.

q. CONTRACTOR shall ensure that appropriate knowledge transfer occurs when changes or escalations in assigned CONTRACTOR support personnel occur.

E. CONTRACTOR shall provide all necessary Documentation for the Licensed Software that are currently Supported by CONTRACTOR. All Documentation shall be made readily available and shall include sufficient details to understand and use the included functionality.

F. CONTRACTOR shall distribute any Licensed Software upgrades or version replacements to which COUNTY is entitled to under the terms of this Agreement, along with changes to Documentation. CONTRACTOR may provide assistance in the loading and installation of such upgrades and replacements for an additional fee.

G. CONTRACTOR shall maintain comprehensive change management and release/version control procedures to control Licensed Software updates.

H. CONTRACTOR shall provide all routine Licensed Software updates and communicate such events in a timely manner, with supporting Documentation of the changes, implementation procedures, expected impact analysis on the production environment, and any known or expected impact to other processes and functionalities.

I. CONTRACTOR shall proactively make available a knowledge base of all past and currently developing known Licensed Software defects, with all necessary relevant information in terms of identification, impact, and solution if any. Licensed Software error notices must be proactively published and/or emailed to designated COUNTY personnel. CONTRACTOR shall make proactive steps in communicating news of upcoming Licensed Software changes, planned product obsolescence events, advance information on upcoming product enhancements and/or packages, and provide support in the appropriate discussion and planning.

X. **STANDARDS OF SYSTEM PERFORMANCE**

The system must perform at COUNTY acceptable performance levels. The system shall perform in a manner that will not impede or significantly impact the performance of routine and normal system-related operational tasks, as well as efficiently perform certain critical processes that are executed at the

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server level; and will function in a consistent and dependable manner, recognizing that the COUNTY operates in a demanding twenty four (24) hours a day, seven (7) days a week production environment and that high-availability is critical. The parties agree that system performance is a joint responsibility of COUNTY and CONTRACTOR; CONTRACTOR's responsibilities for system performance are to provide Support and Maintenance services for the system (including the Licensed Software) as specifically set forth herein. It is the intent of the COUNTY and CONTRACTOR during the upcoming term of this Agreement that specific and meaningful benchmarks will be determined and agreed upon for monitoring application response times and other performance-related quantitative measurements, and will be used to continually assess and evaluate the effectiveness and quality of the configuration and the application in place. CONTRACTOR agrees to provide Support, as set forth in this Agreement, to assist COUNTY's achievement of these goals.

XI. CPT/CMT SUBSCRIPTIONS

CPT/CMT Subscription - COUNTY agrees that it requires both a subscription through the American Medical Association (AMA) for access to regular updates to the Current Procedural Terminology (CPT) and a corresponding CONTRACTOR subscription for Controlled Medical Terminology (CMT), collectively referred to as the CPT/CMT Subscription COUNTY has a contract directly with the AMA for the CPT subscription and as long they stay current with this license agreement with the AMA, CONTRACTOR shall allow COUNTY to use the CPT content.

XII. SYSTEM IMPLEMENTATION SERVICES

A. SCOPE NOTES

1. Contractor will provide professional service resources to assist County with the implementation of:

a. An HL7 Orders (ORM) outbound interface from Cerner Millennium County of Orange Health Care Agency to Children's Hospital of Orange County.

b. An HL7 Observation Result (ORU) Display Results inbound interface to Cerner Millennium County of Orange Health Care Agency from Children's Hospital of Orange County.

c. An HL7 Admissions/Discharges/Transfers (ADT) outbound interface from Cerner Millennium County of Orange Health Care Agency to Children's Hospital of Orange County.

d. Modification of existing HL7 outbound ORM interface from Cerner Millennium County of Orange Health Care Agency to University of California Irvine(UCI) if necessary

e. Modification of existing HL7 inbound ORU interface to Cerner Millennium from University of California Irvine (UCI) if necessary

f Estimated duration: 12 weeks

B. PROFESSIONAL SERVICES

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C. **Scope Considerations; Control of Scope of Work.** Contractor commits to delivering, in conjunction with County, a design, build, test, and rollout of all applicable elements set forth in this Agreement. The build for all Licensed Software and Contractor Services will be based upon Contractor's standard implementation processes. The project teams will reasonably accommodate design and build requests by County, including non-Model Experience requests. Such requests may result in changes to project timelines and budget. Customization of reports, views, *MPages*, and rules are only included if specifically noted.

D. County and Contractor must fulfill their responsibilities and adhere to the other requirements and descriptions set forth herein to meet the goals of an 'on-time' and 'on-budget' project. Modifications to this Scope shall be mutually agreed upon by Contractor and County's executive steering committee and set forth on a new Letter Agreement, including changes in resources, professional services fees, and project timelines.

Project Start Date. The project start date will be based on the Effective Date of this Agreement. Contractor requires a minimum of 90 days from the Effective Date to accommodate project staffing requests. After the project start date, Contractor and County will begin activities such as planning, staffing, and technology activities.

Travel, Lodging, Out-of-Pocket Expenses, and Per Diem Rates. The fees in this Agreement do not include travel, lodging, per diem, or other out-of-pocket expenses. Such fees will be billed monthly as incurred.

Fixed Fee Implementation. For fixed fee implementations, the scope of the implementation is based on the specific assumptions set forth herein and in the scope of work for the solutions being implemented (the "Solution Detail Scope"). Each party (or its designee) will fulfill project responsibilities assigned to such party in this Scope and in the Solution Detail Scope(s). This Scope and the Solution Detail Scope(s) describes the solutions to be implemented, duration of the implementation, and the Services to be performed. Any changes to assumptions, tasks, duration, services or resources may result in additional fees, and will only become effective upon written approval by both parties.

Statement of Work (SOW)

This Statement of Work (SOW) defines the Contractor and County project activities, responsibilities, expectations and outcomes for the project in support of and reference to the Agreement. The SOW provides a description of the nature of work required but does not provide an exhaustive list of every task or subtask necessary for project completion.

Included in the activities are:
- Project management, planning, coordination and task integration
- Analysis of County current state
- Data conversion

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- Training and knowledge transfer
- Build, test, and installation of Licensed Software and Interfaces
- System deployment
- Transition to support
- Project Schedule
- Project Schedule

The project duration is six (6) months where the start of the project is the first day of Executive Alignment and the end is the first day of the last Go Live. Deliverables, workshops, events, and other noteworthy milestones based off Contractor's implementation methodology plan will be included and scheduled in the project work plan. The project work plan will be mutually agreed to by both parties prior to Executive Alignment.

Project Controls

All Parties will adhere to this SOW in order to complete an 'on-time' and 'on-budget' successful project. Modifications to this SOW must be mutually agreed to by both Contractor and County, and may result in delays to the project, additional fees and/or impact to Contractor and County resources assigned to the project.

Fixed Fee Fixed Duration Implementation

Contractor will provide the implementation services on a fixed fee and fixed duration basis. The scope of the implementation is based upon the specific assumptions set forth in this document. Each party (or its designee) will fulfill project responsibilities assigned to such party as designated in RACI Matrix. The Scope of Work describes the solutions to be implemented, duration of the implementation and the services to be performed. Either party may identify a change in assumptions, tasks, duration, services or resources required from Contractor or the County. Such change may result in additional fees and will only become effective upon written approval by both parties. If requested by the County, Contractor agrees to negotiate in good faith with the County, services and pricing substantially similar to that set forth in this Agreement.

Scope Considerations

Contractor commits to delivering, in conjunction with the County, localization and configuration, rollout of all Licensed Software, subscriptions, application services, shared computing services and services set forth in this Ordering Document. Localization and configuration for all solutions will be based upon Contractor's Model Experience content. The project teams will accommodate localization and configuration in all circumstances possible assuming work can be completed within project timelines. Changes to application program code for reports, views, MPages, and rules are only included if specifically noted. Contractor's project leadership team will work with County in evaluating all requests

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1 that deviate from Model to ensure the project timeline, Countys KPI's, or other key area is not negatively
2 impacted.
3
4 The implementation services estimate assumes use of Contractor's commercial off the shelf functionality
5 (COTS) utilizing the most recent generally available (GA) software as of the date of this Agreement.
6 The implementation delivery will utilize Contractor's proprietary Framework Methodology utilizing the
7 Model System. The fixed-fee fixed-timeline professional services do not include any funding for: IVV,
8 oversight, or PMBOK requirements that have not been explicitly committed to in the Scope of Work
9 (SOW) document. Any expansion of the PMO requirements or system functionality will require mutual
10 agreement and may be subject to a change order.
11
12 Either party may at any time propose a change to scope. If Contractor believes that such change will
13 increase Contractor's costs or delay completion, the parties will negotiate in good faith to try to
14 accommodate such requests. Contractor will price any additional fees, at the County's option, based on
15 time and material rate(s) or fixed cost. Contractor will disclose and explain to the County its method of
16 pricing a change order. Any agreed upon modifications will be performed by Contractor in accordance
17 with the amendment and Agreement provisions. Any failure to agree to a proposed change will not
18 impair the enforceability of other Agreement terms or in scope.
19 Assumptions
20 This SOW assumes the following:
21 • Contractor will support one go live event, up to 3 facilities
22 • 3 clinics for Family Health
23 • Contractor will support up to one go live by which all solutions go live simultaneously
24 • Contractor will deploy a centralized database with multi-facility logic
25 • The hosting platform will be County hosted (CHO)
26
27 **Consulting Framework**
28 The Consulting Framework is Contractor's project implementation methodology. At the core of the
29 Consulting Framework is each County's individual set of value objectives, or goals. Keeping County's
30 value objectives at the center, Contractor leverages expertly engineered clinical and business processes
31 enabled by innovative technology to achieve expected outcomes. The Consulting Framework assesses
32 and advances the areas of people, process and technology. Excellence in each area maximizes the value
33 County will gain.
34
35 This SOW assumes Contractor's Consulting Framework methodology will be followed. Deviations from
36 using the Consulting Framework requires agreement from both Parties in writing and must be
37 documented in the Decision List.

Both parties agree that Contractor's Consulting Framework implementation methodology and best practices Model Experience Content will be used for the installation and configuration of the system. Designed specifically for Contractor Countys, the Contractor Consulting Framework methodology is a service delivery model supporting every aspect of the installation and ongoing support of the system. The Contractor Framework methodology approach brings together solution and process knowledge, execution content (project plans and governance models), and experience-based best practices recommendations of Contractor associates and our extensive County community. This allows County to focus on its organizational imperatives and follow a disciplined and predictable process.

The Contractor Consulting Framework methodology is an iterative workshop-based approach with specific milestones and validation checkpoints throughout the project. There are 4 stages to the Consulting Framework methodology:

- Align. The align stage is about discovery and coordination. During this stage, Contractor collaborates with County's leaders to understand goals in both project and value terms. Here Contractor observes County's people, processes, and technology in their current state.
- Engage. The next stage, Engage, is where the bulk of the work effort is invested in defining future state workflows, and creating learning and adoption plans to support them. Referencing the goals and current state discovered in the Align stage, Contractor leverages its knowledge of best practices, and the solutions being implemented to make recommendations in bridging the gap from current state to future state.
- Activate. Once the Engage stage is complete, County's project enters the Activate stage. This stage encompasses going live with new workflows, technology, and/or solutions in scope.
- Measure. With activation complete, County's project continues to the measure stage. County and Contractor teams measure the value achieved from the implementation project during this stage. The measurements occur on 3 levels: 1) System performance, such as responsiveness, up-time and time to complete activities; 2) Adoption and usage by department, venue, role, and individual; and 3) Specific value goals for the overall project.

Project Planning and Initiation

Contractor requires a minimum of ninety (90) days following the date of the fully executed Schedule to accommodate project team staffing. In the interim period, Contractor will initiate pre-project planning and preparation activities with County and set clear expectations for both Parties.

Key Events

Key event durations are set forth in the tables below. Should County not be able to accommodate workshop session durations Contractor will work in good faith to find a compromise that will not impact the fixed duration timeline. If all efforts to compromise are exhausted with no resolution and the

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timeline is impacted Contractor will present the County a letter agreement to account for the additional time needed.

*Location for each event will be reviewed and mutually agreed upon within project plan.

Executive Alignment

Participants	Duration	Location*	Objectives
Contractor & County Executives and leadership teams	One day	County Office	Discuss County executives' role in leading strategic change; Begin value objectives planning by reaching a common understanding of County's project goals based on County strategic imperatives. Identify primary contacts for each. Contractor recommends repeatable leadership tactics and tools to address organizational change management enabling accountability and a culture of "exceptional outcomes". Review and validate your existing governance structure for applicability to your Contractor implementation project and identify risks and strengths. Plan for next steps and upcoming events.

Project Team Readiness & Pre-Workshop Design Event

Participants	Duration	Location	Objectives
Contractor & County project teams	One week	County Office	Confirm common understanding of the vision and strategic imperatives the project serves. Review project details including the implementation methodology, project timeline, plan, and approach, governance structure, staffing, communications and online tools. Introduce initial localization concepts for core foundations, clinicals and revenue cycle in accordance with the scope of the project.

Current State Review

Participants	Duration	Location	Objectives
Project leadership team, subject matter experts, clinicians, and business analysts	One week	County Office	Review current state of people, processes, and technology in up to two locations, mutually agreed to by both parties, to determine how each may impacted and County's readiness for change. Identify corresponding opportunities, issues and risks. Document current key workflows and other applicable information to prepare for localization of solution configuration.

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Value Measurement Workshop

Participants	Duration	Location	Objectives
Project leadership and subject matter experts	One day	County Office	Create specific plan for measuring progress toward the achievement of the key performance indicators (KPI) and value objectives defined in Executive Alignment.

Sprints (Workshops)

Participants	Duration	Location	Objectives
Contractor & County project teams	Up to three, three-week sprints	County Office	Introduce topics, localize workflows, and validate system configuration based off County input.

Integration Testing

Participants	Duration	Location	Objectives
Contractor & County project teams	One-week event	County Office	End-to-end test of workflows validating integration across the continuum of care, venues and solutions. Complete review of and sign at the completion of the second round of integration testing.

Go Live

Participants	Duration	Location	Objectives
Contractor & County project team, County leaders, and County end users	One week	County Office	Activation of new workflows, processes and technology building; momentum for change and improvement.

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Health Check

Participants	Duration	Location	Objectives
Contractor & County project teams	One week	County Office	Assessment of the project's tactical and strategic outcomes using data analytics and County feedback. Identify successes and areas in need of further attention.

Gateways

Gateways provide a mechanism for County and Contractor leadership to evaluate the status of the essential elements at designated checkpoints throughout the project. These periodic meetings provide an opportunity for County and Contractor project leaders to review specific criteria and determine if goals are being met or if adjustments are needed. Items that are not successfully completed at the gateway checkpoint require appropriate documentation in the form of an issue or risk. Additionally, County and Contractor sign the Gateway status report at the conclusion of each Gateway ensuring both parties are aware of the status and next steps. If critical items are not complete or mitigated, projects may be delayed in progressing to the next phase of the implementation.

Gateway	Purpose
#1 - Plan	County and Contractor project teams demonstrate project planning has occurred County and Contractor confirm necessary resources are engaged Confirm project timeline is finalized Confirm preliminary value objectives are identified Confirm hardware / infrastructure procurement plans are in place Confirm County governance planning has begun
#2 - Align	County organization and the project team demonstrates they are aligned in their goals, resources and plan Confirm the Executive Sponsor and/or Accountable Leader(s) are assigned and engaged Confirm value objectives are defined Confirm project governance and resources are in place.
#3 - Validate	County confirms future state workflows are finalized and support their value objectives Confirm that the training strategy is finalized

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#4 – Train	County organization confirms staff are ready to learn new workflows and their supporting technology Validate solutions are configured and aligned to best practices Confirm that the model system is properly localized Confirm that training materials and TRAIN domain reflect future County workflows
#5 - Activate	County organization demonstrates readiness for new workflows and technology Verify end user training and go-live command center support plan are complete Confirm go live readiness activities are complete Confirm post go live maintenance and operations plan is in place
#6 - Measure	County achieved the value targeted by the project Confirm super-user and end-user's competency, confidence, and satisfaction are monitored and measured. Confirm that value objectives are trending toward goals. Confirm performance and operational metrics are trending positively and that no unresolved significant solution issues remain Confirm that issues and changes are being managed effectively.

Go Live Support Activities

Command Center Go Live Support

Contractor will provide application and technical support and troubleshooting for issues logged to the help desk or command center during the go-live event. Contractor's standard coverage provides five (5) days of twelve (12) hour support. The Contractor team will support the command center along with County's information technology and application team(s) and help troubleshoot issues as they are reported. County is responsible for triaging calls as they come in and making the first attempt to resolve them. Contractor will provide technical break fix support from the command center.

Turnover to Support

The Contractor project team will initiate and manage the turnover process to production support. The Contractor Engagement Owner will facilitate introducing the County and Contractor's support team within thirty (30) days before go-live to schedule the appropriate transition turnover. The Contractor and County project teams will jointly complete a turnover document for their respective solution no later than two (2) weeks' post go-live. At that point, all existing issues will remain with the current Contractor owners, and all new issues that remain unresolved after the County troubleshooting efforts have concluded will be reported to support.

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1 Application Management Services (AMS) will be the support organization providing technical break fix
2 issues.
3
4 **Model Experience**
5 The Model Experience is Contractor's best practice content across roles and venues. This SOW assumes
6 the Model Experience will be utilized without modification unless noted in a particular Solution at the
7 organizational level. Contractor further represents and warrants that its Model Experience is sufficient
8 for County's intended use and will not be degraded.
9 In order to deliver a quality-driven approach, County and Contractor agree to utilize Contractor's Model
10 Experience Content package. Model Experience is a predefined model system developed to support
11 clinical and financial needs. The Model Experience Content package was developed by Contractor
12 clinicians and industry experts and is updated based on the latest evidenced-based industry standards,
13 regulatory requirements, County input, and implementation experience.
14
15 **Project Portal**
16 The Project Portal is a secure, County specific and project focused website where all documents, issues,
17 risks, lists, tools, etc. shall be stored for the purposes of this Agreement. The Project Portal empowers
18 the County and Contractor collaboration and information sharing through a virtual centralized location.
19
20 **Travel Reimbursement**
21 The fees set forth in this agreement do not include travel, lodging, per diem, or other out-of-pocket
22 expenses incurred by Contractor personnel. County agrees to reimburse Contractor for travel expenses
23 incurred. Contractor uses lodging and per diem rates established by the U.S. General Services
24 Administration (GSA) Domestic Per Diem Table for County's location and are subject to change by the
25 GSA. County agrees to Contractor's travel policies and procedures (travel booking tool, per diem rates,
26 lodging caps, etc.).
27
28 In support of reducing the total cost of ownership for the County, Contractor requires a minimum of 10
29 business days' notice in writing from County when requesting additional resources outside of scheduled
30 trips to work onsite.
31
32 **Staffing**
33 Contractor and County will fully staff their respective teams within 90 days of the executed contract in
34 accordance with the respective FTE Requirements tables. Knowing personnel transitions occur both
35 parties agree to the following in support of the best interest of this SOW.
36 //
37 //

In the event of a planned transition (moving to another team/role/County within the company to meet business needs), the party carrying out a change will notify the other party within three (3) business days. Communication regarding the transition will be carried out by the project managers or next highest level of personnel. The transitioning party will provide a transition plan within ten (10) business days of communicating the transition. Transitions will span a minimum of ten (10) business days and include both the incoming and outgoing resources to ensure consistency and reduce the impact to the project. Parties have up to thirty (30) days from the time they are announced to backfill openings.

In the event of an unplanned transition, including but not limited to leaving the company, requested to be removed from the project, any situation resulting in the immediate or imminent dismissal, the party being impacted will notify the other party within three (3) business days. Communication regarding the transition will be carried out by the project managers or next highest level of personnel. The transitioning party will provide a transition plan within ten (10) business days of communicating the transition. Transitions will span the maximum time possible and if possible, include both the incoming and outgoing resources to ensure consistency and reduce the impact to the project. Parties have up to thirty (30) days from the time they are announced to backfill openings.

Any time after the effective date of the Contract, Contractor shall submit to the County any proposed new agreements with a Subcontractor that has not already been identified to the County during the RFP response period, within Contractor Technical Proposal, or during Contract negotiations, within at least thirty (30) days of the effective date of the Contract. Contractor must identify all known subcontractors at the time of submitting its Proposal.

Project Team Roles and Responsibilities

Contractor and County will identify and make available their respective project team members within ninety (90) days following the Effective Date. If County's resources are not identified and available within that timeframe, the delay will be considered a change in scope, and will require the execution of an Ordering Document setting forth the additional work effort, impacts to timelines, changes in payment milestones, and any additional professional services fees that may be required.

The table below lists the recommended resources required for the project. If the roles defined below are not identified and available within ninety (90) days following the Effective Date, such delay may be considered a change in scope and may require the execution of a new Ordering Document setting forth additional work effort and changes in key dates, and possibly additional Contractor professional service and fees.

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Team	Role Type	Role Specialty	HCA FTEs
Executive Leadership Team	Chief Information Officer (CIO)		0.075
Executive Leadership Team	Chief Medical Information Officer (CMIO)		0.1
Executive Leadership Team	Chief Nursing Information Officer (CNIO)		0.075
Executive Leadership Team	Executive Sponsor		0.125
Clinical Leadership Team	Clinical Leader	Ambulatory Nursing .1 FTE per Specialty	0.13
Clinical Leadership Team	Clinical Leader	Clinic Management .1 FTE per Specialty	0.13
Physician Leadership Team	Physician	Physician Champion .1 FTE per Specialty	0.2
Operations Leadership Team	Operations Leader	Director of Information Systems	0.1
Operations Leadership Team	Operations Leader	Health Information Management	0.05
Operations Leadership Team	Operations Leader	Finance Director	0.1
Operations Leadership Team	Operations Leader	Patient Access	0.05
Operations Leadership Team	Operations Leader	Patient Accounting Director	0.1
Operations Leadership Team	Operations Leader	Revenue Cycle Director	0.1
Project Leadership Team	Integration Architect		0.25
Project Leadership Team	Meaningful Use Project Manager		0.1
Project Leadership Team	Project Manager		0.5
Project Leadership Team	Project Manager	Help Desk Manager	0.1

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Project Leadership Team	Technical Manager			0.25
Project Leadership Team	Testing Coordinator			0.25
Technical Team	Desktop Support Technician	.2 FTE per 5 Locations		0.25
Technical Team	Interface Manager	.25 FTE per contributor system		0.3
Technical Team	Network Support Technician	0.05 FTE per 5 locations		0.1
Education and Training Team	Education Coordinator			0.3
Subject Matter Expert Team	Subject Matter Expert	Billing		0.1
Subject Matter Expert Team	Subject Matter Expert	Cash Posting Manager		0.1
Subject Matter Expert Team	Subject Matter Expert	Charge Master		0.22
Subject Matter Expert Team	Subject Matter Expert	Clinic Back Office Manager		0.25
Subject Matter Expert Team	Subject Matter Expert	Clinic Front Office .12 FTE per Specialty		0.24
Subject Matter Expert Team	Subject Matter Expert	Clinical Informatics - Family Health (Family Planning, Child Health, Immunizations (Travel, Child))		0.25
Subject Matter Expert Team	Subject Matter Expert	Coding		0.05
Subject Matter Expert Team	Subject Matter Expert	Collections		0.02
Subject Matter Expert Team	Subject Matter Expert	Finance Controller		0.05
Subject Matter Expert Team	Subject Matter Expert	Health Information Management		0.05
Subject Matter Expert Team	Subject Matter Expert	Social Work		0.02
IT Analyst	Analyst	Ambulatory - Family Health		0.2
IT Analyst	Analyst	Charges		0.2

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	IT Analyst	Analyst	Clinical Reporting	0.1
	IT Analyst	Analyst	Clinical/HL7 Interface	0.25
	IT Analyst	Analyst	Core/Security	0.1
	IT Analyst	Analyst	General Lab	0.05
	IT Analyst	Analyst	Medication Process	0.05
	IT Analyst	Analyst	Medical Records/Transcription	0.1
	IT Analyst	Analyst	Patient Accounting	0.25
	IT Analyst	Analyst	Registration	0.25
	IT Analyst	Analyst	Reporting / Rules	0.1
	IT Analyst	Analyst	Scheduling	0.25
	Total			~7.0 FTE

Contractor Project Team Key Roles and Responsibilities
Depending on the products County purchased, the project may include some or all of the following roles:

<u>Contractor's Project Leadership Team</u>
County Accountable Executive is a strategic advisor to County's organization for the lifetime of the relationship. He or she works with County leaders, committees, and teams to fully internalize County goals and challenges and to act as County's advocate within Contractor. With this knowledge and awareness of Contractor's portfolio of solutions and services, the County Accountable Executive provides guidance on project selection and sequencing, planning, scope, risk management, deliverables, updates, and professional service deployment.

Engagement Owner is the project manager overseeing and directing the day-to-day activities of the project for the Contractor resources including but not limited to planning, scheduling, risk management, monitoring task completion and coordination with County Project Manager.

Engagement Controller supports the Engagement Owner with day to day activities, coordinates implementation events and logistics.

Integration Architect works across multiple products and with the County teams to assure the integration of processes and information across workflows, solutions and technologies. This person identifies key application and peripheral integration points that may affect integration decisions and supports the management of domain strategies, change management and control, and issue management. They function as the application team lead for the Contractor project team.

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Clinical Consultant is the Contractor counterpart to County's Transformation Coordinator and works with the executive sponsor, physician champion, nurse champion, project manager and County's other leaders consulting on and making recommendations for governance and/or organizational change associated with adoption of new workflows and technology. They work closely with Contractor Consultants and County subject matter experts to understand current state workflows and developing future state workflows based off best practices. Commonly the Clinical Consultant is a registered nurse or has extensive clinical background allowing them to provide insight based on previous experience.

Learning Leader is an expert at applying processes, practices, and assets to achieve implementation specific training goals. They create and manage a learning plan and oversee its implementation. Consultant(s) lead County through localization of product/workgroup specific processes and workflows based off best practices. They are the counterpart to the County's business analysts and subject matter experts for their respective Contractor product.

Interface Architect works with County, County's other suppliers and Contractor to configure interfaces across County system(s). He or she accomplishes this by leveraging knowledge of HL7 interface coding, developing the interfaces based on best practices, and an understanding of County workflows.

County Project Team Key Roles and Responsibilities

The County will provide a project team that includes, but is not limited to, the following roles:

Executive Leadership Team

The County's executive leadership team commissions the project by allocating funds, providing ongoing support to the project sponsors and setting clear direction and expectations at the project's onset. They also provide ongoing support for County's project team. Their involvement will be heavily front and back loaded during the project.

Approve funds or project budget

Establish project direction and communicate expectations of desired project outcomes

Participate in project oversight for risk assessment, executive relationship management, and project status review

Procure and manage resources to meet contracted project plan deliverables

Serve as an escalation point for identified project related issues

Attend advisory committee meetings as necessary

Clinical Leaders

Clinical leaders are director or sometimes manager level people who provide departmental support and guidance throughout the project.

Lead project implementation planning

1	Identify the specialty workflow and assist in defining a standardized work process
2	Participate on steering committees or advisory groups
3	Be visible as a strong proponent of the implementation
4	Identify goals and objectives, measures, and the report format for assessing process improvement
5	Assist in the design
6	Facilitate stakeholder review of the solutions
7	Report to clinical and operations executives and facility C-suite executives
8	Conduct other tasks as needed by the project
9	
10	**Project Manager**
11	The project manager manages the overall implementation effort for County. The project manager works
12	with the executive leadership team and project management office (PMO) to obtain the necessary
13	resources to support the project and manage organizational change required to achieve project objectives
14	and realize values.
15	Lead project implementation planning
16	Organize County project team and establish appropriate decision-making bodies
17	Develop global work plan and schedules, develop or delegate and monitor development of product
18	implementation work plans, where appropriate
19	Identify and manage risk and quality assurance issues which arise during the project
20	Define project controls and metrics for measurement
21	Monitor overall project progress and milestones
22	Monitor project budget from a cost and time perspective
23	Review project progress regularly with County and Contractor management
24	Manage issue escalation and resolution
25	Attend executive steering committee, advisory committee, and project management meetings
26	Ensure effective project controls are established and maintained
27	Review project organizational structure including roles and responsibilities
28	Review project plan
29	Review project status reports
30	Review issue management plan and log
31	Review system change control process and log
32	Review risk management plan
33	Review deliverables and management procedure
34	Review communication plan
35	Review business case development, metrics definition and values realization
36	Review deployment strategy
37	//

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Integration Architect - County

The County Integration Architect works closely with the Contractor Integration Architect and is responsible for ensuring integration across all County technology, managing the test plan activities, especially creating and executing test scripts, managing interfaces, and assisting with change control and issue resolution. Post implementation the County Integration Architect will take over domain strategy responsibilities, code and package management from the Contractor Integration Architect.

Physician Champions

The role of the physician champion is a unique and vital one. They are charged with positively influencing the other physicians to participate in and embrace the technical and operational changes that will result from the deployment of the Contractor system. Characteristics to be exhibited by the physician champion include availability and willingness to participate, enthusiasm for the organization and project, comfort with technology, and, most importantly, the respect of his or her fellow physicians and clinicians.

Be visible as a strong proponent of the electronic medical record (EMR)

Provide presentations to department/division meetings

Provide informal communication to physicians

Provide feedback regarding ongoing issues or concerns with design

Identify goals and objectives, measures, and the report format for assessing process improvement

Assist in the design of the EMR

Lead physician committees and groups assigned to the Contractor implementation

Lead orders development for computerized physician order entry (CPOE), including:

Order catalog review

Order sentence review

Order folder development

Order set development

Lead rules and alerts development

Lead physician documentation discussions and planning

Report to clinical executives and C-suite executives

Conduct other tasks as needed by the project

Transformation & Adoption Coordinator

The transformation and adoption coordinator works with the executive sponsor, physician champions, operational leaders, project manager and other County leaders to develop and implement strategies to manage the organizational change associated with system implementation. The individual performing this role should have significant work experience in clinical and operational practices and be a respected member of the organization's management team. The adoption coordinator reports to the executive

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leadership team. This role is most effective when aligned with hospital operations instead of the information technology (IT) department.

Work with County and project leadership to develop a comprehensive plan for organizational transformation and to coordinate the transformation plan with all other Contractor system project activities

Assist Contractor and County project leadership in profiling and risk analysis

Coordinate organizational kick-off events in conjunction with the project manager

Orient Contractor project leadership on existing and planned performance improvement programs and work to integrate these programs into the project plan and tasks

Work with the communications team lead to identify key stakeholder groups and ensure the communication strategy meets their information needs

Work with operational and clinical leadership to develop and implement a clinician engagement strategy

Lead gap analysis and change management activities including job impact analysis and policy and procedure analysis

Support business case development and on-going values measurement

Serve as the project management team's subject matter expert on organizational culture and processes

Work with the education coordinator to ensure the learning plan is responsive to the various learning needs and styles of County

Communications Coordinator

The communications coordinator works with the executive sponsor, key stakeholders, project manager and other County leaders to establish and maintain an effective communication plan to keep the organization aware of project updates as well as an interdisciplinary communications plan to ensure the project teams and committees are effectively communicating with each other. The communications coordinator reports to the project manager. This role is most effective when aligned with a PMO or clinical operations team instead of the IT department.

Work with County and project leadership to develop a comprehensive plan for organizational transformation and to coordinate the transformation plan with all other Contractor system project activities

Monitor project requests – communicate with all key stakeholders regarding project status and timing

Coordinate, monitor, and control production and availability of materials, resources, and supplies (print and digital)

Coordinate the scheduling and completion of communications projects at each stage of the project

Coordinate communication and marketing tasks working with members of the PMO, project team, Contractor, and other department stakeholders

Provide leadership and input in content, design, social media strategies, web organization and design, and other communications venues

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1	Work with project leadership and others to produce materials that share the vision and fulfill the
2	purposes of the EMR project
3	
4	**Conversion/Learning Coordinator**
5	The education coordinator develops County's training plan for super user and End User Training in
6	conjunction with project leadership.
7	Develop learning plan using the Contractor solutions learning guide as its baseline and obtain senior
8	management approval
9	Maintain a County-specific learning timeline to support the Contractor solution implementations
10	Identify County learning risks to the project and mitigation strategies
11	Ensure the integration of learning events and milestones into the overall project timeline
12	Account for the execution of County learning, including scheduling of end-user training
13	Maintain an awareness of learning resource constraints that affect end-user training and escalate
14	appropriate issues to County project management
15	Customize County standard learning materials
16	Develop County-specific learning materials to support solutions
17	Manage and oversee County train domain including maintaining the train domain, developing a database
18	refresh strategy, populating the database with test records, and setting security policies
19	Coordinate appropriate use of the train domain consistent with project plan
20	Participate in County's marketing and communications process by providing learning-relevant
21	information
22	Work with management to identify, recruit, and support training staff
23	Establish subgroups and delegate responsibilities as appropriate
24	Maintain a positive attitude toward change
25	Ensure adequate training for County learning resources to successfully complete their tasks and
26	responsibilities
27	Identify trainers and super users
28	Print and distribute learning materials
29	Provide on-going learning support of end users
30	Trainers
31	Trainers deliver education to super users and end users per County's transition plan as well as report to
32	the education coordinator on progress and challenges.
33	Act as a primary trainer pre- and post-go-live
34	Promote mutual support among colleagues and emphasize knowledge sharing and success of the team
35	Demonstrate effective teaching techniques
36	Attend required training sessions and team meetings
37	//

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1 Assist with the identification, recruitment, training, and support of department-based super users pre- and
2 post-go-live
3 Comply with attendance tracking and competency documentation requirements
4 Report issues identified in training and recommend modifications of learning materials or other
5 appropriate actions
6 Follow established learning delivery protocols
7 Customize training curriculum and materials using County standard learning materials as a baseline
8 Review materials with design team and user groups (subject matter experts)
9 Complete learning materials to meet delivery dates
10 Provide ongoing maintenance of materials
11 Maintain a positive attitude toward change
12
13 **Analysts**
14 Analysts perform the same general tasks, but they also perform tasks specific to their solution.
15 Consequently, an analyst is associated with a particular solution(s) and their role title corresponds with
16 the solution. An analyst fulfills a set of general responsibilities during different project phases.
17 Act as the primary County departmental/functional resource dedicated to data collection and system
18 design
19 Implement solution design decisions, assuming responsibility for solution specific implementation
20 Assist with policy and procedure development for designated department/function responsibilities
21 Work with the departmental/functional team to develop and execute unit and system test scripts
22 Develop procedures for system troubleshooting and training
23 Assist with system validation
24 Participate as an Integration Testing and go-live team member
25 Provide application systems assistance to the departmental/functional team, particularly in technology
26 and system-related areas
27 Investigate and help resolve application problems
28 Support End User Training
29 Provide ongoing post go-live solution support for the IS department
30 Develop a basic knowledge of Discern Explorer, command languages, system operations, and interface
31 usage
32 Coordinate and participate in the auditing of current database in preparation for a history upload
33
34 **Departmental Subject Matter Experts**
35 Subject matter experts support solution team members with specific solution and process knowledge for
36 a specific functional area (i.e. HIM processes, meds process, etc.). The subject matter expert may also
37 serve as a super user for the solution post-go-live.

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1	Collect information to be used in database configuration
2	Test solution configuration and certify readiness for go-live
3	Participate in implementation strategies
4	Provide go-live support
5	Troubleshoot and remedy solution-related problems
6	Participate in training and go-live plan development and execution
7	Help develop and execute system downtime and recovery/fail-over procedures
8	Gain clear understanding of project goals and objectives as well as clinicians' requirements to ensure
9	optimal use of the solutions
10	Participate in design activities related to the solutions
11	Provide solution and process knowledge in support of system design, process reengineering and learning
12	plan development
13	Work with team to develop and execute unit, system and integration test plans
14	Support End User Training
15	Participate in go-live planning and participate as a member of the go-live team
16	Identify the specialty workflow and assist in defining a standardized work process
17	Participate on steering committees or advisory groups
18	Be visible as a strong proponent of the EMR
19	Identify goals and objectives, measures, and the report format for assessing process improvement
20	Assist in the design of the electronic health record and/or revenue cycle process
21	Facilitate stakeholder review of the solutions
22	Report to clinical and operations executives and facility C-suite executives
23	Coordinate and participate in history upload validation
24	
25	**Help Desk**
26	Help desk team members provide first line responses to questions, requests for services and
27	system/equipment issues. They receive initial telephone calls from users and route callers to appropriate
28	support personnel for questions, requests, or problems requiring a higher level of expertise or site visit to
29	user's department. They keep logs of issues and report them.
30	Answer incoming telephone calls from all users of EMR regarding system questions, service requests,
31	and system problems
32	Obtain description of the requested service or problem being reported
33	Provide answers to user questions and resolve routine problems in cases where this can be done in a short
34	time frame and for calls not requiring a visit to the user location
35	Route user service requests, questions, and problems that cannot be addressed to the appropriate support
36	personnel
37	Log all problems and service requests

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1 Follow up on all calls referred to support personnel including communicating status to users as required

2 Maintain a library of electronic and printed system reference materials for use in answering users

3 questions and resolving problems

4

5 **Super Users**

6 Super users are members of County's staff and physicians with additional system and procedure training.

7 They provide the first line of user assistance during and after activation of County solutions, especially

8 during evening, night and weekend shifts. Super users participate in workflow and solution testing and

9 contribute to County's transition plan. They also help set a positive tone for the organizational change.

10 Once County's transition plan is complete, additional information regarding the selection, training and

11 time commitments of super users is provided.

12 Participate in system testing

13 Escalate more complex problems to the help desk and follow up on department system issues

14 Promote mutual support among colleagues and emphasizes knowledge sharing and success of the team

15 Test and validate training curriculum and provide feedback

16 Support end-user training and assist trainers as needed

17 Comply with attendance tracking and competency documentation requirements when assisting in end-

18 user training

19 Demonstrate effective coaching techniques

20 Attend required training sessions and team meetings

21 Provide support to end users during go-live

22 Demonstrate schedule flexibility to meet the support needs of end users

23 Continue to support end users post go-live

24 Maintain a positive attitude toward change

25

26 **Process/Integration Architect**

27 Process/integration architect works closely with the Contractor integration architect and County's

28 departmental/functional team leaders to ensure project design and implementation activities comply with

29 County's overall architecture plan, all related Contractor solutions, global information systems strategy,

30 and patient care process. This includes designing, building and testing the transfer of data between

31 systems and devices. He or she functions as County's change control leader during implementation and

32 after activation.

33 Assist in developing the preliminary system architecture plan and implementation strategy

34 Identify and resolve global design issues

35 Provide consultation on process design alternatives and decisions

36 Drive testing and change control activities and processes throughout the implementation and post go live

37 Assist in the development, monitoring, and management implementation work plans

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Coordinate unit, system, integration and history upload testing events with all project teams, track testing completion, and escalate issues to the project manager as needed

Report technology/global progress to project manager for project status reporting

Assist project manager in managing quality assurance and risk issues

Assist teams in the planning and coordination of Integration Testing and go-live

Support environment/domain planning and management including regression testing after domain copies and code installations

Understand and own code strategy post go-live

Serve as the integration expert across solutions and interfaces, provide troubleshooting, process expertise, and guidance

Function as testing and change control lead during implementation and post go live

Regulatory and Reporting Analyst

County's regulatory and reporting analyst has primary responsibility for performing the data collection and reporting tasks in support of project values measurement.

Educate County leadership on the values process and tools

Document the functional and cross functional values opportunities

Participate in the development of the measurement plan for the project

Ensure integration with the overall system design process

Provide data collection, and analytical support for baseline and post-go-live measurement activities

Develop and present status and results reports

Interface Manager

The interface manager is responsible for working with counterparts from Contractor and other suppliers to ensure effective and efficient system integration is accomplished.

Develop interface specifications for system level interfaces

Review architecture design for all interfaces

Help County personnel design environment management, operational procedures, interfaces, and other system software

Act as the escalation point for interface issues that arise at County facility

Provide technology support for testing and go-live activities

Coordinate installation and implementation resources between suppliers

Project Deliverables

Deliverables will be used to establish and provide documentation of work strategies and/or plans completed in accordance with the schedule and project scope. Deliverable owners will be responsible for planning, organizing, communicating, executing, and following up on all related activities until complete. Both Parties must request in writing and mutually agree to all changes made to any

deliverable details. Perpetual documents, reports, and plans will require one sign off at initial delivery.

Project Reporting Deliverables

Weekly Status Reporting

Contractor will deliver to County a weekly status of the project by leveraging Contractor's Project Quality Dashboard which provides objective data to help manage the project. This dashboard will provide insight to the following items:

Project schedule & progress

Risks

Issues

Gateways

Status reports will be limited to one per week and will not require approvals. They will be published weekly from Current County Review through Go-Live. Contractor will host a weekly meeting to review the status and quality of the project implementation.

In addition to this report, County will also have direct access to the Project Plan, Risks, Issues, Design Decisions, Deliverables, Requirements Traceability Matrix and project documents through Contractor's Project Portal.

Monthly Status Reporting

Contractor will deliver an Executive Status Summary report monthly. This report will be reviewed by County's Executive Leadership Team and hosted by Contractor. This report will include a subjective view of the solutions though solicited feedback from the Contractor project teams.

RACI Matrix

| Responsible (R) – who will complete the work |
| Accountable (A) – who will ensure this step is completed, who makes the final decision |
| Consulted (C) – who provides input prior to completion of the task, who can tell me more to make this successful |
| Informed (I) – who needs to be informed of the results, who is kept up to date |

Category	Work Stream	Family Health Clinics	
		Contractor	County
Project Management	Communications Management: Identify, inform, engage and connect all impacted personnel throughout the implementation.	C	R
	Risk Management: Assess the project for risks and provide recommendation(s) for mitigation.	R	C

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1		Governance Management	C	R
2		Organizational Change Management	C	R
3		County Resource Management	C	R
4		Contractor Resource Management	R	I
5	Configuration	Contractor Solution Product Data Collection	C	R
6		Contractor Solution Product Configuration / Build	R	C
7		Contractor Solution Product Configuration Quality Audits	R	I
8	Testing	Unit Testing (create and execute scripts)	C	R
9		System Testing (create and execute scripts)	C	R
10		Integration Testing (create and execute scripts)	C	R
11		Learning Program Management	C	R
12–14		Contractor Solution Product Application Support Training (Maintenance Training)	R	C
15	Training	TRAIN Domain Configuration	R	A
16		Training Material Development	R	A
17		Train the Trainer	R	C
18		End User Training	C	R
19		Operational Cutover	C	R
20		Contractor Solution Technical Cutover	R	C
21		Non-Contractor Technology Technical Cutover	C	R
22	Go Live	Command Center Operations	C	R
23		At the Elbow Support	R	A
24		Technical Break Fix Support	R	C
25		Change Request Management	C	R

APPLICATION SERVICES

LAB SEQUENCE

(PA-20190, PA-20115)

Contractor Responsibilities	• Collaborate with County on configuration of *Cerner Lab Sequence*
County Responsibilities	• Ensure a system is in place to provide primary data source for patient, order, such as *Contractor Millennium* domain • Ensure appropriate third-party licensing is in place for labeling solution, if desired by County • Ensure a virtual private network connection is in place for County devices to connect to *Lab Sequence* • Conduct User training • Collaborate with Contractor on configuration of *Lab Sequence* • Contribute concepts, laboratory workflow, and related materials

Deliverables	• Identity and security management available: OpenID, Security Assertion Markup Language, System for Cross-domain Identity Management
	• Connection method available: Hypertext Transfer Protocol Secure
	• Web services call open standard for authorization
	• Connections established:
	o Device configuration, delimited file imports and exports
	o Reference Lab Network connectivity and configuration
	o *Cerner Millennium* foreign system integration for orders out and results in
	• Components setup:
	o Auto text
	o Sample and container types
	o Device export and import
	o Lab sections
	o Label printers
	o Order catalog
	o Ordering institutions
	o Personnel
	o Plate map layout
	o Report summary and layout
	o Result worksheets and protocols
	o Quality Control
	o Queues
	o Studies
	o Turnaround time
	o Workflows
	• Training provided
	o Train-the-trainer session for 1 small, core group of up to 15 County trainers
	o Maintenance session for 1 small group of maintenance tools Users
	• Access to standard, online help files, user guides, and job aids
Project Assumptions	• Overall project duration is approximately 12 to 14 months, depending on the number of device connections and order catalog volume; concurrent work will occur on various threads of the project occurring:
	o Approximately 1 month for technical configuration of domain, connections to foreign interface(s), and devices in the lab (including software); duration varies depending upon the number of devices
	o Approximately 3 to 12 months for gathering data and configuring database build
	• Customization of the training materials is at the discretion of County; Contractor recommends such work be kept to a minimum
	• Utilization of the *Lab Sequence* API is the responsibility and at the discretion of the County
	• Logistical planning will be ongoing beginning at program design; duration and approach dictated by go-live plan
	• Design and configuration of advanced workflows, Build of corresponding Millennium database build, where necessary – to accommodate for advanced reporting

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SHARED COMPUTING SERVICES	
CERNER HUB IMMUNIZATIONS (PY-27650C)	
Defined Terms	• **Inbound Connection** means a single Data feed from a sending system to the *Cerner Hub* • **Outbound Connection** means a single Data feed from *Cerner Hub* to a receiving system • **Connection Method** means the method by which *Cerner Hub* communicates with a sending or receiving system • **Transaction Type** means the type of electronic transaction *Cerner Hub* will use to communicate with the sending or receiving system

Technical Overview	• Connection Methods Available:
	  o Transmission Control Protocol/Internet Protocol (TCP/IP)
	  o File Transfer Protocol/Secure File Transfer Protocol (FTP/SFTP)
	  o Web services
	
	• Transaction Types Available:
	  o *Health Level Seven International* (*HL7*) 2.3.1

Initial Setup	• 1 inbound connection to *Cerner Hub* from sending system • 1 or more outbound connections to a receiving system from *Cerner Hub*
Connectivity	• *Cerner Hub* connections to or from an external network pass through the CTC • Any virtual private network (VPN) connections between external networks to or from the CTC must be set up utilizing the ANX-managed VPN solution • Other VPN solutions or network connections to the CTC will be evaluated on a case-by-case basis • County to provide technical resources to assist with the establishment of the VPN
Project Assumptions	• Data Governance. County understands and agrees that it is solely their responsibility to ensure data governance of the data sent to and from County by the external entities Contractor is connecting to. County is responsible for establishing appropriate policies, procedures, and training within their organization to maintain and support the quality, availability, usability, consistency, integrity, and security of the data the external entities are sending to County, and to communicate and enforce such policies and procedures as they relate to both County and the external entities.
Trademarks	• *HL7* is the registered trademark of *Health Level Seven International*.
Cerner Hub Service	

Immunization Distribution	• *Cerner Hub*'s immunization service will distribute *HL7* standards-based immunization messages (VXU) from acute care domains to immunization registries and immunization information systems
	• Immunization distribution details:
	  o Application Services fees cover a single connection between the acute care domain, *Cerner Hub*, and the immunization registry, as well as the outbound VXU interface license
	  o Support is included with the primary license based on the number of immunization registries connected
	  o Additional connections will require additional fees
	  o In the event County utilizes *Cerner Open Engine*, County may choose to build the outbound VXU interface

Assumptions for Acute Care Organizations	• ***If County cannot complete any of the assumptions set forth below, County may purchase additional professional services hours for a Contractor resource to complete the work*** • Systems sending data to the *Cerner Hub* will be responsible for aliasing per the Immunization Registry's requirements

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CERNER HUB IMMUNIZATIONS	
(PY-27650C)	
	• If County's system receives Data from the *Cerner Hub,* County is responsible for installing and configuring the inbound interface
	• Sending and receiving systems must coordinate specific values for person, encounter, order, and result level data and identifiers
	• Sending or receiving systems must have the ability to execute a person match using a person level identifier or a combination of demographic and order details
	• County is responsible for patient match, workflow design, and billing integration in the acute care domain
	• Physician EMR systems will be responsible for building the result, order, and other clinical codes
	• County will be responsible for testing and sign-off before moving to production
	• Any additional services beyond the scope of work set forth herein will require additional fees

IMMUNIZATION REGISTRY QUERY IMPLEMENTATION	
(PY-27578C, PY-27578-CW-C)	
Defined Terms	• **Inbound Connection** means a single Data feed from a sending system to the *Cerner Hub* • **Outbound Connection** means a single Data feed from *Cerner Hub* to a receiving system • **Connection Method** means the method by which *Cerner Hub* communicates with a sending or receiving system • **Transaction Type** means the type of electronic transaction *Cerner Hub* will use to communicate with the sending or receiving system
Technical Overview	• Connection Methods Available: • Transaction Types Available: ○ Web services ○ *HL7* 2.5.1 Query and Response Profile (QBP / RSP)
Initial Setup Fee	• Includes: ○ 1 outbound *HL7* QBP connection to a receiving IIS system from *Cerner Hub* ○ 1 inbound *HL7* RSP connection to *Cerner Hub* from sending system
Connectivity	• *Cerner Hub* connections to or from an external network pass through the CTC • Any virtual private network (VPN) connections between external networks to or from the CTC must be set up utilizing the ANX-managed VPN solution • Other VPN solutions or network connections to the CTC will be evaluated on a case-by-case basis • County will need to provide technical resources whenever possible to assist with the establishment of the VPN
Project Assumptions	• Data Governance. County understands and agrees that it is solely their responsibility to ensure data governance of the data sent to and from County by the external entities Contractor is connecting to. County is responsible for establishing appropriate policies, procedures, and training within their organization to maintain and support the quality, availability, usability, consistency, integrity, and security of the data the external entities are sending to County, and to communicate and enforce such policies and procedures as they relate to both County and the external entities.
Trademarks	• *HL7* is the registered trademark of *Health Level Seven International*.
Cerner Hub Service	
Immunization Registry Query	• *Cerner Hub's* immunization query service facilitates the query of an immunization registry for a person's vaccine history by an EMR, as well as the registry's response

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IMMUNIZATION REGISTRY QUERY IMPLEMENTATION (PY-27578C, PY-27578-CW-C)	

	• Immunization registry query details:
	o Application Services fees cover a single connection between the acute care domain and an immunization registry via the *Cerner Hub*, as well as the *HL7* QBP and RSP interface licenses
	o Support is included with the primary license based on the number of immunization registries connected
	o Additional connections will require additional fees
Assumptions for Acute Care Organizations	• ***If County cannot complete any of the assumptions set forth below, County may purchase additional professional services hours for a Contractor resource to complete the work***
	• Systems sending and receiving data via the *Contractor Hub* will be responsible for aliasing per the immunization registry's requirements
	• Sending and receiving systems must coordinate specific values for person, encounter, order, and result level data and identifiers
	• Sending or receiving systems must have the ability to execute a person match using a person level identifier or a combination of demographic and order details
	• County is responsible for the patient match and workflow design
	• County is responsible for any *PowerChart* modifications, and for granting Users access to new functionality (preferences and privileges)
	• Physician EMR systems will be responsible for building any result, order, and other clinical codes
	• County is responsible for testing and signing-off before moving to production
	• Any additional services beyond the scope of work set forth in this Scope requires additional fees

PROFESSIONAL SERVICES	
IMPLEMENTATION SERVICES	
LEARNING LABS	

Contractor Responsibilities	1) Contractor will deliver user training in a learning lab environment for the relevant roles. Contractor will provide 2 certified *Millennium* trainers to conduct training in a formal classroom environment for the relevant roles. Instructor-led end-user training will include *Cerner Millennium* solution and role-specific workflow content. Participants are assessed on the content through a formal performance assessment. Contractor will provide the *Millennium* trainers.
	a) PowerChart nurse and provider
	▪ 1 trainer @ 2 weeks
	b) Registration and Scheduling
	▪ 1 trainer @ 2 weeks
	c) Patient Accounting
	▪ 1 trainer @ 6 weeks
	2) Total hours for end-user training are calculated at an average of 36 hours per week. Trainers will work no more than 9 hours per day. Trainers will have 36 hours each for project management and localization to content.
	3) Contractor will work with County to provide the training service on an agreed upon schedule.
County Responsibilities	4) Develop a core group of nursing and physician superusers to obtain sustainability post conversion
	5) Provide a Learning Management System to track participant attendance and performance
MATERIALS DEVELOPMENT	
Overview	6) Contractor will localize standard learning materials for roles as agreed upon by County and Contractor Learning leader following roles/solutions:
	a) PowerChart Ambulatory nurse and provider
	b) CPM Registration and Scheduling

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		c) Patient Accounting
	7)	Localized learning materials will include instructor agendas, practice activities, job aids, and assessments
	8)	A learning task analysis (LTA) session will be conducted for each role with County subject matter experts (SME)
		a) LTA results in a course map detailing the roles, content, and learning medium
LEARNING MANAGER		
Overview	9)	Contractor will provide an associate to define, facilitate, and execute County's motivation and learning strategies to impact user adoption and awareness. All additional services, materials, hardware, and technology outside of this Scope are the responsibility of County. The following services will be provided by Contractor.
	10)	Oversee the implementation and updating of the transition change plan, including:
		a) Sharing industry best practices and lessons learned. Audience specific change plans
		b) Meeting with stakeholders to report adoption progress and resolve issues
	11)	Oversee the development and implementation of the learning plan, including:
		a) Managing training leads to execute the appropriate tactic to achieve the defined work streams
		b) Consulting on tactics to:
		▪ Drive the organization's learning strategy ▪ Design and develop learning materials ▪ Design and develop a TRAIN domain and refresh strategy ▪ Develop and implement performance support assets ▪ Drive course scheduling, registration, and attendance tracking ▪ Drive super-user and user training and resourcing ▪ Evaluate training to help improve delivery and content ▪ Evaluate the effectiveness of the change effort and recommend ongoing plan changes
	12)	Total hours in this Scope are based on a recommended set of services needed as agreed upon by County and Contractor
		▪ The Learning Manager is anticipated to be on-site 50% of the time over the course of the project. This assumes the learning manager will spend less time on-site at the beginning of the project and more towards the end during training
TRAIN DOMAIN		
Enhanced Observation Charging	13)	Contractor will provide an appropriate number of technical learning consultants for an anticipated. 3 weeks to support and manage the TRAIN domain through one load.
	14)	Services will include the activity data load of 1 TRAIN domain to support end-user training for the implementation
	15)	Technical learning consultants will support the following activities:
		a) Loading patient activity in a single TRAIN domain
		b) Leading and project management of TRAIN domain development working with County and Contractor.
		c) Consulting with County to develop curriculum driven patient data sets and activity data requirements to support User training.
		d) Implementing Freshen Scripts
		e) Developing TRAIN domain refresh strategy
		f) Exacting coverage model, including specific delivery functions, will be determined jointly by County and Contractor.
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		DELIVERABLES
Overview	16)	Contractor will present the deliverable(s) listed below for County to review and approve within 3 business days of receipt
		a) Training Agenda
		b) Course Map (eLearning and custom materials development services)
		c) Detailed Design Document (eLearning and custom materials development services)
		d) Final eLearning review
Change Process	17)	If the deliverable has been created per the accepted design document and County desires to make changes, Contractor will provide a change document defining the issue, scope, work effort to complete, effect on delivery timeline, and cost to County.
Participation and Feedback	*18)*	County will identify a primary point of contact (POC) for this engagement.
	19)	County POC will facilitate the identification of County resources, response to questions, review and acceptance of deliverables, and other requirements agreed to in support of this engagement.
	20)	County POC will review and sign acceptance or comment on milestone deliverables within 3 working days of receipt.
	21)	County will provide timely visibility to project detail affecting the learning engagement so that Contractor may provide input and feedback to support the project's successful execution.
Work Environment	22)	County will provide workspace, telephone access, and connectivity to Contractor when on-site in support of this engagement.
	23)	County will provide appropriate meeting space, projection equipment, and support for events conducted in support of this engagement.
Materials	24)	County is responsible for all production costs associated with materials development including, but not limited to, costs related to copying, printing, laminating, binding, and distribution. Upon request, and with adequate notice, Contractor will coordinate production costs.
	25)	County is responsible for any work necessary to copy or distribute the implementation support materials.
Completion Criteria	26)	This engagement will be considered complete when the scope of work is completed pursuant to this Scope, or when the Agreement is terminated pursuant to the terms set forth therein.
	27)	Termination, reduction in scheduled resources, and/or reduction in duration of this project requires written notification and may be subject to cancellation fees and nonrefundable airfare as follows:
		a) 14 or more days prior to commencement, no cancellation fee
		b) 13-7 days prior to commencement, 20% of fees
		c) 7-0 days prior to commencement, 30% of fees
		d) Reduction of resources and/or project duration post-commencement, 50% of pro-rated fees
	28)	County shall pay all outstanding fees and/or expenses owed to Contractor as set forth in the Agreement.
	29)	Certain reimbursable travel and temporary living expenses, as set forth in the Agreement, will be billed to County as incurred.
Assumptions	30)	Contractor will work with County to provide the following services per an agreed upon schedule.
	31)	Contractor will provide training services at County's facility for a maximum of 9 hours per day, with each individual resource being on-site for 4 consecutive days, with 3 consecutive days off free of travel.
	32)	Contractor reserves the right to reassign resources upon notice to County if hours fall below an average of 28 hours per week.
	33)	This Scope assumes a previously specified number of end-users will be trained. If the number of users changes significantly from this assumption, Contractor will review available training hours with County and determine if more hours are needed.

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Process/Issue Decision	34) This engagement includes only the items set forth in this Scope. A new Ordering Document must be executed by the parties if County requests additional tasks beyond those set forth herein. In the event County requests additional work effort or otherwise modifies the scope set forth herein, County and Contractor will assess the financial and delivery timeline implications of such changes and will work together to reach a mutually agreeable solution. Jointly, County and Contractor will discuss, document, and request approval regarding fees and delivery implications of additional work effort(s) prior to any scope expansion.
	35) Open process issues affecting training will be assessed by Contractor following the change process documented above. County will decide whether to include the identified changes in the learning process and accept associated changes in the completion of learning deliverables, or to include the content in an internal post go-live revision process.
Training Hours	36) In the event content development or training estimated time is less than what is stated in this contract, Contractor reserves the right to revise the total numbers and/or allocate those hours to assist with other overall training efforts for the Contractor implementation as agreed by both parties.
Suspension/ Rescheduling	37) In the event County requests this project be rescheduled or suspended, County will pay costs for hours worked and travel expenses incurred, up to and including the date of shut down. Additional fees may be incurred when the project resumes, including, but not limited to, increased professional service rates, planning, defining scope, reviewing and documenting completed work, and educating new project team members (County will not incur additional fees if the delay is mutually acceptable between County and Contractor).
	38) County acknowledges that Contractor is not obligated to provide the same project team members that were assigned to the project prior to the suspension.
Travel	39) Resource assignments and travel arrangements, including but not limited to County site visits, require a minimum of 10 calendar days of preparation time from the date this Scope is executed.

ADOPTION COACHING – Family Health Clinic	
Contractor Responsibilities	1. Adoption Manager (AM) a) Contractor will provide 1 AM for 5 weeks, 40 hours per week b) The AM helps the County develop, plan, and execute the adoption strategy c) The AM manages the coaches and schedule d) They serve as a connector in delivering information between the end users, County, project team, and coaches e) The AM is responsible for onboarding the coaches and providing continuous education f) They are responsible for weekly updates to County stakeholders 2. Adoption Coaches g) Contractor will provide 40 adoption coaching shifts h) Provide support while end-users learn to utilize the system i) Coach on how to use Contractor solutions j) Help triage issues k) Rounding support and by appointment l) Serve as liaison between project team and end users m) Coaches focus on increasing EMR adoption 3. Adoption Consultant n) 3 Adoption Consultant for 3 weeks, 40 hours per week o) Engage with end-users to drive behavior change in order to increase solution adoption, efficiency, and satisfaction. p) Leverage data to provide targeted consulting to specified end-users.

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		q) Meet with identified end-users and deliver education tailored to their role, needs and experience. r) Assess current state workflows and provide recommendations to enhance the end-user experience. s) 1:1 appointments with identified end-users

	County Tasks/Activities	4. Meet with adoption manager before engagement starts and at a regular cadence.
		5. Collaborate with adoption manager on adoption strategy, priorities, and areas of focus
		6. Provide an analyst who will be dedicated to sign on issues (passwords, usernames, positions)
		7. Provide end-user solution training materials prior to adoption coaching team arrival for all solutions being supported by the adoption coaches.
		8. Provide access to all documented workflows to the adoption coaching team
		9. Provide access to all units via badge
		10. Provide parking information
		11. Provide orientation and other support needs for the incoming adoption coaching team to become familiar with County's workflows and procedures.
		     t) Review of County conversion schedule including allocation of adoption coaching resources
		     u) Review of County communication (issue escalation) policies regarding the adoption coaching team
		     v) Review of most common user processes, workflows, and common questions
		     w) Hands-on practice of County-specific scenarios using the TRAIN domain
		     x) Tour of assigned work areas
		• Optimization Consulting
		     o Promote Services
		     o Help arrange meetings with end-users
		     o Send out communication to end-users about the goal of the support and sessions
		     o Provide a list of active issues and estimated time of resolution
		     o Review data with the adoption manager and agree upon who to have additional support sessions with

	Project Assumptions	• Participation and Feedback
		     o County will identify a primary point of contact (POC) for this engagement.
		     o County POC will facilitate the identification of County resources, response to questions, review and acceptance of deliverables, and other requirements agreed to in support of this engagement.
		     o County POC will review and sign acceptance or comment on milestone deliverables within 3 working days of receipt.
		     o County will provide timely visibility to project detail affecting the learning engagement so that Contractor may provide input and feedback to support the project's successful execution.
		• Completion Criteria
		     o This engagement will be considered complete when the scope of work is completed pursuant to the tasks set forth in this Scope.
		     o County requests resulting in cancellation of or reduction in scheduled resources, or reduction in duration of this project, require written notification and may be subject to cancellation fees and nonrefundable airfare as follows:
		         ▪ 14 or more days prior to commencement, no cancellation fee
		         ▪ 13-7 days prior to commencement, 20% of fees
		         ▪ 7-0 days prior to commencement, 30% of fees
		         ▪ Reduction of resources or project duration post-commencement, 50% of pro-rated fees

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o   Requests for additional end-user conversion support days must be submitted to Contractor in writing.
- Resource Assumptions
  - o   Contractor will work with County to provide the following resources according to an agreed upon schedule.
  - o   Contractor reserves the right to reassign resources upon notice to County if hours fall below an average of 36 hours per week.

PATIENT ESIGNATURE EXTENSION
(CTS-ESIG-CAPT-EXT)

The Patient eSignature Capture solution can be initiated from any *Cerner Millennium* solution that uses Cerner Electronic Document Imaging (EDM) to view documents. Electronic forms are presented to the patient for review via a tablet personal computer (PC) or a touchscreen monitor attached to the registration workstation. The documents can be easily navigated to cover the document content with the patient. After consenting to the document, the patient signs directly on a tablet PC or on a tethered signature pad.

Design	o Includes consulting services to enable capturing electronic patient signature on an additional set of forms
	o Design topics include:
	    o Project planning
	    o Forms design
	    o Event hierarchy/document types

Build	o Contractor will assist in adding up to 30 electronic forms to an existing Patient eSignature environment and will educate County resource on the process (forms in additional languages are counted as separate forms). o County is responsible for adding/testing beyond 30 electronic forms. o Assistance with *Cerner Millennium* changes required/desired for Patient eSignature. o Includes services for updating 1 non-production domain and 1 production domain. o Does not include build for Health Information Management (HIM), Clinical Reporting, or Message Center.
Facilities	o Scope assumes 1 facility.
Data Capture	o Includes services for up to 5 capture stations and knowledge transfer to County resource on setting up additional stations.
Testing	o Includes services to remotely support up to 2 rounds of County-led integration testing.
Reporting	o Includes the standard EDM document history report.
Training	o Includes services for super user training. o County is responsible for end user training and documentation creation. o Includes administrative training for adding electronic forms, logging files, and for as-built documentation. o Includes service overview
Deliverables	o Patient eSignature system is updated as outlined in this Scope. o Knowledge transfer of installation, configuration, and operational procedures for maintenance purposes o Up to 30 additional electronic forms o Super user training for the as-built System
Assumptions	o Appropriate hardware and licensing is in place and County is current on Maintenance payments EDM Patient eSignature solution is currently installed and working in County's non-production and production domains.

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PATIENT ESIGNATURE EXTENSION (CTS-ESIG-CAPT-EXT)	
	o County will provide production-ready forms in PDF format. o Contractor is not responsible for Content changes to forms including, but not limited to, logos, verbiage, headers, or footers.
Estimated Project Duration	o Three months o Project management support will not exceed 14 weeks in total duration.

ORGANIZATIONAL CHANGE MANAGEMENT	

Contractor Tasks/Activities	• Contractor will provide an Organizational Change Management (OCM) strategist who will:
	    o Work with County's interdisciplinary team to provide knowledge, content, tactics and methodologies to help with adoption of Contractor solutions across County's communities.
	    o Provide expertise at applying methodologies, practices, and tactics to achieve organizational change goals.
	    o Target measurable behavior change, conduct extensive analysis of needs and culture, help manage County transition change plan, and oversee its implementation.
	    o Facilitate Executive Alignment Event
	      ▪ Includes executive commitment session, values planning, and governance.
	      ▪ Provides leadership an opportunity to collaborate on overall project vision, success factors, and guiding principles for the transformation.
	    o Conduct Organizational Change Assessment and Plan
	      ▪ Includes organizational diagnosis and development of transition change plan and communication tactics tailored for County's approach to end-user adoption.
	    o Assist County with creation of Communication Plan
	      ▪ Includes an organizational and project-focused communication plan, and subsequent delivery methods to support updates to the organization and community on goals, progress, and other implementation components

	o Conduct Department Manager Meeting
	      ▪ Includes on-site department manager kickoff meeting designed to engage department leaders and/or clinic managers early in the project to build awareness, create commitment and provide tools and resources.
	    o Complete Formation of Change Network
	      ▪ Includes necessary analysis and aid in the creation of the change agent network
	    o Provide Advisory Consulting
	• Includes aid in executing strategies and tactics per the transition change plan to operationalize on-going process and sustainment of change management; identifying risks to sustaining adoption of new practices and outlining an adoption sustainment plan throughout the implementation lifecycle.

Project Assumptions	• Total Advisory Consulting hours in this Scope are based on a recommended set of services agreed upon by County and Contractor.
	    o Hours are calculated at an average of 20 hours per week though weekly hours will vary during engagement.
	    o Contractor OCM strategist will participate at a maximum of 40 hours per week.
	• Contractor will work County to provide Advisory Consulting on an agreed upon schedule.
	    o Contractor OCM strategist is anticipated to be on-site 50% of the time over the course of the project.
	• Controls on scope for the total number of a particular item within certain solution sections are

ORGANIZATIONAL CHANGE MANAGEMENT

present for the following reasons:
- o Achieve project timeline with County's estimated project resources
- o Recommend use of the system and ease of maintenance long term
- o Maintain standard consulting fees
- All requested modifications to this Scope must be evaluated for potential impact to the project plan and may result in a longer project timeline, additional Contractor/County resources, and/or additional fees. Contractor has a scope management process that will be utilized throughout the implementation to help keep the project on track.

CONTRACTOR ALIGNED CONSULTANT

Structure and Responsibilities

- To ensure successful joint governance and program delivery the following roles will be included to provide consultation through all aspects of your Contractor projects.

y) Aligned Integration Architect role for 6 months as a 1.0 Fulltime Equivalent (FTE):

Contractor Alignment Team	Key Responsibilities
Integration Architect	Enterprise integration architect for all Contractor related projects
	Develops and manages a holistic health architecture, technical and consulting strategy for County
	Supports County PMO in maintaining IT domain strategy & roadmap
	Escalation point and accountable for all Contractor & 3rd party integration projects
	Leads the execution of enterprise level domain, issue, and change management strategies as related to the Contractor roadmap
	Accountable for working with Contractor and County teams to develop and maintain Contractor domain strategy

CERNER MILLENNIUM FOREIGN SYSTEM INTERFACE SERVICES
(CTS-MILLFSI-SVCS)

Overview	• Contractor will provide the services set forth herein and in the 'Scope Notes' section of this Agreement, as applicable to the FSI Services.
Contractor Tasks/Activities	• Design interface, including site-specific interface specification document(s) • Build, code, and configure interface to the processing requirements • Perform functional testing of the interface • Support County validation testing of the interface • Attend regular project status meetings • Migrate interface to production domain and support interface activation • **Provide conversion support during normal business hours (8 AM–5 PM CST)**
County Tasks/Activities	• Synchronize data values between Contractor and the foreign supplier; including building of code value aliasing within Contractor that will be required for interface processing • Modify *Cerner Millennium* application, if necessary • Create and execute interface test plans • Validate interface testing

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CERNER MILLENNIUM FOREIGN SYSTEM INTERFACE SERVICES (CTS-MILLFSI-SVCS)	

Project Assumptions	• Contractor standard interface specifications are available upon request
	   o Real-time interfaces will conform to the Contractor universal interface (UI) specifications requirements, which are based upon the *Health Level Seven International (HL7)* standards as they relate to the *Cerner Millennium* architecture.
	   o Batch interfaces will conform to the Contractor standard specification requirements, which are based upon the *Accredited Standards Committee (ASC) X12* standards or flat file protocol as they relate to the *Cerner Millennium* architecture.
	• Contractor transmission protocols
	   o Real-time interfaces will utilize Transmission Control Protocol/Internet Protocol (TCP/IP) for data transfer and will be *Cerner Millennium HL7* UI compliant
	   o Batch interfaces will utilize Secure File Transfer Protocol (SFTP) for data transfer and will be either *Cerner Millennium* standard or *ASC X12* compliant unless otherwise noted in the 'Contractor Tasks/Activities' section of this Scope.
	• Custom scripting required outside the standard Contractor UI is expected to be performed within County's interface engine. If this is not possible or desirable, custom scripting can be performed within the *Contractor Millennium* interface but may require additional hours and fees.
	• This Scope covers the initial configuration and testing of the interface in a designated build environment and 1 copy to the production environment. Any additional domain support, including copies to additional domains and rebuild due to domain refreshes or updates may require additional hours and fees.
	• County and Contractor will work on this project concurrently on an agreed upon project timeline.
	• County shall incur additional fees if services are requested beyond this Scope.
	• Adjustments supported as part of the standard scope of services:
	   o Moving an existing data element from one field to another in the same message
	   o Concatenation of two existing data elements
	   o Addition or subtraction of leading zeroes to a numeric value
	   o Hard coding a default value
	   o Nulling fields
	   o Basic conditional statements
	   o Repeating field filtering, such as PID-3, PID-4, and personnel fields
	   o Suppressing transaction types
	   o Removing special characters from a field, such as dashes in a social security number
	• The following custom adjustments are supported outside the standard scope of services, and include any necessary Contractor-approved workaround:
	   o Querying data from standard *Cerner Millennium* tables and inserting into a field
	   o Full message character-string replacements
	   o Adding segments to a trigger not defined in Contractor Specifications
	   o Creating custom tables in *Cerner Millennium*, and inserting/updating/querying those tables
	   o Creating custom Z segments
	• Adjustments not supported under this Scope:
	   o Modification of the clinical content of a result from any source, including OBX;3,4,5,6,7,8,11 and 14
	   o Creating custom insert statements to insert rows into standard *Cerner Millennium* database tables
	• **All work set forth herein will be performed virtually unless otherwise agreed upon by Contractor and County.**

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CERNER MILLENNIUM FOREIGN SYSTEM INTERFACE SERVICES	
(CTS-MILLFSI-SVCS)	
Trademarks	• *HL7* is the registered trademark of *Health Level Seven International* and their use of this trademark does not constitute an endorsement by *HL7*.

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EXHIBIT A

CERNER CORPORATION

MA 042-22010605

EXHIBIT B

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

. **SCOPE OF USE LIMITS AND EXPANSION**

A. Designated Facility where the Licensed Software shall reside:

County of Orange Data Center

1400 South Grand Avenue

Santa Ana, California 92701

B. For use and access by the following Permitted Facilities:

Public Health facilities only of COUNTY.

C. Scope of Use:

SCOPE OF USE

County will use the solutions set forth in this Agreement in accordance with the Documentation and subject to the scope of use limits set forth in the Solutions section. If a scope of use limit is exceeded, County agrees to pay the applicable expansion fees set forth in the Solutions section, which are valid for 2 year(s) after the Effective Date, and thereafter increase at a rate of 5% per year.

In the event County requests additional scope beyond the limits set forth in the Solutions section and no Per Unit Expansion Fees are referenced therein, County must execute a new Agreement setting forth the additional scope and fees at Contractor's then-current rates.

Scope of use will be measured periodically by Contractor's system tools, or, for metrics that cannot be measured by system tools or obtained through industry available reporting sources (e.g. FTEs or locations), County will provide the relevant information (including records to verify the information) to Contractor at least once per year. County agrees that if an event occurs that will affect County's scope of use (such as the acquisition of a new hospital or other new facility), County will notify Contractor in writing of such event no later than 30 days following the effective date of such event so that County's scope of use can be reviewed. Any additional fees due under this Section will be payable within 60 days following County's receipt of an invoice for such fees. Any additional monthly fees will begin on the date the limit was exceeded and shall be paid annually (pro-rated for any partial month).

The pricing in the Solutions section of this Agreement is based on the following scope of use metrics, which are defined as follows.

Scope of Use Metric	Scope of Use Definition
Immunization Registry-1	A registry system connection with a single electronic medical record (EMR) domain, where the registry system is used to consolidate immunization records from multiple sources into a single record for public health initiatives.
Molecular Procedures-30,000	The total number of molecular-based infectious disease, molecular diagnostics, and cytogenetics procedures ordered each year. "Supergroups", orderable items that contain one or more other orderable items, are counted based on their component procedure orders.
Providers- 7	The total number of health professionals legally allowed to write prescriptions - physicians (M.D., D.O.), physicians' assistants, or other advanced practitioners.

D. The Licensed Software shall be used solely for the purposes of processing Data resulting from or related to procedures performed at Permitted Facilities.

EXHIBIT B

CERNER CORPORATION

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1   E.   CONTRACTOR agrees that COUNTY has the right to expand, delete, or substitute Permitted

2 Facilities set forth in Paragraph B. above (upon written notification to CONTRACTOR and subsequent

3 amendment of this Exhibit) provided the metric identified does not exceed the "Scope of Use Limit" set

4 forth above. These rights to expand, delete, or substitute Permitted Facilities do not apply with respect

5 to any interface software fees or services, and do not include any installation, custom programming,

6 Implementation or Support services from CONTRACTOR.

7   F.   In the event the Scope of Use limits are exceeded, CONTRACTOR and COUNTY also agree

8 that COUNTY may purchase licenses to extend the use of the Licensed Software for the expansion fees

9 and the additional monthly support fees indicated above or as agreed upon by both parties.

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EXHIBIT B

CERNER CORPORATION

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EXHIBIT C

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

. CERNER.COM RESTRICTED ACCESS AGREEMENT

A. Client agrees to protect and to keep in the strictest confidence all information and materials to which Client is granted access through Cerner.com "Client-only" access (the "Confidential Information"), except for information which is clearly sales, marketing, or other information available without restriction to the general public. Client will use the Confidential Information only for the purpose of supporting or otherwise facilitating its permitted use of the Licensed Software and System(s) identified in the Cerner Business Agreement, and for no other purpose whatsoever.

1. Client will designate and identify to Cerner those employees, agents, or other such representatives of Client, which Client desires to have access to the Confidential Information. Client agrees to limit access to Confidential Information to such individuals as have a need to know or have need to access the information in order to increase their understanding or efficient use of Cerner products and services identified in the Cerner Business Agreement. All such persons will be under a confidentiality agreement with Client that is sufficient to protect the proprietary and confidentiality interests of Cerner, its vendors and its clients. No copies of the Confidential Information will be made, except as necessary to facilitate Client's use of the Confidential Information as described above.

2. Client agrees to have in place, or implement if needed, appropriate policies, procedures, education, controls and internal audits necessary to assure Client's compliance with this agreement. Client understands that all persons who are granted access to the Confidential Information will be advised by Cerner of their obligation of confidentiality with respect to the Confidential Information. Nonetheless, Client agrees that it will be responsible for any breach of this Confidentiality Agreement by any person who is given access to the Confidential Information to facilitate Client's use of the Licensed Software or System(s). Client further understands and agrees that its responsibility will not be reduced or affected in any way by the advisement given to each person accessing such Confidential Information. Cerner reserves the right to terminate Client's and/or any of its personnel's access to Cerner.com at any time for any reason.

3. Client agrees to notify Cerner and Client's primary information services executive immediately upon learning of any loss of control, improper disclosure, or other misuse of any Confidential Information or other materials made available through Cerner.com, or of any password,

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EXHIBIT C

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logon procedure, or other method limiting access to Cerner.com. Further, Client agrees to take whatever steps are reasonably required to halt and otherwise remedy, if possible, any such breach of security, and to take all appropriate steps to regain control of the Confidential Information or such other information improperly disclosed or misused, and to prevent, as necessary, further disclosures or misuses.

4. Client will not be liable to Cerner for disclosure of Confidential Information if: (a) the Confidential Information is or becomes public without the fault of Client, or (b) the Confidential Information was in Client's possession or was known by Client prior to Client's receipt of the Confidential Information from Cerner, or (c) the Confidential Information is or becomes available to Client from a source already in legitimate possession of said Confidential Information, said source being other than Cerner, or (d) the Confidential Information is developed independently by Client, or (e) the Confidential Information is disclosed for unrestricted release with the written approval of Cerner to whom it relates, or (f) Client is obligated to disclose the Confidential Information by order or regulation of any court or other governmental entity.

5. All personal passwords, logon procedures, or other methods having the effect to limit access that Cerner discloses to Client are designed to be of limited scope and are highly confidential in nature. Client agrees to exercise all necessary control over such information so as to avoid the possibility of its disclosure or other misuse. Further, Client agrees that no such information will be shared with any other individual or organization unless Client is otherwise authorized to do so, in writing, by Cerner.

6. Information accessed through Cerner.com will not be further transmitted, reproduced, or otherwise copied, in whole or in part, through or under any medium, for the benefit or use of any person, not otherwise permitted to receive or use such information, without first obtaining Cerner's written consent.

7. Client may, however, disclose the information to any person within Client's organization if necessary to facilitate Client's use of Licensed Software (or other Cerner products and services provided under agreement) to which the information relates so long as the party disclosing the information notifies the receiving party of the confidentiality of the information and of their obligation to comply with these confidentiality terms.

8. Due to the nature of Cerner's business and the value of Cerner's proprietary information, Client agrees that a breach of any of the provisions hereof may inflict serious harm on Cerner, and that termination of Client's license, if reasonable under the circumstances, and money damages may be inadequate relief. Accordingly, Cerner will be entitled to injunctive relief to prevent or prohibit any threatened or continuing breach of any of the terms and provisions hereof and, in addition thereto, will be entitled to any and all other remedies available at law or in equity.

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EXHIBIT C
MA 042-22010605

CERNER CORPORATION

EXHIBIT D

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY31, 2023

I. PASS-THROUGH PROVISIONS

Where pass-through provisions are applicable to third party products and services, these provisions are referenced by a pass-through code, and that code can be entered at https://passthroughprovisions.cerner.com/ to view the pass-through provisions. The current version of the pass through provisions is referenced below.

BUSINESS OBJECTS AMERICAS PASS-THROUGH PROVISIONS

GRANT OF RIGHTS: Subject to Licensee's payment as invoiced and compliance with the terms of this Agreement, Business Objects Americas ("BOA") grants Licensee a non-exclusive and non-transferable license to use the Software on BOA supported operating environments for its internal purposes only.

RESTRICTIONS: Licensee may not distribute the Software, including by electronic transfer from one computer to another over a network or otherwise, except as necessary for use of the Authorized Copies by the Authorized Users. Licensee may not decompile, reverse engineer, disassemble, or otherwise reduce the Software to a human perceivable form. Licensee may not modify, adapt, translate, rent, lease, loan, resell, distribute, or create derivative works based upon the Software. Licensee may permit access to the Software only to the Authorized Users, and Licensee may make only Authorized Copies of the Software. Licensee may add additional users and make additional copies only upon payment of an additional license fee. Licensee may not release the results of any benchmark of the Software to any third party without the prior written approval of BOA for each such release. Licensee shall comply with all laws that are applicable to the Software including, without limitation, export laws.

LIMITED WARRANTY: The Software is licensed and otherwise provided "AS IS". If any materials or media in this package are defective, return them within ninety (90) days of the original date of invoice, and BOA will replace them at no charge. THESE WARRANTIES ARE IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ERROR-

FREE OPERATION. This warranty gives you specific legal rights, and you may have other legal rights, which vary from state to state.

LIMITATION OF LIABILITY: IN NO EVENT SHALL BOA OR ITS LICENSORS BE LIABLE TO LICENSEE FOR ANY DAMAGES, INCLUDING ANY LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA OR OTHER INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF LICENSEE'S USE OF OR INABILITY TO USE THE SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BOA OR ITS LICENSORS' LIABILITY TO LICENSEE FOR DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION, SHALL BE LIMITED TO LICENSEE'S ACTUAL DAMAGES, BUT IN NO EVENT SHALL SUCH DAMAGES EXCEED THE AMOUNT PAID BY LICENSEE FOR THE SOFTWARE. Some jurisdictions do not allow excluding or limiting implied warranties or limiting liability for incidental or consequential damages, and some jurisdictions have special statutory consumer protection provisions, which may supersede these limitations. As a result, this limitation of liability may not apply to Licensee if prohibited by law.

GENERAL: This Agreement shall be governed by the laws of California, excluding choice of law principles. The United Nations Convention on Contracts for the Sale of Goods shall not apply to this Agreement. Any modification to the Agreement terms shall be subject to BOA's prior written approval.

GOVERNMENT USE: The Software and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction release, performance, display or disclosure of the Software and accompanying documentation by the U.S. Government shall be governed solely by this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

QUESTIONS: If Licensee has any questions concerning the terms or conditions of this Agreement, contact: Business Objects Americas, 2870 Zanker Road, San Jose, California 95134 or call (408) 953-6000. Business Objects logo is a trademark of Business Objects SA. Worldwide rights reserved.

PASS-THROUGH PROVISIONS
ORACLE ASFU & PUBLIC SECTOR

A. Definitions.

   1. *Application Package* shall mean the Cerner Licensed Software.

   2. *Program* shall mean the Oracle software products, including program documentation, and updates acquired through technical support.

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3. *Program Documentation* shall mean the user manual and Program installation manuals.

B. Client Obligations. Client shall with respect to Oracle Corporation products and services, including the Program, acquired from Cerner:

1. limit the use of the Program to the legal entity that executed this agreement. If Client has been granted a license to use the Program to provide internet hosting services to its customers, such use does not constitute use of the Program by a legal entity other than the legal entity that executed this agreement;

2. restrict use of the Program to the scope of the Application Package, including the license definitions and rules set forth in the Program documentation, and to the Client's internal business operations. Client may allow its agents or contractors to use the Application Package on the applicable Client's behalf for Client's internal business operations subject to the terms herein. For an Application Package that includes Programs that are specifically designed to facilitate interactions between the Client and Client's customers and suppliers, Client may permit its customers and suppliers to use the Application Package in furtherance of such interactions subject to this agreement. The Client is responsible for its agent's, contractor's, outsourcer's, customer's and supplier's use of the Application Package and compliance with this agreement. If Client has been granted a license to use the Program to provide internet hosting services to its customers, such use shall be considered Client's internal business operations;

3. not assign, give, or transfer the Program and/or any services ordered or an interest in them to another individual or entity (and if Client grants a security interest in the Programs and/or any services, the secured party has no right to use or transfer the Programs and/or any services);

4. prohibit (i) the use of the Programs for rental, timesharing, subscription service, hosting or outsourcing (unless Client has been granted a license to use the Program to provide internet hosting services to its customers); (ii) the removal or modification of any Program markings or any notice of Oracle's or its licensors' proprietary rights; (iii) making the Programs available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted for the specific Program license); and (iv) title to the Programs from passing to the Client or any other party;

5. not reverse engineer (unless required by law for interoperability), disassemble or decompile the Programs (including but not limited to review of data structures or similar materials produced by Programs) and not duplicate the Programs except for a sufficient number of copies of each Program for Client's licensed use and one copy of each Program media;

6. at the termination of the sublicense, discontinue use and destroy or return to Cerner all copies of the Program and documentation;

7. prohibit publication of any results of benchmark tests run on the Programs;

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8. comply with any and all relevant export laws and regulations of the United States and other applicable export and import laws to assure that neither the Programs nor any direct product thereof, are exported, directly or indirectly, in violation of applicable laws;

9. permit Cerner to audit Client's use of the Programs and report such use to Oracle or to assign Cerner's right to audit Client's use of the Programs to Oracle. Client shall provide reasonable assistance and access to information in the course of such audit. Neither Oracle nor Cerner shall be responsible for costs incurred by Client in cooperating with such audit.

C. Ownership. Oracle or its licensor retains all ownership and intellectual property rights to the Programs.

D. Source Code. Client understands and agrees that some Programs may include source code that Oracle may provide as part of its standard shipment of such Programs, which source code shall be governed by the terms of the this pass through attachment.

E. UCITA. The provisions of the Uniform Computer Information Transactions Act shall not apply to this sublicense.

F. Third Party Technology. Certain third party technology that maybe appropriate or necessary for use with some Programs; such third party technology is licensed only for use with the Application Package under the terms of the applicable third party license agreement and not under these terms.

G. Third Party Financing. Client shall comply with Oracle's "Third Party Financing Notice – Financing for End-user Customer's Payment Obligation" dated February 15, 2011 whenever (i) the acquisition of Programs, is financed or leased, or (ii) a funder places the Client order or is otherwise responsible or payment of the order. Oracle's "Third Party Financing Notice – Financing for End-user Customer's Payment Obligation" dated February 15, 2011 is subject to change at Oracle's discretion and can be accessed at http://partner.oracle.com.

H. Liability. To the extent permitted by applicable law, Oracle shall not be liable for (i) any damages, whether direct, indirect, incidental, special, punitive or consequential, or (ii) any loss of profits, revenue, data or data use, arising from Client's use of the Programs.

I. Third Party Beneficiary. Oracle shall be a third party beneficiary of the provisions of this pass through attachment.

J. Internet Hosting. If Client has been granted a license to use the Program to provide internet hosting services to its customers for Client's customers' business operations and/or to provide services to third parties using the hosted Application Package, Client may not resell or assign its Application Program licenses to its customers or provide access to Client's customers to any Programs. Client agrees to be financially responsible to Oracle and Cerner for all damages or losses resulting from the Client's and its customer's breach of these terms. Client understands that additional fees apply for internet hosting licenses.

K. Public Sector Entities. If Client is a public sector entity, the following additional terms apply:

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1.   Client must restrict use of any additional programs that Oracle may include with the Programs ordered for trial, non-production purposes only. Such programs may not be used to provide or attend training on the content or functionality of the programs. Client shall have 30 days from the delivery date to evaluate any such trial or non-production licenses, subject to the terms of this agreement. If Client desires to use such additional programs after the 30 day trial period, Client must obtain a license for such programs. If Client decides not to obtain a license for the additional programs after the 30 day trial period, Client will cease using and will delete any such programs from Client's computer systems. Additional programs are provided "as is" and neither Oracle nor Cerner provides technical support or offers any warranties for these programs.

2.   Technical Support, if ordered from Oracle, is provided under Oracle's technical support policies in effect at the time the services are provided. Oracle's technical support policies can be accessed at http://oracle.com/contracts. Client acknowledges that Oracle's technical support policies are incorporated into this agreement by reference. If Client decides not to purchase technical support at the time of the license, then the Client will be required to pay reinstatement fees to Oracle in accordance with Oracle's current technical support policies, if Client decides to purchase support at a later date.

3.   Third party firms retained by Client to provide computer consulting services are independent of Oracle and are not Oracle's agents and Oracle is not liable for nor bound by any acts of any such third party firm.

4.   Client agrees that it has not relied on the future availability of any hardware, programs or updates in entering into this agreement. This statement does not relieve Oracle from its obligation to provide updates under any technical support order with Oracle, if-and-when available in accordance with Oracle's then current technical support policies, and further it does not change any rights granted to Client for any program licensed under this agreement.

5.   The Programs, including documentation, delivered to U.S. Government end users are "commercial computer software" pursuant to the applicable Federal Acquisition Regulation ("FAR"). As such, use, duplication, disclosure, modification, and adaptation of the Programs, including documentation, shall be subject to the license and license restrictions set forth in this agreement, and, to the extent applicable, the additional rights set forth in FAR 52.227-19, Commercial Computer Software License (December 2007).

6.   A public sector entity is any government, legislature or decision making body, judiciary, instrumentality, department, or agency at any level (national, municipal or otherwise); entities managed, controlled or majority owned by governmental interests; public organizations or foundations of any kind (including political parties, political organizations, or political candidates); and any public international organizations, such as, but not limited to, the International Red Cross, United Nations or the World Bank.

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CERNER CORPORATION

AWARE, INC.
END-USER LICENSE AGREEMENT

A. **Use.** For each copy of the Licensed Software you have purchased, you are granted a nontransferable nonexclusive license to install and use one copy of the Licensed Software as integrated with Cerner products as provided by Cerner on a single personal computer or workstation, or on a single server, as applicable. You may also make one copy of the Licensed Software for archival purposes.

B. **Restrictions.** Except as expressly authorized by this License Agreement, you may not copy, modify, translate, reverse engineer, decompile or disassemble (except as applicable law expressly prohibits this restriction) the Licensed Software. You may not sell, license, reproduce or redistribute the Licensed Software to others. You may not use the Licensed Software for any purpose other than internal business use. You may, however, transfer the Licensed Software on a permanent basis provided you transfer the Licensed Software, this License Agreement and all documentation and media and you do not retain any copies.

C. **Intellectual Property Rights.** The Licensed Software and accompanying documentation are protected by both copyright law and international treaties. Aware and its licensors own all intellectual property rights in the Licensed Software and accompanying documentation, and the structure, organization and code contain valuable trade secrets of Aware and it licensors. Aware retains all rights not expressly granted hereunder.

D. **Termination.** This License is effective until terminated. This License will terminate immediately without notice and without judicial action if you fail to comply with any provision of this License. Upon such termination you must destroy the Licensed Software, all accompanying written materials and all copies thereof.

E. **Export Law Assurance.** You agree that neither the Licensed Software nor any direct product thereof is being or will be exported, shipped, transferred or re-exported, directly or indirectly, into any country without complying with the export laws of the United States.

F. **Limitation of Aware's Liability.** IN NO EVENT SHALL AWARE OR ANY OF ITS LICENSORS BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES (INCLUDING, BUT NOT LIMITED TO, COSTS OF PROCURING SUBSTITUTE PRODUCTS OR SERVICES, DAMAGES FOR LOSS OF PROFITS OR REVENUE, BUSINESS INTERRUPTION, LOSS OF INFORMATION OR OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OR INABILITY TO USE THE LICENSED SOFTWARE, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF AWARE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL AWARE'S LIABILITY FOR MONEY DAMAGES EXCEED THE AMOUNT PAID BY YOU FOR THE LICENSED SOFTWARE PRODUCT FROM WHICH THE CLAIM AROSE.

G. **General.** This License will be construed under the laws of the Commonwealth of Massachusetts, except for the body of law dealing with conflicts of law. If any provision of this License

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CERNER CORPORATION

shall be held by a court of competent jurisdiction to be contrary to law; that provision will be enforced to the maximum extent permissible and the remaining provisions of this License will remain in full force and effect. If you are a U.S. Government user then the Licensed Software is "Commercial Computer Software" as defined in the "Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation" clause at DFARS 252 227-7014 and is provided with only these rights set forth in this agreement. Manufacturer: Aware, Inc., 40 Middlesex Turnpike, Bedford, Massachusetts 01730.

HP PASS THROUGH TERMS

HP's obligations with respect to HP Branded Products or services procured by an end-user customer (hereinafter "Customer") from authorized HP Business Partners are limited to the terms and conditions in these HP PASS THROUGH TERMS ("Terms") and the specific Software license or warranty information included with the Products. HP is not responsible for the acts or omissions of HP Business Partners, for any obligations undertaken or representations that they may make, or for any other products or services that they supply to Customer.

A. HP BASE TERMS
   1. DEFINITIONS
      a. *Affiliate* of a party means an entity controlling by, or under common control with, that party.

      b. *Deliverable* means the tangible work product resulting from the performance of Support excluding Products and Custom Products.

      c. *Hardware* means computer and related devices and equipment, related documentation, accessories, parts, and upgrades.

      d. *HP Business Partner* means select companies authorized by HP to promote, market, support, and deliver certain Products and services.

      e. *HP Branded* means Products and Support bearing a trademark or service mark of Hewlett-Packard Company or any Hewlett-Packard Company Affiliate, and embedded HP selected third party Software that is not offered under a third party license agreement.

      f. *Product* means the HP Branded version of Hardware and Software available and listed in HP's standard price list at the time of HP Business Partner's acceptance of the Customer order and including products that are modified, altered, or customized, by HP, to meet Customer requirements ("Custom Products").

      g. *Software* means machine-readable instructions and data (and copies thereof) including middleware and firmware and related updates and upgrades, licensed materials, user documentation, user manuals, and operating procedures.

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CERNER CORPORATION

h. *Specification* means technical information about Products published in HP Product manuals, user documentation, and technical data sheets in effect on the date HP or HP Business Partner delivers Products to Customer.

i. *Statement of Work* means an executed document so titled, that describes the Custom Support to be performed by HP under the Support Terms section.

j. *Support* means Hardware maintenance and repair, Software maintenance, training, installation and configuration, and other standard support services provided by HP and includes "Custom Support" which is any agreed non-standard Support as described in a Statement of Work.

k. *Transaction Document(s)* means an accepted Customer order (excluding pre-printed terms) and in relation to that order valid HP quotations, license terms delivered or otherwise made available to Customer with Software, HP published technical data sheets or service descriptions, HP limited warranty statements delivered with or otherwise made available to Customer with Products, and mutually executed Statement of Work, all as provided by HP Business Partner and supported by HP, or other mutually executed documents that reference these HP PASS THROUGH TERMS.

l. *Version* means a release of Software that contains new features, enhancements, and/or maintenance updates, or for certain Software, a collection of revisions packaged into a single entity and, as such, made available by HP to its customers (also called a "Release").

2. WARRANTY PROVISIONS

a. <u>Warranty Statements</u>. HP limited warranty statements for Hardware, Software and Support, as applicable, are contained in their respective sections of these Terms. The limited warranties in these Terms are subject to the terms, limitations, and exclusions contained in the limited warranty statement provided for the Product in the country where that Product is located when the warranty claim is made. A different limited warranty statement may apply and be quoted if the Product is purchased as part of a system.

b. <u>Transfer</u>. Warranties are transferable to another party for the remainder of the warranty period subject to HP license transfer policies and any assignment restrictions.

c. <u>Delivery Date</u>. Warranties begin on the date of delivery of the Product to Customer, or on the date of installation if installed by HP. If Customer schedules or delays such installation by HP more than thirty (30) days after delivery, Customer's warranty period will begin on the 31st day after delivery.

d. <u>Exclusions</u>. HP is not obligated to provide warranty services or Support for any claims resulting from:

1) improper site preparation, or site or environmental conditions that do not conform to HP's site specifications;

2) Customer's non-compliance with Specifications or Transaction Documents;

3) improper or inadequate maintenance or calibration;

4) Customer or third-party media, software, interfacing, supplies, or other products;

5) modifications not performed or authorized by HP;

6) virus, infection, worm or similar malicious code not introduced by HP; or

7) abuse, negligence, accident, loss or damage in transit, fire or water damage, electrical disturbances, transportation by Customer, or other causes beyond HP's control.

e. <u>Non-HP Branded Products and Support</u>. HP provides third-party products, software, and services that are not HP Branded "AS IS" without warranties of any kind, although the original manufacturers or third party suppliers of such products, software and services may provide their own warranties.

f. <u>Disclaimer</u>. THE WARRANTIES AND ANY ASSOCIATED REMEDIES EXPRESSED OR REFERENCED IN THESE TERMS ARE EXCLUSIVE. NO OTHER WARRANTY, WRITTEN OR ORAL, IS EXPRESSED OR IMPLIED BY HP OR MAY BE INFERRED FROM A COURSE OF DEALING OR USAGE OF TRADE. TO THE EXTENT ALLOWED BY LOCAL LAW HP DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

3. INTELLECTUAL PROPERTY INFRINGEMENT

a. <u>Third-Party Claims</u>. HP will defend or settle any claim against Customer alleging that HP Branded Products or Support (excluding Custom Products and Custom Support) provided under these Terms infringes intellectual property rights in the country where they were sold, if Customer:

1) promptly notifies HP of the claim in writing;

2) cooperates with HP in the defense of the claim; and

3) grants HP sole control of the defense or settlement of the claim.

4) HP will pay infringement claim defense costs, HP–negotiated settlement amounts, and court-awarded damages.

b. <u>Remedies</u>. If such a claim appears likely, then HP may modify the HP Branded Products or Support, procure any necessary license, or replace the affected item with one that is at least functionally equivalent. If HP determines that none of these alternatives is reasonably available, then HP will issue Customer a refund equal to:

1) the purchase price paid for the affected item if within one year of delivery, or the Customer's net book value thereafter; or

2) if the claim relates to infringing Support, the lesser of twelve (12) months charges for the claimed infringing Support or the amount paid by Customer for that Support.

c. <u>Exclusions</u>. HP has no obligation for any claim of infringement arising from:

1) HP's compliance with Customer or third party designs, specifications, instructions, or technical information;

2) modifications made by Customer or a third party;

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3) Customer's non-compliance with the Specifications or the Transaction Documents; or

4) Customer's use of the Product with products, software, or services that are not HP Branded.

d. <u>Sole and Exclusive</u>. This sub-section A.3 states HP's entire liability for claims of intellectual property infringement.

4. INTELLECTUAL PROPERTY RIGHTS - No rights in copyright, patents, trademarks, trade secrets, or other intellectual property are granted by either party to the other except as expressly provided under these Terms. Customer will not register or use any mark or internet domain name that contains HP's trademarks (e.g., "HP", "hp", or "Hewlett-Packard").

5. RESTRICTED USE - Products, Support, and Deliverables are not specifically designed, manufactured, or intended for use as parts, components, or assemblies for the planning, construction, maintenance, or direct operation of a nuclear facility. Customer is solely liable if Products, Support, or Deliverables purchased by Customer are used for these applications and will indemnify and hold HP harmless from all loss, damage, expense, or liability in connection with such use.

6. LIMITATION OF LIABILITY AND REMEDIES

a. Limitation of Liability. Except for the amounts in sub-section A.3 above and damages for bodily injury (including death) HP's total aggregate liability is limited to the amount paid by Customer for:

1) the Product; or

2) Support during the period of a material breach up to a maximum of twelve (12) months; that in each case is the subject of the claim.

b. <u>Disclaimer of Consequential Damages</u>. EXCEPT FOR CLAIMS BY A PARTY FOR INFRINGEMENT OF THEIR INTELLECTUAL PROPERTY RIGHTS AGAINST THE OTHER PARTY, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL COSTS OR DAMAGES INCLUDING, WITHOUT LIMITATION, DOWNTIME COSTS; LOST BUSINESS, REVENUES, OR PROFITS; FAILURE TO REALIZE EXPECTED SAVINGS; LOSS OR UNAVAILABILITY OF OR DAMAGE TO DATA; OR SOFTWARE RESTORATION.

c. <u>Legal Theory</u>. TO THE EXTENT ALLOWED BY LOCAL LAW, THESE LIMITATIONS WILL APPLY REGARDLESS OF THE BASIS OF LIABILITY, INCLUDING NEGLIGENCE, MISREPRESENTATION, BREACH OF ANY KIND, OR ANY OTHER CLAIMS IN CONTRACT, TORT OR OTHERWISE.

7. GENERAL

a. <u>Internal Use</u>. Products and Support acquired by Customer under these Terms are solely for Customer's own internal use and not for resale or sub-licensing.

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b. <u>Force Majeure</u>. Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control; however, this provision will not apply to Customer's payment obligations.

c. <u>Assignment</u>. Customer may not assign, delegate or otherwise transfer all or any part of its rights or obligations under these Terms without prior written consent from HP. Any such attempted assignment, delegation, or transfer will be null and void. Assignments of HP Software licenses are subject to compliance with HP's Software license transfer policies.

d. <u>Export and Import</u>. Customers who export, re-export, or import Products, technology, or technical data purchased hereunder, assume responsibility for complying with applicable laws and regulations and for obtaining required export and import authorizations. HP may suspend performance if Customer is in violation of any applicable laws or regulations.

e. <u>Governing Law</u>. Disputes arising from these Terms will be governed by the law of the jurisdiction of the principal place of business of the HP Affiliate accepting the order to which the dispute relates and the courts of that locale will have jurisdiction, except that HP may, at its option, bring suit for collection in the country where the Customer Affiliate that placed the order is located. Customer and HP agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms. Claims arising or raised in the United States will be governed by the laws of the State of California, excluding rules as to choice and conflict of law.

f. <u>Notices</u>. All notices that are required under these Terms will be in writing and will be considered effective upon receipt.

g. <u>Entire Agreement</u>. These Terms represent the entire agreement between HP and Customer regarding Customer's purchase of Products and Support, and supersedes and replaces any previous communications, representations, or agreements, or Customer's additional or inconsistent terms, whether oral or written. In the event any provision of these Terms is held invalid or unenforceable the remainder of the Terms will remain enforceable and unaffected thereby.

h. <u>Waiver</u>. Neither party's failure to exercise or delay in exercising any of its rights under these Terms will constitute or be deemed a waiver or forfeiture of those rights.

i. <u>Order of Precedence</u>. Unless otherwise agreed or provided herein, documents will apply in the following descending order of precedence:

1) Transaction Documents consisting of license terms or limited warranty statements delivered or otherwise made available to
Customer with Products;

2) the sections of these Terms;

3) all other Transaction Documents.

j. <u>Independent Contractor</u>. HP is an independent contractor in the performance under these Terms and neither HP nor any HP personnel are employees or agents of Customer. Nothing in these Terms will be construed as creating a joint venture, partnership or employment relationship

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between the parties, nor will either party have the right, power or authority to create any obligation or duty, express or implied, on behalf of the other.

B. **HP HARDWARE TERMS**

1. RISK OF LOSS - When HP delivers to Customer directly, risk of loss or damage, and title to Hardware, will pass to Customer and acceptance will occur upon delivery to the "ship to" address or, if special shipping arrangements are agreed to by HP, upon delivery to Customer's carrier or designee.

2. INSTALLATION - If HP provides installation services, Customer will make available facilities that meet HP published site guidelines that will be provided to Customer upon request. Upon delivery, Customer will place each item of Hardware in its designated location. Installation is billed at HP's published installation charges unless quoted as part of the Hardware purchase price. Installation by HP is complete when the Hardware passes HP's standard installation and test procedures.

3. HARDWARE LIMITED WARRANTY - HP warrants HP Branded Hardware against defects in materials and workmanship under normal use during the warranty period and that it will materially conform to its Specifications for the time specified in the applicable Transaction Documents. HP Branded Hardware may contain used parts that are equivalent to new in performance and reliability and are warranted as new.

4. OPERATION - HP does not warrant that the operation of Hardware will be uninterrupted or error free, or that Hardware will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Hardware will meet requirements specified by Customer. Customer may only use firmware embedded in the Hardware to enable the Hardware to function in accordance with its Specifications.

5. EXCLUSIVE REMEDIES - Upon notice of a valid warranty claim during the warranty period and if provided reasonable access to the HP Branded Hardware, HP will, at its option, repair a defect in the HP Branded Hardware, or correct a material non-conformance to Specifications, or replace such Hardware with Hardware of equal or better functional performance. If HP is unable, within a reasonable time, to complete the repair or correction, or replace such HP Branded Hardware, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Hardware to HP. Subject to the terms in Customer's specific Product warranty statement Customer will pay expenses for return of such Hardware to HP. HP will pay expenses for shipment of repaired or replacement Hardware to Customer. This sub-section states HP's entire liability for Hardware warranty claims.

C. **HP SOFTWARE LICENSE TERMS**

1. LICENSE GRANT - HP grants Customer a non-exclusive, non-transferable license to "Use", in object code form, the Version or Release of the HP Branded Software delivered from an HP accepted order. For purposes of these Terms, unless otherwise specified in the Transaction Documents, "Use" means to install, store, load, execute, and display one copy of the Software on one device at a time for Customer's internal business purposes. Customer's Use of such Software is subject to these license terms and the Use restrictions and authorizations for the Software specified by HP in Transaction

Documents that accompany or are otherwise made available to Customer with the Software (the "Software License"). In the event of any conflict among such terms, the order of precedence will be the accompanying Transaction Documents then the terms of this section.

2.   THIRD-PARTY SOFTWARE - For non-HP Branded Software, the third party supplier's license terms and use restrictions found in the Transaction Documents that may accompany that Software will solely govern its Use.

3.   OWNERSHIP - This Software License confers no title or ownership and is not a sale of any rights in the Software. Third-party suppliers are intended beneficiaries under these Terms and independently may protect their rights in the Software in the event of any infringement. All rights not expressly granted to Customer are reserved solely to HP or its suppliers.

4.   ACCEPTANCE - Customer accepts Software upon delivery.

5.   UPGRADES - Software Versions or maintenance updates, if available, may be ordered separately or may be available through Software Support. HP reserves the right to require additional licenses and fees for Software Versions or separately purchased maintenance updates or for Use of the Software in conjunction with upgraded Hardware or Software. When Customer obtains a license for a new Software Version, Customer's Software License for the earlier Version shall terminate. Software Versions are subject to the license terms in effect on the date that HP delivers or makes the Version available to Customer.

6.   LICENSE RESTRICTIONS

a.   Use Restrictions. Customer may not exceed the number of licenses, agents, tiers, nodes, seats, or other Use restrictions or authorizations agreed to and paid for by Customer. Some Software may require license keys or contain other technical protection measures. Customer acknowledges that HP may monitor Customer's compliance with Use restrictions and authorizations remotely, or otherwise. If HP makes a license management program available which records and reports license usage information, Customer agrees to appropriately install, configure and execute such license management program beginning no later than one hundred and eighty (180) days from the date it is made available to Customer and continuing for the period that the software is used.

b.   Copy and Adaptation. Unless otherwise permitted by HP, Customer may only make copies or adaptations of the Software for archival purposes or when copying or adaptation is an essential step in the authorized Use of the Software. If Customer makes a copy for backup purposes and installs such copy on a backup device, unless otherwise provided in the Transaction Documents, Customer may not operate such backup installation of the Software without paying an additional license fee, except in cases where the original device becomes inoperable. If a copy is activated on a backup device in response to failure of the original device, the Use on the backup device must be discontinued when the original or replacement device becomes operable. Customer may not copy the Software onto or otherwise Use or make it available on, to, or through any public or external distributed network. Licenses that allow Use over Customer's intranet require restricted access by authorized users only.

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c.   Copyright Notice. Customer must reproduce all copyright notices that appear in or on the Software (including documentation) on all permitted copies or adaptations. Copies of documentation are limited to internal use.

d.   Designated System. Notwithstanding anything to the contrary herein, the Software License for certain Software, as identified in Transaction Documents, is non-transferable and for use only on a computer system owned, controlled, or operated by or solely on behalf of Customer and may be further identified by HP by the combination of a unique number and a specific system type ("Designated System") and such license will terminate in the event of a change in either the system number or system type, an unauthorized relocation, or if the Designated System ceases to be within the possession or control of Customer.

e.   OS Software. Operating system Software may only be used when operating the associated Hardware in configurations as approved, sold, or subsequently upgraded by HP or an authorized HP business partner.

f.   Changes. Customer will not modify, reverse engineer, disassemble, decrypt, decompile, or make derivative works of the Software. Where Customer has other rights mandated under statute, Customer will provide HP with reasonably detailed information regarding any intended modifications, reverse engineering, disassembly, decryption, or decompilation and the purposes therefore.

g.   Use for Service Provision Extending the Use of Software to any person or entity other than Customer as a function of providing services, (i.e.; making the Software available through a commercial timesharing or service bureau) must be authorized in writing by HP prior to such use and may require additional licenses and fees.

7.   LICENSE TERM AND TERMINATION - Unless otherwise specified in a Transaction Document, the Software License granted Customer will be perpetual, provided however that HP may terminate the Software License upon notice for failure to comply with these Terms. Immediately upon termination of the Software License or upon expiration of any individual limited term license, Customer will destroy the Software and all copies of the Software subject to the termination or expiration or return them to HP. Customer shall remove and destroy or return to HP any copies of the Software that are merged into adaptations, except for individual pieces of data in Customer's database. Customer may retain one copy of the Software subsequent to termination solely for archival purposes only. At HP's request, Customer will certify in writing to HP that Customer has complied with these requirements.

8.   LICENSE TRANSFER - Customer may not sublicense, assign, transfer, rent, or lease the Software or the Software License to any other party except as permitted in this section. Except as provided in sub-section C.6.d above, HP Branded Software licenses are transferable subject to HP's prior written authorization and payment to HP of any applicable fees or compliance with applicable third party terms. Upon transfer of the Software License, Customer's rights under the License will terminate and Customer will immediately deliver the Software and all copies to the transferee. The transferee must agree in writing to the terms of the Software License, and, upon such agreement, the

transferee will be considered the "Customer" for purposes of the license terms. Customer may transfer firmware only upon transfer of the associated Hardware.

9. U.S. FEDERAL GOVERNMENT USE - If the Software is licensed for use in the performance of a U.S. Government prime contract or subcontract, Customer agrees that, consistent with FAR 12.211 and 12.212, commercial computer Software, computer Software documentation and technical data for commercial items are licensed under HP's standard commercial license.

10. COMPLIANCE - Customer agrees that HP may audit Customer's compliance with the Software License terms. Any such audit would be at HP's expense, require reasonable notice, and would be performed during normal business hours. If an audit reveals underpayments then Customer will immediately pay HP such underpayments together with the costs reasonably incurred by HP in connection with the audit and seeking compliance with this sub-section.

11. WARRANTY - HP Branded Software will materially conform to its Specifications. If a warranty period is not specified for HP Branded Software, the warranty period will be ninety (90) days from the delivery date.

12. VIRUS WARRANTY - HP warrants that any physical media containing HP Branded Software will be shipped free of viruses.

13. WARRANTY LIMITATION - HP does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in Hardware and Software combinations other than as expressly required by HP in the Product Specifications or that Software will meet requirements specified by Customer.

14. EXCLUSIVE REMEDIES - If notified of a valid warranty claim during the warranty period, HP will, at its option, correct the warranty defect for HP Branded Software, or replace such Software. If HP is unable, within a reasonable time, to complete the correction, or replace such Software, Customer will be entitled to a refund of the purchase price paid upon prompt return of such Software to HP. Customer will pay expenses for return of such Software to HP. HP will pay expenses for shipment of repaired or replacement Software to Customer. This sub-section C.14 states HP's entire liability for warranty claims.

15. IMPLIED LICENSE - There are no implied licenses.

16. FREEWARE AND OPEN SOURCE - Notwithstanding other statements in these Terms, Software licensed without fee or charge also referred to as Freeware and/or Open Source is provided "AS IS" without any warranties or indemnities of any kind. Software provided under any open source licensing model is governed solely by such open source licensing terms which will prevail over these Terms.

D. **HP SUPPORT TERMS**

1. SUPPORT SERVICES

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a. <u>Description of Support</u>. HP will deliver Support according to the description of the offering, eligibility requirements, service limitations, and Customer responsibilities described in the relevant Transaction Documents.

b. <u>Ordering Support</u>. Customer may order Support:

1) at the time of Product purchase, or prior to installation of Products for which Support is being purchased, for a fixed term (may be referred to as "HP Care Pack");

2) after the time of Product purchase, for either a fixed term or an initial term that may be renewed (may be referred to as "HP Contractual Services");

3) on a per-event basis; or

4) at any time, when agreed non-standard Support has been offered by HP for the Customer according to a Statement of Work (also known as "Custom Support") or as otherwise offered by HP.

c. If Customer cancels prepaid Support, HP will refund Customer a pro-rata amount for the unused prepaid Support, less any early termination fees or subject to any restrictions set forth in a Transaction Document.

d. <u>Return to Support</u>. If Customer allows Support to lapse, additional fees may be required to resume Support or Customer may be required to perform certain hardware or software upgrades. HP will review and assess whether such fees are required, and explain these to HP Business Partner and Customer at the time of the request to return to Support.

e. <u>Local Availability</u>. Customer may order Support from HP's current Support offerings. Some offerings, features, and coverage (and related Products) may not be available in all countries or areas.

f. <u>Support Warranty</u>. HP warrants that it will perform Support using generally recognized commercial practices and standards.

g. <u>Exclusive Remedies</u>. HP will re-perform Support not performed in accordance with the warranty herein. This sub-section D.1.g states HP's entire liability for Support warranty claims.

2. PRICING, SERVICES, AVAILABILITY, AND INVOICING

a. <u>Pricing</u>. Except for prepaid Support or as otherwise stated in a Transaction Document, HP may change Support prices upon sixty (60) day written notice.

b. <u>Additional Services</u>. Additional services performed by HP at Customer's request that are not included in Customer's purchased Support will be chargeable at the applicable published service rates for the country where the service is performed. Such additional services include but are not limited to:

1) Customer requests for Support after HP's local standard business hours (unless Customer has specifically purchased after-hours coverage for the requested Support);

2) Customer requests for repair for damage or failure attributable to the causes specified in sub-section A.2.d of the HP Base Terms ("Warranty Exclusions"); and

3) Customer requests for Support where Customer does not, in HP's reasonable determination, meet the applicable prerequisites and eligibility requirements for Support.

c. <u>Local Availability</u>. Support outside of the applicable HP coverage areas may be subject to travel charges, longer response times, reduced restoration or repair commitments, and reduced coverage hours.

d. <u>Invoicing</u>. Invoices for Support will be issued in advance of the Support period. HP Support invoices and related documentation will be produced in accordance with HP system standards. Additional levels of detail requested by Customer may be chargeable.

3. SITE AND PRODUCT ACCESS - Customer shall provide HP access to the Products covered under Support; adequate working space and facilities within a reasonable distance of the Products; access to and use of information, customer resources, and facilities as reasonably determined necessary by HP to service the Products; and other access requirements described in the relevant Transaction Document. If Customer fails to provide such access, resulting in HP's inability to provide Support, HP shall be entitled to charge Customer for the Support call at HP's published service rates. Customer is responsible for removing any Products ineligible for Support to allow HP to perform Support. If delivery of Support is made more difficult because of ineligible Products, HP will charge Customer for the extra work at HP's published service rates.

4. STANDARD SUPPORT PRODUCT ELIGIBILITY

a. <u>Minimum Configuration for Support</u>. Customer must purchase the same level of Support and for the same coverage period for: all Products within a minimum supportable system unit (i.e. all components within a server, storage, or network device) to allow for proper execution of standalone and operating system diagnostics for the configuration.

b. <u>Eligibility</u>. For initial and on-going Support eligibility Customer must maintain all Products and associated hardware and software at the latest HP-specified configuration and revision levels and in HP's reasonable opinion, in good operating condition.

c. <u>Modifications</u>. Customer will allow HP, at HP's request and at no additional charge, to modify Products to improve operation, supportability, and reliability, or to meet legal requirements.

d. <u>Loaner Units</u>. HP maintains title and Customer shall have risk of loss or damage for loaner units if provided at HP's discretion as part of Support or warranty services and such units will be returned to HP without lien or encumbrance at the end of the loaner period.

e. <u>Relocation</u>. Customer is responsible for moving Products. If Customer moves the Products to a new location, HP may charge additional Support fees and modify the response times, and Customer may be required to execute amended or new Transaction Documents. If Customer moves Products to another country, Support shall be subject to availability in the destination country. Reasonable advanced notice to HP may be required to begin Support for some Products after relocation.

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f. Maximum Use Limitations. Certain Products have a maximum usage limit, which is set forth in the manufacturer's operating manual or the technical data sheet. Customer must operate such Products within the maximum usage limit.

g. Multi-Vendor Support. HP provides Support for certain non-HP Branded Products. The relevant Transaction Document will specify availability and coverage levels, and govern delivery of multi-vendor Support, whether or not the non-HP Branded Products are under warranty. HP may discontinue Support of non-HP Branded Products if the manufacturer or licensor ceases to provide support for such Products.

5. PROPRIETARY SERVICE TOOLS - HP will require Customer's use of certain system and network diagnostic and maintenance programs ("Proprietary Service Tools") for delivery of Support under certain coverage levels. Proprietary Service Tools are and remain the sole and exclusive property of HP, are provided "as is," and include, but are not limited to: remote fault management software, network Support tools, Insight Manager, Instant Support, and Instant Support Enterprise Edition (known as "ISEE"). Proprietary Service Tools may reside on the Customer's systems or sites. Customer may only use the Proprietary Service Tools during the applicable Support coverage period and only as allowed by HP. Customer may not sell, transfer, assign, pledge, or in any way encumber or convey the Proprietary Service Tools. Upon termination of Support, Customer will return the Proprietary Service Tools or allow HP to remove these Proprietary Service Tools. Customer will also be required to:

a. allow HP to keep the Proprietary Service Tools resident on Customer's systems or sites, and assist HP in running them;

b. install Proprietary Service Tools, including installation of any required updates and patches;

c. use the electronic data transfer capability to inform HP of events identified by the software;

d. if required, purchase HP-specified remote connection hardware for systems with remote diagnosis service; and

e. provide remote connectivity through an HP approved communications line.

6. CUSTOMER RESPONSIBILITIES

a. Data Backup. To reconstruct lost or altered Customer files, data, or programs, Customer must maintain a separate backup system or procedure that is not dependent on the Products under Support.

b. Temporary Workarounds. Customer will implement temporary procedures or workarounds provided by HP while HP works on permanent solutions.

c. Hazardous Environment. Customer will notify HP if Customer uses Products in an environment that poses a potential health or safety hazard to HP employees or subcontractors. HP may require Customer to maintain such Products under HP supervision and may postpone service until Customer remedies such hazards.

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d. <u>Authorized Representative</u>. Customer will have a representative present when HP provides Support at Customer's site.

e. <u>Product List</u>. Customer will create and maintain a list of all Products under Support including: the location of the Products, serial numbers, the HP-designated system identifiers, and coverage levels. Customer shall keep the list updated during the applicable Support period.

f. <u>Documentation</u>. If Customer purchases a Support offering that includes documentation updates, Customer may copy such updates only for systems under such coverage. Copies must include appropriate HP Trademark and copyright notices.

7. SUPPORTED SOFTWARE - Customer may purchase available Support for HP Branded Software only if Customer can provide evidence it has rightfully acquired an appropriate HP license for such Software. HP will be under no obligation to provide Support due to any alterations or modifications to the Software not authorized by HP or for Software for which Customer cannot provide a sufficient proof of a valid license. Unless otherwise agreed by HP, HP only provides Support for the current Version and the immediately preceding Version of HP Branded Software, and then only when HP Branded Software is used with Hardware or Software included in HP-specified configurations at the specified Version level.

8. ACCESSORIES AND PARTS AND MISCELLANEOUS

a. <u>Compatible Cables and Connectors</u>. Customer will connect Products covered under Support with cables or connectors (including fiber optics if applicable) that are compatible with the system, according to the manufacturer's operating manual.

b. <u>Support for Accessories</u>. HP may provide Support for cables, connectors, interfaces, and other accessories if Customer purchases
Support for such accessories at the same Hardware service level purchased for the Products with which they are used.

c. <u>Consumables</u>. Support does not include the delivery, return, replacement, or installation of supplies or other consumable items (including, but not limited to, operating supplies, magnetic media, print heads, ribbons, toner, and batteries) unless otherwise stated in a Transaction Document.

d. <u>Replacement Parts</u>. Parts provided under Support may be whole unit replacements or be new or functionally equivalent to new in performance and reliability and warranted as new. Replaced parts become the property of HP, unless HP agrees otherwise and Customer pays any applicable charges.

e. <u>Service Providers</u>. HP reserves the right and Customer agrees to HP's use of HP-authorized service providers to assist in the provision of Support.

9. ACCESS TO HP SOLUTION CENTER AND IT RESOURCE CENTER

a. <u>Designated Callers</u>. Customer will identify a reasonable number of callers, as determined by HP and Customer ("Designated Callers"), who may access HP's customer Support call centers ("Solution Centers").

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b.   <u>Qualifications</u>. Designated Callers must be generally knowledgeable and demonstrate technical aptitude in system administration, system management, and, if applicable, network administration and management and diagnostic testing. HP may review and discuss with Customer any Designated Caller's experience to determine initial eligibility. If issues arise during a call to the Solution Center that, in HP's reasonable opinion, may be a result of a Designated Caller's lack of general experience and training, the Customer may be required to replace that Designated Caller. All Designated Callers must have the proper system identifier as provided in the Transaction Documents or by HP when Support is initiated. HP Solution Centers may provide support in English or local language(s), or both.

c.   <u>HP IT Resource Center</u>. HP IT Resource Center is available via the worldwide web for certain types of Support. Customer may access specified areas of the HP IT Resource Center. File Transfer Protocol access is required for some electronic services. Customer employees who submit HP Solution Center service requests via the HP IT Resource Center must meet the qualifications set forth in sub-section D.9.b above.

d.   Telecommunication Charges. Customer will pay for all telecommunication charges associated with using HP IT Resource Center, installing and maintaining ISDN links and Internet connections (or HP-approved alternatives) to the HP Solution Center, or using the Proprietary Service Tools.

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1. **The Software.** Red Hat Enterprise Linux and Red Hat Applications (the "Software") are either a modular operating system or application consisting of hundreds of software components. The end user license agreement for each component is located in the component's source code. With the exception of certain image files identified in Section 2 below, the license terms for the components permit Customer to copy, modify, and redistribute the component, in both source code and binary code forms. This agreement does not limit Customer's rights under, or grant Customer rights that supersede, the license terms of any particular component.

2. **Intellectual Property Rights.** The Software and each of its components, including the source code, documentation, appearance, structure and organization are owned by Red Hat and others and are protected under copyright and other laws. Title to the Software and any component, or to any copy, modification, or merged portion shall remain with the aforementioned, subject to the applicable license. The "Red Hat" trademark and the "Shadowman" logo are registered trademarks of Red Hat in

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3. **Limited Warranty.** Except as specifically stated in this agreement or a license for a particular component, to the maximum extent permitted under applicable law, the Software and the components are provided and licensed "as is" without warranty of any kind, expressed or implied, including the implied warranties of merchantability, non-infringement or fitness for a particular purpose. Red Hat warrants that the media on which the Software is furnished will be free from defects in materials and manufacture under normal use for a period of 30 days from the date of delivery to Customer. Red Hat does not warrant that the functions contained in the Software will meet Customer's requirements or that the operation of the Software will be entirely error free or appear precisely as described in the accompanying documentation. This warranty extends only to the party that purchases the Software from Red Hat or a Red Hat authorized distributor.

4. **Limitation of Remedies and Liability.** To the maximum extent permitted by applicable law, the remedies described below are accepted by Customer as its only remedies. Red Hat's entire liability, and Customer's exclusive remedies, shall be: If the Software media is defective, Customer may return it within 30 days of delivery along with a copy of Customer's payment receipt and Red Hat, at its option, will replace it or refund the money paid by Customer for the Software. To the maximum extent permitted by applicable law, Red Hat or any Red Hat authorized dealer will not be liable to Customer for any incidental or consequential damages, including lost profits or lost savings arising out of the use or inability to use the Software, even if Red Hat or such dealer has been advised of the possibility of such damages. In no event shall Red Hat's liability under this agreement exceed the amount that Customer paid to Red Hat under this agreement during the twelve months **preceding the action**.

5. **Export Control.** As required by U.S. law, Customer represents and warrants that it: (a) understands that the Software is subject to export controls under the U.S. Commerce Department's Export Administration Regulations ("EAR"); (b) is not located in a prohibited destination country under the EAR or U.S. sanctions regulations (currently Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria); (c) will not export, re-export, or transfer the Software to any prohibited destination, entity, or individual without the necessary export license(s) or authorizations(s) from the U.S. Government; (d) will not use or transfer the Software for use in any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the U.S. Government by regulation or specific license; (e) understands and agrees that if it is in the United States and exports or transfers the Software to

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eligible end users, it will, as required by EAR Section 740.17(e), submit semi- annual reports to the Commerce Department's Bureau of Industry & Security (BIS), which include the name and address (including country) of each transferee; and (f) understands that countries other than the United States may restrict the import, use, or export of encryption products and that it shall be solely responsible for compliance with any such import, use, or export restrictions.

6. **Third Party Programs.** Red Hat may distribute third party software programs with the Software that are not part of the Software. These third party programs are subject to their own license terms. The license terms either accompany the programs or can be viewed at http://www.redhat.com/licenses/. If Customer does not agree to abide by the applicable license terms for such programs, then Customer may not install them. If Customer wishes to install the programs on more than one system or transfer the programs to another party, then Customer must contact the licensor of the programs.

7. **General.** If any provision of this agreement is held to be unenforceable, that shall not affect the enforceability of the remaining provisions. This agreement shall be governed by the laws of the State of North Carolina and of the United States, without regard to any conflict of law provisions, except that the United Nations Convention on the International Sale of Goods shall not apply.

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PASS-THROUGH PROVISIONS

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INTERNATIONAL PROGRAM LICENSE AGREEMENT

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Part 1 – General Terms

BY DOWNLOADING, INSTALLING, COPYING, ACCESSING, CLICKING ON AN ″ACCEPT″ BUTTON, OR OTHERWISE USING THE PROGRAM, LICENSEE AGREES TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF LICENSEE, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND LICENSEE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS,

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- PROMPTLY RETURN THE UNUSED MEDIA, DOCUMENTATION, AND PROOF OF ENTITLEMENT TO THE PARTY FROM WHOM IT WAS OBTAINED FOR A REFUND OF THE AMOUNT PAID. IF THE PROGRAM WAS DOWNLOADED, DESTROY ALL COPIES OF THE PROGRAM.

A. **Definitions**

1. **"Authorized Use"** - the specified level at which Licensee is authorized to execute or run the Program. That level may be measured by number of users, millions of service units (″MSUs″), Processor Value Units (″PVUs″), or other level of use specified by IBM.

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2. **"Client-hosted Solution Provider or CSP"** – a client who provides CSP Services to Third Party End Users.

3. **"CSP Services"** – providing access to the Solution from a CSP's remote data center to Third Party End Users via the Internet or a private network. CSP Services do not include the downloading or copying of Programs by Third Party End Users.

4. **"IBM"** – International Business Machines Corporation or one of its subsidiaries.

5. **"License Information" ("LI")** – a document that provides information and any additional terms specific to a Program. The Program's LI is available at www.ibm.com/software/sla/. The LI can also be found in the Program's directory, by the use of a system command, or as a booklet included with the Program.

6. **"Program"** – the following, including the original and all whole or partial copies: 1) machine-readable instructions and data, 2) components, files, and modules, 3) audio-visual content (such as images, text, recordings, or pictures), and 4) related licensed materials (such as keys and documentation).

7. **"Proof of Entitlement" ("PoE")** – evidence of Licensee's Authorized Use. The PoE is also evidence of Licensee's eligibility for warranty, future update prices, if any, and potential special or promotional opportunities. If IBM does not provide Licensee with a PoE, then IBM may accept as the PoE the original paid sales receipt or other sales record from the party (either IBM or its reseller) from whom Licensee obtained the Program, provided that it specifies the Program name and Authorized Use obtained.

8. **"Third Party End Users"** – a healthcare provider, hospital, clinic, or other healthcare-related organization that acquires CSP Services from a Client-hosted Solution Provider.

9. **"Warranty Period"** – one year, starting on the date the original Licensee is granted the license.

A. **Agreement Structure -** This Agreement includes **Part 1 – General Terms, Part 2 – Country-unique Terms** (if any), the LI, and the PoE and is the complete agreement between Licensee and IBM regarding the use of the Program. It replaces any prior oral or written communications between Licensee and IBM concerning Licensee's use of the Program. The terms of Part 2 may replace or modify those of Part 1. To the extent of any conflict, the LI prevails over both Parts.

B. **License Grant -** The Program is owned by IBM or an IBM supplier, and is copyrighted and licensed, not sold. IBM grants Licensee a nonexclusive license to 1) use the Program up to the Authorized Use specified in the PoE, 2) make and install copies to support such Authorized Use, and 3) make a backup copy, all provided that

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2. the backup copy does not execute unless the backed-up Program cannot execute;

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5.   Licensee does not 1) use, copy, modify, or distribute the Program except as expressly permitted in this Agreement; 2) reverse assemble, reverse compile, otherwise translate, or reverse engineer the Program, except as expressly permitted by law without the possibility of contractual waiver; 3) use any of the Program's components, files, modules, audio-visual content, or related licensed materials separately from that Program; or 4) sublicense, rent, or lease the Program; and

6.   if Licensee obtains this Program as a Supporting Program, Licensee uses this Program only to support the Principal Program and subject to any limitations in the license to the Principal Program, or, if Licensee obtains this Program as a Principal Program, Licensee uses all Supporting Programs only to support this Program, and subject to any limitations in this Agreement. For purposes of this Item "f," a "Supporting Program" is a Program that is part of another IBM Program ("Principal Program") and as a Supporting Program in the Principal Program's LI. (To obtain a separate license to a Supporting Program without these restrictions, Licensee should contact the party from whom Licensee obtained the Supporting Program.)

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D.   Trade-ups, Updates, Fixes, and Patches

1.   Trade-ups - If the Program is replaced by a trade-up Program, the replaced Program's license is promptly terminated.

2.   Updates, Fixes, and Patches - When Licensee receives an update, fix, or patch to a Program, Licensee accepts any additional or different terms that are applicable to such update, fix, or patch that are specified in its LI. If no additional or different terms are provided, then the update, fix, or patch is subject solely to this Agreement. If the Program is replaced by an update, Licensee agrees to promptly discontinue use of the replaced Program.

3.   Fixed Term Licenses - If IBM licenses the Program for a fixed term, Licensee's license is terminated at the end of the fixed term, unless Licensee and IBM agree to renew it.

E.   Term and Termination

1.   This Agreement is effective until terminated.

2.   IBM may terminate Licensee's license if Licensee fails to comply with the terms of this Agreement.

3.   If the license is terminated for any reason by either party, Licensee agrees to promptly discontinue use of and destroy all of Licensee's copies of the Program. Any terms of this Agreement that by their nature extend beyond termination of this Agreement remain in effect until fulfilled, and apply to both parties' respective successors and assignees.

F.   Charges

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1. Charges are based on Authorized Use obtained, which is specified in the PoE. IBM does not give credits or refunds for charges already due or paid, except as specified elsewhere in this Agreement.

2. If Licensee wishes to increase its Authorized Use, Licensee must notify IBM or an authorized IBM reseller in advance and pay any applicable charges.

G. Taxes - If any authority imposes on the Program a duty, tax, levy, or fee, excluding those based on IBM's net income, then Licensee agrees to pay that amount, as specified in an invoice, or supply exemption documentation. Licensee is responsible for any personal property taxes for the Program from the date that Licensee obtains it. If any authority imposes a customs duty, tax, levy, or fee for the import into or the export, transfer, access, or use of the Program outside the country in which the original Licensee was granted the license, then Licensee agrees that it is responsible for, and will pay, any amount imposed.

H. Money-back Guarantee - If Licensee is dissatisfied with the Program for any reason and is the original Licensee, Licensee may terminate the license and obtain a refund of the amount Licensee paid for the Program, provided that Licensee returns the Program and PoE to the party from whom Licensee obtained it within 30 days of the date the PoE was issued to Licensee. If the license is for a fixed term that is subject to renewal, then Licensee may obtain a refund only if the Program and its PoE are returned within the first 30 days of the initial term. If Licensee downloaded the Program, Licensee should contact the party from whom Licensee obtained it for instructions on how to obtain the refund.

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1. Licensee may transfer the Program and all of Licensee's license rights and obligations to another party only if that party agrees to the terms of this Agreement. If the license is terminated for any reason by either party, Licensee is prohibited from transferring the Program to another party. Licensee may not transfer a portion of 1) the Program or 2) the Program's Authorized Use. When Licensee transfers the Program, Licensee must also transfer a hard copy of this Agreement, including the LI and PoE.

2. Immediately after the transfer, Licensee's license terminates.

J. Warranty and Exclusions

1. Limited Warranty

a. IBM warrants that the Program, when used in its specified operating environment, will conform to its specifications. The Program's specifications, and specified operating environment information, can be found in documentation accompanying the Program (such as a read-me file) or other information published by IBM (such as an announcement letter). Licensee agrees that such documentation and other Program content may be supplied only in the English language, unless otherwise required by local law without the possibility of contractual waiver or limitation.

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b.   The warranty applies only to the unmodified portion of the Program. IBM does not warrant uninterrupted or error-free operation of the Program, or that IBM will correct all Program defects. Licensee is responsible for the results obtained from the use of the Program.

c.   During the Warranty Period, IBM provides Licensee with access to IBM databases containing information on known Program defects, defect corrections, restrictions, and bypasses at no additional charge. Consult the IBM Software Support Handbook for further information at www.ibm.com/software/support/.

d.   If the Program does not function as warranted during the Warranty Period and the problem cannot be resolved with information available in the IBM databases, Licensee may return the Program and its PoE to the party (either IBM or its reseller) from whom Licensee obtained it and receive a refund of the amount Licensee paid. After returning the Program, Licensee's license terminates. If Licensee downloaded the Program, Licensee should contact the party from whom Licensee obtained it for instructions on how to obtain the refund.

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K.   Licensee Data and Databases

1.   To assist Licensee in isolating the cause of a problem with the Program, IBM may request that Licensee 1) allow IBM to remotely access Licensee's system or 2) send Licensee information or system data to IBM. However, IBM is not obligated to provide such assistance unless IBM and Licensee enter a separate written agreement under which IBM agrees to provide to Licensee that type of technical

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2) SPECIAL, INCIDENTAL, EXEMPLARY, OR INDIRECT DAMAGES, OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES; OR

3) LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS.

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M. Compliance Verification

1. For purposes of this Section 11 (Compliance Verification), ″IPLA Program Terms″ means 1) this Agreement and applicable amendments and transaction documents provided by IBM, and 2) IBM software policies that may be found at the IBM Software Policy website (www.ibm.com/softwarepolicies/), including but not limited to those policies concerning backup, sub-capacity pricing, and migration.

2. The rights and obligations set forth in this Section 11 remain in effect during the period the Program is licensed to Licensee, and for two years thereafter.

3. Verification Process

a. Licensee agrees to create, retain, and provide to IBM and its auditors accurate written records, system tool outputs, and other system information sufficient to provide auditable verification that Licensee's use of all Programs is in compliance with the IPLA Program Terms, including, without limitation, all of IBM's applicable licensing and pricing qualification terms. Licensee is responsible for 1) ensuring that it does not exceed its Authorized Use, and 2) remaining in compliance with IPLA Program Terms.

b. Upon reasonable notice, IBM may verify Licensee's compliance with IPLA Program Terms at all sites and for all environments in which Licensee uses (for any purpose) Programs subject to IPLA Program Terms. Such verification will be conducted in a manner that minimizes disruption to Licensee's business, and may be conducted on Licensee's premises, during normal business hours. IBM may use an independent auditor to assist with such verification, provided IBM has a written confidentiality agreement in place with such auditor.

4. Resolution - IBM will notify Licensee in writing if any such verification indicates that Licensee has used any Program in excess of its Authorized Use or is otherwise not in compliance with the IPLA Program Terms. Licensee agrees to promptly pay directly to IBM the charges that IBM specifies in an invoice for 1) any such excess use, 2) support for such excess use for the lesser of the duration of such excess use or two years, and 3) any additional charges and other liabilities determined as a result of such verification.

N. Third Party Notices - The Program may include third party code that IBM, not the third party, licenses to Licensee under this Agreement. Notices, if any, for the third party code (″Third Party Notices″) are included for Licensee's information only. These notices can be found in the Program's NOTICES file(s). Information on how to obtain source code for certain third party code can be found in the Third Party Notices. If in the Third Party Notices IBM identifies third party code as ″Modifiable Third Party Code,″ IBM authorizes Licensee to 1) modify the Modifiable Third Party Code and 2) reverse engineer the Program modules that directly interface with the Modifiable Third Party Code provided that it is only for the purpose of debugging Licensee's modifications to such third party code. IBM's service and support obligations, if any, apply only to the unmodified Program.

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O. General

1. Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.

2. For Programs IBM provides to Licensee in tangible form, IBM fulfills its shipping and delivery obligations upon the delivery of such Programs to the IBM-designated carrier, unless otherwise agreed to in writing by Licensee and IBM.

3. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

4. Licensee agrees to comply with all applicable export and import laws and regulations, including U.S. embargo and sanctions regulations and prohibitions on export for certain end uses or to certain users.

5. Licensee authorizes International Business Machines Corporation and its subsidiaries (and their successors and assigns, contractors and IBM Business Partners) to store and use Licensee's business contact information wherever they do business, in connection with IBM products and services, or in furtherance of IBM's business relationship with Licensee.

6. Each party will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations under this Agreement. The parties will attempt in good faith to resolve all disputes, disagreements, or claims between the parties relating to this Agreement.

7. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation: 1) neither party will bring a legal action, regardless of form, for any claim arising out   or related to this Agreement more than two years after the cause of action arose; and 2) upon the expiration of such time limit, any such claim and all respective rights related to the claim lapse.

8. Neither Licensee nor IBM is responsible for failure to fulfill any obligations due to causes beyond its control.

9. No right or cause of action for any third party is created by this Agreement, nor is IBM responsible for any third party claims against Licensee, except as permitted in Subsection 10.1 (Items for Which IBM May Be Liable) above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable to that third party.

10. In entering into this Agreement, neither party is relying on any representation not specified in this Agreement, including but not limited to any representation concerning: 1) the performance or function of the Program, other than as expressly warranted in Section 8 (Warranty and Exclusions) above; 2) the experiences or recommendations of other parties; or 3) any results or savings that Licensee may achieve.

11. IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain Programs. IBM Business Partners remain independent and separate from IBM. IBM is not responsible for the actions or statements of IBM Business Partners or obligations they have to Licensee. The license and intellectual property indemnification terms of

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1 Licensee's other agreements with IBM (such as the IBM Customer Agreement) do not apply to Program
2 licenses granted under this Agreement.

3   P. License

4   1. IBM grants you a nonexclusive, nontransferable, right provide CSP Services to Third Party
5 End Users, provided you pay the CSP Price.

6   2. Additional CSP Service Terms:

7   a. Client-Hosted Solution Providers may permit Third Party End Users to access and use
8 the Programs solely as part of the Solution, only in connection with the provision of CSP Services to
9 such Third Party End User.

10   b. The Client-Hosted Solution Provider may use and access the Solution in an end user
11 Customer capacity, but may not use the Programs for any other internal use, except as set forth in
12 Section 2a) above. The Program licenses may not be resold, assigned or transferred to any other entity,
13 except as otherwise authorized by IBM.

14   c. The Client-hosted Solution Provider must be sufficiently licensed to provide CSP
15 Services for all Third Party End Users and Client-Hosted Solution Provider users in compliance with the
16 terms of the Agreement. For example, if the Program is licensed under a Processor Value Unit metric,
17 the Client-Hosted Solution Provider must be licensed to no fewer Processor Value Units than the total
18 required for all Programs deployed within the Client-Hosted Solution Provider's Solution environment.

19   d. All copies of the Programs used to provide CSP Services must always reside on the
20 Client-hosted Solution Provider's servers, or servers managed by a third party hosting service on behalf
21 of the Client-Hosted Solution Provider and may never be downloaded or copied by Third Party End
22 Users.

23   e. The Client-Hosted Solution Provider must implement adequate controls on physical
24 access, communications, and software access to prevent Third Party End Users from reading,
25 displaying, copying or transmitting the actual code or documentation of the Programs.

26   f. Client-Hosted Solution Provider must ensure that anyone they authorize to use a
27 Program, does so only under an end user agreement that includes terms no less restrictive than Client-
28 Hosted Solution Provider's   regarding the Licenses.

29   Q. Client-hosted Solution Provider Audit Rights

30   1. Client-hosted Solution Providers is notified that Cerner, IBM, or a third party auditor, have
31 the right to audit the Client-hosted Solution Provider's systems and/or Third Party End User(s) to
32 demonstrate compliance with the terms of the Agreement and that the result of such audit, if done by
33 other than IBM, may be shared with IBM upon request.

34   2. Client-hosted Solution Provider must inform its Third Party End User(s) that it has the right
35 to conduct an audit of such Third Party End User's use of the Programs. Upon Cerner's request, each
36 Client-hosted Solution provider must prepare and submit a report that includes the results of an audit
37 such Client-hosted Solution Provider has conducted of each of its Third Party End Users. Client-hosted

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Solution Provider shall make such reports available to IBM upon request with all supporting documentation/data outputs.

3. If IBM determines that a Client-hosted Solution Provider is not in compliance with the terms of this Attachment or the Agreement, IBM may terminate such Client-hosted Solution Providers right to provide CSP Services after providing a reasonable cure period.

R. Geographic Scope and Governing Law

1. Governing Law

Both parties agree to the application of the laws of the country in which Licensee obtained the Program license to govern, interpret, and enforce all of Licensee's and IBM's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

2. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

Jurisdiction - All rights, duties, and obligations are subject to the courts of the country in which Licensee obtained the Program license.

Part 2 – Country-unique Terms

A. For licenses granted in the countries specified below, the following terms replace or modify the referenced terms in Part 1. All terms in Part 1 that are not changed by these amendments remain unchanged and in effect. This Part 2 is organized as follows:

1. Multiple country amendments to Part 1, Section 16 (Governing Law and Jurisdiction);

2. Americas country amendments to other Agreement terms;

3. Asia Pacific country amendments to other Agreement terms; and

4. Europe, Middle East, and Africa country amendments to other Agreement terms.

B. Multiple country amendments to Part 1, Section 16 (Governing Law and Jurisdiction)

C. Governing Law - The phrase "the laws of the country in which Licensee obtained the Program license" in the first paragraph of 16.1 Governing Law is replaced by the following phrases in the countries below:

1. AMERICAS

a. in Canada: the laws in the Province of Ontario;

b. in Mexico: the federal laws of the Republic of Mexico;

c. in the United States, Anguilla, Antigua/Barbuda, Aruba, British Virgin Islands, Cayman Islands, Dominica, Grenada,Guyana, Saint Kitts and Nevis, Saint Lucia, Saint Maarten, and Saint Vincent and the Grenadines: the laws of the State of New York, United States;

d. in Venezuela: the laws of the Bolivarian Republic of Venezuela;

2. ASIA PACIFIC

a. in Cambodia and Laos: the laws of the State of New York, United States;

b. in Australia: the laws of the State or Territory in which the transaction is performed;

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c.   in Hong Kong SAR and Macau SAR: the laws of Hong Kong Special Administrative Region (″ SAR″);

d.   in Taiwan: the laws of Taiwan

3.   EUROPE, MIDDLE EAST, AND AFRICA

a.   in Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: the laws of Austria;

b.   in Algeria, Andorra, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo Republic, Djibouti, Democratic Republic of Congo, Equatorial Guinea, French Guiana, French Polynesia, Gabon, Gambia, Guinea, Guinea-Bissau, Ivory Coast, Lebanon, Madagascar, Mali, Mauritania, Mauritius, Mayotte, Morocco, New Caledonia, Niger, Reunion, Senegal, Seychelles, Togo, Tunisia, Vanuatu, and Wallis and Futuna: the laws of France;

c.   in Estonia, Latvia, and Lithuania: the laws of Finland;

d.   in Angola, Bahrain, Botswana, Burundi, Egypt, Eritrea, Ethiopia, Ghana, Jordan, Kenya, Kuwait, Liberia, Malawi, Malta, Mozambique, Nigeria, Oman, Pakistan, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Tanzania, Uganda, United Arab Emirates, the United Kingdom, West Bank/Gaza, Yemen, Zambia, and Zimbabwe: the laws of England; and

e.   in South Africa, Namibia, Lesotho, and Swaziland: the laws of the Republic of South Africa.

D.   Jurisdiction - The following paragraph pertains to jurisdiction and replaces Subsection 16.2 (Jurisdiction) as it applies for those countries identified in bold below:

1.   All rights, duties, and obligations are subject to the courts of the country in which Licensee obtained the Program license except that in the countries identified below all disputes arising out of or related to this Agreement, including summary proceedings, will be brought before and subject to the exclusive jurisdiction of the following courts of competent jurisdiction:

a.   AMERICAS

1)   in Argentina: the Ordinary Commercial Court of the city of Buenos Aires;

2)   in Brazil: the court of Rio de Janeiro, RJ;

3)   in Chile: the Civil Courts of Justice of Santiago;

4)   in Ecuador: the civil judges of Quito for executory or summary proceedings (as applicable);

5)   in Mexico: the courts located in Mexico City, Federal District;

6)   in Peru: the judges and tribunals of the judicial district of Lima, Cercado;

7)   in Uruguay: the courts of the city of Montevideo;

8)   in Venezuela: the courts of the metropolitan area of the city of Caracas;

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b. EUROPE, MIDDLE EAST, AND AFRICA

1) in Austria: the court of law in Vienna, Austria (Inner-City);

2) in Algeria, Andorra, Benin, Burkina Faso, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo Republic, Djibouti, Democratic Republic of Congo, Equatorial Guinea, France, French Guiana, French Polynesia, Gabon,Gambia, Guinea, Guinea-Bissau, Ivory Coast, Lebanon, Madagascar, Mali, Mauritania, Mauritius, Mayotte, Monaco, Morocco,

3) New Caledonia, Niger, Reunion, Senegal, Seychelles, Togo, Tunisia, Vanuatu, and Wallis and Futuna: the Commercial Court of Paris;

4) in Angola, Bahrain, Botswana, Burundi, Egypt, Eritrea, Ethiopia, Ghana, Jordan, Kenya, Kuwait, Liberia, Malawi, Malta, Mozambique, Nigeria, Oman, Pakistan, Qatar, Rwanda, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Somalia, Tanzania, Uganda, United Arab Emirates, the United Kingdom, West Bank/Gaza, Yemen, Zambia, and Zimbabwe: the English courts;

5) in South Africa, Namibia, Lesotho, and Swaziland: the High Court in Johannesburg;

6) in Greece: the competent court of Athens;

7) in Israel: the courts of Tel Aviv-Jaffa;

8) in Italy: the courts of Milan;

9) in Portugal: the courts of Lisbon;

10) in Spain: the courts of Madrid; and

11) in Turkey: the Istanbul Central Courts and Execution Directorates of Istanbul, the Republic of Turkey.

E. Arbitration - The following paragraph is added as a new Subsection 16.3 (Arbitration) as it applies for those countries identified in bold below.

1. The provisions of this Subsection 16.3 prevail over those of Subsection 16.2 (Jurisdiction) to the extent permitted by the applicable governing law and rules of procedure:

a. ASIA PACIFIC

1) In Cambodia, India, Indonesia, Laos, Philippines, and Vietnam: Disputes arising out of or in connection with this Agreement will be finally settled by arbitration which will be held in Singapore in accordance with the Arbitration Rules of Singapore International Arbitration Center ("SIAC Rules") then in effect. The arbitration award will be final and binding for the parties without appeal and will be in writing and set forth the findings of fact and the conclusions of law.

2) The number of arbitrators will be three, with each side to the dispute being entitled to appoint one arbitrator. The two arbitrators appointed by the parties will appoint a third arbitrator who will act as chairman of the proceedings. Vacancies in the post of chairman will be filled by the president of the SIAC. Other vacancies will be filled by the respective nominating party. Proceedings will continue from the stage they were at when the vacancy occurred.

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3)   If one of the parties refuses or otherwise fails to appoint an arbitrator within 30 days of the date the other party appoints its, the first appointed arbitrator will be the sole arbitrator, provided that the arbitrator was validly and properly appointed. All proceedings will be conducted, including all documents presented in such proceedings, in the English language. The English language version of this Agreement prevails over any other language version.

b.   In the People's Republic of China:

1)   In case no settlement can be reached, the disputes will be submitted to China International Economic and Trade Arbitration Commission for arbitration according to the then effective rules of the said Arbitration Commission. The arbitration will take place in Beijing and be conducted in Chinese. The arbitration award will be final and binding on bothparties. During the course of arbitration, this agreement will continue to be performed except for the part which the parties are disputing and which is undergoing arbitration.

c.   EUROPE, MIDDLE EAST, AND AFRICA

1)   In Albania, Armenia, Azerbaijan, Belarus, Bosnia-Herzegovina, Bulgaria, Croatia, Former Yugoslav Republic of Macedonia, Georgia, Hungary, Kazakhstan, Kyrgyzstan, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan:

2)   All disputes arising out of this Agreement or related to its violation, termination or nullity will be finally settled under the Rules of Arbitration and Conciliation of the International Arbitral Center of the Federal Economic Chamber in Vienna (Vienna Rules) by three arbitrators appointed in accordance with these rules. The arbitration will be held in Vienna, Austria, and the official language of the proceedings will be English. The decision of the arbitrators will be final and binding upon both parties. Therefore, pursuant to paragraph 598 (2) of the Austrian Code of Civil Procedure, the parties expressly waive the application of paragraph 595 (1) figure 7 of the Code. IBM may, however, institute proceedings in a competent court in the country of installation.

d.   In Estonia, Latvia, and Lithuania:

1)   All disputes arising in connection with this Agreement will be finally settled in arbitration that will be held in Helsinki, Finland in accordance with the arbitration laws of Finland then in effect. Each party will appoint one arbitrator. The arbitrators will then jointly appoint the chairman. If arbitrators cannot agree on the chairman, then the Central Chamber of Commerce in Helsinki will appoint the chairman.

e.   AMERICAS COUNTRY AMENDMENTS

CANADA

10.1 Items for Which IBM May be Liable

The following replaces Item 1 in the first paragraph of this Subsection 10.1 (Items for Which IBM May be Liable):

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1) damages for bodily injury (including death) and physical harm to real property and tangible personal property caused by IBM's negligence; and

13. General

The following replaces Item 13.d:

d.   Licensee agrees to comply with all applicable export and import laws and regulations, including those of that apply to goods of United States origin and that prohibit or limit export for certain uses or to certain users.

The following replaces Item 13.i:

i.   No right or cause of action for any third party is created by this Agreement or any transaction under it, nor is IBM responsible for any third party claims against Licensee except as permitted by the Limitation of Liability section above for bodily injury (including death) or physical harm to real or tangible personal property caused by IBM's negligence for which IBM is legally liable to that third party.

The following is added as Item 13.m:

m.   For purposes of this Item 13.m, ″Personal Data″ refers to information relating to an identified or identifiable individual made available by one of the parties, its personnel or any other individual to the other in connection with this Agreement. The following provisions apply in the event that party makes Personal Data available to the other:

(1)   General
        (a) Each party is responsible for complying with any obligations applying to it under applicable Canadian data privacy laws and regulations (″Laws″).

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        (b) Neither party will request Personal Data beyond what is necessary to fulfill the purpose(s) for which it is requested. The purpose(s) for requesting Personal Data must be reasonable. Each party will agree in advance as to the type of Personal Data that is required to be made available.

(2) Security Safeguards
        (a) Each party acknowledges that it is solely responsible for determining and communicating to the other the appropriate technological, physical and organizational security measures required to protect Personal Data.

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(b) Each party will ensure that Personal Data is protected in accordance with the security safeguards communicated and agreed to by the other.

(c) Each party will ensure that any third party to whom Personal Data is transferred is bound by the applicable terms of this section.

(d) Additional or different services required to comply with the Laws will be deemed a request for new services.

(3) Use

Each party agrees that Personal Data will only be used, accessed, managed, transferred, disclosed to third parties or otherwise processed to fulfill the purpose(s) for which it was made available.

(4) Access Requests

(a) Each party agrees to reasonably cooperate with the other in connection with requests to access or amend Personal Data.

(b) Each party agrees to reimburse the other for any reasonable charges incurred in providing each other assistance.

(c) Each party agrees to amend Personal Data only upon receiving instructions to do so from the other party or its personnel.

(5) Retention

Each party will promptly return to the other or destroy all Personal Data that is no longer necessary to fulfill the purpose(s) for which it was made available, unless otherwise instructed by the other or its personnel or required by law.

(6) Public Bodies Who Are Subject to Public Sector Privacy Legislation For Customers who are public bodies subject to public sector privacy legislation, this Item 13.m applies only to Personal Data made available to Customer in connection with this Agreement, and the obligations in this section apply only to Customer, except that: 1) section (2)(a) applies only to IBM; 2) sections (1)(a) and (4)(a) apply to both parties; and 3)section (4)(b) and the last sentence in (1)(b) do not apply.

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PERU

10. Limitation of Liability

The following is added to the end of this Section 10 (Limitation of Liability):

Except as expressly required by law without the possibility of contractual waiver, Licensee and IBM intend that the limitation of liability in this Limitation of Liability section applies to damages caused by all types of claims and causes of action. If any limitation on or exclusion from liability in this section is held by a court of competent jurisdiction to be unenforceable with respect to a particular claim or cause of action, the parties intend that it nonetheless apply to the maximum extent permitted by applicable law to all other claims and causes of action.

10.1 Items for Which IBM May be Liable

The following is added at the end of this Subsection 10.1:

In accordance with Article 1328 of the Peruvian Civil Code, the limitations and exclusions specified in this section will not apply to damages caused by IBM's willful misconduct (″dolo″) or gross negligence (″culpa inexcusable″).

UNITED STATES OF AMERICA:

5. Taxes
The following is added at the end of this Section 5 (Taxes) For Programs delivered electronically in the United States for which Licensee claims a state sales and use tax exemption, Licensee agrees not to receive any tangible personal property (e.g., media and publications) associated with the electronic program.

Licensee agrees to be responsible for any sales and use tax liabilities that may arise as a result of Licensee's subsequent redistribution of Programs after delivery by IBM.

13. General
The following is added to Section 13 as Item 13.m:
U.S. Government Users Restricted Rights – Use, duplication or disclosure is restricted by the GSA IT Schedule 70 Contract with the IBM Corporation.
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The following is added to Item 13.f:

Each party waives any right to a jury trial in any proceeding arising out of or related to this Agreement.

ASIA PACIFIC COUNTRY AMENDMENTS

AUSTRALIA:

5. Taxes

The following sentences replace the first two sentences of Section 5 (Taxes):

If any government or authority imposes a duty, tax (other than income tax), levy, or fee, on this Agreement or on the Program itself, that is not otherwise provided for in the amount payable, Licensee agrees to pay it when IBM invoices Licensee. If the rate of GST changes, IBM may adjust the charge or other amount payable to take into account that change from the date the change becomes effective.

8.1 Limited Warranty

The following is added to Subsection 8.1 (Limited Warranty):

The warranties specified this Section are in addition to any rights Licensee may have under the Trade Practices Act 1974 or other legislation and are only limited to the extent permitted by the applicable legislation.

10.1 Items for Which IBM May be Liable

The following is added to Subsection 10.1 (Items for Which IBM Maybe Liable):

Where IBM is in breach of a condition or warranty implied by the Trade Practices Act 1974, IBM's liability is limited to the repair or replacement of the goods, or the supply of equivalent goods. Where that condition or warranty relates to right to sell, quiet possession or clear title, or the goods are of a kind ordinarily obtained for personal, domestic or household use or consumption, then none of the limitations in this paragraph apply.

HONG KONG SAR, MACAU SAR, AND TAIWAN

As applies to licenses obtained in Taiwan and the special administrative regions, phrases throughout this Agreement containing the word ″country″ (for example, ″the country in which the original Licensee was granted the license″ and ″the country in which Licensee obtained the Program license″) are replaced with the following:

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(1)   In Hong Kong SAR: ″Hong Kong SAR″

(2)   In Macau SAR: ″Macau SAR″ except in the Governing Law clause (Section 16.1)

(3)   In Taiwan: ″Taiwan.″

INDIA

10.1 Items for Which IBM May be Liable

The following replaces the terms of Items 1 and 2 of the first paragraph:

1) liability for bodily injury (including death) or damage to real property and tangible personal property will be limited to that caused by IBM's negligence; and 2) as to any other actual damage arising in any situation involving nonperformance by IBM pursuant to, or in any way related to the subject of this Agreement, IBM's liability will be limited to the charge paid by Licensee for the individual Program that is the subject of the claim.

13. General

The following replaces the terms of Item 13.g:

If no suit or other legal action is brought, within three years after the cause of action arose, in respect of any claim that either party may have against the other, the rights of the concerned party in respect of such claim will be forfeited and the other party will stand released from its obligations in respect of such claim.

INDONESIA

3.3 Term and Termination

The following is added to the last paragraph:

Both parties waive the provision of article 1266 of the Indonesian Civil Code, to the extent the article provision requires such court decree for the termination of an agreement creating mutual obligations.

JAPAN

13. General

The following is inserted after Item 13.f:

Any doubts concerning this Agreement will be initially resolved between us in good faith and in accordance with the principle of mutual trust.

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MALAYSIA

10.2 Items for Which IBM Is not Liable

The word ″SPECIAL″ in Item 10.2b is deleted.

NEW ZEALAND

8.1 Limited Warranty

The following is added:

The warranties specified in this Section are in addition to any rights Licensee may have under the Consumer Guarantees Act 1993 or other legislation which cannot be excluded or limited. The Consumer Guarantees Act 1993 will not apply in respect of any goods which IBM provides, if Licensee requires the goods for the purposes of a business as defined in that Act.

10. Limitation of Liability
The following is added:

Where Programs are not obtained for the purposes of a business as defined in the Consumer Guarantees Act 1993, the imitations in this Section are subject to the limitations in that Act.

PEOPLE'S REPUBLIC OF CHINA

1. Charges
The following is added:

All banking charges incurred in the People's Republic of China will be borne by Licensee and those incurred outside the People's Republic of China will be borne by IBM.

PHILIPPINES

10.2 Items for Which IBM Is not Liable

The following replaces the terms of Item 10.2b:

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b.   special (including nominal and exemplary damages), moral, incidental, or indirect damages or for any economic consequential damages; or

SINGAPORE

10.2 Items for Which IBM Is not Liable
The words ″SPECIAL″ and ″ECONOMIC″ are deleted from Item 10.2b.

13. General
The following replaces the terms of Item 13.i:

Subject to the rights provided to IBM's suppliers and Program developers as provided in Section 10 above (Limitation of Liability), a person who is not a party to this Agreement will have no right under the Contracts (Right of Third Parties) Act to enforce any of its terms.

TAIWAN

8.1 Limited Warranty

The last paragraph is deleted.

10.1 Items for Which IBM May Be Liable

The following sentences are deleted:

This limit also applies to any of IBM's subcontractors and Program developers. It is the maximum for which IBM and its subcontractors and Program developers are collectively responsible.

EUROPE, MIDDLE EAST, AFRICA (EMEA) COUNTRY AMENDMENTS

EUROPEAN UNION MEMBER STATES

8. Warranty and Exclusions
The following is added to Section 8 (Warranty and Exclusion):
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CERNER CORPORATION

In the European Union ("EU"), consumers have legal rights under applicable national legislation governing the sale of consumer goods. Such rights are not affected by the provisions set out in this Section 8 Warranty and Exclusions. The territorial scope of the Limited Warranty is worldwide.

EU MEMBER STATES AND THE COUNTRIES IDENTIFIED BELOW

Iceland, Liechtenstein, Norway, Switzerland, Turkey, and any other European country that has enacted local data privacy or protection legislation similar to the EU model.

13. General

The following replaces Item 13.e:

(1)   Definitions – For the purposes of this Item 13.e, the following additional definitions apply:

(a) Business Contact Information – business-related contact information disclosed by Licensee to IBM, including names, job titles, business addresses, telephone numbers and email addresses of Licensee's employees and contractors. For Austria, Italy and Switzerland, Business Contact Information also includes information about Customer and its contractors as legal entities (for example, Customer's revenue data and other transactional information)

(b) Business Contact Personnel – Licensee employees and contractors to whom the Business Contact Information relates.

(c) Data Protection Authority – the authority established by the Data Protection and Electronic Communications Legislation in the applicable country or, for non-EU countries, the authority responsible for supervising the protection of personal data in that country, or (for any of the foregoing) any duly appointed successor entity thereto.

(d) Data Protection & Electronic Communications Legislation – (i) the applicable local legislation and regulations in force implementing the requirements of EU Directive 95/46/EC (on the protection of individuals with regard to the processing of personal data and on the free movement of such data) and of EU Directive 2002/58/EC (concerning the processing of personal data and the protection of privacy in the electronic communications sector); or (ii) for non-EU countries, the legislation and/or regulations passed in the applicable country relating to the protection of personal data and the regulation of electronic communications involving personal data, including (for any of the foregoing) any statutory replacement or modification thereof.

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(e) IBM Group – International Business Machines Corporation of Armonk, New York, USA, its subsidiaries, and their respective Business Partners and subcontractors.

(2)   Licensee authorizes IBM:

(a) to process and use Business Contact Information within IBM Group in support of Licensee including the provision of support services, and for the purpose of furthering the business relationship between Licensee and IBM Group, including, without limitation, contacting Business Contact Personnel (by email or otherwise) and marketing IBM Group products and services (the ″Specified Purpose″); and

(b) to disclose Business Contact Information to other members of IBM Group in pursuit of the Specified Purpose only.

(3)   Use

IBM agrees that all Business Contact Information will be processed in accordance with the Data Protection & Electronic Communications Legislation and will be used only for the Specified Purpose.

(4)   Access Requests

To the extent required by the Data Protection & Electronic Communications Legislation, Licensee represents that (a) it has obtained (or will obtain) any consents from (and has issued (or will issue) any notices to) the Business Contact Personnel as are necessary in order to enable IBM Group to process and use the Business Contact Information for the Specified Purpose.

(5)   Retention

Licensee authorizes IBM to transfer Business Contact Information outside the European Economic Area, provided that the transfer is made on contractual terms approved by the Data Protection Authority or the transfer is otherwise permitted under the Data Protection & Electronic Communications Legislation.

AUSTRIA

8.2 Exclusions

The following is deleted from the first paragraph:

MERCHANTABILITY, SATISFACTORY QUALITY

10. Limitation of Liability

The following is added:

The following limitations and exclusions of IBM's liability do not apply for damages caused by gross negligence or willful misconduct.

10.1 Items for Which IBM May Be Liable

The following replaces the first sentence in the first paragraph:

Circumstances may arise where, because of a default by IBM in the performance of its obligations under this Agreement or other liability, Licensee is entitled to recover damages from IBM.

In the second sentence of the first paragraph, delete entirely the parenthetical phrase:

"(including fundamental breach, negligence, misrepresentation, or other contract or tort claim)".

10.2 Items for Which IBM Is Not Liable

The following replaces Item 10.2b:

b.   indirect damages or consequential damages; or

BELGIUM, FRANCE, ITALY, and LUXEMBOURG

10. Limitation of Liability

The following replaces the terms of Section 10 (Limitation of Liability) in its entirety:

Except as otherwise provided by mandatory law:

10.1 Items for Which IBM May Be Liable

IBM's entire liability for all claims in the aggregate for any damages and losses that may arise as a consequence of the fulfillment of its obligations under or in connection with this Agreement or due to any other cause related to this Agreement is limited to the compensation of only those damages and losses proved and actually arising as an immediate and direct consequence of the non-fulfillment of such obligations (if IBM is at fault) or of such cause, for a maximum amount equal to the charges (if the Program is subject to fixed term charges, up to twelve months' charges) Licensee paid for the Program that has caused the damages.

The above limitation will not apply to damages for bodily injuries (including death) and damages to real property and tangible personal property for which IBM is legally liable.

10.2 Items for Which IBM Is Not Liable

UNDER NO CIRCUMSTANCES IS IBM OR ANY OF ITS PROGRAM DEVELOPERS LIABLE FOR ANY OF THE FOLLOWING, EVEN IF INFORMED OF THEIR POSSIBILITY: 1) LOSS OF, OR DAMAGE TO, DATA; 2) INCIDENTAL, EXEMPLARY OR INDIRECT DAMAGES, OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES; AND / OR 3) LOST PROFITS, BUSINESS, REVENUE, GOODWILL, OR ANTICIPATED SAVINGS, EVEN IF THEY ARISE AS AN IMMEDIATE CONSEQUENCE OF THE EVENT THAT GENERATED THE DAMAGES.

10.3 Suppliers and Program Developers
The limitation and exclusion of liability herein agreed applies not only to the activities performed by IBM but also to the activities performed by its suppliers and Program developers, and represents the maximum amount for which IBM as well as its suppliers and Program developers are collectively responsible.

GERMANY

8.1 Limited Warranty
The following is inserted at the beginning of Section 8.1:

The Warranty Period is twelve months from the date of delivery of the Program to the original Licensee.
8.2 Exclusions

Section 8.2 is deleted in its entirety and replaced with the following:
Section 8.1 defines IBM's entire warranty obligations to Licensee except as otherwise required by applicable statutory law.

10. Limitation of Liability
The following replaces the Limitation of Liability section in its entirety:

a.   IBM will be liable without limit for 1) loss or damage caused by a breach of an express guarantee; 2) damages or losses resulting in bodily injury (including death); and 3) damages caused intentionally or by gross negligence.

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b.   In the event of loss, damage and frustrated expenditures caused by slight negligence or in breach of essential contractual obligations, IBM will be liable, regardless of the basis on which Licensee is entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), per claim only up to the greater of 500,000 euro or the charges (if the Program is subject to fixed term charges, up to 12 months' charges) Licensee paid for the Program that caused the loss or damage. A number of defaults which together result in, or contribute to, substantially the same loss or damage will be treated as one default. In the event of loss, damage and frustrated expenditures caused by slight negligence, IBM will not be liable for indirect or consequential damages, even if IBM was informed about the possibility of such loss or damage.

d.   In case of delay on IBM's part: 1) IBM will pay to Licensee an amount not exceeding the loss or damage caused by IBM's delay and 2) IBM will be liable only in respect of the resulting damages that Licensee suffers, subject to the provisions of Items a and b above.

13. General
The following replaces the provisions of 13.g:

Any claims resulting from this Agreement are subject to a limitation period of three years, except as stated in Section 8.1 (Limited Warranty) of this Agreement.

The following replaces the provisions of 13.i:
No right or cause of action for any third party is created by this Agreement, nor is IBM responsible for any third party claims against Licensee, except (to the extent permitted in Section 10 (Limitation of Liability)) for: i) bodily injury (including death); or ii) damage to real or tangible personal property for which (in either case) IBM is legally liable to that third party.

IRELAND

8.2 Exclusions
The following paragraph is added:

Except as expressly provided in these terms and conditions, or Section 12 of the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act, 1980 (the "1980 Act"), all conditions or warranties (express or implied, statutory or otherwise) are hereby excluded including, without limitation, any warranties implied by the Sale of Goods Act 1893 as amended by the 1980 Act (including, for the avoidance of doubt, Section 39 of the 1980 Act).

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IRELAND AND UNITED KINGDOM

2. Agreement Structure

The following sentence is added:
Nothing in this paragraph shall have the effect of excluding or limiting liability for fraud.

10.1 Items for Which IBM May Be Liable
The following replaces the first paragraph of the Subsection:

For the purposes of this section, a ″Default″ means any act, statement, omission or negligence on the part of IBM in connection with, or in relation to, the subject matter of an Agreement in respect of which IBM is legally liable to Licensee, whether in contract or in tort. A number of Defaults which together result in, or contribute to, substantially the same loss or damage will be treated as one Default.

Circumstances may arise where, because of a Default by IBM in the performance of its obligations under this Agreement or other liability, Licensee is entitled to recover damages from IBM. Regardless of the basis on which Licensee is entitled to claim damages from IBM and except as expressly required by law without the possibility of contractual waiver, IBM's entire liability for any one Default will not exceed the amount of any direct damages, to the extent actually suffered by Licensee as an immediate and direct consequence of the default, up to the greater of (1) 500,000 euro (or the equivalent in local currency) or (2) 125% of the charges (if the Program is subject to fixed term charges, up to 12 months' charges) for the Program that is the subject of the claim. Notwithstanding the foregoing, the amount of any damages for bodily injury (including death) and damage to real property and tangible personal property for which IBM is legally liable is not subject to such limitation.

10.2 Items for Which IBM is Not Liable
The following replaces Items 10.2b and 10.2c:

b.   special, incidental, exemplary, or indirect damages or consequential damages; or

c.   wasted management time or lost profits, business, revenue, goodwill, or anticipated savings.
The license granted for the IBM Programs is a "Restricted License" which means the Programs may only be used in conjunction with the Cerner Corporation's value-added components as part of the solution delivered to you by Cerner. Program licenses may not be used by multiple end users or to host multiple end users within the same server or group of servers. You may not reverse assemble, reverse compile, or otherwise translate the Program.

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IBM provides a License Information Document ("LI") for each Program. You shall be bound by the terms in the LI and all licensing files, including NOTICES files, which accompany or are included in the Program. You agree to be bound by such terms when you use the Programs as authorized under this agreement.

If a Program contains third party code that is provided under a third-party license agreement, then the terms and conditions of the third party license agreement apply to such code.

CITRIX® LICENSE AGREEMENT

A. This is a legal agreement ("AGREEMENT")   between you, the Licensed User, and Citrix Systems, Inc.;   Citrix Systems International GmbH;   or Citrix Systems Asia Pacific Pty Ltd. Your location of receipt of this product or feature release (both hereinafter "PRODUCT") or technical support (hereinafter "SUPPORT")   determines the providing   entity hereunder (the applicable entity is hereinafter referred to as "CITRIX"). Citrix Systems, Inc.,   a Delaware corporation, licenses this PRODUCT in the Americas and Japan and provides SUPPORT in the Americas. Citrix Systems International , a Swiss company wholly owned by Citrix Systems, Inc., licenses this PRODUCT and provides SUPPORT in Europe, the Middle East, and Africa, and licenses the PRODUCT in Asia, and the Pacific (excluding Japan). Citrix Systems Asia Pacific Pty Ltd. provides SUPPORT in Asia and the Pacific (excluding Japan).   BY INSTALLING AND/OR USING THE PRODUCT, YOU ARE AGREEING   TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE   TERMS OF THIS AGREEMENT, DO NOT INSTALL AND/OR USE THE PRODUCT.

1. GRANT OF LICENSE. This PRODUCT contains software that provides services on a computer called a server ("Server Software") and contains software that allows a computer to access or utilize the services provided by The Server Software ("Client Software"). This PRODUCT is licensed under a concurrent user model. Server Software is activated by User Licenses that allow use of the Server Software in increments defined by the license model ("User Licenses"). Client Software is not activated by User Licenses but will not operate in conjunction with the Server Software without the Server Software being activated. User Licenses for other CITRIX PRODUCTS or other editions of the same PRODUCT may not be used to increase the allowable use. For this PRODUCT, CITRIX grants to you the following worldwide, nonexclusive rights (except as subject to termination as set forth below and as to Evaluation PRODUCTS) to the Server and Client Software and accompanying documentation (collectively called the "SOFTWARE"):

a. Server Software. You may install and use the Server Software on one or more computers ("Server(s)"). Each User License may be installed and used on a single license server within your production environment and a single license server within your disaster recovery environment. The

Server Software may be used only to support up to the allowable number of ICA, RDP, or other managed connections within each environment based on your total purchase of User Licenses. You may use the Server Software to provide application services to third parties ("Hosting"). Each User License that is installed in both a production

1) And disaster recovery environment may be used in only one of the environments at any one time, except for duplicate use during routine testing of the disaster recovery environment. If you purchased the Enterprise or Platinum Edition of this PRODUCT, each User License may be used only to support use of any one   or more of the edition features for the same concurrent user. If multiple User Licenses are delivered for the various features of the edition, they should be treated as a single User License. Add-on User Licenses must be purchased to support additional users for any particular feature. If you received this PRODUCT as a component of XenDesktop Enterprise or Platinum Edition, the Server Software may be used only to service physical or virtual machines running in the XenDesktop environment and may not be used to publish desktops or applications directly to client devices.

b.   Client Software. The Client Software may be installed and used on an unlimited number of client devices. You may use such Client Software only to access the Server Software up to the allowable number of connections based on your total purchase of User Licenses. As a part of Hosting, you may copy and distribute the Client Software, with its electronic, click-to-accept license, to such third parties.

c.   Perpetual License. If the SOFTWARE is "Perpetual License SOFTWARE," the SOFTWARE is licensed on a perpetual basis and includes the right to receive Subscription Advantage (as defined in Section 2 below).

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12.3 <u>Governing Law; Jurisdiction and Venue</u>. This Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. Unless waived by SenSage in its sole discretion, the jurisdiction and venue for actions related to the subject matter hereof shall be the California state and United States federal courts located in San Francisco, California, and both parties hereby submit to the personal jurisdiction of such courts.

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12.4 <u>Attorneys' Fees and Costs</u>. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

12.5 <u>Notices and Reports</u>. Any notice or report hereunder shall be in writing to the notice address set forth above and shall be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered U.S. mail (return receipt requested); or (iii) one day after it is sent if by next day delivery by a major commercial delivery service.

12.6 <u>Amendments; Waivers</u>. No supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by Licensee will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect.

12.7 <u>Entire Agreement</u>. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement.

12.8 <u>Audit Rights</u>. Upon SenSage's written request, Licensee shall furnish SenSage with a signed certification certifying that the Software is being used pursuant to the terms of this Agreement including any copy and user limitations. With prior reasonable notice, SenSage may audit the copies of the Software in use by Licensee provided such audit is during regular business hours; Licensee is responsible for such audit costs only in the event the audit reveals a discrepancy, of five percent (5%) or greater, on the part of Licensee.

12.9 <u>Independent Contractors</u>. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

12.10 <u>Force Majeure</u>. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the signing of this Agreement and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

12.11 <u>Government End-Users</u>. As defined in U.S. Federal Acquisition Regulations (FAR), the Software and documentation licensed in this Agreement are deemed to be "commercial items" and "commercial computer software" and "commercial computer software documentation." Consistent with

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SURESCRIPTS

A. Aggregator Customer Terms and Conditions of Use of the Surescripts network

1. Terms and Conditions. By accessing the Surescripts network through software licensed from Cerner Corporation ("Cerner"), the entity accessing or providing access to the Surescripts network ("Cerner Customer") agrees to the following terms and conditions of use of the Surescripts network and Surescripts Services (these "Terms"). At the direction of Surescripts, or as may be necessitated by Cerner's agreement with Surescripts, Cerner may modify or supplement these Terms from time to time and such modified or supplemented Terms shall become effective at the time set forth in such modification or supplement.

2. Definitions:

a. "Applicable Law" means any and all applicable federal, state, local, common law, rules, regulations, directives, and guidelines, including but not limited to the applicable provisions of the following: the Health Insurance Portability and Accountability Act ("HIPAA") and related regulations; the Health Information Technology for Economic and Clinical Health Act ("HITECH") and related regulations; the Anti-Kickback provisions of the Social Security Act and related regulations; and; state and federal pharmacy laws and regulations.

b. "Confidential Information" means all confidential and/or proprietary information disclosed to Cerner Customer by Surescripts, including products, software, materials, processes, ideas, and techniques (whether or not reduced to writing): (i) which are not generally known in the relevant industry or trade; (ii) which afford possessors of the information a commercial advantage over others who do not have such information; (iii) which are considered trade secrets under Applicable Law; and/or (iv) which, if utilized or disclosed by Cerner Customer, would place Surescripts at a competitive or business disadvantage; these Terms; employee, customer and patient information and PHI; accounting data; statistical data; development and marketing plans; strategies; forecasts; any and all information and documentation deemed confidential or a trade secret under any federal, state, or local statute or regulation; and the like, whether or not tangibly embodied in a document, model, specimen, computer storage device, or other physical object; and any information obtained or accessed by Cerner Customer, if not otherwise described above, is of a nature that a reasonable person would believe it to be confidential.

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c. "Data Source" means a (1) pharmacy, pharmacy chain, or entity that aggregates information on behalf of pharmacies, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession, or (2) a pharmacy benefit manager, health benefit payor or administrator, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession.

d. "Participants" means all aggregators, value-added resellers, Data Sources, prescribers, health care providers, and facilities, technology vendors, and other entities and individuals that have entered into written agreements with Surescripts, either directly or indirectly, in order to access, provide, or communicate through the Surescripts network.

e. "Prescriber End User" means an individual, located in the United States or a United States territory, that: (1) is employed by, is an active member of the medical staff of, or is otherwise performing healthcare services as a legally authorized representative of an Cerner Customer.; and (2) if required by Applicable Law to be licensed, registered, or otherwise authorized by a Governmental authority, is properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to perform the applicable healthcare services.

f. "Prescribing Decision" means a prescriber's decision to prescribe a certain pharmaceutical or direct a patient to a certain pharmacy.

g. "Point of Care" means the place and time that a prescriber or his/her agent is in the act of prescribing a pharmaceutical for a patient.

h. "Surescripts network" means the Surescripts proprietary technology for a secure, nationwide, interoperable health information infrastructure, interfaces, functionality, and transaction maps made available by Surescripts to Cerner Customer, through Cerner's software, pursuant to this Agreement, as they may be further modified or developed by Surescripts from time to time.

3. Access to and Use of the Surescripts network. Cerner Customer shall designate each Prescriber End User as such only after confirming that such individual or entity meets the definition of a Prescriber End User set forth in Section 2.D above. Customer shall, at a minimum, employ NIST Level of Assurance 2 identity-proofing and authentication processes before allowing any individual access to the Surescripts network for electronic prescription of non-controlled substances (understanding that for controlled substances a more rigorous level for identity proofing and authentication is established and must be met pursuant to Applicable Law). Cerner Customer shall, and shall ensure that its Prescriber End Users shall, access and utilize the Surescripts network only in accordance with these Terms. Cerner Customer shall be responsible for ensuring that all messages transmitted via the Surescripts network originate from Prescriber End Users who are licensed to use the application for the service(s) for which Surescripts has certified Cerner Customer's licensed application, and who are registered with Cerner Customer.

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4. Confidentiality. Cerner Customer shall, and shall ensure that its Prescriber End Users shall, keep confidential all Confidential Information.

5. Adherence to Applicable Law. Cerner Customer shall, and shall ensure that Prescriber End Users shall, comply with Applicable Law, including ensuring that all necessary patient consents and authorizations have been obtained.

6. Commercial Messaging Rules. Cerner Customer shall comply with the Surescripts Commercial Messaging Rules, as follows:

a. General Limitation. Cerner Customer shall not, and shall ensure that Prescriber End Users do not, use any means, program, or device, and shall not permit any person or entity to use any means, program, or device, including, but not limited to, advertising, instant messaging, and pop-up ads, to influence or attempt to influence, through economic incentives or otherwise, the Prescribing Decision of a prescriber at the Point of Care if: (i) such means, program, or device (as described above) is triggered by, initiated by, or is in specific response to, the input, selection, and/or act of a prescriber or his/her agent prescribing a pharmaceutical or selecting a pharmacy for a patient; and (ii) that prescription shall be delivered via the Surescripts network.

b. Exceptions to General Limitation. Notwithstanding the above Section III(d)(1)(A), Cerner Customer and Prescriber End Users may: (A) show information regarding a payer's formulary and benefit plan design, including patient lowest cost options, on/off tier, prior authorization, step therapy, coverage status, and co-pay information; and/or (B) deliver or have delivered to Prescriber End Users clinical alerts that are sourced from payers and/or are attributed to generally recognized and reputable sources providing clinical information to the prescriber, even if, in the event of either (A) or (B), such information influences the patient or prescriber's choice of pharmacy or other prescribing decisions. In addition, in the event of either (A) or (B) above, Cerner Customer shall: (i) allow its Prescriber End Users to access all pharmaceuticals known through generally available sources used in the industry, and all pharmacies, including all retail and mail service pharmacy options available; and (ii) not be designed to preclude a physician or patient from selecting any particular pharmacy or pharmaceutical. Any custom lists created and maintained by Prescriber End Users within Cerner Customer's licensed software, including but not limited to: (i) an individual Prescriber End User's most often prescribed medication list; (ii) an individual Prescriber End User's most often used pharmacy list; and/or (iii) an individual Prescriber End User's most often used SIGs (i.e., instructions for the use of medications), would not be considered a violation of the Commercial Messaging Rules.

7. Surescripts Disclaimers.

a. Cerner Customer acknowledges and agrees, and shall ensure that Prescriber End Users acknowledge and agree, that the prescription benefit and medication history information provided by Surescripts may not be complete or accurate;

b. Cerner Customer releases and holds harmless, on its own behalf and on behalf of its Prescriber End Users, Surescripts and its Data Sources against any claims relating to the accuracy or

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completeness of prescription benefit and medication history information provided by Surescripts.

c. Cerner Customer acknowledges, on its own behalf and on behalf of its Prescriber End Users, that it is the Prescriber End User's sole responsibility to confirm the accuracy of the prescription benefit and medication history information with his/her/its patient prior to providing any medical services based thereon; and

d. Cerner Customer acknowledges and agrees, on its own behalf and on behalf of its Prescriber End Users, that: (i) the Surescripts network is not intended to serve as a replacement for: (a) a written prescription where not approved as such by the appropriate governmental authorities or where such written prescription is required for record keeping purposes; or (b) applicable prescription documentation; (ii) use of the Surescripts network is not a substitute for a health care provider's standard practice or professional judgment; and (iii) any decision with regard to the appropriateness of treatment, or the validity or reliability of information, is the sole responsibility of a patient's health care provider.

8. Surescripts Data Sources. Cerner Customer acknowledges and agrees that any Data Source, in its sole discretion, may elect not to receive prescriptions and other messages from Cerner Customer and/or any Prescriber End User and that Data Sources or other Participants in the Surescripts network may be added to or deleted from the Surescripts network or may limit access to their data without prior notice.

9. Compliance. No more than once per year without cause (or more often only upon a showing of reasonable cause), upon reasonable prior written notice and request from Surescripts, Cerner Customer shall provide Surescripts with data and records relating to the use of the Surescripts network and/or Surescripts Services by Cerner Customer for purposes of determining Cerner Customer's compliance with these Terms.

10. No Modification or Reconfiguration. Cerner Customer shall not, and shall ensure that Prescriber End Users do not, modify or reconfigure Cerner Customer's licensed software in a way that will bring it out of compliance with these Terms or the Surescripts documentation.

11. Prescriber Directory Information. Cerner Customer agrees that Surescripts has unlimited non-exclusive rights in perpetuity to use all directory and directory-related information on Prescriber End Users that shall come to reside within the Surescripts network database through Prescriber End Users' use of the Surescripts network, including all root, identity, and location-related information. Such uses may include creating and disclosing aggregated, de-identified statistics relating to the adoption and use of e-prescribing by Prescriber End Users and use of directory information to operate and expand the Surescripts network, subject at all times to compliance with applicable law. Notwithstanding the foregoing, Surescripts will not: (i) make available for public consumption information that identifies Prescriber End Users except pursuant to Applicable Law or judicial or administrative order or to provide information regarding Prescriber End Users' use of the Surescripts network to healthcare payers; (ii) sell, disclose, or transfer to any third party information that identifies Prescriber End Users for the

purpose of allowing such third party to send to such Prescriber End Users commercial solicitations for the purchase of goods or services; or (iv) engage in sending commercial solicitations to Prescriber End Users. The rights granted to Surescripts in this Section 11 shall specifically exclude any rights in PHI, Cerner Customer confidential information and intellectual property.

12. Termination for Breach. Cerner Customer's access to the Surescripts network may be suspended or terminated in the event of a breach of these Terms that is not cured within the time period set forth in the breach notice delivered to Cerner Customer by Cerner or Surescripts.

13. Emergency Suspension. Notwithstanding anything to the contrary herein, Surescripts retains the right to immediately suspend access (with no notice or cure period) to the Surescripts network by Cerner Customer or any Prescriber End User in the event that Surescripts perceives (in its reasonable discretion) there to be a patient safety concern, violation of Applicable Law, or unauthorized use of the Surescripts network.

14. Cerner Customer Indemnity. Cerner Customer shall defend, indemnify, and save harmless Surescripts from and against any and all loss, damage, or expense arising out of claims asserted against Surescripts by third parties to the extent arising out of any breach of these Terms, any use (or misuse) by Cerner Customers or Prescriber End Users of data or information received through the Surescripts network, or any transmission of data or information through the Surescripts network by Aggregator Customers or Prescriber End Users. The foregoing indemnity shall not apply to the extent of Surescripts' indemnification obligations under Section 15.

15. Surescripts Indemnity.

a. Subject to the exclusions set forth below, Surescripts will indemnify, defend, and hold harmless Cerner Customer, its officers, employees and agents from and against all loss damage or expense arising out of any claim brought by a third party that the Surescripts network or Surescripts services (collectively referred to as the "Surescripts Products") as lawfully used in full compliance with these Terms infringe(s) any patent, trademark, copyright or other intellectual property right or misappropriates any trade secret. If Cerner Customer's right to use any of the Products is enjoined, Surescripts will (a) procure for Cerner Customer, as applicable, the right to use the Product, (b) replace the Product with a functionally equivalent, non-infringing product, or (c) modify the Product so it becomes non-infringing and functionally equivalent. If (a), (b) or (c) is not commercially reasonable, Surescripts will refund a pro rata portion of all fees paid for the particular Surescripts Product(s) at issue in exchange for return of the Product(s).

b. Exclusions. Surescripts has no indemnification or defense obligation regarding any claim arising directly from any of the following to the extent such claim would not have arisen but for the described:

1) Surescripts' inclusion in Surescripts Products any custom designs, specifications, software, or interfaces, instructions as provided or requested by Cerner, Cerner Customer, or by a third party on Cerner Customer's behalf;

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2) Modification of the Surescripts Products by Cerner or Cerner Customer, excluding modifications performed, required or approved by Surescripts; or

3) Use of any non-Surescripts product, apparatus, business method or service not provided by Surescripts in combination with Surescripts Product(s) (the "Combination"), provided that this exclusion shall not apply if:

a) the Combination is expressly required by Surescripts;

b) Cerner Customer notifies Surescripts of the Combination in writing and such Combination is authorized by Surescripts in writing; or

c) the Combination is expressly specified in the Surescripts documentation.

4) Notwithstanding the foregoing, the exclusion set forth in this subsection (3) will not limit Surescripts' intellectual property indemnification obligations under this Section 15 if, upon final judgment, a Surescripts Product is specifically found to be an infringement of the rights identified in this Section and the Combination is specifically found not to have contributed to the infringement.

16. Indemnification Procedures. Upon becoming aware of any matter which is subject to the provisions of Sections 14 and 15, the party seeking indemnification (the "Indemnified Party") must give prompt written notice of such claim to the other party (the "Indemnifying Party"), accompanied by copies of any written documentation regarding the claim received by the Indemnified Party. The Indemnifying Party shall have the sole right to defend, at its own expense and with its own counsel, any such claim, and control any negotiation for its settlement or compromise. The Indemnified Party shall cooperate with the Indemnifying Party in defending the claim, and will have the right, at its option, to participate in the settlement or defense of any such claim with its own counsel and at its own expense; provided, however, that the Indemnifying Party will have the right to control such settlement or defense. Notwithstanding the foregoing, the Indemnifying Party will not enter into any settlement that specifically apportions fault to, or imposes any monetary liability or obligation on the Indemnified Party without the Indemnified Party's prior written consent. The parties will use commercially reasonable efforts to cooperate in any such settlement or defense and give each other full access to all relevant information, at the Indemnifying Party's expense.

17. Third Party Beneficiary. Surescripts shall be a third party beneficiary of these Terms, and the Data Sources shall be third party beneficiaries of Section 7.B above.

EMC

A. The Following Terms Are Applicable To Sublicensing Of EMC Documentum Software. The EMC Software licensed hereunder is subject to the Cerner business agreement between End User and Cerner, subject to the specific different terms set forth below:

1. The EMC Software license is a nonexclusive, perpetual and non-transferable license (with no right to sublicense) to use the EMC Software solely in conjunction with Cerner Licensed Software.

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2. The (i) EMC Software is licensed only, and no title to, or ownership of, the EMC Software is transferred to End User; (ii) End User may not remove EMC's or its Cerner copyright and other proprietary notices on and in any copies of the EMC Software; and (iii) End User shall not cause or permit any other to create derivative works from, reverse assemble, reverse engineer, reverse compile or otherwise reduce the EMC Software to human readable form.

3. Product Warranty. The EMC Software will, for a period of ninety (90) days from the date of shipment or the date of electronic availability, as applicable, substantially conform to the applicable documentation for such EMC Software. Cerner does not warrant that the operation of the EMC Software shall be uninterrupted or error free, or that all defects can be corrected. Cerner's entire liability and Customer's exclusive remedies under the warranties described in this Section shall be for Cerner, at its option, to use reasonable efforts to remedy such defects, or have the manufacturer remedy such defects or performance failure or to replace the affected EMC Software. If Cerner is unable to make the affected EMC Software operate as warranted within a reasonable time, then Cerner shall refund the amount received by Cerner for the affected EMC Software upon return of the specific EMC Software to Cerner.

4. Warranty Exclusions. Except as expressly otherwise stated in this Agreement, and to the maximum extent permitted by law, Cerner (including its suppliers) provide EMC Software "AS IS" and makes no other express or implied warranties, written or oral, and ALL OTHER WARRANTIES ARE SPECIFACALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

5. End User shall upon Cerner's request, promptly provide Cerner with a written statement certifying the extent of End User's usage of EMC Software identified by Cerner and/or allow Cerner or its designee to conduct a reasonable audit of the applicable End User facilities and records to determine whether or not End User's usage of such EMC Software is in conformance with its paid for license usage;

6. The EMC Software is confidential and contains EMC trade secrets and must be held in confidence with at least the same degree of care with which the End User protects its own similar confidential information.

Mpages Limited Use Runtime License

A. Client acknowledges and agrees that Cerner grants Client a limited runtime only license to Mpages for the sole purpose of executing Mpage Applications that have been Cerner Developed and/or Cerner Certified. Mpage Applications are not included with this runtime license and must be purchased separately. Client is not licensed or authorized to create or execute Mpage Applications beyond those that have been Cerner Developed and/or Cerner Certified. Furthermore, Client is not authorized to modify the source code of any Mpage Applications without upgrading to the Mpages Full Use license.

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Cerner has the right to periodically conduct audits of Client's System to ensure Client has not used Mpages in a manner that violates the terms set forth herein. If Client is found in breach, Client shall pay to Cerner fees for the Mpages Full Use license at Cerner's then-current list price.

B. Definition of Terms

1. "Mpage Application" means a CCL/web technology based program that leverages the Mpages code set for execution.

2. "Cerner Developed" means an Mpage Application that was purchased from Cerner or developed by Cerner professional services.

3. "Cerner Certified means" an Mpage Application that has been certified by Cerner.

PASS-THROUGH PROVISIONS
NUANCE COMMUNICATIONS INC
NUANCE HEALTHCARE MASTER LICENSE AGREEMENT

For North American Sales

PLEASE READ THIS NUANCE HEALTHCARE MASTER LICENSE AGREEMENT (THE "AGREEMENT") CAREFULLY BEFORE EXECUTING AN ORDER WITH THE AUTHORIZED RESELLER IDENTIFIED BELOW FOR THE PURCHASE OF NUANCE PRODUCTS. THIS AGREEMENT SETS FORTH THE TERMS AND CONDITIONS APPLICABLE TO YOUR PURCHASE OF THE NUANCE PRODUCTS FROM THE AUTHORIZED RESELLER. WHEN YOU EXECUTE AN ORDER WITH THE AUTHORIZED RESELLER FOR THE PURCHASE OF NUANCE PRODUCTS, THIS AGREEMENT BECOMES A BINDING AND ENFORCEABLE CONTRACT BETWEEN YOU, AS THE PARTY TO THE ORDER WITH AUTHORIZED RESELLER, AND NUANCE COMMUNICATIONS, INC. ("NUANCE"), LOCATED AT 1 WAYSIDE DRIVE, BURLINGTON, MA 01803. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT EXECUTE THE ORDER. PLEASE NOTE THIS AGREEMENT GRANTS NON-EXCLUSIVE LIMITED LICENSES TO USE CERTAIN SOFTWARE AND SERVICES BUT DOES NOT CONSTITUTE A SALE OR TRANSFER OF ANY SOFTWARE CODE.

General Terms and Conditions

This Agreement consists of the General Terms and Conditions below and all Exhibits and License Schedules attached to or incorporated by reference in this Agreement. You are referred to hereafter as the "Company." Nuance and Company are sometimes referred to individually as a "Party" and collectively as the "Parties."

In consideration of the mutual covenants stated below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

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1. DEFINITIONS

In addition to the terms defined elsewhere in this Agreement, the following terms used in this Agreement shall have the meanings set forth below:

1.1 "Affiliate" means any entity that is directly or indirectly controlled by, under common control with, or in control of a Party to this Agreement. For these purposes, an entity shall be treated as being controlled by another if: (i) that other entity has fifty percent (50%) or more of the votes in such entity, or (ii) is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

1.2 "Authorized Reseller" means Cerner Corporation or the Cerner Corporation subsidiary identified as the selling party in the Order and End User Order.

1.3 "Authorized User(s)" are those individuals who are authorized by Company, subject to the terms of this Agreement and the rights granted to Company in the applicable License Schedule(s), to access and use the Nuance Software and/or Hosted Services.

1.4 "Data" means the audio and/or text data input, all data elements output (e.g. interpretation of clinical contents xml or other format), associated transcripts or medical reports, whether in draft or final form, any information received from Company from any Order under this Agreement, or any other clinical information received by Nuance from Company under this Agreement.

1.5 "Documentation" means the administrative guide and user's guide provided by Nuance to Company to facilitate the use of the Nuance Products and Hosted Services.

1.6 "End User Order" means an order for the purchase of Nuance Products that Company executes with Authorized Reseller, including any Statement of Work attached to such an order.

1.7 "Equipment" means Nuance Equipment and Third Party Equipment, collectively.

1.8 "General Terms and Conditions" means the term of this Agreement contained under the heading "General Terms and Conditions."

1.9 "Hosted Service" means a Nuance proprietary subscription-based software as a service (SaaS) offering or other online service specified in an Order, as more particularly described in the applicable License Schedule.

1.10 "License Schedule" means each of the documents titled "Schedule" that are delivered to Company as an attachment to this Agreement or via a URL link in the End User Order. License Schedules define the Parties' rights and obligations with respect to one or more specific Nuance Software products or Services based on the license model(s) acquired by Company as identified in an Order. License Schedules that not are attached to this Agreement are deemed incorporated by reference and made a part of this Agreement based on the End User Order that includes one or more URLs that provide Company with access to the License Schedules for the Nuance Software and Services identified in the End User Order.

1.11 "License Term" means the duration of the license Nuance grants to Company to access and use the Software or Services. The License Term for Nuance Software shall either be a Perpetual License or a

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1 Term License as defined in the applicable License Schedule. Subscription Licenses for Hosted Services

2 are Term Licenses for the service term defined in the applicable License Schedule or Order.

3 1.12 "Maintenance Services" means the services that Nuance provides directly to Company to maintain

4 and support the Nuance Software and Nuance Equipment during a paid Maintenance Services Period,

5 pursuant to an Order for Maintenance Services. Maintenance Services for certain Nuance Software

6 products are described in the License Schedules for those products; for all other Nuance Software

7 products, Maintenance Services consist of the services and service options described in the Maintenance

8 Services document attached hereto as Exhibit A.

9 1.13 "Maintenance Services Period" means the period during which Nuance has an obligation to provide

10 Maintenance Services pursuant to Section 3.3, which shall be a 12-month period except when pro-rated

11 by Nuance at the beginning or end of a License Term.

12 1.14 "Nuance Equipment" means Nuance manufactured hardware specified in an Order.

13 1.15 "Nuance Products" means the Nuance Software, Services and Nuance Equipment, collectively.

14 1.16 "Nuance Software" means the binary object code version of any Nuance proprietary software

15 product specified in an Order, including all corrections, modifications, enhancements, Updates and

16 Upgrades (if any) thereto that Nuance may provide to Company under this Agreement, and all related

17 Documentation.

18 1.17 "Order" means an order for Software licenses, Equipment and/or Services that Nuance accepts

19 from Authorized Reseller based on an End User Order or that Nuance accepts directly from Company,

20 or an End User Order, as the context requires. An Order includes any Statement of Work that is attached

21 to or separately signed and incorporated by reference in the Order.

22 1.18 "Professional Services" means any installation, project management, and/or consulting services

23 that Nuance provides to Company as specified in an Order, which may be more fully described in a

24 Statement of Work.

25 1.19 "Services" means Maintenance Services, Training Services, Professional Services, Hosted

26 Services, and/or Transcription Services, as applicable.

27 1.20 "Software" means Nuance Software and Third Party Software, collectively.

28 1.21 "Statement of Work" or "SOW" means the supplement to an Order, if any, that describes in further

29 detail the Professional

30 Services and/or Training Services identified in the Order.

31 1.22 "Term" means the duration of this Agreement as defined in Section 6.1 of the General Terms and

32 Conditions.

33 1.23 "Third Party Equipment" means any third party manufactured hardware sold by Nuance as

34 specified in an Order.

35 1.24 "Third Party Software" means any third party proprietary software provided by Nuance as

36 specified in an Order.

37 1.25 "Training Services" means any training services provided by Nuance as specified in an Order.

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1.26 "Transcription Services" means any transcribing services and/or editing services provided by Nuance pursuant to an Order, as specified in an Order and more fully described in the Schedule for Transcription Services.

1.27 "Update" has the meaning given to it in the applicable Maintenance Services terms. Except as otherwise defined in the applicable Maintenance Services terms, Update generally means a release of Nuance Software that may include minor feature enhancements, and/or bug fixes and/or fixes of minor errors and/or corrections and typically is identified by an increase in a release or version number to the right of the first decimal (for example, an increase from Version 5.1 to 5.2 or from Version 5.1.1 to 5.1.2). "Update" shall not be construed to include Upgrades.

1.28 "Upgrade" has the meaning given to it in the applicable Maintenance Services terms and conditions. Except as otherwise defined in the applicable Maintenance Services terms, Upgrade generally means a release of Nuance Software that may include some feature enhancements and/or additional capabilities (functionality) over versions of the Nuance Software previously supplied to Company, and typically is identified by an increase in the release or version number to the left of the decimal (for example, an increase from Version 5.2 to Version 6.0). Upgrades do not include new software and/or products that Nuance, in its sole discretion, designates and markets as being independent from the Nuance Software.

2. SCOPE OF AGREEMENT

Company and Nuance agree to comply with the terms and conditions of this Agreement with respect to the Nuance Products that Company acquires based on one or more End User Orders executed with Authorized Reseller, or Orders placed directly with Nuance that reference this Agreement.

3. GRANT OF RIGHTS

3.1 Software.

3.1.1. License Grant. Subject to the terms and conditions of this Agreement, Nuance hereby grants to Company, and Company accepts, a limited, non-exclusive, non-transferable, non-sub-licensable license to permit its Authorized Users to use the Nuance Software and Hosted Services acquired pursuant to an Order strictly in accordance with the license grant specified in the applicable License Schedule.

3.1.2. Third Party Software. Third Party Software supplied by Nuance is subject to the terms and conditions of this Agreement and the applicable third party license terms.

3.1.3. Updates and Upgrades. Authorized Reseller or Nuance will provide Company with the Updates and Upgrades to which Company is entitled under the Maintenance Services plan that Company purchases through Authorized Reseller. Company will not be entitled to Updates and Upgrades if it is not under a current Nuance-authorized Maintenance Services plan under which Updates and Upgrades are made available. Upon installing any Update or Upgrade to Nuance Software, Company shall discontinue use of the previous version of such Nuance Software and Company will be licensed to use

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only the updated or upgraded version of the Nuance Software, in accordance with the license granted by Nuance with respect to such Nuance Software.

3.2 Equipment. Equipment supplied by Nuance is subject to the terms and conditions of this Agreement. Third Party Equipment is also subject to the manufacturer's terms and conditions.

3.3 Services. Subject to the terms and conditions of this Agreement, Nuance will provide the Services, if any, that are specified in an Order.

3.3.1. Maintenance Services.

3.3.1.1. First Year Maintenance. Company shall purchase first year Maintenance Services for Nuance Software and Nuance Equipment through the Authorized Reseller. If purchased, Nuance will provide Company with Maintenance Services for the first year Maintenance Services Period based on the Maintenance Services option indicated in the Order. Maintenance Services during each Maintenance Services Period will be delivered in accordance with the applicable Maintenance Services terms and conditions in effect on the date of purchase of such Maintenance Services.

3.3.1.2. Maintenance Services Renewal. If Company purchases first year Maintenance Services, Company may purchase Maintenance Services for additional consecutive 12-month Maintenance Services Periods through Authorized Reseller for so long as offered by Authorized Reseller. If Authorized Reseller does not offer Company the right to renew Maintenance Services for the next annual Maintenance Services Period, Nuance may at its option offer Maintenance Services under this Agreement directly to Company subject to the terms of Nuance's standard purchase terms and conditions in effect at the time. Company must purchase Maintenance Services for the next annual Maintenance Services Period not later than 30 days before the end of the then-current Maintenance Services Period and pay the applicable invoice in full when due in order to avoid termination of Maintenance Services and a lapse in coverage at the end of the then-current Maintenance Services Period. If Company desires to renew or reinstate Maintenance Services after a lapse in coverage occurs, Company shall first pay an amount equal to the Maintenance Services Fees that would have been due for the period during which lapse in coverage occurred, and any Professional Services Fees, at Authorize Reseller's or Nuance's then-current rates, for the repairs or modifications necessary to bring Company into compliance with Nuance's then- current specifications.

3.3.1.3. Commencement and Scope. Unless a different Maintenance Services commencement date is expressly stated in the applicable License Schedule or Order, the initial Maintenance Services Period will begin on the date of initial delivery of the applicable Software and/or Equipment and each renewal Maintenance Services Period will start on each anniversary thereof. To purchase Maintenance Services with respect to any Software or any Equipment, Company is required to purchase Maintenance Services for all licenses of such Software and all units of such Equipment respectively.

3.3.1.4. Exclusions from Maintenance Services. Unless otherwise agreed, Nuance shall not be obligated to provide Maintenance Services for, or required as result of (i) any Software or Equipment modified by anyone other than Nuance; (ii) any Software or Equipment used for other than its intended purpose;

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(iii) any Software or Equipment used with any equipment not specified as compatible with the Software or Equipment in its Documentation; (iv) any Software or Equipment being used with software not supplied by Nuance in conjunction with such Software or Equipment, or specified in the applicable Documentation as compatible with the respective Software or Equipment; (v) any Software or Equipment (or any associated equipment, software or firmware) which Company failed to properly install or maintain; (vi) any willful misconduct or negligent action or omission of Company, (vii) any computer malfunction not attributable to the Software or Equipment; or (viii) damage to Software or Equipment from any external source, including computer viruses not attributable to Nuance, computer hackers, or force majeure events.

3.3.2. Professional Services and Training Services. Nuance will provide the Professional Services and Training specified in an Order. Nuance may subcontract the delivery of certain Professional Services to its authorized subcontractors but shall remain responsible for the performance of such services by its subcontractors. Unless otherwise agreed in writing by the Parties, Training Services will be held at a designated Nuance location during Nuance's standard business hours, excluding Nuance recognized holidays. Unless otherwise agreed in writing by the Parties, Professional Services and Training Services that are to be conducted at Company's site, including associated travel time, will be conducted between the hours of 8:00 a.m. to 5:00 p.m. local Company site time, Monday through Friday, excluding Nuance recognized holidays. Company shall ensure that all Training Services attendees are or will be Authorized Users and have the skills and experience to participate in the training sessions. If Nuance will perform Professional Services and Training Services at a location other than a Nuance facility, Company shall provide or arrange for the necessary equipment, information, and facilities required by Nuance to perform such Services, as specified by Nuance. If Company cancels or reschedules Professional Services or Training Services, Authorized Reseller or Nuance may charge Company for Nuance's cancellation fees and non-cancellable travel-related expenses if the services are cancelled less than ten days before the scheduled delivery date other than due to breach or default by Nuance.

3.3.3. Hosted Services. Nuance will provide the Hosted Services identified in an Order on the terms described in the applicable License Schedule. Hosted Services are provided using Software hosted at a Nuance data center to which Nuance provides access via the Internet. Company is responsible for providing all equipment,

telecommunications, and internet services necessary for is Authorized Users to access and use the Hosted

Services.

3.3.4. Transcription Services. Nuance will provide the Transcription Services identified in an Order on the terms described in the applicable License Schedule.

3.4 Proprietary Rights. Notwithstanding any use of the term "sale," "purchase" or other similar terms in this Agreement, Nuance and its licensors retain all right, title and interest in and to the Nuance Products, and any derivative works thereof, including, but not limited to, all patent, copyright, trade secret, and

trademark rights and other intellectual property rights associated with the Nuance Products. All rights not expressly granted to Company under this Agreement are reserved by Nuance and/or its licensors.

3.5 Restrictions. Without limiting the generality of Section 3.4, Company will not itself, directly or indirectly, and will not permit Authorized Users, other employees or contractors, or any third party to: (i) access the Hosted Services with software or means other than as described in this Agreement, submit any automated or recorded requests to the Hosted Services except as otherwise provided in this Agreement, or interfere with or disrupt the integrity or performance of the Hosted Services, (ii) subject any Hosted Service or its infrastructure to security testing including penetration testing, network discovery, port and service identification, vulnerability scanning, password cracking, or remote access testing without the written approval of Nuance; (iii) modify, port, translate, or create derivative works of the Software, Services, or Documentation; (iv) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, or algorithms of the Software or Services by any means (except to the extent permitted by mandatory laws); (v) sell, lease, license, sublicense, copy, assign, transfer, share, market, or distribute the Software, Services or Documentation, except as expressly permitted in this Agreement; (vi) grant any access to, or use of, the Nuance Software or Services through a service bureau, timesharing or application service provider basis; (vii) remove any proprietary notices, labels or marks from the Software, Services or Documentation; (vii) release to a third party the results of any benchmark testing of the Software or Services; or (viii) defeat or circumvent any controls or limitations contained in or associated with the use of the Software. In no event shall anything in this Agreement or in Nuance's conduct or course of dealing convey any license, by implication, estoppel or otherwise, under any patent, copyright, trademark, or other intellectual property right not explicitly licensed.

3.6 Authorized Users. Company is responsible for each Authorized User's compliance with the terms of this Agreement and guarantees each Authorized User's full and faithful compliance with the terms of this Agreement. Company will be liable for any act or omission by an Authorized User that, if performed or omitted by Company, would be a breach of this Agreement. Except to the extent of Nuance's liability under Section 11.1, Company will, at its expense, defend any and all claims, actions, suits, or proceedings made or brought against Nuance by any Authorized User with respect to this Agreement (each, a "User Claim"), and pay any losses, claims, costs, expenses, damages, or liabilities (including reasonable attorneys' fees).

3.7 Notice of Unauthorized Use. Company shall promptly notify Nuance upon learning of any actual or suspected unauthorized possession or use of any Software or Hosted Services supplied under this Agreement.

4. MEDICAL CARE RESPONSIBILITY

COMPANY ACKNOWLEDGES (a) THAT THE SOFTWARE AND HOSTED SERVICES MAY EMPLOY SPEECH RECOGNITION, NATURAL LANGUAGE PROCESSING, AND MEDICAL

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FACT EXTRACTION WHICH ARE STATISTICAL PROCESSES AND THAT INACCURACIES ARE INHERENT IN SUCH PROCESSES AND IN THE OUTPUT FROM NUANCE PRODUCTS AND SERVICES EMPLOYING SUCH PROCESSES; AND (b) THAT ERRORS (INCLUDING HUMAN ERRORS) ARE INHERENT IN TRANSCRIPTION SERVICES. COMPANY FURTHER ACKNOWLEDGES THAT INACCURACIES AND ERRORS IN THE OUTPUT FROM NUANCE PRODUCTS AND SERVICES ARE INEVITABLE, AND AGREES THAT IT IS THE SOLE RESPONSIBILITY OF COMPANY, ITS AUTHORIZED USERS TO IDENTIFY AND CORRECT ANY INACCURACIES AND ERRORS BEFORE USING AND/OR RELYING ON THE RESULTS OF THE USE OF ANY SOFTWARE, HOSTED SERVICES AND/OR TRANSCRIPTION SERVICES PROVIDED UNDER THIS AGREEMENT. ACCORDINGLY, COMPANY SHALL INDEMNIFY, AND HOLD HARMLESS, NUANCE AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS AND AGENTS (EACH, AN "INDEMNIFIED PARTY") FROM AND AGAINST ALL LIABILITIES, LOSSES, COSTS, DAMAGES, CLAIMS AND EXPENSES ARISING OUT OF, OR RELATED TO, ANY CLAIMS OR SUITS BROUGHT OR MADE AGAINST ANY INDEMNIFIED PARTY ARISING FROM AN ALLEGATION THAT USE OF ANY SOFTWARE, HOSTED SERVICE AND/OR TRANSCRIPTION SERVICE BY COMPANY OR ANY AUTHORIZED USER, DIRECTLY OR INDIRECTLY CAUSED OR CONTRIBUTED TO THE WRONGFUL DEATH OR PERSONAL INJURY OF A THIRD PARTY TO WHOM COMPANY OR AN AUTHORIZED USER OFFERED OR PROVIDED MEDICAL-RELATED SERVICES.

5. PAYMENT AND DELIVERY

5.1 Payments to Authorized Reseller. Company is responsible for paying Authorized Reseller all fees, expenses and related taxes and assessments indicated in the End User Order(s). If Company purchases Software pursuant to license terms (as defined in the applicable License Schedule) that require Company to report users, usage, locations, or other baseline metrics or license parameters and/or to pay True-Up Fees, Add-On Fees or any other fee adjustments in the event of changes in such metrics or parameters, or that require Company to pay Early Termination Fees in the event that Company terminates a Term License before the end of the its term (collectively, the "Fee Adjustments"), then Company is responsible for providing the information and reports required by the License Schedule and paying the Fee Adjustments when due as a material condition of Nuance's license grant for such Software. Company's failure to provide such information and reports or to pay such amounts when due, or to pay any other amounts due, will be a material breach of this Agreement by Company. Company shall pay all Fee Adjustments directly to Authorized Reseller unless instructed by Nuance in writing.

5.2 Payments to Nuance. If Company purchases any products or services directly from Nuance, pursuant to an Order placed with Nuance, such purchases may be made subject to the terms of this Agreement if

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indicated in the Order, in which case Nuance's standard payment and delivery terms and conditions will also apply to the extent they do not conflict with this Agreement.

5.3 Audit. Company shall keep full, true and accurate records and accounts to support its use of the Software and Hosted Services, as applicable, under this Agreement. Nuance, or a third party appointed by Nuance, will have the right, not more than once a year and upon reasonable notice, to conduct an audit of Company's systems and records to confirm compliance with the terms of this Agreement. Any audit will be performed during Company's normal business hours. If an audit reveals that Company's Software or Hosted Services usage exceeds its usage rights, as granted by Nuance, Company shall pay Nuance for all such excess usage, based on Company's pricing in effect at the time of the audit. Nothing in this Section 5.3 will limit any other remedy available to Nuance.

5.4 Delivery and Shipment. The delivery terms for Nuance-supplied products and services that Company purchases from Authorized Reseller are between Company and Authorized Reseller, as stated in Company's agreement or End User Order with Authorized Reseller. Company agrees to accept electronic delivery of the Software at Nuance's option.

6. TERM; TERMINATION

6.1 Term. This Agreement commences on the date of the Order ("Effective Date") and will continue in effect until the expiration or earlier termination of all Orders (the "Term"). The Parties' rights and obligations related to Nuance Software and/or Services delivered pursuant to an Order shall be limited to the License Term of the Nuance Software licenses or the duration of the Services as specified in the applicable Order (or as specified in the applicable License Schedule if not specified in the Order). An Order will be in effect from the Order date until the later of the expiration of the licenses that Company acquires under the Order or the completion of any other Services ordered pursuant to the Order, or until the licenses or Services under the Order are terminated early for cause in accordance with Section 6.2. Expiration or termination of an Order will terminate all licenses that Company acquired under that Order.

6.2 Termination for Cause. Either Party may terminate the Agreement, one or more licenses, or an Order for Services that has not been fully performed for cause, effective immediately upon delivery of written notice (or effective as of any later date identified in the termination notice), if the other Party committed a material breach of its obligations under this Agreement, the applicable License Schedule or the Order and failed to cure such breach within thirty (30) days after receiving written notice of such breach from the non-breaching Party. Without limiting the foregoing, failure of Company to pay any sum due to Authorized Reseller or Nuance hereunder in accordance with the payment terms in Section 5 above [Payment and Delivery] is a material breach. Notwithstanding the foregoing, Nuance may terminate this Agreement, one or more licenses or an Order immediately upon delivery of written notice to Company if Company or any of Company's Authorized Users (a) infringes Nuance's intellectual property rights; (b) commits, or permits any third party to commit, any breach of confidentiality obligations under

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Section 8 [Confidentiality]; or (c) has a receiver appointed to handle its assets or affairs, admits that it is insolvent, or is otherwise unable to pay its debts as they mature, or ceases to do business in the ordinary course.

6.3 Effect of Termination. Upon termination of this Agreement, all Orders issued subject to this Agreement and all licenses granted under this Agreement, will immediately terminate. Upon the termination of an Order, all Software licenses and all Services obtained by Company under such Order shall immediately terminate. Upon termination of any license acquired subject to this Agreement, Company shall immediately (a) cease use of the applicable Nuance Software (in any form, including partial copies in its possession or under its control) and/or Services; (b) return to Nuance or destroy all copies of the Nuance Software and certify in writing to Nuance that no copies have been retained by Company within ten (10) days of any expiration or termination; and (c) pay any outstanding amounts due to Nuance. Upon termination of an Order for Maintenance Services, Nuance shall immediately cease providing Maintenance Services, including Updates and Upgrades, but Company's Software licenses shall continue in effect unless those licenses or the Agreement are also terminated. The expiration or termination of this Agreement, the Order, or any license shall not affect Company's payment obligations to Nuance under this Agreement.

6.4 Survival. Notwithstanding anything to the contrary in this Section 6, the provisions of Sections 1, 3.4, 3.5, 3.6, 4, 5, 6.3, 6.4, 7, 8, 9, 10, 11, and 13 of these General Terms and Conditions shall survive expiration or termination of this Agreement.

7. HIPAA

The Parties agree that the Business Associate Agreement between Company and Nuance dated March 31, 2014 (the "BAA"), shall apply to the PHI accessed, generated, or acquired by Nuance under this Agreement, which BAA is hereby incorporated by reference into this Agreement.

8. CONFIDENTIALITY

8.1 Definition. Subject to the exceptions contained in this Section 8.1, "Confidential Information" shall mean (a) all information disclosed by a Party or its Affiliates (the "Disclosing Party"), in whatever tangible form or otherwise, to the other Party or its Affiliates (the "Receiving Party") that is clearly marked "confidential" or with some other proprietary notice, (b) all information disclosed orally or otherwise in intangible form by the Disclosing Party and designated as confidential or proprietary at the time of the disclosure, (c) the Nuance Software, Documentation, and information provided as part of any Services, and (d) Nuance pricing, Statements of Work, and proprietary nonpublic information relating to Nuance's products and business plans. Notwithstanding the above, information shall not be deemed Confidential Information to the extent that it: (i) was generally known and available in the public domain at the time it was disclosed or subsequently becomes generally known and available in the public domain through no fault of the Receiving Party; (ii) was rightfully known to the Receiving Party

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at the time of disclosure without any obligation of confidentiality;

(iii) is disclosed with the prior written approval of the Disclosing Party; (iv) was independently developed by the Receiving Party without any use of the Confidential Information of the Disclosing Party; or (v) is protected health information or any other personally identifiable information (the protection of which is governed by Business Associate Agreement identified in Section 7). The obligation not to use or disclose Confidential Information will remain in effect until one of these exceptions occurs.

8.2 Permitted Disclosure. Notwithstanding any other provision of this Agreement, disclosure of Confidential Information shall not be precluded if such disclosure (a) is in response to a valid order of a court or other governmental body, provided, however, that the responding Party shall first have given notice to the other Party hereto and shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued; (b) is otherwise required by law; or (c) is otherwise necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary.

8.3 Use and Obligations. The Receiving Party will only use the Disclosing Party's Confidential Information for the purpose of performing its obligations under this Agreement and for other purposes authorized in this Agreement (the "Authorized Purposes"). The Receiving Party shall protect the Disclosing Party's Confidential Information from unauthorized use, disclosure or publication by using the same degree of care, but no less than a reasonable degree of care, as the Receiving Party uses to protect its own Confidential Information of a like nature. A Receiving Party may disclose Confidential Information to its employees, agents, and contractors, and to those of its Affiliates (the "Authorized Recipients"), only to the extent necessary for the Authorized Purposes. A Receiving Party shall be liable for any act or omission by its Authorized Recipients, which if performed or omitted by the Receiving Party, would be a breach of this Agreement. Each Party agrees that its Authorized Recipients shall be bound by the terms of an agreement that protects the Disclosing Party against unauthorized use or disclosure of Confidential Information that is at least as protective of the Disclosing Party's rights as this Agreement. No Confidential Information shall be disclosed to any person who does not have a need for such information.

8.4 Return of Confidential Information. The Receiving Party shall return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party in tangible form: (i) upon the written request of the Disclosing Party; or (ii) upon the expiration or termination of this Agreement, whichever comes first. In both cases, the Receiving Party shall, upon request, promptly certify in writing that it has complied with the obligations of this Section 8.4. Notwithstanding the foregoing, each Party may retain a copy of the Confidential Information in electronic format in accordance with its corporate security and/or disaster recovery procedures.

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9. DATA

Company is solely responsible for obtaining all necessary consents under applicable laws and regulations in order to allow Nuance to use the Data in accordance with this Section 9. Company authorizes Nuance to use the Data in accordance with this Section 9. Nuance may use, compile, annotate and otherwise analyze the Data (including creating statistical and other models), to develop, train, tune, enhance and improve the speech recognition, natural language understanding and other components of its software and services. Nuance will own all intellectual property rights in the software and services it develops, improves and enhances using the Data. Nuance will keep all Data confidential and will only provide access to Data to Nuance employees and contractors working for Nuance under Nuance's direction pursuant to confidentiality agreements. Notwithstanding the foregoing, Nuance may disclose Data to the minimum extent necessary to meet legal or regulatory requirements, such as a court order or government agency request. Nuance will not use the names of individuals and companies to contact anyone for any reason. Data generated in one territory or region may be relocated to a secure Nuance data center in another region or territory to the extent permitted by law.

10. LIMITED WARRANTIES

10.1 Nuance Software Warranty. Nuance warrants that upon initial installation of the Nuance Software (in the case of Nuance Software that, pursuant to the applicable Order, is to be installed by Nuance) or initial delivery of the Nuance Software to Company (in all other cases), and for a period of 90 (ninety) days thereafter (the "Software Warranty Period"), the Nuance Software will operate in all material respects in conformity with its Documentation. Company's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranty set forth in this Section 10.1 will be for Nuance, at Nuance's option, (i) to undertake reasonable efforts to correct or replace the nonconforming Nuance Software reported by Company during the Software Warranty Period, or (ii) for Nuance to direct Authorized Reseller to refund the fees paid by Company to Authorized Reseller for such nonconforming Nuance Software, and for Company to accept the refund of such fees in exchange for surrendering Company's license to such non- conforming Nuance Software.

10.2 Nuance Equipment Warranty. Nuance warrants that upon initial installation of the Nuance Equipment (in the case of Nuance Equipment that, pursuant to the applicable Order, is to be installed by Nuance) or initial delivery of the Nuance Equipment to Company (in all other cases), and for a period of 90 (ninety) days thereafter (the "Equipment Warranty Period"), the Nuance Equipment will operate in all material respects in conformity with its Documentation. Company's sole and exclusive remedy and Nuance's sole obligation for any breach of the warranties set forth in this Section 10.2 will be for Nuance, at Nuance's option, (i) to undertake reasonable efforts to correct or replace the nonconforming Nuance Equipment reported by Company during the Equipment Warranty Period, or (ii) for Nuance to

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direct Authorized Reseller to refund the fees paid by Company to Authorized Reseller for such non-conforming Nuance Equipment, and for Company to accept the refund of such fees in exchange for returning or disposing of such non-conforming Nuance Equipment as directed by Nuance.

10.3 Services Warranty. Nuance warrants that the Maintenance Services, Training Services and Professional Services provided by Nuance pursuant to this Agreement shall be performed in a professional manner by trained and skilled personnel. Company must notify Nuance in writing of any breach of such warranty within 90 (ninety days) from performance of the non-conforming Services giving rise to the breach of warranty claim. Company's sole and exclusive remedy and Nuance's entire liability for any breach of the warranty set forth in this Section 10.3 will be for Nuance to reperform the non-conforming Services that Company notified Nuance of in accordance with this Section.

10.4 Limitation of Warranties. The warranties set forth in this Section 10 [Limited Warranties] shall not apply, and Nuance shall have no warranty obligation or liability with respect to (a) any Nuance Product that (i) is damaged through no fault of Nuance; (ii) is modified by anyone other than Nuance; (iii) is used for any purpose other than its intended purpose (as specified in the Documentation); (iv) is used with equipment not specified as compatible with the Nuance Product in such Nuance Product's Documentation; (v) is used with software not specified as compatible with said Nuance Product in the Nuance Product's Documentation; (vi) Company fails to properly install or maintain; (b) any computer malfunction not attributable to the Nuance Products or Nuance; (c) any incorrect use of the Nuance Products; or (d) any willful misconductor negligent action or omission of Company.

.5 Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES EXPRESSLY SETFORTH IN THIS SECTION 10 [LIMITED WARRANTIES] ARE EXCLUSIVE AND THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NUANCE HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, AND/OR TITLE. NUANCE DOES NOT GUARANTEE THAT THE SOFTWARE, EQUIPMENT OR SERVICES WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULT, OR THAT THE SERVICES WILL BE PERFORMED WITHOUT ERROR OR INTERRUPTION. NUANCE MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY THIRDPARTY SOFTWARE OR ANY THIRD PARTY EQUIPMENT. Company acknowledges its responsibility to regularly up data and to adequately test prior to deployment each production version of the Software in a configuration that reasonably simulates Company's planned production environment.

11. LIMITATION OF LIABILITY

11.1 Application. Nothing in this Agreement shall be taken to exclude or limit Nuance's liability for fraud or fraudulent misrepresentation; for intentional or criminal misconduct; for death, personal injury or tangible property damage causedby its negligence in providing services at Company locations; or to the extent that such exclusion or limitation is not otherwise permitted by law.

11.2 Limitation of Liability. EXCEPT FOR NUANCE'S LIABILITY FOR INTELLECTUAL PROPERTY INDEMNIFICATIONUNDER SECTION 12, THE TOTAL AGGREGATE LIABILITY OF NUANCE AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, AGENTS, SUPPLIERS AND EMPLOYEES, TO COMPANY AND ITS AFFILIATES, AND THEIR RESPECTIVE OFFICERS, AGENTS, CUSTOMERS, CONTRACTORS AND EMPLOYEES, FOR ANY AND ALL CLAIMS ARISING UNDER THIS AGREEMENT OR OTHERWISE ARISING FROM THE TRANSACTIONSCONTEMPLATED HEREIN, REGARDLESS OF THE FORM OF ACTION (INCLUDING, BUT NOT LIMITED TOACTIONS FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, RESCISSION AND BREACH OF WARRANTY) WILL NOT EXCEED FIVE TIMES THE AGGREGATE FEES ACTUALLY PAID TO NUANCE UNDER THIS AGREEMENT DURING THE ONE YEAR PRECEDING SUCH CLAIM. NUANCE'S LIMITATION OF LIABILITY IS CUMULATIVE WITH ALL COMPANY'S PAYMENTS DURING SUCH ONE-YEAR PERIOD BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE OR EXTEND THE LIMIT.

11.3 No Consequential Damages. IN NO EVENT SHALL NUANCE OR ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, AGENTS, SUPPLIERS AND EMPLOYEES, BE LIABLE TO COMPANY OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, AGENTS, CUSTOMERS, CONTRACTORS AND EMPLOYEES, FOR LOSS OF REVENUES, LOSS OF PROFITS, LOSS OF OR LOSS OF USE OF SOFTWARE OR DATA, LOSS OF CUSTOMERS, LOSS OF ANTICIPATED SAVINGS, OR FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES, (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES, LOSS OF, OR LOSS OF USE OF, SOFTWARE OR DATA, LOSS OF CUSTOMERS, LOSS OF ANTICIPATED SAVINGS AND LOSS OF PROFITS) WHETHER SUCH ALLEGED DAMAGES ARE LABELED IN TORT, CONTRACT OR INDEMNITY, EVEN IF SUCHPARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.4 Third Party Suppliers. UNDER NO CIRCUMSTANCES SHALL NUANCE'S THIRD PARTY SUPPLIERS OF ANY COMPONENT OF THE NUANCE SOFTWARE, HOSTED SERVICES OR NUANCE EQUIPMENT BE RESPONSIBLE OR LIABLE TO COMPANY OR ITS AFFILIATES FOR ANY DAMAGES, DIRECT OR OTHERWISE, ARISING UNDERTHIS AGREEMENT OR ARISING FROM THE TRANSACTIONS CONTEMPLATED HEREIN. SUCH THIRD PARTY SUPPLIERS ARE THIRD PARTY BENEFICIARIES OF THIS SECTION 11.4.

11.5 Essential Basis. The disclaimers, exclusions, and limitations of liability set forth in this Agreement form an essential basis of the bargain between the Parties, and, absent any of such disclaimers, exclusions or limitations of liability, theprovisions of this Agreement, including, without limitation, the economic terms, would be substantially different. The disclaimers, exclusions, and limitations of

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liability set forth in this Agreement shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

12. INDEMNIFICATION

12.1 By Nuance. Nuance shall, at its own expense, defend or, at its option, settle, any claim or action brought against Company by a third party during the Term to the extent it is based on a claim that the Nuance Software and/or Hosted Services directly infringes any patent, copyright or trademark of such third party issued by the country in which Company is located, or misappropriates a trade secret of such third party protected by the laws of the country in which Company is located. Nuance will indemnify Company against any losses, damages, and expenses that are attributable to such claim or action and are assessed against Company in a final judgment. Nuance shall have the foregoing obligations only if Company provides Nuance with: (a) a prompt written request to undertake the defense in such claim or action; (b) sole control and authority over the defense and settlement thereof as long as such settlement does not admit fault on behalf of the Company and (c) all available information, assistance, and authority reasonably necessary to settle and/or defend any such claim or action. Nuance shall not be responsible for any attorneys' fees or other expenses or costs that Company incurs before receipt of Company's request for indemnification or defense.

12.2 Limited Remedies. If the Nuance Software and/or Hosted Services becomes, or in the opinion of Nuance, is likely to become, the subject of an infringement claim or action, Nuance may, at its option and in its sole discretion, discharge its obligations under this Section 12 (Indemnification) by: (a) procuring, at no cost to Company, the right to continue using the Nuance Software and/or Hosted Services; (b) replacing or modifying the Nuance Software and/or Hosted Services to render it non-infringing, provided there is no material loss of functionality; or (c) if, in Nuance's reasonable opinion, neither (a) nor (b) above are commercially feasible, terminating Company's rights to use such Nuance Software and/or Hosted Services by written notice and (i) with respect to perpetual Nuance Software licenses, refunding the license fees Company paid for such Nuance Software, depreciated on a straight-line sixty (60) month basis from the delivery date, and (ii) with respect to Hosted Services and term licenses of Nuance Software, refunding any unused, prepaid fees Company may have paid to Nuance for the infringing Nuance Software or Hosted Services.

12.3 Exclusions. Nuance will have no obligation or liability under this Section 12 (Indemnification) for any claim or action regarding any claim resulting from any of the following: (i) modifications to the Nuance Software and/or Hosted Services by a party other than Nuance; (ii) the combination or use of the Nuance Software and/or Hosted Services with other products, processes, or materials if the Nuance Software and/or Hosted Services itself would not infringe; (iii) where Company continues allegedly infringing activities after being provided with modifications that would have avoided the alleged infringement; (iv) any development, modification, or customization of the Nuance Software and/or Hosted Services by Nuance based on specifications or requirements supplied by Company; (v)

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components of software programs that are not Nuance Software and were not provided by Nuance; or (vi) Company's use of the Nuance Software and/or Hosted Services in a manner that is not in compliance with the terms of this Agreement. Company shall, at its own expense, defend or at its option, settle, any claim or action brought against Nuance to the extent it is based on the conditions described above.

12.4 Exclusive Obligation. This Section 12 (Indemnification) states the sole obligation and exclusive liability of Nuance (express, implied, statutory, or otherwise), and the sole remedy of Company, for any third-party claims or actions of infringement of any intellectual property or other proprietary right.

13. MISCELLANEOUS

13.1 Assignment. Neither party shall assign or otherwise transfer its rights, obligations, or remedies under this Agreement, in whole or in part, to a third party unless such assignment is approved in writing by the other party. Notwithstanding the foregoing, either party may assign or transfer its rights hereunder in their entirety pursuant to: a merger, sale of substantially all of its assets, or consolidation with a third party; provided (a) assignor provides the other party with prompt written notice of such sale, merger or consolidation, (b) the assignee/transferee agrees to be bound by all terms and conditions set forth by this Agreement, and (c) the scope of the licenses, license usage and number of Authorized Users does not materially change after the assignment or transfer unless Nuance is compensated for the additional license scope or usage by the terms of the applicable License Schedule or by Company's purchase of additional license units.

13.2 Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, acts of God, governmental acts or orders or restrictions, acts of terrorism, war, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party and not due to its fault or negligence.

13.3 Notices. All notices hereunder shall be sent by the notifying Party, in writing, to the other Party at its address set forth above (or such other address as they may communicate to the notifying Party in writing), to the attention of the General Counsel. Notices shall be deemed delivered and effective upon delivery as confirmed by the records of the carrier or courier, or else: (i) when delivered personally, (ii) five days after posting when sent by certified United States mail (return receipt requested), or (iii) one day after posting when sent by reputable private overnight courier (e.g., DHL, Federal Express, etc.).

13.4 Relationship Between the Parties. In all matters relating to this Agreement, Company and Nuance shall act as independent contractors. Except as may be otherwise expressly permitted hereunder, neither Party will represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity. Nuance shall at all times have the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by Nuance hereunder unless

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otherwise provided herein. Nuance shall, at all times, be responsible for the compliance of its third parties involved in the delivery of the services with the terms and conditions of this Agreement. Nothing in this Agreement shall be construed to create any contractual relationship between Company and any such third parties, nor any obligation on the part of Company, to pay or to ensure the payment of any money due any such third party.

13.5 Governing Law. This Agreement shall be governed by the laws of the State of Missouri without regard to its choice of law rules and excluding the United Nations Convention on Contracts for the International Sale of Goods which shall not apply. The Parties agree to the jurisdiction of the courts in Missouri and the applicable service of process in that jurisdiction. The official text of the Agreement and any notices required hereby shall be in English.

13.6 Injunctive Relief. Each Party recognizes and acknowledges that any use or disclosure of Confidential Information by the receiving Party in a manner inconsistent with the provisions of this Agreement may cause irreparable damage to the disclosing Party for which remedies other than injunctive relief may be inadequate, and the receiving Party agrees that in any request by the disclosing Party to a court of competent jurisdiction for injunctive or other equitable relief seeking to restrain such use or disclosure, the receiving Party will not maintain that such remedy is not appropriate under the circumstances. The Parties further agree that in the event such equitable relief is granted in the United States, they will not object to courts in other jurisdictions granting provisional remedies enforcing such United States judgments.

13.7 Partial Invalidity; Waiver. If any provision of this Agreement or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the Party shall use reasonable efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision. Any deviation by either Party from the terms and conditions required under applicable laws, rules and regulations shall not be considered a breach of this Agreement. No failure of either Party to exercise any power or right given either Party hereunder or to insist upon strict compliance by either Party with its obligations hereunder, and no custom or practice of the Party at variance with the terms hereof shall constitute a waiver of either Party's right to demand exact compliance with the terms of this Agreement.

13.8 Publicity. The Parties may mutually agree upon a press release announcing this Agreement to be issued at a mutually agreed upon time. Either Party may refer to statements made in such press release in future marketing materials and advertisements. Any additional statements regarding the relationship of the Parties hereunder shall require mutual written consent, except that either Party may refer to the existence of this Agreement or the relationship of the Parties in connection with a press release related to regulatory filings.

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13.9 Entire Agreement; Headings; Counterparts. This Agreement, all Orders issued hereunder, and the exhibits attached hereto, constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersede all prior agreements, arrangements and undertakings between the Parties. No addition to or modification of any provision of this Agreement shall be binding upon the Parties unless made by a written instrument signed by a duly authorized representative of each of the Parties. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

13.10 Order of Precedence. In the event of a conflict between or among the provisions in this Agreement and any Order, the order of precedence shall be as follows: (i) License Schedules, (ii) General Terms and Conditions, (iii) Business Associate Terms and Conditions, (iv) Maintenance Services terms, and (v) each Order.

13.11 No Third Party Beneficiaries. Except as expressly stated otherwise in this Agreement, nothing in this Agreement is intended to create any rights in, or confer any benefits upon, any person or entity other than the Parties to this Agreement. 13.12 Export Controls; Government Use. Company will comply with all applicable export and import laws and regulations and, unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement to any prohibited destination. If software or services are being acquired by or on behalf of the U.S. Government or by a U.S Government prime contractor or subcontractor (at any tier), the software, services and related documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101. The software and documentation consists of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein.

13.13 Anti-Corruption Laws. Company shall comply with all applicable laws or regulations in all countries in which Company conducts business. The fact that in some countries certain laws prohibiting particular conduct are not enforced in practice or that violation is not subject to public criticism or censure, will not excuse noncompliance with those laws. Company confirms by way of signature of this Agreement that Company has knowledge and understanding of the Foreign Corrupt Practices Act of the United States of America ("FCPA") and has not violated that law in connection with the transactions associated with this Agreement.

13.14 HHS Audit Right. If Company is subject to US laws, then until the expiration of four (4) years after the furnishing of Services under this Agreement, Nuance shall make available, upon written request of the Secretary of the Department of Health and Human Services ("Secretary"), or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of Nuance that are necessary to certify the nature and extent of the costs

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for which Company seeks reimbursement. Nuance further agrees that if Nuance carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars ($10,000) or more over a twelve (12) month period with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after furnishing services pursuant to such subcontract, the related organization shall make available to the Secretary or the Comptroller General, as the case may be, or any of their duly authorized representatives, the subcontract, and such books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

13.15 Authorized Reseller. Authorized Reseller is an independent legal entity separate from Nuance. Nuance is not responsible for the actions, statements or recommendations of Authorized Reseller or any obligations that Authorized Reseller has to Company. (to Nuance Healthcare Master License Agreement)

License Schedules License Schedules describing the license terms applicable to the specific Nuance Products Company acquired are attached or incorporated by reference and are available via the URL link(s) and pass codes to third party license terms that Authorized Reseller provides to Company in Company's End User Order for the Nuance Products.

Dragon Medical One – User Licenses
(North America, Europe and Australia)

The terms of this Schedule for Dragon Medical One – User Licenses (North America, Europe and Australia) ("Schedule") apply to the Hosted Solution identified below when specified in an Order as licensed on a per user basis and form part of the Nuance Healthcare Master License Agreement between Nuance and Company (the "Agreement"). This Schedule becomes binding on Company when Company executes an Order with Authorized Reseller for the purchase of the Hosted Services licensed on a peruser basis (the "Applicable Order"). In the event of a conflict between the General Terms and Conditions of the Agreement and the terms of this Schedule, the terms of this Schedule will prevail.

1. DEFINITIONS

For purposes of this Schedule, the following terms shall have the following meanings:

1.1 "Authorized User" is as defined below in Section 2.1 of this Schedule.

1.2 "Client Software" means the thin client Nuance Software, if any, that Nuance provides to Company for use in accessing the Hosted Services.

1.3 "Fees" means the fees for the Hosted Solution as set forth on the Applicable Order.

1.4 "Hosted Services" means the Dragon Medical One Software as a Service (SaaS) offering owned and operated by Nuance and specified in an Order; which SaaS offering is made available to Company as a service via the Internet.

1.5 "Hosted Solution" means the collective offering of the Hosted Services and the associated Client

Software.

1.6 "Healthcare Facility" means a hospital, physician office, outpatient center, surgical facility, or other facility delivering healthcare services within the Territory, that is wholly owned or controlled by Company. For purposes of this definition, "control" means (i) the power to elect a majority of the directors of a corporation or similar officers of an entity, or (ii) the power by contract to operate or manage the day-to-day operations of a health care facility.

1.7 "Order Effective Date" means the date specified in the Applicable Order as the effective start date of the Service Term. If no Service Term start date is specified in the Applicable Order, the Order Effective Date for purposes of defining the Service Term shall be the date Nuance accepts Authorized Reseller's order for Company's purchase of the licenses covered by this Schedule.

1.8 "Service Term" means the term for which Company is granted the rights to the Hosted Services and Client Software, which term is as specified in Section 6.1 of this Schedule. Service Term may also be referred to as Order Term, License Term or by a similar designation of duration.

1.9 "Territory" means (i) the United States if Company is located in the United States, (ii) Canada (excluding British Columbia and Nova Scotia) if Company is located in Canada, (iii) the United Kingdom, EU member countries and Iceland, Liechtenstein and Norway if Company is located in the United Kingdom, an EU member country or Iceland, Liechtenstein or Norway, and (iv) Australia if Company is located in Australia

2. GRANT OF RIGHTS

2.1 Hosted Services. Subject to the terms and conditions of the Agreement (including this Schedule), for each subscription to the Hosted Solution that Company purchases (as indicated in the applicable Order) Nuance hereby grants Company, and Company accepts, a revocable, non-exclusive, non-transferable, limited right to allow a single employee, agent or contractor at a Healthcare Facility (such employee, agent or contractor, an "Authorized User") to remotely, via the Internet, access and use the Hosted Services during the Service Term, provided such access and use is: (i) in a manner commensurate with the intended use of the Hosted Services (as prescribed by the Agreement and the Documentation), (ii) solely for Company's internal business purposes performed at a Healthcare Facility, and (iii) solely by an Authorized User at a Healthcare Facility.

2.2 Client Software. Subject to the terms and conditions of the Agreement (including this Schedule), Nuance hereby grants Company, and Company hereby accepts, a revocable, non-exclusive, non-transferable, non-sublicensable, limited license to allow Authorized Users to use the Client Software, during the Service Term, for the sole and limited purpose of accessing and using the Hosted Services as per the rights granted in Section 2.1 of this Schedule; provided that such use is in a manner commensurate with the intended use of the Client Software (as prescribed by the applicable Documentation). Company may reproduce and install copies of the Client Software on as many personal computing devices of the types specified in the accompanying Documentation as is reasonably

necessary to exercise its license rights under Section 2.2. All such copies must be true and complete copies (including intellectual property notices) and be made from media or files supplied by Nuance to Company or Authorized Reseller for this purpose or from a network source if true and complete copies of such media or files supplied by Nuance are copied to the network source.

2.3 Restrictions. Company shall not allow any Authorized User to access and use the Hosted Services or the Client Software for (a) the Authorized User's own personal use, or (b) the benefit of any third party. Company shall not (i) allow anyone other than the Authorized Users to access or use the Hosted Services or the Client Software, or any components thereof, or (ii) interfere with or disrupt the integrity or performance of the Hosted Services.

2.4 Data Center Locations. If Company is located in North America, Nuance will make the Hosted Services available to Company from data centers within the United States. If Company is located in Australia, Nuance will make the Hosted Services available to Company from data centers within Australia. If Company is located in the United Kingdom, Nuance will make the Hosted Services available to Company from data centers within the United Kingdom. If Company is located in Germany or Austria, Nuance will make the Hosted Services available to Company from data centers within Germany. If Company is located within the European Union but outside of Germany, Austria and the United Kingdom, Nuance will make the Hosted Services available to Company from data centers within France. Nuance may provide certain support services from its global locations. The Hosted Services are not available for purchase, access or use by companies located in Nova Scotia and British Columbia. If Company is located in a Canadian province other than British Columbia or Nova Scotia, by executing this Schedule and the applicable Order, Company hereby: 1) acknowledges that the Hosted Services operate in the United States and 2) consents to the transfer, processing, use and storage of its data into and within the United States.

3. NUANCE RESPONSIBILITIES

3.1 Hosted Services. Nuance agrees to host, operate and maintain the equipment and software comprising its Hosted Solution, and to allow Company to access and use the Hosted Services, during the Service Term, in accordance with the terms and conditions of the Agreement and subject to the Service Level Agreement for Dragon Medical One in Appendix A of this Schedule.

3.2 Support. During the Service Term, Nuance will provide maintenance and support services for the Hosted Solution, in English only, as follows:

A. Error Correction. Nuance will make reasonable efforts to repair any errors that are reported either in writing or verbally by Company's Support Contacts (as defined below in Section B). An error is defined as any operation of the Hosted Solution that is materially different than described in the Documentation. An error also includes a "bug" or "crash" in which the Hosted Solution or portions of the Hosted Solution cease to function.

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B. Company Contact; Question and Answer Support. Company must identify an Administrative Contact, a Technical Contact and an Executive Contact ("Company Contacts"). These Company Contacts are responsible forcommunicating with Nuance about the services rendered hereunder for communicating as needed with Company staff and Authorized Users. Nuance will provide question and answer support only to the Company Contacts or their designees. Nuance is not responsible for providing support services directly to clinicians or transcriptionists. Nuance does not designate a specific limit on the Question/Answer support that it provides, but rather assumes that the Company Contacts will be adequately trained. However, if over a period of two consecutive weeks, a Company Contact persistently calls Nuance for question/answer support, and such Company Contact has not attended the appropriate Nuance training classes, then Company agrees to either send the contact(s) to Nuance University classes at Nuance's then-standard rates, or, alternatively, meet with Nuance to review the situation. For the purposesof this Section, the term "persistently" shall mean multiple telephone calls with questions every day.

C. Service Hours. Nuance shall provide service/support from 8:00 am to 5:00 pm, Monday through Friday in Company time zones, excluding (i) if Company is located in North America, the following U.S. holidays: New Year's Day,Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day or (ii) if Company is located outside North America, public holidays in the country where Company is located. Nuance shall provide seven days a week, 24- hour per day support for Emergency Events. An Emergency Event is defined as a problem that (a) prevents clinicians from dictating reports; (b) prevents users from accessing the Hosted Solution; (c) prevents the printing of documents, or (d) prevents interface transactions (i.e., the transmission from or receipt of data by Company's computer systems).

D. Third Party Supplied Software Interoperability. Software residing on Company's work stations is not covered by this Schedule. Upgrades and new releases of all such third-party software are not provided or maintained by Nuance and must be obtained separately by Company. In a Microsoft environment, it is possible that programs provided by other vendors (e.g. an email program) may conflict with the Hosted Services. Nuance disclaims responsibility for any such conflicts.

E. Updates and Upgrades. From time to time Nuance may provide Company with Updates and Upgrades to the Client Software. Company will need to implement and deploy such Updates and Upgrades to Authorized Users within 12 months from Nuance's release date. Nuance will support all versions of the Client Software (with "version" defined as a release with an increment of 0.1 or higher) for a minimum of 12 (twelve) months as follows: Nuance will support the current version and the immediately preceding of the Client Software; in addition, at any point in time Nuance will also support any version with a general release date within the preceding 12 (twelve) months.

4. COMPANY RESPONSIBILITIES

4.1 Project Manager. During installation and operation of the Hosted Solution, Company shall provide a

qualified individual who will manage and monitor the installation and assist with any issues that may arise during routine operation of the Hosted Solution.

4.2 Equipment and Internet Connectivity. Company shall provide, at its own expense, telecommunications (including Internet connectivity), firewall, and all equipment and operating system software necessary for Authorized Users to access and use the Hosted Solution, as recommended in the Documentation. Nuance shall have no responsibility for any costs incurred in connection with modifications or enhancements to Company's system necessary for implementing Company's interface with the Hosted Services or in connection with Company's use of the Hosted Services. Nuance will not be responsible for fees billed by Company's or an Authorized User's mobile operator for use of the wireless or cellular networks necessary to send and receive data from the Hosted Service. The communications and network interoperability requirements for Internet access to the Hosted Services are as described in the Documentation.

5. PAYMENT

Upon commencement of the Service Term, Company shall pay the Fees in accordance with the payment schedule set forth in the applicable Order.

6. TERM AND TERMINATION

6.1 Service Term. Subject to the right to terminate as set forth in the Agreement, the initial Service Term shall be as set forth in the applicable Order (which may be identified in the Order as the Service Term, the Order Term, the License Term or other similar designation of the subscription license duration). Thereafter, subject to the right to terminate as set forth in the Agreement, the Service Term will automatically renew for successive one (1) year periods unless either party notifies the other party, in writing and at least ninety (90) days prior to the expiration of the then-current Service Term, of itsdecision not to renew the Service Term. Unless otherwise indicated in the applicable Order, Fees for a renewal Service Term shall be the then current rate. The initial Service Term will commence upon the Order Effective Date, unless otherwise indicated in the Applicable Order. Each renewal Service Term, if applicable, will commence immediately following expiration of the prior Service Term. Upon expiration or termination of the applicable Order or the Agreement, by either party, the Service Term shall terminate.

6.2 Effect of Termination. Upon the expiration or termination of the Service Term, Company's rights to access and use the Hosted Services, as well as Company's rights to use the associated Client Software, will terminate. Neither the expiration nor termination of the Service Term shall affect Company's payment obligations. If the Service Term is terminated prior to the completion of the then-current Service Term, other than by Company in accordance with the Agreement for Nuance's uncured material breach, Company shall pay Nuance a fee equal to the total amount of Fees that would have come due over the remainder of the then-current Service Term but for the early termination ("Early Termination

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1 Fee"). Authorized Reseller or Nuance shall invoice Company, in full, for the Early Termination Fee
2 following the date of termination of the Service Term.
3 6.3 Termination of Legacy Dragon Medical Licenses. If the applicable Order indicates that Company is
4 obtaining Dragon Medical One user licenses granted hereunder in connection with converting
5 Company's previously acquired licenses to Dragon Medical Practice Edition, Dragon Medical
6 Enterprise Network Edition or Dragon Medical Network Edition (any such, the "Legacy Software" and
7 "Legacy Licenses", respectively), then Company's Legacy Licenses shall terminatewhen the Service
8 Term for the Dragon Medical One user licenses begins. On termination of the Legacy Licenses,
9 Company shall cease using the Legacy Software and within 30 days thereafter Company shall uninstall
10 all copies of theLegacy Software and either return all such copies to Nuance or destroy such copies and
11 certify destruction to Nuance in writing.
12
13 **Service Level Agreement (SLA) for Dragon Medical One**
14
15 This SLA for Dragon Medical One forms part of the Schedule for Dragon Medical One – User Licenses
16 (North America, Europe and Australia) that incorporates this SLA by reference and that in turn forms
17 part of Company's Healthcare Master License Agreement (the "Agreement") with Nuance.
18
19 1. DEFINITIONS
20 1.1 "Base Time" means the total number of minutes (24x7x60) in a calendar month beginning on the
21 first day of such month and ending on the last day of such month.
22 1.2 "Downtime" means the time in minutes that Nuance declares a Dragon Service is unavailable due to
23 a crash, material malfunction, or other failure, or a time period during which use of a Dragon Service is
24 restricted because it produces erroneous results. Downtime does not include Excluded Events.
25 1.3 "Excluded Events" means the time in minutes that a Dragon Service is either not performing or
26 unavailable due to: (a) Internet or Company network downtime, (b) scheduled maintenance including
27 software/network/hardware upgrades/releases, (c) Company activity that prevents Nuance's timely
28 service delivery, (d) failure of a non-Nuances upplied modality, information system, or networking
29 component, (e) Company's failure to /maintain a Dragon Service in accordance with its current service
30 specifications, Documentation, and intended use, (f) factors outside Nuance's reasonable control (i.e.,
31 force majeure events, network/device failure external to Nuance data center); (g) use of
32 services/hardware/software not provided, specified or recommended by Nuance; (h) Company's failure
33 to follow prior Nuance instructions regarding use of a Dragon Service; (i) use of pre-release, beta or trial
34 versions of a Dragon Service or feature thereof; (j) a Company employee's, contractor's, or vendor's
35 unauthorized action or lack of action resulting in faulty input or attempts to perform operations that
36 exceed prescribed service limits, or (k) suspension of customer's access to Dragon Medical services by
37 Nuance in accordance with the Agreement.

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1.4 "Incident(s)" means (i) any single event, or (ii) a set of events, that result in Downtime.

1.5 "Dragon Service" means the Dragon Medical One hosted service when priced on a standalone basis and not as part of a multi-product package price.

1.6 "Service Fee" means Nuance's standard list price for the particular license model and quantity of Dragon Service that Company subscribes to during the Base Time, provided that Company pays Authorized Reseller's fees for such Dragon Service.

2. DRAGON SERVICE UPTIME COMMITMENT

Nuance will meet the Dragon Service Uptime Commitment set forth in the table below for Dragon Services during each Base Time period less Excluded Events ("Dragon Service Uptime Commitment"). If the Dragon Service Uptime Commitment for a Dragon Service is not met, Nuance will issue a credit to Company's account in accordance with this Section 2 ("SLA Credit") based on a percentage of the Service Fee in accordance with the following schedule:

99.5% - 100% 0%
98.5% to less than 99.5% 5%
Less than: 98.5% 10%

2.1 Uptime. Uptime is calculated as 100 * 1 – Downtime divided by Base Time minus Excluded Events.

2.2 SLA Credit. Company must request an SLA Credit within ten (10) business days of the date of the Incident by contacting Nuance Technical Support to open a service request. Nuance will evaluate all information reasonably available and make a good faith determination of whether SLA Credit is owed. Nuance will use commercially reasonable efforts to process SLA Credit claims within thirty (30) calendar days of receipt of the claim. If Nuance issues an SLA Credit, the Credit will be applied in full through Company's Authorized Reseller and will appear on the second scheduled invoice to the Authorized Reseller following the Base Time period for which SLA Credit applies.

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PASS-THROUGH PROVISIONS IMPRIVATA, INC.
User License Agreement ("EULA") for Imprivata Software

A. **IMPORTANT-READ CAREFULLY**: Prior to acknowledging your acceptance, be sure to carefully read and understand all of the rights and restrictions described in this Imprivata End-User License Agreement ("Agreement"). This Agreement is a legal agreement between you and Imprivata, Inc. for the Imprivata Software. By installing any Imprivata Software you (either you as an individual or, if the Software will be used by an entity, on behalf of that entity) represent and agree that you have the capacity and authority to bind yourself or, if applicable, the applicable entity, to the terms of this Agreement and agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, you may not install the Software. Any terms and conditions in a purchase order (or in any similar document) which are in addition to, or conflict or are inconsistent with these terms are hereby and superseded by the terms contained herein.

B. The Software is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Software is licensed, not sold.

C. DEFINITIONS.

1. "Appliance" means either a Physical Appliance or Virtual Appliance.

2. "Clinic(s)" means any healthcare facility, external to an inpatient acute care facility, delivering healthcare services that do not contain Licensed Beds. "Computer" means a computer, workstation, terminal, handheld PC, pager, "smart phone" or other digital electronic device to be networked to an Appliance.

3. "Confirm ID" means Imprivata's proprietary secure signing solution for electronic prescribing of controlled substances (EPCS) which includes a comprehensive platform for provider identity proofing, supervised enrollment of credentials, two factor authentication, and auditing.

4. "Imprivata Quote" means the supplemental document issued by Imprivata, which specifies the Imprivata Products and Services and any applicable Third Party Software and/or Hardware to be purchased by you, and the price associated with each.

5. "Licensed Beds" means each of the beds for you have been licensed by the State in which the applicable Named Hospital resides.

6. "Named Hospital" shall mean each named hospital wholly owned by you or controlled by you containing Licensed Beds as specifically set forth; (i) in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller and/or (ii) as indicated in PatientSecure Management Tool (Admin Console). For purposes herein "control" means (i) the power to elect a majority of the directors or similar officers of an entity, or (ii) the power by contract to operate or manage the day-to-day operations of a health care facility.

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7. "OneSign" means any or all of the following Imprivata proprietary secure signing software programs (as applicable); (i) Single Sign On (SSO), (ii) Authentication Management (AM) and (iii) Single Sign On/Authentication Management (SSO/AM).

8. "OneSign Options" means any or all of the following Imprivata proprietary OneSign option modules: (i) Self Service Password Management Software (SSPW), (ii) Finger Biometric Identification (FBID), (iii) Vasco Authentication (Vasco), (iv) Secure Walk Away (SWA), and (v) Virtual Desktop Access (VDA).

9. "PatientSecure" means Imprivata's proprietary biometric identification management system software program.

10. "Physical Appliance" means an Imprivata physical hardware appliance that uses physical processors.

11. "Products" means the Software, the Appliances and Imprivata branded hardware devices, individually or collectively.

12. "Services" means Support services and/or other purchased professional implementation and training services, as applicable.

13. "Software" means (i) the object code version of the applicable Imprivata proprietary software product, (ii) all modules, interfaces, updates and enhancements, thereto that are provided to you, (iii) any customized features and functions provided by Imprivata pursuant to this Agreement, and (iv) all printed materials and online or electronic documentation provided to you. The Software may be provided with Third Party Code which interoperates with the Software but which is not a part of the Software and is not licensed hereunder.

14 "Support" means the services that Imprivata provides to maintain and support the Imprivata Software, which services are further described in Section 10.

15. "Third Party Code" means the additional third party software included in the Appliance that is licensed directly to you by third parties. To use such additional Third Party Code you must accept any licensing terms separately provided for such Third Party Code. Imprivata warrants that the Appliance, as a whole with the Third Party Code, will comply with the warranties set forth below, and Imprivata's indemnification obligations set forth below apply to the Appliance as a whole with the Third Party Code.

16. "Third Party Hardware" means hardware that is proprietary to a third party (excludes Imprivata branded devices).

17. "User" means a named individual authorized by you to use the Software pursuant to a license of the applicable Software purchased (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller). A separate license must be purchased for each user who uses the Software, regardless of whether the user is actively using the Software at any given time (i.e. the Software is not licensed on a concurrent user basis).

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18. "Virtual Appliance" means Imprivata virtual (or otherwise emulated) appliance that uses virtual processors.

D. LICENSE GRANT. Subject to your compliance with the terms of this Agreement (including payment of all applicable fees to Imprivata or its authorized reseller), Imprivata hereby grants to you a limited, non-exclusive, perpetual (excluding term-based licenses), non-transferable, non-sub-licensable license to permit your employees, independent contractors, consultants, and outsourced workers (in each case performing services for you) to access and use the applicable Software license purchased by you (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller) in object code, provided such use is strictly in accordance with the applicable Software license grant specified below and is solely for your internal business purposes.

1. Imprivata OneSign, OneSign Options & Confirm ID. The following license grant set forth in this Section 2 (a) shall apply to OneSign, OneSign Options and Confirm ID licensed on a perpetual basis:

a. Subject to the terms and conditions of this Agreement, Imprivata hereby grants you a license for each User license purchased for Imprivata OneSign, OneSign Options and/or Confirm ID (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller) to access and use Imprivata OneSign, OneSign Options and/or Confirm ID as prescribed in this Agreement and the published user documentation. You may install and use that applicable portion of the Imprivata OneSign and/or the OneSign Options (as designated in the published user documentation) on the number of Computers matching the number of Computer licenses purchased (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller) in conjunction with permitted use of the Appliance. All Imprivata OneSign and OneSign Options Software must be used in conjunction with an Appliance.

2. Imprivata PatientSecure. The following license grant set forth in this Section 2 (b) shall apply   to thePatientSecure Software:

a. Subject to the terms and conditions of this Agreement, Imprivata hereby grants you a license to access and use the Imprivata PatientSecure Software, provided that the Imprivata PatientSecure Software may only be used at; (i) the Named Hospital(s) and/or (ii) the number of Clinics matching the number of Clinic licenses purchased by you for Imprivata PatientSecure (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller). The license fee for Imprivata PatientSecure (for Named Hospitals only) is determined by the number of then-current Licensed Beds at the time of your purchase for all Named Hospitals indicated. In the event the Licensed Beds increases, you shall pay Imprivata additional license and support fees for all additional Licensed Beds, based on Imprivata's then-current price list at the time of any such increase.

3. Imprivata Term-Based Licenses. If you purchased a term-based Software license (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller) the license terms set forth in 2 (a) and/or 2 (b) shall apply (as applicable), provided, however,

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said term-based Software license shall commence on delivery of the Software and continue for the duration of the license term (as indicated in the applicable Imprivata Quote or its equivalent if purchasing through an authorized reseller). At the end of such license term, if the Software license is not renewed by you, then the license for such term-based Software shall terminate. The license key distributed by Imprivata to you for any term-based Software license is programmed to expire at the end of the applicable license term at which point the term-based Software cannot be accessed or used.

4. Imprivata Cloud Token Service. If you purchased Imprivata Software which utilizes Imprivata's cloud token service (the "Cloud Service"), such Cloud Service is a hosted service offering owned and operated by Imprivata. The Cloud Service provides authentication methods to the Imprivata ID mobile application or by means of a onetime password (OTP) delivered via SMS text (requires a mobile SMS text plan) to your User's mobile device (as applicable). Subject to the terms of this Agreement and provided the Cloud Service is then made commercially available by Imprivata, you are granted a nonexclusive, nontransferable, and limited right to allow your Users via the Internet to access and use the Cloud Service in conjunction with a licensed version of the Imprivata Software utilizing the Cloud Service. Your use of the Cloud Service is solely for your internal business purposes in a manner consistent with the published user documentation. The Imprivata Software which utilizes the Cloud Service requires the download and enrollment of the Imprivata ID mobile application by you as well as an active connection to the Internet from your User's mobile device (via Wi-Fi or cellular data). Imprivata represents and warrants that it will provide the Cloud Service in all material respects in accordance with the published user documentation. You must notify Imprivata of any deficiencies within 30 days of your first use of the Cloud Services. For any breach of the aforementioned warranty, your exclusive remedy and Imprivata's entire liability shall be for Imprivata to use commercially reasonable efforts to correct the deficient Cloud Services. Imprivata shall not be liable for the unavailability of the Cloud Service if, and to the extent, such unavailability is due to one or more of the following circumstances:

  a. (hostile network attacks;

  b. deficiencies caused by the Internet;

  c. force majeure events;

  d. scheduled or emergency maintenance, provided that written notice of such scheduled maintenance is provided to you by Imprivata.

5. Restrictions. You may reproduce one copy of the Software solely for back-up purposes. You may not use theSoftware to provide timesharing, service bureau, subscription or managed service, hosting, rental or similar services. Except as expressly set forth herein, you may not copy, translate, modify or adapt the Software, or any portion thereof, or incorporate it, in whole or any part, in any other product, create derivative works based on the Software, or any portion thereof, or license others to reproduce any copies of the Software, or any portion thereof, and may not decompile, disassemble or reverse engineer the Software, or any component thereof except as permitted by law, and then only after

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having previously requested in writing from Imprivata the interoperability information you are attempting to obtain. You will ensure that no proprietary notices affixed to or displayed on the Software will be removed or modified.

6. **Oracle Disclaimer.** Some of the Software contains software licensed by Imprivata from Oracle America, Inc. ("Oracle"). As to that software, Oracle is a third party beneficiary of this Agreement and, to the extent permitted by applicable law, Oracle disclaims any liability to you for (a) any damages, whether direct, indirect, incidental, or consequential, and (b) any loss of profits, revenue, data or data use, arising from the use of the Software. Notwithstanding Oracle's disclaimer, all such software is Software warranted by Imprivata and subject to Imprivata's indemnity obligations, all as set forth in this Agreement.

7. **Right to Audit.** At Imprivata's written request not more frequently than once during any 12 month period, you agree that your Chief Financial Officer (or person holding equivalent office) shall provide a written certification to Imprivata of the statement of the total number of Users, Computers, Named Hospitals or Clinics using each Imprivata Software product then licensed by you. If you fail to provide such certification within thirty (30) days after Imprivata's request, you consent to Imprivata auditing you to ascertain the number of Users, Computers, Named Hospitals or Clinics, as applicable, such audit to be conducted by an independent auditor during your standard business hours and at your expense. If the inspection reveals an underpayment of any license fees, you shall pay to Imprivata the deficit.

E.   LIMITED SOFTWARE WARRANTY

1. Imprivata warrants (a) that the Software will conform substantially to Imprivata's published user documentation as of the date of the Software delivery to you for a period of sixty (60) days thereafter and (b) that it will provide any services agreed to between the parties in a good and workmanlike manner consistent with industry standards. This warranty is a limited warranty. It does not apply to (a) Software and other products identified in their product description as being sold or licensed "as-is" or (b) Software and other products identified as "beta" or "pre-release" or the like; all of which are supplied on an "as-is" basis without any warranty of any sort. Imprivata will have no obligation hereunder if the alleged defect is due to (x) causes not within Imprivata's control, including accident, alteration, abuse, misuse or repair not performed by Imprivata or (y) use of the Software other than in accordance with its published specifications. Imprivata's sole liability, and your sole and exclusive remedy, for any breach of the foregoing Software warranty is that Imprivata shall, at its option, repair or replace the Software so that it conforms to the limited warranty set forth above or terminate this Agreement and, refund to you the price paid therefore. For any breach of the foregoing services warranty, Imprivata's sole liability, and your sole and exclusive remedy shall be for Imprivata to re-perform such services, provided you notify Imprivata in writing of any such breach within thirty (30) days after the performance of any nonconforming services.

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2. IMPRIVATA MAKES NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, AS TO THE SOFTWARE OR THE SERVICES AND ALL OTHER WARRANTIES AS TO QUALITY, CONDITION, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT ARE EXPRESSLY DISCLAIMED. The Software is not warranted to be error free. You will have sole responsibility for the adequate protection and backup of your data and/or equipment used with the Software. THIS LIMITED WARRANTY GIVES YOU SPECIFIC RIGHTS. YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE, AND COUNTRY TO COUNTRY.

F. CONFIDENTIALITY.

1. Each party agrees that it will take reasonable steps, at least substantially equivalent to the steps it takes to protect its own proprietary information, to (i) prevent use of the other party's Confidential Information for any purpose other than to carry out its rights and obligations hereunder, and (ii) prevent the disclosure of the other party's Confidential Information other than to its employees or contractors who must have access to such Confidential Information for such party to exercise its rights and perform its obligations hereunder and who each agree to be bound by agreements with a duty of confidentiality no less protective of confidential information than provided herein, and each party shall be responsible to ensure that its employees and consultants comply with the restrictions set forth herein. "Confidential Information" shall mean information furnished or made available directly or indirectly by the disclosing party to the receiving party which (x) is marked confidential, proprietary, or with a similar designation; (y) in the case of information given orally or visually, is reduced to a written summary marked with an appropriate restrictive legend and delivered to the receiving party within two (2) weeks after it is furnished hereunder or (z) should be reasonably understood by the receiving party to be the confidential or proprietary information of the disclosing party; without limiting the foregoing, the Software and the results of benchmark and other tests run by you and resulting from use of the Software shall be deemed to be Imprivata's Confidential Information.

2. The parties' obligations set forth in this section shall not apply with respect to any portion of the Confidential Information that: (i) was in the public domain at the time it was communicated to the receiving party; (ii) entered the public domain through no fault of the receiving party; (iii) is rightfully received by the receiving party from a third party without a duty of confidentiality; (iv) is independently developed by the receiving party without use of the Confidential Information; (v) consists of generalized ideas, concepts, know-how or techniques in intangible form that is incidentally retained in the unaided memories of persons who have had authorized access to Confidential Information (provided that this exception shall not be construed to grant to either party a license to the other party's copyrights or patents beyond those otherwise granted in this Agreement); (vi) is disclosed under operation of law, except that the receiving party will disclose only such information as is legally required and will use reasonable efforts to obtain confidential treatment for any Confidential Information that is so disclosed and will, if legally permitted, provide the other party prompt notice of such possible disclosure prior to

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disclosure in order to allow an opportunity to contest such disclosure; or (vii) is disclosed with the other party's prior written approval.

G. LIMITATION OF LIABILITY. EXCEPTING ONLY IN THE EVENT OF A BREACH BY YOU OF SECTION 2 ("LICENSE GRANT") OR A BREACH BY EITHER PARTY OF SECTION 4 ("CONFIDENTIALITY"), NEITHER PARTY IS LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOST PROFITS, FORESEEABLE OR UNFORESEEABLE, OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOSS OF GOODWILL, LOST OR DAMAGED DATA OR SOFTWARE, LOSS OF USE OF PRODUCTS, OR DOWNTIME) ARISING FROM THE SALE, DELIVERY OR USE OF THE APPLIANCES, PERFORMANCE OF ANY SERVICES OR ANY OTHER ACT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IMPRIVATA'S MAXIMUM LIABILITY TO YOU, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, WILL NOT EXCEED THE FEES PAID AND PAYABLE BY YOU TO IMPRIVATA OR ITS AUTHORIZED RESELLER DURING THE PRECEDING TWELVE MONTH PERIOD. MONETARY DAMAGES AS LIMITED BY THIS SECTION SHALL SERVE AS YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM UNDER THIS AGREEMENT FOR WHICH AN EXCLUSIVE REMEDY IS NOT PROVIDED, AND AS YOUR SOLE AND EXCLUSIVE ALTERNATIVE REMEDY SHOULD ANY EXCLUSIVE REMEDY HEREUNDER BE FOUND TO FAIL OF ITS ESSENTIAL PURPOSE. NO LIMITATION AS TO DAMAGES FOR PERSONAL INJURY IS HEREBY INTENDED. The Software may permit the user of the Appliance to record employee information including but not limited to user names, passwords, applications accessed and other information regarding employees' network and corporate information access and usage. You agree to use and safeguard that employee information in accordance with all applicable laws, and Imprivata disclaims any liability for any damages of any kind arising in connection with your use or misuse of that employee information.

H. INTELLECTUAL PROPERTY CLAIMS. Imprivata will defend you from and against third party claims (and will indemnify you for any resulting damages, costs or liabilities awarded by a court of final jurisdiction) arising solely from a claim that the Software infringes any United States or European Union patent or any copyright rights (in or of countries that are signatories to the Berne Convention) of a third party. Imprivata's obligation is subject to your compliance with the following procedures: (a) you will promptly notify Imprivata in writing of any claim or the commencement of any suit, action, proceeding or threat that you believe will result in losses for which you will be entitled to defense, provided however, that the failure to give such prompt written notice shall not affect the indemnification provided hereunder except to the extent that such failure shall have actually prejudiced Imprivata; (b) you will tender to Imprivata (and its insurer) full authority to defend or settle any such claim; and (c) you shall cooperate in the defense of such claim. Imprivata has no obligation to indemnify you in connection with any settlement made without Imprivata's prior written consent. Imprivata will

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defend you against any such claim brought against you by counsel retained at Imprivata's own expense and of Imprivata's own choosing. You shall be permitted to monitor the defense of any such claim with counsel of your choosing at your sole cost and expense. Imprivata shall have no obligation to indemnify you for infringement claims arising in whole or in part from (1) designs, specifications or modifications originated or requested by you, (2) the combination of the Software or any part thereof with other equipment, software or products not supplied by Imprivata, if such infringement or misappropriation would not have occurred but for such combination, (3) your failure to install a mandatory update (and you either had knowledge or were notified by Imprivata to use such version due to a potential or existing infringement claim), where same would have avoided such claim or (4) Third Party Code used apart from the Appliance. You will indemnify and hold Imprivata harmless from and against claims that are the subject of clauses (1)-(3). In the event that the use or sale of any of the Software is enjoined or, in Imprivata's judgment may be enjoined, Imprivata will either: (i) procure for you the right tocontinue to use the Software, (ii) replace the infringing portion of the Software with a functionally equivalent product or modify it so that it becomes non-infringing, or (iii) direct you to destroy the Software, including any Software installed on your Computers, and return all media and documentation containing the software program documentation or any other materials, copies or reproductions of the foregoing, relating to the Software, and, upon receipt thereof, Imprivata shall reimburse you for (x) the price originally paid by you for any Software licensed on a perpetual license basis, reduced by five year straight line depreciation plus (y) any prepaid fees for term-based Software licenses on a pro-rata basis. Upon Imprivata's fulfillment of the alternatives set out in this section, Imprivata shall be relieved of any further obligation or liability to you as a result of any such infringement or misappropriation. THIS SECTION STATES IMPRIVATA'S ENTIRE LIABILITY TO YOU AND YOUR SOLE REMEDY FOR ANY INFRINGEMENT CLAIMS CONCERNING THE SOFTWARE.

I.   TERM AND TERMINATION.

1.   Term. This Agreement shall be effective until terminated by either party as follows: you may terminate the Agreement, in its entirety or only as to the term-based Software, at any time by providing Imprivata with written notice thereof; Imprivata may terminate the Agreement at any time, in its entirety or only as to the term-based Software, but only if you breach Section 2 (License Grant) or Section 4 (Confidentiality). Upon any such termination, all licenses granted herein (or, if the termination is effective only as to the term-based Software, the licenses for such term-based Software) shall become null and void and you must immediately cease using, and destroy all copies of, all the Software or, if applicable, the term-based Software.

2.   Effect of Termination. The termination of this Agreement shall not relieve either party from its obligation to pay any sums accrued under this Agreement prior to such termination and the parties' rights and obligations under any provisions hereof that contemplate performance subsequent to any termination of this Agreement, including without limitation the provisions regarding Confidentiality, Limitation of Liability, shall survive termination of this Agreement without limiting the foregoing, and

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1 excepting only as set forth in Section 6, in no event shall any fees for the Software, including any pre-
2 paid fees for the term-based Software, be refunded to you. Upon the termination of this Agreement, both
3 parties shall promptly, and in any event within thirty (30) days following termination, return to the other
4 party all property and Confidential Information belonging to the other, in all forms partial and complete,
5 in all types of media and computer memory, and whether or not merged with other materials, or, to the
6 extent such return is not reasonably practical, will destroy the foregoing and provide the originating
7 party with a certificate by an officer of the company certifying destruction.

8 J.   EXPORT RESTRICTIONS. You are solely responsible for complying with applicable export
9 and import regulations, securing any necessary export or import license(s), obtaining local customs
10 clearance and paying all duties, taxes and other charges. You represent and warrant to Imprivata that
11 you will not export the Software or any portion thereof in violation of applicable laws or regulations.
12 You agree to indemnify and hold Imprivata harmless from and against claims, losses, costs, or liability,
13 arising in connection with your breach of this Section.

14 K.   U.S. GOVERNMENT RESTRICTED RIGHTS. The Software is a "commercial item," as that
15 term is defined in 48 C.F.R. 2.101 (Oct. 1995), consisting in part of "commercial computer software"
16 and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (Sept.
17 1995). Consistent with 48 C.F.R. 12,212 and 48C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all
18 U.S. Government End Users acquire the Software with only those rights set forth herein.
19 Contractor/Manufacturer is: Imprivata, Inc., 10 Maguire Road, Lexington, MA 02421- 3120 U.S.A.

20 L.   SUPPORT. You may receive Support on an annual basis commencing with shipment of your
21 Software if you are purchasing Imprivata Support from Imprivata or an Imprivata authorized reseller. At
22 the end of the initial year of Support, or any subsequent anniversary thereof, Support shall automatically
23 renew for successive twelve month periods unless you or Imprivata (or its reseller, as applicable)
24 provides the other with written confirmation of nonrenewal at least thirty (30) days prior to the
25 expiration of the then applicable annual Support period. Notwithstanding the foregoing, Imprivata (or its
26 reseller, as applicable) shall not terminate Support without cause if Imprivata (or its reseller, as
27 applicable) is then providing Support to other similarly situated customers, provided that Imprivata (or
28 its reseller, as applicable) may, with not less than sixty (60) days' notice, change the Support
29 descriptions or pricing effective at the start of the next annual term hereunder. Imprivata or its
30 authorized reseller will invoice you for the renewal not less than thirty (30) days prior to the end of the
31 then applicable annual Support period; payment will be due as of the commencement of the then
32 applicable annual Support period and Imprivata or its reseller may terminate Support if you fail to make
33 the applicable payment within thirty (30) days thereafter. While you participate in Support, Imprivata
34 will provide you (i) telephone and email based technical support in accordance with the Support level
35 purchased and (ii) all new maintenance releases to the Software when and if available (additional
36 information is available at http://www.imprivata.com/support/customer-center. Imprivata shall not be
37 required to provide Support on any Software (a) for more than twelve months after its general release, or

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(b) more than one release behind the currently shipping release of the Software. Any software provided to you pursuant to Support shall be provided as Software licensed under the terms of this Agreement. Notwithstanding the foregoing, Support for a term-based Software license is included in the Software license cost and shall commence on delivery of the Software and continue for the duration of the license term.

M. HIGH RISK ACTIVITIES. The Appliance is not fault-tolerant and is not developed or intended for use – including evaluation or trial use –in hazardous environments requiring fail-safe performance, including without limitation in the operation of nuclear facilities, aircraft navigation or control systems, air traffic control, direct life support machines or weapons systems, or any other application in which the failure of the Software could lead to death, personal injury, or severe physical or environmental damages ("High Risk Activities"). Imprivata specifically excludes any express or implied warranty of fitness for High Risk Activities.

N. EQUITABLE RELIEF. You agree that, because of the proprietary nature of the Software, Imprivata's remedies at law for a breach by you of your obligations under this Agreement will be inadequate and that Imprivata shall, in the event of a breach or threatened breach, be entitled to equitable relief, including injunctive relief, without the posting of any bond, in addition to all other remedies provided under this Agreement or available at law.

O. GENERAL.

1. This Agreement (and any purchase orders) contains the entire agreement of the parties with respect to the transactions contemplated by this Agreement and supersedes all prior and contemporaneous agreements, representations and understandings, whether written or oral. No modification or waiver of any provision hereof is effective unless in writing and signed by each party. Imprivata shall not be subject to any provisions of any preprinted purchase order, or any of your policies, regulations, rules, or the like, including those set forth in any of your sponsored registration system (collectively, "Policies"), even if such Policies require affirmative acknowledgement from a Imprivata representative.

2. This Agreement is binding upon and inures to the benefit of the parties, their successors and permitted assigns. Neither party may assign or transfer its rights hereunder without the other party's prior written consent, provided that Imprivata may assign this Agreement in connection with a merger or consolidation or the sale of all or substantially all of its assets or stock.

3. This Agreement and the rights and obligations of the parties will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts in the United States. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) as adopted by any state are specifically excluded from application hereunder.

4   The failure of either party to enforce any of the terms hereof will not be construed as a waiver of future enforcement of that or any other term. Neither party is responsible for any delays or

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failure in performance (except for payment of money) due to any cause beyond the party's reasonable control. If any provision of this Agreement or the application thereof to any party or circumstances shall, to any extent, now or hereafter be or become invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and every other provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. Section headings used in this Agreement are intended for convenience only and shall not affect the interpretation or construction of this Agreement.

5. The parties acknowledge that Imprivata is an independent contractor of yours. In no event will Imprivata or any of its employees be deemed a joint venture party, partner, employee, or agent of yours by virtue of this Agreement.

6. Imprivata may from time to time, prior to or during the term of this Agreement, disclose to you information related to planned future products, features or enhancements. Imprivata's development efforts and plans are subject to change at any time, without notice; Imprivata provides no assurances that Imprivata will introduce any such future products, features or enhancements and assumes no responsibility to introduce such products, features or enhancements. You acknowledge that your current purchasing decisions are not made based on the reliance on any such future timeframes or specifics described to you.

QUESTIONS. Should you have any questions in regards to this Agreement, please contact Imprivata, Inc., Attention: General Counsel, 10 Maguire Road, Lexington, MA 02421-3120 U.S.A."

PASS-THROUGH PROVISIONS
MULTUM

With respect to the proprietary drug information service (for purposes of this particular attachment only, the "Service") provided to Client by Multum, the following provisions shall apply: Client may use the service only in connection with Cerner software. Every effort has been made to ensure that the information provided in the Service is accurate, up-to-date, and complete, but no guarantee is made to that effect. In addition, the drug information contained herein may be time sensitive. The Service is intended for use by consumers in the United States. The Service does not endorse drugs, diagnose patients, or recommend therapy. The Service is an informational resource designed to assist licensed healthcare practitioners in caring for their patients; however, it is not a substitute for the care provided by licensed healthcare practitioners. The absence of a warning for a given drug or drug combination in no way should be construed to indicate that the drug or drug combination is safe, effective or appropriate for any given patient. Multum does not assume any responsibility for any aspect of healthcare administered with the aid of information the Service provides.

Disclaimer of Warranties

CLIENT ACKNOWLEDGES THAT THE SERVICE IS PROVIDED ON AN "AS IS" BASIS. EXCEPT FOR WARRANTIES WHICH MAY NOT BE DISCLAIMED AS A MATTER OF LAW,

1 MULTUM MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR
2 IMPLIED, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS OR WARRANTIES
3 REGARDING THE ACCURACY OR NATURE OF THE CONTENT OF THE SERVICE,
4 WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A
5 PARTICULAR PURPOSE. IN ADDITION, WITHOUT LIMITING THE FOREGOING, THE
6 SERVICE HAS BEEN DESIGNED FOR USE IN THE UNITED STATES ONLY AND COVERS
7 THE DRUG PRODUCTS USED IN PRACTICE IN THE UNITED STATES. MULTUM PROVIDES
8 NO CLINICAL INFORMATION OR CHECKS FOR DRUGS NOT AVAILABLE FOR SALE IN
9 THE UNITED STATES AND CLINICAL PRACTICE PATTERNS OUTSIDE THE UNITED
10 STATES MAY DIFFER SUBSTANTIALLY FROM INFORMATION SUPPLIED BY THE
11 SERVICE. MULTUM DOES NOT WARRANT THAT USES OUTSIDE THE UNITED STATES
12 ARE APPROPRIATE.

13 Client acknowledges that updates to the Service are at the sole discretion of Multum. Multum makes no
14 representations or warranties whatsoever, express or implied, with respect to the compatibility of the
15 Service, or future releases thereof, with any computer hardware or software, nor does Multum represent
16 or warrant the continuity of the features or the facilities provided by or through the Service as between
17 various releases thereof. Assumption of Risk, Disclaimer of Liability, Indemnity

18 CLIENT ASSUMES ALL RISK FOR SELECTION AND USE OF THE SERVICE AND CONTENT
19 PROVIDED THEREON. MULTUM SHALL NOT BE RESPONSIBLE FOR ANY ERRORS,
20 MISSTATEMENTS, INACCURACIES OR OMISSIONS REGARDING CONTENT DELIVERED
21 THROUGH THE SERVICE OR ANY DELAYS IN OR INTERRUPTIONS OF SUCH DELIVERY.
22 CLIENT ACKNOWLEDGES THAT MULTUM: (A) HAS NO CONTROL OF OR
23 RESPONSIBILITY FOR THE CLIENT'S USE OF THE SERVICE OR CONTENT PROVIDED
24 THEREON, (B) HAS NO KNOWLEDGE OF THE SPECIFIC OR UNIQUE CIRCUMSTANCES
25 UNDER WHICH THE SERVICE OR CONTENT PROVIDED THEREON MAY BE USED BY THE
26 CLIENT,
27 (C) UNDERTAKES NO OBLIGATION TO SUPPLEMENT OR UPDATE CONTENT OF THE
28 SERVICE, AND (D) HAS NO LIABILITY TO ANY PERSON FOR ANY DATA OR
29 INFORMATION INPUT ON THE SERVICE BY THE CLIENT TO THE SERVICE. MULTUM
30 SHALL NOT BE LIABLE TO ANY PERSON (INCLUDING BUT NOT LIMITED TO CLIENT AND
31 PERSONS TREATED BY OR ON BEHALF OF CLIENT) FOR, AND CLIENT AGREES TO
32 INDEMNIFY AND HOLD MULTUM HARMLESS FROM ANY CLAIMS, LAWSUITS,
33 PROCEEDINGS, COSTS, ATTORNEY'S FEES, DAMAGES OR OTHER LOSSES
34 (COLLECTIVELY,
35 "LOSSES") ARISING OUT OF OR RELATING TO (A) CLIENT'S USE OF THE SERVICE OR
36 CONTENT PROVIDED THEREON AND (B) ANY DATA OR INFORMATION INPUT ON THE
37 SERVICE BY ANY PERSON OR ENTITY OTHER THAN MULTUM, IN ALL CASES

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INCLUDING BUT NOT LIMITED TO LOSSES FOR TORT, PERSONAL INJURY, MEDICAL MALPRACTICE OR PRODUCT LIABILITY. FURTHER, WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL MULTUM BE LIABLE FOR ANY DIRECT, EXEMPLARY, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, LOSS OF BUSINESS, OR DOWN TIME, EVEN IF MULTUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE INFORMATION CONTAINED WITHIN THE SERVICE IS INTENDED FOR USE ONLY BY PHYSICIANS AND OTHER HEALTHCARE PROFESSIONALS WHO SHOULD RELY ON THEIR CLINICAL DISCRETION

AND JUDGMENT IN DIAGNOSIS AND TREATMENT. AS BETWEEN CLIENT AND MULTUM, THE CLIENT HEREBY ASSUMES FULL RESPONSIBILITY FOR INSURING THE APPROPRIATENESS OF USING AND RELYING UPON THE INFORMATION IN VIEW OF ALL ATTENDANT CIRCUMSTANCES, INDICATIONS, AND CONTRAINDICATIONS. Multum's total liabilities in connection with this agreement, whether arising under contract or otherwise, are limited to the fees received by Multum under this agreement specifically relating to the Client's service or product which is the subject of the claim.

PASS-THROUGH PROVISIONS
SNOMED CT

International Release of SNOMED CT and National Release of SNOMED CT Third Party Content Terms

1. GRANT OF LICENSE

1.1 Cerner Corporation ("Cerner") grants the End User a non-transferable, non-exclusive license to use the relevant Third Party Content solely: (i) with the Cerner Software as incorporated in the Cerner Product; (ii) to the extent necessary for the End User to use the Cerner Product; (iii) for internal business purposes; and (iv) in accordance with the terms of these Third Party Content Terms.

2. RESTRICTIONS

2.1 The End User must:

A. not use the Third Party Content in any way other than as permitted by section 1.1 and other than in accordance with the terms of these Third Party Content Terms;

B. not modify or extract the Third Party Content or part thereof or translate any part of the Third Party Content into any other human language; and

C. not sub-license or transfer any of its rights under these Third Party Content Terms.

2.2 If the End User becomes aware of any material error or change or correction needed in either the National Release or the International Release, the End User agrees to advise Cerner accordingly.

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3. TERMINATION

3.1 The End User's license to use the International Release terminates automatically upon termination of the Cerner IHTSDO Agreement.

3.2 Upon receiving notice of termination in accordance with section 3.1, the End User may apply directly to the IHTSDO and that the IHTSDO may in such circumstances (but shall not be obliged to):

A. grant the End User a license in respect of the International Release for a limited period in order to enable the End User to continue to use the Cerner Product during that period; or

B. give the End User an assurance or undertaking that for a limited period the IHTSDO will not seek to prevent the End User from using the Cerner Product.

3.3 The End User's license to use the National Release terminates automatically upon termination of the NLM License Agreement.

3.4 Cerner may terminate the End User's license to use the Third Party Content if End User fails to comply with the terms of these Third Party Content Terms.

4. DISCLOSURE OF THIRD PARTY CONTENT TERMS

The End User agrees that Cerner may disclose the terms of these Third Party Content Terms to the IHTSDO.

5. INTELLECTUAL PROPERTY

5.1 Nothing in these Third Party Content Terms transfers to the End User any right, title or interest in or to the Intellectual Property Rights in the International Release and/or National Release or any part of it, except as expressly set out in section 1.1.

5.2 Cerner is required by the IHTSDO and NLM to include the following notice on these Third Party Content Terms:

"This material includes SNOMED Clinical Terms® (SNOMED CT®) which is used by permission of the International Health Terminology Standards Development Organisation (IHTSDO). All rights reserved. SNOMED CT®, was originally

created by The College of American Pathologists. "SNOMED" and "SNOMED CT" are registered trademarks of the IHTSDO."

5.3 Cerner is required by NLM to include the following notice on these Third Party Content Terms:

"Some material in the UMLS Metathesauras is from copyrighted sources of the respective copyright holders. End Users of the UMLS Metathesaurus are solely responsible for compliance with any copyright, patent or trademark restrictions and are referred to the copyright, patent or trademark notices appearing in the original sources, all of which are hereby incorporated by reference."

5.4 End User shall be solely responsible for compliance with any copyright or other restrictions on the International Release and the National Release. Cerner and NLM assumes no responsibility or liability associated with the End User's use and/or reproduction of copyrighted material, patent or trademark

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violations. Anyone contemplating reproduction of all or any portion of the International Release and/or the National Release should consult legal counsel.

6. REPRESENTATIONS AND WARRANTIES

6.1 To the extent permitted by statute or law, the Cerner excludes all representations, warranties and conditions that would otherwise be implied into these Third Party Content Terms by statute or law.

6.2 Without limiting section 6.1, Cerner does not represent or warrant that the Third Party Content or any part of it will satisfy any of the End User's requirements, operate in combinations selected by the End User or be free from defects or errors.

7. LIMITATIONS OF LIABILITY

7.1 To the fullest extent permitted by statute and law, Cerner, IHTSDO and NLM shall not be liable to the End User or to any other person, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, for any of the following arising under or in connection with these Third Party Content Terms (including, without limitation, in respect of the End User's use of or inability to use Third Party Content or any part of it):

A. indirect or consequential loss;

B. special or punitive damages;

C. loss of profits, loss of savings and loss of revenue;

D. loss of business, loss of reputation and loss of goodwill; and

E. loss of data.

7.2 The liability of Cerner arising in any year (commencing on the date of commencement of the End User's license to use the Cerner Product) under or in connection with these Third Party Content Terms (including, without limitation, in respect of the End User's use of or inability to use Third Party Content or any part of it), whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall not in any event exceed the greater of the Third Party Content license fees paid by the End User in respect of that year.

7.3 Notwithstanding any other provision of these Third Party Content Terms, End User agrees to hold Cerner, NLM, the U.S. Government and IHTSDO free from any liability resulting from errors in terminology or other data or on the machinereadable copy. Cerner, NLM, the U.S Government and IHTSDO disclaim any liability for any consequences due to use, misuse, or interpretation of information contained or not contained in the International Release or UMLS Metathesaurus.

7.4 Notwithstanding any other provision of these Third Party Content Terms, End User agrees to hold Cerner, NLM and IHTSDO free from any liability resulting from the removal of any vocabulary source from future editions of the UMLS Metathesaurus.

7.5 Notwithstanding any other provision of these Third Party Content Terms, Cerner, IHTSDO and NLM shall not be liable to End User for any failure by IHTSDO or NLM (as the case may be) to

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maintain or distribute modifications (or part thereof) to SNOMED CT made by Cerner and permitted under the Cerner IHTSDO Agreement.

7.6 Notwithstanding any other provision of these Third Party Content Terms, Cerner, IHTSDO, NLM, the U.S Government and its employees shall not be liable to End User in any manner whatsoever for damages of any nature whatsoever arising from the termination of these Third Party Content Terms, the Cerner IHTSDO Agreement or the NLM License Agreement.

8. SURVIVAL

8.1 Sections 2, 3.2, 4, 5.1, 6, 7, and 9 of these Third Party Content Terms all survive the expiry, or termination (for any reason) of these Third Party Content Terms.

9. DEFINITIONS

The following words have these meanings in these Third Party Content Terms, unless the contrary intention appears:

- "Cerner IHTSDO Agreement" means the agreement between Cerner and the IHTSDO under which Cerner is granted certain rights to the International Release;
- "NLM License Agreement" means the agreement between Cerner and National Library of Medicine, Department of Health and Human Services ("NLM") under which Cerner is granted certain rights to the UMLS Metathesauras;
- "Cerner Product" means the Cerner Software licensed to the End User by Cerner that includes: (i) the International Release (or any part of it) and/or any International Release modifications created by Cerner as permitted under the Cerner IHTSDO Agreement; and/or (ii) the National Release (or any part of it);
- "Cerner Software" means the machine readable forms of specific computer software programs developed by Cerner. "Cerner Software" does not include source code of any kind, sublicensed software, any other third party software or any programlicensed to the End User by any third party;
- "End User" means a third party user of the Cerner Product;
- "IHTSDO" means the International Health Terminology Standards Development (forening med begraenset ansvar), an association (foreningen) established under the laws of Denmark, whose principal place of business is at Rued Langgaards Vej 7, 5,2300 Copenhagen S, Denmark;
- "Intellectual Property Rights" means patents, trademarks, service marks, copyright (including rights in computer software) moral rights, database rights, rights in designs, trade secrets, know-how and other intellectual property rights, in each casewhether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect in any jurisdiction;

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- "International Release" means the SNOMED CT release produced and distributed by or on behalf of the IHTSDO;
- "National Release" means the subset of the UMLS Metathesaurus produced and distributed by NLM relating to SNOMED CT, consisting of the International Release, (which is licensed to Cerner via the Cerner IHTSDO Agreement) and locally developed extensions to the International Release, if any; "NLM" means National Library of Medicine, Department of Health and Human Services. NLM is a Charter Member of the IHTSDO on behalf of the US;
- "SNOMED CT" means the concept-based work of clinical nomenclature and classification with multiple hierarchies andsemantic definitions known as SNOMED Clinical Terms (SNOMED CT);
- "Third Party Content" means the International Release and/or the National Release;
- "UMLS" means the Unified Medical Language System®; and
- "UMLS Metathesauras" means a machine-readable vocabulary knowledge source produced by the NLM's UMLS project, including, without limitation, the National Release.

PASS-THROUGH PROVISIONS
AMERICAN PSYCHIATRIC ASSOCIATION

Principal Requirements of User Agreements Electronic Product License Agreement ("EPLA")

The User must:

1. Agree that the content is nontransferable, nonexclusive, and for the sole purpose of internal use by the User.

2. Prohibit any use of any portions of the DSM-5 ("WORK") other than those expressly allowed under this EPLA.

3. Prohibit distribution, publishing, translating, or transferring possession of the WORK.

4. Prohibit any unauthorized or infringing use of the WORK.

5. Prohibit creation of derivative works based on the WORK, or selling, leasing, or licensing it or otherwise making it available to a non-authorized party. Require anyone authorized to use the PRODUCT to comply with the provisions of this EPLA.

6. State that the user may only make copies of the WORK as required by use of the Cerner solutions, specifically.

7. Acknowledge the copyright in the Work is owned by APA.

8. Acknowledge that the WOR, to the extent possible under the applicable laws, is provided "as is" without any warranties. APA disclaims any liability for any consequences due to use, misuse, or interpretation of information contained or not contained in the WORK.

9. Provide for termination in the event of default under this EPLA.

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10. Acknowledge that in the event that a provision is determined to violate any law or is unenforceable the remainder of this EPLA shall remain in full force and effect.

11. Acknowledge that the WORK is not a substitute for, is not designed to, and does not provide, medical advice. It is a guide for clinicians. Every clinician should use his or her own medical judgment and skill in diagnosing mental illness. The American Psychiatric Association ("APA") shall not be liable to Client or any third party if readers of WORK disregard professional medical advice, or delay in seeking such advice, because of something they have read in the WORK. The APA shall not be liable to Client or any third party if readers rely solely on information in the WORK in making diagnosis, or in place of seeking professional medical advice. RELIANCE ON ANY INFORMATION CONTAINED IN THE WORK

IS SOLELY AT THE READER'S OR USER'S OWN RISK. Moreover, the APA is not responsible or liable to Client or any third party for any advice, course of treatment or diagnosis provided by a physician or other health care professional. The APA neither recommends nor endorses any specific tests,

products, procedures, opinions or other information that may be recommended to a reader or user by a health care professional.

12. Require all USERS to maintain copyright management information in its original form as provided by LICENSEE.

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EXHIBIT E

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

I. LICENSED AND SUBLICENSED SOFTWARE, EQUIPMENT MAINTENANCE AND SUPPORT INVENTORY

Solution Descriptions for the below assets can be accessed at https://solutiondescriptions.cerner.com

LICENSED SOFTWARE AND SOFTWARE SUPPORT

Mfg. Part No.	Solution Detail Description	Scope of Use Metric	Qty./ Scope of Use Limit	Extended One-Time Fees	Extended Monthly Fees	Solution Description Code	Third-Party Com-po-nent(s)	Pass-Through Code	Per Unit One-Time Expan-sion Fees	Per Unit Monthly Expan-sion Fees
PV-20230	PowerChart Ambulatory	Providers	7	24,255	- -	SD100270_03	- -	- -	11,550	- -
PV-20230	*SUPT: PowerChart Ambulatory*	*Providers*		- -	324	- -	- -	- -	- -	*155*
IF-29055	Results Incoming (Displayable Text)	Full Time Equivalents (FTEs)	2,537	12,146	- -	SD100108_02	- -	- -	5	- -
IF-29055	*SUPT: Results Incoming (Displayable Text)*	*Full Time Equivalents (FTEs)*		- -	163	- -	- -	- -	- -	*1*
			TOTAL:	36,401	487	- -	- -	- -	- -	- -

SUBSCRIPTION SERVICES

Mfg. Part No.	Solution Detail Description	Scope of Use Metric	Qty./ Scope of Use Limit	Term (Mo.)	Monthly Range	Extended One-Time Fees	Extended Monthly Fees	Solution Description Code	Third-Party Com-po-nent(s)	Pass-Through Code	Per Unit One-Time Expan-sion Fees	Per Unit Monthly Expan-sion Fees
KS-26953	Executable Knowledge Foundation Ambulatory	Providers	7	17	1-17	0	53	SD100189_01	- -	- -	- -	7.50
KS-26960	PowerNote Content for Ambulatory	Providers	7	17	1-17	0	88	SD100186_01	- -	- -	- -	12.50
KS-26966	Multum Patient Specific (Ambulatory)	Providers	7	17	1-17	0	105	SD100192_02	✔	5600_MUL	- -	14.88
KS-26970	Cerner CMT (Ambulatory)	Providers	7	17	1-17	0	88	SD100176_02	✔	22001_SNO	- -	12.50
			TOTAL:			- -	334	- -	- -	- -	- -	- -

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APPLICATION SERVICES (ASP)

Mfg. Part No.	Solution Detail Description	Scope of Use Metric	Qty./ Scope of Use Limit	Term (Mo.)	Monthly Range	Extended One-Time Fees	Extended Monthly Fees	Solution Description Code	Third-Party Com-po-nent(s)	Pass-Through Code	Per Unit One-Time Expansion Fees	Per Unit Monthly Expansion Fees
PA-20190	Cerner Lab Sequence – Set Up	Molecular Procedures	30,000	- -	- -	120,000	- -	- -	- -	- -	- -	- -
PA-20191	Cerner Lab Sequence	Molecular Procedures	30,000	17	1-17	- -	10,000	SD100444_01	- -	- -	- -	1.00
					TOTAL:	120,000	10,000	- -	- -	- -	- -	- -

SHARED COMPUTING SERVICES

Mfg. Part No.	Solution Detail Description	Scope of Use Metric	Qty./ Scope of Use Limit	Term (Mo.)	Monthly Range	Extended One-Time Fees	Extended Monthly Fees	Solution Description Code	Third-Party Com-po-nent(s)	Pass-Through Code	Per Unit One-Time Expan-sion Fees	Per Unit Monthly Expan-sion Fees
PY-27650C	Cerner Hub Setup - Immunizations	Immunization Registry	1	- -	- -	20,000	- -	- -	- -	- -	20,000	- -
PY-27655C	Cerner Hub - Immunizations	Immunization Registry	1	17	1-17	- -	1,500	SD100612_02	- -	- -	- -	1,500.00
PY-27577C	Immunization Registry Query	Immunization Registry	1	17	1-17	- -	2,100	SD100611_01	- -	- -	- -	3,000.00
PY-27578C	Immunization Registry Query Implementation	Immunization Registry	1	- -	- -	24,500	- -	- -	- -	- -	35,000	- -
PS-20080C-I	Cerner ePrescribe Package	Providers	7	17	1-17	- -	116	SD100258_02	✔	62400_CMS_C	- -	23.50
LRN-00094	Learning Framework	Each	1	17	1-17	- -	0	SD101199_01	- -	- -	- -	- -
					TOTAL:	44,500	3,716	- -	- -	- -	- -	- -

EQUIPMENT AND INSTALLATION (if applicable)

Quote: Q-85656.1

Line No.	Manufacturer Part No.	Solution Detail Description	Qty.	Per Unit One-Time Fees	Extended One-Time Fees	Pass-Through Code
7	CFG_ESIGNATURE	Cerner Patient eSignature Solution - Patient Access	1	0.00	0.00	- -
11	DTU1141B	Wacom DTU-1141B Signature Tablet	3	496.15	1,488.46	- -
				TOTAL:	1,488.46	- -

SUBLICENSED SOFTWARE AND INSTALLATION (if applicable)

Quote: Q-85656.1

Line No.	Manufacturer Part No.	Solution Detail Description	Qty.	Per Unit One-Time Fees	Extended One-Time Fees	Pass-Through Code
8	CT-ESIG-CLIN	Patient eSignature - Clinic License - Patient Access	3	12,000.00	36,000.00	- -
				TOTAL:	36,000.00	- -

SUBLICENSED SOFTWARE MAINTENANCE

Quote: Q-85656.1

Line No.	Manufacturer Part No.	Solution Detail Description	Level of Service	Qty	Term (Mo.)	One-Time Fees Due – Year 1	One-Time Fees Due – Year 2	One-Time Fees Due – Year 3	One-Time Fees Due – Year 4	One-Time Fees Due – Year 5	One-Time Fees Due – Year 6 through End of Term
9	CT-ESIG-CLIN	24x7 M-Su Phone Support:MNT: Patient eSignature - Clinic License - Patient Access	24x7 M-Su Phone Support	3	17	5,760.00	-2,400.00	- -	- -	- -	- -
					TOTAL:	5,760.00	2,40000-00	- -	- -	- -	- -

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FIXED FEE					
Service Project Detail	Manufacturer Part No.	Solution	One-Time Fees	Third-Party Compo-nent(s)	Pass-Through Code
Standard Services					
Ent Doc Mgmt	CTS-ESIG-CAPT-EXT	EDM - Patient eSignature Extension	14,628	- -	- -
Program Management	SVC-0341976	Organizational Change Management	82,500	- -	- -
Custom Services					
Adoption Coaching	- -	- -	67,200	- -	- -
CCL	- -	- -	49,500	- -	- -
CI Clinicals	- -	- -	10,125	- -	- -
Clinicals	- -	- -	328,500	- -	- -
Conversion Support	- -	- -	32,000	- -	- -
Embedded Role	- -	- -	156,000	- -	- -
Financials	- -	- -	300,000	- -	- -
FSI	- -	- -	70,509	- -	- -
LabSeq-COVID	- -	- -	37,500	- -	- -
Learning FF	- -	- -	151,001	- -	- -
		TOTALS:	1,299,463	- -	- -

A.   CONTRACTOR and ADMINISTRATOR may mutually agree, in writing, to add or remove items from the above listed Equipment, Licensed Software, Sublicensed Software, Subscriptions, Managed Services, Shared Computing Services, Application Service Providers, Application Management Services, and Transaction Services Inventory during the term of the Agreement as necessary.

1.   Should any additions cause an increase in cost to COUNTY that would exceed the Maximum Obligation of the Agreement; the Parties acknowledge that such an increase will only be effect upon approval of the Orange County Board of Supervisors for said increase in funding through an Amendment to the Agreement.

2.   Should any removal of items, with the exception of any sublicensed software, third party equipment or transaction services, create a balance owed to COUNTY by CONTRACTOR, CONTRACTOR agrees to retain such amount, only for the duration of any single period under the Agreement, as a credit to COUNTY that may be used to offset any increase in costs due to the addition of an item or items during each individual period. Both Parties agree that any costs, credits, overpayments, underpayments during any single period shall be settled by, mutual agreement of the Parties, within one hundred and twenty (120) calendar days from the end of any single period. Both Parties further agree that any credit balance owed COUNTY upon the termination of the Agreement must be returned to COUNTY by CONTRACTOR and may not be used towards any similar costs of any future agreement.

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EXHIBIT F

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

I. BUSINESS ASSOCIATE CONTRACT

A. GENERAL PROVISIONS AND RECITALS

1. The parties agree that the terms used, but not otherwise defined in the Common Terms and Definitions Paragraph of Exhibit A to the Agreement or in Subparagraph B below, shall have the same meaning given to such terms under HIPAA, the HITECH Act, and their implementing regulations at 45 CFR Parts 160 and 164 ("the HIPAA regulations") as they may exist now or be hereafter amended.

2. The parties agree that a business associate relationship under HIPAA, the HITECH Act, and the HIPAA regulations between the CONTRACTOR and COUNTY arises to the extent that CONTRACTOR performs, or delegates to subcontractors to perform, functions or activities on behalf of COUNTY pursuant to, and as set forth in, the Agreement that are described in the definition of "Business Associate" in 45 CFR § 160.103.

3. The COUNTY wishes to disclose to CONTRACTOR certain information pursuant to the terms of the Agreement, some of which may constitute PHI, as defined below in Subparagraph B.10, to be used or disclosed in the course of providing services and activities pursuant to, and as set forth, in the Agreement.

4. The parties intend to protect the privacy and provide for the security of PHI that may be created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement in compliance with the applicable standards, implementation specifications, and requirements of HIPAA, the HITECH Act, and the HIPAA regulations as they may exist now or be hereafter amended.

5. The parties understand and acknowledge that HIPAA, the HITECH Act, and the HIPAA regulations do not pre-empt any state statutes, rules, or regulations that are not otherwise pre-empted by other Federal law(s) and impose more stringent requirements with respect to privacy of PHI.

6. The parties understand that the HIPAA Privacy and Security rules, as defined below in Subparagraphs B.9 and B.14, apply to the CONTRACTOR in the same manner as they apply to the covered entity (COUNTY). CONTRACTOR agrees therefore to be in compliance at all times with the terms of this Business Associate Contract and the applicable standards, implementation

specifications, and requirements of the Privacy and the Security rules, as they may exist now or be hereafter amended, with respect to PHI and ePHI created, received, maintained, transmitted, used, or disclosed pursuant to the Agreement.

B. DEFINITIONS

1. "Administrative Safeguards" are administrative actions, and P&Ps, to manage the selection, development, implementation, and maintenance of security measures to protect ePHI and to manage the conduct of CONTRACTOR's workforce in relation to the protection of that information.

2. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule which compromises the security or privacy of the PHI.

    a. Breach excludes:

        1) Any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of CONTRACTOR or COUNTY, if such acquisition, access, or use was made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule.

        2) Any inadvertent disclosure by a person who is authorized to access PHI at CONTRACTOR to another person authorized to access PHI at the CONTRACTOR, or organized health care arrangement in which COUNTY participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the HIPAA Privacy Rule.

        3) A disclosure of PHI where CONTRACTOR or COUNTY has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

    b. Except as provided in Subparagraph a. of this definition, an acquisition, access, use, or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule is presumed to be a breach unless CONTRACTOR demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:

        1) The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

        2) The unauthorized person who used the PHI or to whom the disclosure was made;

        3) Whether the PHI was actually acquired or viewed; and

        4) The extent to which the risk to the PHI has been mitigated.

3. "Data Aggregation" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

4. "DRS" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

5. "Disclosure" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

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6. "Health Care Operations" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.501.

7. "Individual" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

8. "Physical Safeguards" are physical measures, policies, and procedures to protect CONTRACTOR's electronic information systems and related buildings and equipment, from natural and environmental hazards, and unauthorized intrusion.

9. "The HIPAA Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.

10. "PHI" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

11. "Required by Law" shall have the meaning given to such term under the HIPAA Privacy Rule in 45 CFR § 164.103.

12. "Secretary" shall mean the Secretary of the Department of HHS or his or her designee.

13. "Security Incident" means attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR.

14. "The HIPAA Security Rule" shall mean the Security Standards for the Protection of ePHI at 45 CFR Part 160, Part 162, and Part 164, Subparts A and C.

15. "Subcontractor" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

16. "Technical safeguards" means the technology and the P&Ps for its use that protect ePHI and control access to it.

17. "Unsecured PHI" or "PHI that is unsecured" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary of HHS in the guidance issued on the HHS Web site.

18. "Use" shall have the meaning given to such term under the HIPAA regulations in 45 CFR § 160.103.

C. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR AS BUSINESS ASSOCIATE

1. CONTRACTOR agrees not to use or further disclose PHI COUNTY discloses to CONTRACTOR other than as permitted or required by this Business Associate Contract or as required by law.

2. CONTRACTOR agrees to use appropriate safeguards, as provided for in this Business Associate Contract and the Agreement, to prevent use or disclosure of PHI COUNTY discloses to

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1 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY

2 other than as provided for by this Business Associate Contract.

3 3. CONTRACTOR agrees to comply with the HIPAA Security Rule at Subpart C of 45

4 CFR Part 164 with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR

5 creates, receives, maintains, or transmits on behalf of COUNTY.

6 4. CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is

7 known to CONTRACTOR of a Use or Disclosure of PHI by CONTRACTOR in violation of the

8 requirements of this Business Associate Contract.

9 5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI

10 not provided for by this Business Associate Contract of which CONTRACTOR becomes aware.

11 CONTRACTOR must report Breaches of Unsecured PHI in accordance with Subparagraph F below

12 and as required by 45 CFR § 164.410.

13 6. CONTRACTOR agrees to ensure that any Subcontractors that create, receive, maintain,

14 or transmit PHI on behalf of CONTRACTOR agree to the same restrictions and conditions that apply

15 under HIPAA to CONTRACTOR with respect to such information.

16 7. CONTRACTOR agrees to provide access, within fifteen (15) calendar days of receipt of

17 a written request by COUNTY, to PHI in a DRS, to COUNTY or, as directed by COUNTY, to an

18 Individual in order to meet the requirements under 45 CFR § 164.524. If CONTRACTOR maintains

19 an EHR with PHI, and an individual requests a copy of such information in an electronic format,

20 CONTRACTOR shall provide such information in an electronic format.

21 8. CONTRACTOR agrees to make any amendment(s) to PHI in a DRS that COUNTY

22 directs or agrees to pursuant to 45 CFR § 164.526 at the request of COUNTY or an Individual, within

23 thirty (30) calendar days of receipt of said request by COUNTY. CONTRACTOR agrees to notify

24 COUNTY in writing no later than ten (10) calendar days after said amendment is completed.

25 9. CONTRACTOR agrees to make internal practices, books, and records relating to the use

26 and disclosure of PHI received from, or created or received by CONTRACTOR on behalf of,

27 COUNTY available to COUNTY and the Secretary in a time and manner as designated by the

28 Secretary for purposes of the Secretary determining COUNTY's compliance with the HIPAA Privacy

29 Rule or in a time and manner that is reasonably acceptable to both COUNTY and CONTRACTOR as

30 requested by COUNTY.

31 10. CONTRACTOR agrees to document any Disclosures of PHI COUNTY discloses to

32 CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of

33 COUNTY, and to make information related to such Disclosures available as would be required for

34 COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in

35 accordance with 45 CFR § 164.528.

36 11. CONTRACTOR agrees to provide COUNTY or an Individual, as directed by COUNTY,

37 in a time and manner to be determined by COUNTY, that information collected in accordance with

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the Agreement, in order to permit COUNTY to respond to a request by an Individual for an accounting of Disclosures of PHI in accordance with 45 CFR § 164.528.

12. CONTRACTOR agrees that to the extent CONTRACTOR carries out COUNTY's obligation under the HIPAA Privacy and/or Security rules CONTRACTOR will comply with the requirements of 45 CFR Part 164 that apply to COUNTY in the performance of such obligation.

13. CONTRACTOR will notify COUNTY if CONTRACTOR is named as a defendant in a criminal proceeding for a violation of HIPAA related to this Agreement. COUNTY may terminate the Agreement, if CONTRACTOR is found guilty of a criminal violation in connection with HIPAA under this Agreement. COUNTY may terminate the Agreement, if a finding or stipulation that CONTRACTOR has violated any standard or requirement of the privacy or security provisions of HIPAA, or other security or privacy laws are made in any administrative or civil proceeding related to this Agreement in which CONTRACTOR is a party or has been joined. COUNTY will consider the nature and seriousness of the violation in deciding whether or not to terminate the Agreement.

14. CONTRACTOR shall make itself and any subcontractors, employees or agents assisting CONTRACTOR in the performance of its obligations under the Agreement, available to COUNTY at no cost to COUNTY to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against COUNTY, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA regulations or other laws relating to security and privacy, which involves inactions or actions by CONTRACTOR, except where CONTRACTOR or its subcontractor, employee, or agent is a named adverse party.

15. The Parties acknowledge that federal and state laws relating to electronic data security and privacy are rapidly evolving and that amendment of this Business Associate Contract may be required to provide for procedures to ensure compliance with such developments. The Parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations and other applicable laws relating to the security or privacy of PHI. Upon COUNTY's request, CONTRACTOR agrees to promptly enter into negotiations with COUNTY concerning an amendment to this Business Associate Contract embodying written assurances consistent with the standards and requirements of HIPAA, the HITECH Act, the HIPAA regulations or other applicable laws. CONTRACTOR's failure to enter into aforesaid negotiations in good faith may result in termination of this Agreement in accordance with Paragraph XXIX.A.2. (TERMINATION).

16. CONTRACTOR shall work with COUNTY upon notification by CONTRACTOR to COUNTY of a Breach to properly determine if any Breach exclusions exist as defined in Subparagraph B.2.a above.

D. SECURITY RULE

1. CONTRACTOR shall comply with the requirements of 45 CFR § 164.306 and establish and maintain appropriate Administrative, Physical and Technical Safeguards in accordance with

45 CFR § 164.308, § 164.310, and § 164.312, with respect to ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall develop and maintain a written information privacy and security program that includes Administrative, Physical, and Technical Safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities.

2. CONTRACTOR shall implement reasonable and appropriate P&Ps to comply with the standards, implementation specifications and other requirements of 45 CFR Part 164, Subpart C, in compliance with 45 CFR § 164.316. CONTRACTOR will share with COUNTY its current and updated policies in a controlled CONTRACTOR environment.

3. CONTRACTOR shall ensure the continuous security of all computerized data systems containing ePHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. CONTRACTOR shall protect paper documents containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. These steps shall include, at a minimum:

a. Complying with the agreed upon sections of the data system security precautions listed under Subparagraph E., below;

b. Achieving and maintaining compliance with the HIPAA Security Rule, as necessary in conducting operations on behalf of COUNTY;

c. CONTRACTOR Security Program is based on the NIST Cybersecurity Framework and reflects the requirements of ISO 27001-27002 as far as reasonably practicable and applicable to this Agreement.

4. CONTRACTOR shall ensure that any subcontractors that create, receive, maintain, or transmit ePHI on behalf of CONTRACTOR agree through a contract with CONTRACTOR to the same restrictions and requirements contained in this Subparagraph D of this Business Associate Contract.

5. CONTRACTOR agrees to report to COUNTY immediately any Use or Disclosure of PHI not provided for by this Business Associate Contract of which CONTRACTOR becomes aware. CONTRACTOR must report Breaches of Unsecured PHI in accordance with Subparagraph F below and as required by 45 CFR § 164.410.

6. CONTRACTOR shall designate a Security Officer to oversee its data security program who shall be responsible for carrying out the requirements of this paragraph. CONTRACTOR Client Accountable Executive or Disaster Recovery Production Owner will communicate on security matters with the COUNTY.

E. DATA SECURITY REQUIREMENTS

1. Personal Controls

a. Employee Training. All workforce members who assist in the performance of functions or activities on behalf of COUNTY in connection with Agreement, or access or disclose

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PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, must complete information privacy and security training, at least annually, at CONTRACTOR's expense. Each workforce member who receives information privacy and security training must - have record of completion, indicating the member's name and the date on which the training was completed. These records of completion must be retained for a period of six (6) years following the termination of Agreement.

b. Employee Discipline. Appropriate sanctions must be applied against workforce members who fail to comply with any provisions of CONTRACTOR's privacy P&Ps, including termination of employment where appropriate.

c. Confidentiality Record. In compliance with pertinent provisions of HIPAA and its implementing regulations, CONTRACTOR shall do the following:

1) All persons that will be working with PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be under an obligation of confidentiality that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies.

2) This must be retained by the workforce member in their learning record prior to access to such PHI.

3) The confidentiality obligation must be renewed annually.

4) The CONTRACTOR shall retain each person's record of completion for COUNTY inspection for a period of six (6) years following the termination of the Agreement.

d. Background Check. Before a member of the workforce may access PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. CONTRACTOR shall retain each workforce member's background check documentation for a period of three (3) years.

2. Technical Security Controls

a. Workstation/Laptop encryption. All workstations and laptops that store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. The encryption solution must be full disk unless approved by the COUNTY.

b. Server Security. Servers containing unencrypted PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a risk assessment/system security review.

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c. Minimum Necessary. Only the minimum necessary amount of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY required to perform necessary business functions may be copied, downloaded, or exported.

d. Removable media devices. All electronic files that contain PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Such PHI shall not be considered "removed from the premises" if it is only being transported from one of CONTRACTOR's locations to another of CONTRACTOR's locations.

e. Antivirus software. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have installed and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.

f. Patch Management. All workstations, laptops and other systems that process and/or store PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all critical patches must be installed within thirty (30) days of vendor release. Applications and systems that cannot be patched due to operational reasons must have compensatory controls implemented to minimize risk, where possible.

g. User IDs and Password Controls. All users must be issued a unique user name for accessing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password, at maximum within twenty-four (24) hours. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed every ninety (90) days, preferably every sixty (60) days. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three (3) of the following four (4) groups from the standard keyboard:

1) Upper case letters (A-Z)

2) Lower case letters (a-z)

3) Arabic numerals (0-9)

4) Non-alphanumeric characters (punctuation symbols)

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h. Data Destruction. When no longer needed, all PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be wiped using the Gutmann or US DoD 5220.22-M (7 Pass) standard, or by degaussing. Media may also be physically destroyed in accordance with NIST Special Publication 800-88. Other methods require prior written permission by COUNTY.

i. System Timeout. The hosted Disaster Recovery system providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must provide an automatic timeout, requiring re-authentication of the user session after no more than twenty (20) minutes of inactivity.

j. Warning Banners. All systems providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.

k. System Logging. The system must maintain an automated audit trail which can identify the user or system process which initiates a request for PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY, or which alters such PHI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If such PHI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least three (3) years after occurrence.

l. Access Controls. The system providing access to PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must use role based access controls for all user authentications, enforcing the principle of least privilege.

m. Transmission encryption. All data transmissions of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing PHI can be encrypted. This requirement pertains to any type of PHI in motion such as website access, file transfer, and E-Mail.

n. Intrusion Detection. All systems involved in accessing, holding, transporting, and protecting PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

3. Audit Controls

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a. System Security Review. CONTRACTOR must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning tools.

b. Log Reviews. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have a routine procedure in place to review system logs for unauthorized access.

c. Change Control. All systems processing and/or storing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability of data.

4. Business Continuity/Disaster Recovery Control

a. Emergency Mode Operation Plan. CONTRACTOR must establish a documented plan to enable continuation of critical business processes and protection of the security of PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY kept in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this Agreement for more than twenty four (24) hours.

b. Data Backup Plan. For the hosted Disaster Recovery system, if a Disaster is declared, CONTRACTOR must have established documented procedures to backup such PHI to maintain retrievable exact copies of the PHI. The plan must include a regular schedule for making backups, storing backup offsite, an inventory of backup media, and an estimate of the amount of time needed to restore COUNTY PHI or PI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of COUNTY data.

5. Paper Document Controls

a. Supervision of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Such PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.

b. Escorting Visitors. Visitors to areas where PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY is contained shall be escorted and such PHI shall be kept out of sight while visitors are in the area.

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c. Confidential Destruction. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must be disposed of through confidential means, such as cross cut shredding and pulverizing.

d. Removal of Data. PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY must not be removed from the premises of the CONTRACTOR except with express written permission of COUNTY.

e. Faxing. Faxes containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.

f. Mailing. Mailings containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY shall be sealed and secured from damage or inappropriate viewing of PHI to the extent possible. Mailings which include five hundred (500) or more individually identifiable records containing PHI COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of COUNTY to use another method is obtained.

F. BREACH DISCOVERY AND NOTIFICATION

1. Following the discovery of a Breach of Unsecured PHI , CONTRACTOR shall notify COUNTY of such Breach, however both parties agree to a delay in the notification if so advised by a law enforcement official pursuant to 45 CFR § 164.412.

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

b. CONTRACTOR shall be deemed to have knowledge of a Breach, if the Breach is known, or by exercising reasonable diligence would have known, to any person who is an employee, officer, or other agent of CONTRACTOR, as determined by federal common law of agency.

2. CONTRACTOR shall provide the notification of the Breach immediately to the COUNTY Privacy Officer. CONTRACTOR's notification may be written or oral, but if it is oral, CONTRACTOR shall follow by a written notification within twenty four (24) hours of the oral notification. Thereafter, CONTRACTOR shall provide written notification containing the contents stated below within five (5) calendar days. CONTRACTOR shall be required to provide any other information relevant to the Breach in writing as soon as the information is available.

3. CONTRACTOR's notification shall include, to the extent possible:

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a. The identification of each Individual whose Unsecured PHI has been, or is reasonably believed by CONTRACTOR to have been, accessed, acquired, used, or disclosed during the Breach;

b. Any other information that COUNTY is required to include in the notification to Individual under 45 CFR §164.404 (c) at the time CONTRACTOR is required to notify COUNTY or promptly thereafter as this information becomes available, even after the regulatory sixty (60) day period set forth in 45 CFR § 164.410 (b) has elapsed, including:

1) A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known;

2) A description of the types of Unsecured PHI that were involved in the Breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved);

3) Any steps Individuals should take to protect themselves from potential harm resulting from the Breach;

4) A brief description of what CONTRACTOR is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any future Breaches; and

5) Contact procedures for COUNTY to ask questions or learn additional information, which shall include a telephone number, an E-Mail address, or postal address.

4. COUNTY may require CONTRACTOR to provide notice to the Individual as required in 45 CFR § 164.404, if it is reasonable to do so under the circumstances.

5. In the event that CONTRACTOR is responsible for a Breach of Unsecured PHI in violation of the HIPAA Privacy Rule, CONTRACTOR shall have the burden of demonstrating that CONTRACTOR made all notifications to COUNTY consistent with this Subparagraph F and as required by the Breach notification regulations, or, in the alternative, that the acquisition, access, use, or disclosure of PHI did not constitute a Breach.

6. CONTRACTOR shall maintain documentation of all required notifications of a Breach or its risk assessment under 45 CFR § 164.402 to demonstrate that a Breach did not occur.

7. CONTRACTOR shall provide to COUNTY all specific and pertinent information about the Breach, including the information listed in Section E.3.b.(1)-(5) above, if not yet provided, to permit COUNTY to meet its notification obligations under Subpart D of 45 CFR Part 164 as soon as practicable, but in no event later than fifteen (15) calendar days after CONTRACTOR's initial report of the Breach to COUNTY pursuant to Subparagraph F.2 above.

8. CONTRACTOR shall continue to provide all additional pertinent information about the Breach to COUNTY as it may become available, in reporting increments of five (5) business days after the last report to COUNTY. CONTRACTOR shall also respond in good faith to any reasonable requests for further information, or follow-up information after report to COUNTY, when such request is made by COUNTY.

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9. If the Breach is due to the negligence or willful misconduct of CONTRACTOR, CONTRACTOR shall bear all reasonable expense or other reasonable costs associated with the Breach that COUNTY incurs in addressing the Breach and consequences thereof, including costs of investigation, notification, remediation, documentation or other costs associated with addressing the Breach. However, nothing stated herein shall relieve the CONTRACTOR from its obligation to address and be responsible for all costs related to any Breach which obligation the CONTRACTOR independently bears under HIPAA, the HITECH Act, and/or the HIPAA regulations. Regardless of whether the Breach is due to the negligence or willful misconduct of the CONTRACTOR, CONTRACTOR shall provide and/or pay for the cost of up to one year of credit monitoring of the Breaches of the Disaster Recovery System that CONTRACTOR hosts on its server

G. PERMITTED USES AND DISCLOSURES BY CONTRACTOR

1. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR as necessary to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement, provided that such use or Disclosure would not violate the HIPAA Privacy Rule if done by COUNTY except for the specific Uses and Disclosures set forth below.

a. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, for the proper management and administration of CONTRACTOR.

b. CONTRACTOR may disclose PHI COUNTY discloses to CONTRACTOR for the proper management and administration of CONTRACTOR or to carry out the legal responsibilities of CONTRACTOR, if:

1) The Disclosure is required by law; or

2) CONTRACTOR obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and the person immediately notifies CONTRACTOR of any instance of which it is aware in which the confidentiality of the information has been breached.

c. CONTRACTOR may use or further disclose PHI COUNTY discloses to CONTRACTOR to provide Data Aggregation services relating to the Health Care Operations of CONTRACTOR.

2. CONTRACTOR may use PHI COUNTY discloses to CONTRACTOR, if necessary, to carry out legal responsibilities of CONTRACTOR.

3. CONTRACTOR may use and disclose PHI COUNTY discloses to CONTRACTOR consistent with the minimum necessary requirements of HIPAA.

4. CONTRACTOR may use or disclose PHI COUNTY discloses to CONTRACTOR as required by law.

H. PROHIBITED USES AND DISCLOSURES

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1   1. CONTRACTOR shall not disclose PHI COUNTY discloses to CONTRACTOR or
2   CONTRACTOR creates, receives, maintains, or transmits on behalf of COUNTY about an individual
3   to a health plan for payment or health care operations purposes if the PHI pertains solely to a health
4   care item or service for which the health care provider involved has been paid out of pocket in full and
5   the individual requests such restriction, in accordance with 42 USC § 17935(a) and 45 CFR §
6   164.522(a).

7   2. CONTRACTOR shall not directly or indirectly receive remuneration in exchange for PHI
8   COUNTY discloses to CONTRACTOR or CONTRACTOR creates, receives, maintains, or transmits
9   on behalf of COUNTY, except with the prior written consent of COUNTY and as permitted by
10 42 USC § 17935(d)(2).

11 I. OBLIGATIONS OF COUNTY
12   1. COUNTY shall notify CONTRACTOR of any limitation(s) in COUNTY's notice of
13 privacy practices in accordance with 45 CFR § 164.520, to the extent that such limitation may affect
14 CONTRACTOR's Use or Disclosure of PHI.

15   2. COUNTY shall notify CONTRACTOR of any changes in, or revocation of, the
16 permission by an Individual to use or disclose his or her PHI, to the extent that such changes may
17 affect CONTRACTOR's Use or Disclosure of PHI.

18   3. COUNTY shall notify CONTRACTOR of any restriction to the Use or Disclosure of PHI
19 that COUNTY has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction
20 may affect CONTRACTOR's Use or Disclosure of PHI.

21   4. COUNTY shall not request CONTRACTOR to use or disclose PHI in any manner that
22 would not be permissible under the HIPAA Privacy Rule if done by COUNTY.

23 J. BUSINESS ASSOCIATE TERMINATION
24   1. Upon COUNTY's knowledge of a material Breach or violation by CONTRACTOR of
25 the requirements of this Business Associate Contract, COUNTY shall:

26   a. Provide an opportunity for CONTRACTOR to cure the material Breach or end the
27 violation within thirty (30) business days; or

28   b. Immediately terminate the Agreement, if CONTRACTOR is unwilling or unable to
29 cure the material Breach or end the violation within thirty (30) days, provided termination of the
30 Agreement is feasible.

31   2. Upon termination of the Agreement, CONTRACTOR shall either destroy or return to
32 COUNTY all PHI CONTRACTOR received from COUNTY or CONTRACTOR created, maintained,
33 or received on behalf of COUNTY in conformity with the HIPAA Privacy Rule.

34   a. This provision shall apply to all PHI that is in the possession of Subcontractors or
35 agents of CONTRACTOR.

36   b. CONTRACTOR shall retain no copies of the PHI.

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c.   In the event that CONTRACTOR determines that returning or destroying the PHI is not feasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon joint determination by COUNTY and CONTRACTOR that return or destruction of PHI is infeasible, CONTRACTOR shall extend the protections of this Business Associate Contract to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as CONTRACTOR maintains such PHI.

3.   The obligations of this Business Associate Contract shall survive the termination of the Agreement.

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EXHIBIT G

AGREEMENT FOR PROVISION OF

PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES

BETWEEN

COUNTY OF ORANGE

AND

CERNER CORPORATION

JANUARY 14, 2022 THROUGH MAY 31, 2023

I. **PERSONAL INFORMATION PRIVACY AND SECURITY CONTRACT**

Any reference to statutory, regulatory, or contractual language herein shall be to such language as in effect or as amended.

A. DEFINITIONS

1. "Breach" shall have the meaning given to such term under the IEA and CMPPA. It shall include a "PII loss" as that term is defined in the CMPPA.

2. "Breach of the security of the system" shall have the meaning given to such term under the CIPA, CCC § 1798.29(d).

3. "DHCS PI" shall mean PI, as defined below, accessed in a database maintained by the COUNTY or DHCS, received by CONTRACTOR from the COUNTY or DHCS or acquired or created by CONTRACTOR in connection with performing the functions, activities and services specified in the Agreement on behalf of the COUNTY.

4. "Notice-triggering PI" shall mean the PI identified in CCC § 1798.29(e) whose unauthorized access may trigger notification requirements under CCC § 1709.29. For purposes of this provision, identity shall include, but not be limited to, name, identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print, a photograph or a biometric identifier. Notice-triggering PI includes PI in electronic, paper or any other medium.

5. "PII" shall have the meaning given to such term in the IEA and CMPPA (reference Attachment 1 and Attachment 2 to this Exhibit H to the Agreement).

6. "PI" shall have the meaning given to such term in CCC § 1798.3(a).

7. "Required by law" means a mandate contained in law that compels an entity to make a use or disclosure of PI or PII that is enforceable in a court of law. This includes, but is not limited to, court orders and court-ordered warrants, subpoenas or summons issued by a court, grand jury, a governmental or tribal inspector general, or an administrative body authorized to require the production of information, and a civil or an authorized investigative demand. It also includes Medicare conditions of participation with respect to health care providers participating in the program, and statutes or regulations that require the production of information, including statutes or regulations

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that require such information if payment is sought under a government program providing public benefits.

8. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PI, or confidential data utilized in complying with this Agreement; or interference with system operations in an information system that processes, maintains or stores Pl. "Security incident" does not include trivial incidents that occur on a daily basis, such as scans, "pings", or unsuccessful attempts to penetrate computer networks or servers maintained by CONTRACTOR

B. TERMS OF AGREEMENT

1. Permitted Uses and Disclosures of DHCS PI and PII by CONTRACTOR. Except as otherwise indicated in this Exhibit, CONTRACTOR may use or disclose DHCS PI only to perform functions, activities, or services for or on behalf of the COUNTY pursuant to the terms of the Agreement provided that such use or disclosure would not violate the CIPA if done by the COUNTY.

2. Responsibilities of CONTRACTOR

CONTRACTOR agrees:

a. Nondisclosure. Not to use or disclose DHCS PI or PII other than as permitted or required by this Personal Information Privacy and Security Contract or as required by applicable state and federal law.

b. Safeguards. To implement appropriate and reasonable administrative, technical, and physical safeguards to protect the security, confidentiality and integrity of DHCS PI and PII, to protect against anticipated threats or hazards to the security or integrity of DHCS PI and PII, and to prevent use or disclosure of DHCS PI or PII other than as provided for by this Personal Information Privacy and Security Contract. CONTRACTOR shall develop and maintain a written information privacy and security program that include administrative, technical and physical safeguards appropriate to the size and complexity of CONTRACTOR's operations and the nature and scope of its activities, which incorporate the requirements of Subparagraph c. below. CONTRACTOR policy is to tightly control and not distribute written or electronic copies of its security policies, due to their sensitivity, but they can be viewed on a limited basis in one of the CONTRATOR's offices or alternatively with an onsite CONTRACTOR associate who can present this information in a properly secured WebEx/teleconference meeting. These controls serve to maintain the appropriate security posture for protecting all clients' data.

c. Security. CONTRACTOR shall ensure the continuous security of all computerized data systems containing DHCS PI and PII. CONTRACTOR shall protect paper documents containing DHCS Pl and PII. These steps shall include, at a minimum:

1) Complying with all of the data system security precautions listed in Subparagraph E. of the Business Associate Contract, Exhibit B to the Agreement; and

2) Providing a level and scope of security that is at least comparable to the level and scope of security established by the OMB in OMB Circular No. A-130, Appendix III-Security of

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Federal Automated Information Systems, which sets forth guidelines for automated information systems in Federal agencies.

3) If the data obtained by CONTRACTOR from COUNTY includes PII, as applicable, CONTRACTOR shall also comply with the substantive privacy and security requirements in Attachments 1 and 2 to this Exhibit H (The CMPPA Agreement between the SSA and the CHHS and in the Agreement between the SSA and DHCS, known as the IEA. The specific sections of the IEA with substantive privacy and security requirements to be complied with are sections E, F, and G, and in Attachment 4 to the IEA, Electronic Information Exchange Security Requirements, Guidelines and Procedures for Federal, State and Local Agencies Exchanging Electronic Information with the SSA). CONTRACTOR also agrees to ensure that any of CONTRACTOR's agents or subcontractors, to whom CONTRACTOR provides DHCS PII agree to materially the same requirements for privacy and security safeguards for confidential data that apply to CONTRACTOR with respect to such information.

d. Mitigation of Harmful Effects. To mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of DHCS PI or PII by CONTRACTOR or its subcontractors in violation of this Personal Information Privacy and Security Contract.

e. CONTRACTOR's Agents and Subcontractors. To impose materially the same restrictions and conditions set forth in this Personal Information and Security Contract on any subcontractors or other agents with whom CONTRACTOR subcontracts any activities under the Agreement that involve the disclosure of DHCS PI or PII to such subcontractors or other agents.

f. Availability of Information. To make DHCS PI and PII available to the DHCS and/or COUNTY for purposes of oversight, inspection, amendment, and response to requests for records, injunctions, judgments, and orders for production of DHCS PI and PII. If CONTRACTOR receives DHCS PII, upon request by COUNTY and/or DHCS, CONTRACTOR shall provide COUNTY and/or DHCS with a list of all employees, contractors and agents who have access to DHCS PII, including employees, contractors and agents of its subcontractors and agents. Where CONTRACTOR'S provision of services involves CONTRACTOR remote hosting of solutions for COUNTY, CONTRACTOR will provide to COUNTY upon request CONTRACTOR'S SOC1 and/or SOC2 type II (or industry equivalent) reports.

g. Cooperation with COUNTY. With respect to DHCS PI, to cooperate with and assist the COUNTY to the extent necessary to ensure the DHCS's compliance with the applicable terms of the CIPA including, but not limited to, accounting of disclosures of DHCS PI, correction of errors in DHCS PI, production of DHCS PI, disclosure of a security Breach involving DHCS PI and notice of such Breach to the affected individual(s).

h. Breaches and Security Incidents. During the term of the Agreement, CONTRACTOR agrees to implement reasonable systems for the discovery of any Breach of unsecured DHCS PI and PII or security incident. CONTRACTOR agrees to give notification of any Breach of unsecured

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1   DHCS PI and PII or security incident in accordance with Subparagraph F, of the Business Associate

2   Contract, Exhibit F to the Agreement.

3   i.   Designation of Individual Responsible for Security. CONTRACTOR shall designate

4   an individual, (e.g., Security Officer or designee), to oversee its data security program who shall be

5   responsible for carrying out the requirements of this Personal Information Privacy and Security

6   Contract and for communicating on security matters with the COUNTY."

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EXHIBIT H
AGREEMENT FOR PROVISION OF
PUBLIC HEALTH ELECTRONIC HEALTH RECORD SERVICES
BETWEEN
COUNTY OF ORANGE
AND
CERNER CORPORATION
JANUARY 14, 2022 THROUGH MAY 31, 2023

I. SECURITY REQUIREMENTS AND GUIDELINES FOR APPLICATION VENDORS AND APPLICATION SERVICE PROVIDERS

County of Orange Health Care Agency

Security Requirements and Guidelines for Application Vendors and Application Service Providers

04/2018

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Overview

Security Requirements and Guidelines for Application Vendors and Application Service Providers

This document provides a high-level overview of application security related guidelines and requirements set forth by the Orange County Health Care Agency (OCHCA), and applies to both software vendors for County-implemented applications and application service providers who provide hosted services.

These requirements and guidelines are consistent with regulatory privacy and security requirements and guidelines as well as supportive of OCHCA's position and practices on risk management in terms of appropriately safeguarding OCHCA's information assets.

The sections below are comprehensive and may apply in whole or in part based on specific implementation and scope of work. The expectation is that vendors will comply with relevant sections, as necessary. This information will be reviewed, validated and documented by OCHCA Security prior to any contract being finalized.

Vendors are required to comply with all existing legal and regulatory requirements as they relate to OCHCA's systems and data. Example of regulations, rules and laws include, but are not limited to, the Health Insurance Portability and Accountability Act (HIPAA), Senate Bill 1386, Payment Card Industry (PCI) Data Security Standards(if applicable), and Sarbanes-Oxley (SOX). Vendors must also commit to ensuring compliance with all future local, state and federal laws and regulations related to privacy and security as they pertain to the application or service.

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General Security Requirements

- The application/system must meet the general security standards based upon ISO ISO/IEC 27001:2013, ISO/IEC 27017:2015, and ISO/IEC 27018:2019 – for its information security management system. The application must run on an operating system that is consistently and currently supported by the operating systems vendor. Applications under maintenance are expected to always be current in regards to the current version of the relevant operating system.

- For applications hosted by OCHCA, OCHCA will routinely apply patches to both the operating system and subsystems as updated releases are available from the operating system vendor and or any third party vendors. The vendors must keep their software current and compatible with such updated releases in order for the application to operate in this environment.

- Vendors must provide timely updates to address any applicable security vulnerabilities found in the application.

- OCHCA utilizes a variety of proactive, generally available, monitoring tools to assess and manage the health and performance of the application server, network connectivity, power etc. The application must function appropriately while the monitoring tools are actively running.

- All application services must run as a true service and not require a user to be logged into the application for these services to continue to be active. OCHCA will provide an account with the appropriate security level to logon as a service, and an account with the appropriate administrative rights to administer the application. The account password must periodically expire, as per Vendor's policies and procedures.

- In order for the application to run on OCHCA server and network resources, the application must not require the end users to have administrative rights on the server or subsystems.

Encryption

- Application/system must use encryption to protect sensitive data at rest wherever technically possible (e.g. SQL TDE Encryption).

- All data transmissions must be encrypted using a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher. Encryption can be end to end at the network level. This requirement pertains to any regulated data in motion such as website access and file transfers.

- All electronic files, where applicable, that contain OCHCA data must be encrypted when stored on any removable media or portable device (USB drives, CD/DVD, mobile phones, backup tapes). The

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encryption must be a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher.

- All encryption methods used for data storage and transmission must be disclosed by the vendors.

Network Application Documentation

Vendors must provide documentation related to the configuration of the application including methods of secure implementation and port requirements.

Access Management

- Application/system must control access to and within the system at multiple levels (e.g. per user, per user role, per area, per section of the chart) through a consistent mechanism of identification and authentication of all users in accordance with the 'Role Based Access Control' (RBAC) standard.
- Application/system must support measures to define, attach, modify and remove access rights for all classes of users.
- Application/system must support measures to enable and restrict access to the whole and/or sections of the technology solution in accordance with prevailing consent and access rules.
- Application must have the ability to create unique user accounts.
- Cerner Millennium Application must support session timeouts or automatic logoff after 20 minutes of inactivity
- The Cerner Millennium application must provide functionality to automatically disable or lock accounts after 60 days of inactivity.

Password Management

- Application must support password management measures including but not limited to password expiration, account lockout and complex passwords.
- Passwords expiration must be set to 90 days and the system must prevent the use of the previous 12 passwords.
- Accounts must be locked after five unsuccessful login attempts.
- The password must be at least 8 characters in length.

- Passwords must comply with the following complexity rule:
  - ♦ Passwords will contain a minimum of one upper case letter (A through Z)
  - ♦ Passwords will contain a minimum of one lower case letter (a through z)
  - ♦ Passwords will contain a minimum of one number (0 through 9)
  - ♦ Passwords will contain a minimum of one special character (! @ # $ % ^ & etc.)

Audit Capabilities

Auditing and logging capabilities will permit HCA to identify unauthorized or unintended changes to data from user activity

- Application must support the identification of the nature of each access and/or modification through the use of logging.
- Application must employ audit capabilities to sufficiently track details that can establish accountability for each step or task taken in a clinical or operational process.
- All audit logs must be protected from human alteration.
- Access to logs must be limited to authorized users.
- The application must employ basic query tools and reports to easily search logs.
- OCHCA record retention policies must be followed. Currently OCHCA requires that this period be at least six years from the time the record was initiated.
- Logging and auditing functionality must include the following:
  - ♦ Record of who did what to which object, when and on which system.
  - ♦ Successful/unsuccessful log-in and log-out of users.
  - ♦ Add, modify and delete actions on data/files/objects.
  - ♦ Read/view actions on data classified as restricted/confidential.
  - ♦ Changes to user accounts or privileges (creation, modification, deletion).
  - ♦ Switching to another users access or privileges after logging in (if applicable).

Protection from Malicious Code

- For cloud hosted solutions, vendors must utilize antivirus/antispyware software on servers and monitor to prevent malicious code which may lead to a compromise of OCHCA's data.
- For local hosted solutions, vendors must ensure that the application appropriately supports the use of antivirus/antispyware software.

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Remote Support Functionality

- When remotely accessing County data hosted by Vendor, Vendor must access via secure VPN utilizing multi-factor authentication.
- When accessing County data hosted by County, Vendor must follow County approved remote access solutions.

HCA Data Usage

- During the course of any implementation and subsequent support and life cycle management, any OCHCA data that the vendors have access to in any manner shall be considered confidential unless otherwise designated in writing.
- Vendors must not use or disclose OCHCA's data other than as permitted or as required by contract or law.
- The vendors must agree to use appropriate safeguards to prevent the unauthorized use or disclosure of OCHCA's data during any time that the data is stored or transported in any manner by vendors.
- After the end of any appropriate use of OCHCA's data within the vendors' possession, such data must be returned to OCHCA or securely destroyed unless otherwise permitted by contract or law.

Cloud Solutions

Application Service Providers hosting OCHCA data must meet the following additional requirements and are required to comply with and provide deliverables noted below:

- **SSAE 18.** SSAE 18 SOC 2 Type 2 or SOC 3 compliance certificate..
- **Network Intrusion Detection and Prevention.** All systems that are accessible via the internet must actively use a network based intrusion detection and prevention solution.
- **Workstation/Laptop Encryption.** All workstations, laptops and mobile devices that process and/or store OCHCA data must be encrypted using full disk encryption that uses a FIPS 140-2 certified algorithm, such as Advanced Encryption Standard (AES), with a 128bit key or higher.
- **Jurisdiction and Location of OCHCA Data.** To protect against seizure and improper use by non-United States (US) persons and government entities, all data / information stored for OCHCA must reside in a facility under the legal jurisdiction of the US.

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- **Patch Management.** All workstations, laptops, and other systems that access, process and/or store OCHCA data must have appropriate security patches installed. Application Service Providers must utilize a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a minimum, all critical patches must be installed within 30 days of vendor release.

- **Application Access.** All systems accessible via the internet must employ security controls to prevent access to the application via an asset not approved or owned by the county.

- **Risk Assessment.** Application Service Providers hosting data for HIPAA covered services must conduct an accurate and thorough Risk Assessment as required by HIPAA Security Rule, Security Management (§ 164.308(a)(1)). Further, they must follow the risk assessment methodology, based on the latest version of NIST SP 800-30 (http://csrc.nist.gov/publications/nistpubs/800-30-rev1/sp800_30_r1.pdf). Upon request, any applicable Risk Assessment findings and remediation strategy must be shared with OCHCA.

- **NIST.** To ensure compliance with HIPAA, Application Service Providers shall implement appropriate security safeguards by following National Institute of Standards and Technology (NIST) guidelines.

Policies

Vendors must have formal, published IT security policies that address how they manage and maintain the internal security posture of their own or sub-contracted infrastructure. The vendor shall also clearly demonstrate that additional security features are in place to protect systems and data in the unique environment of the service provider model: namely, security issues associated with storing County-owned data on a remote server that is not under direct County control and the necessity of transferring this data over an untrusted network.

Vendors must allow viewing in a controlled environment, to the extent permissible, all relevant security policies and procedures to the County for review. Vendor's policy is to tightly control and not distribute written or electronic copies of its security policies, due to their sensitivity, but they can be viewed on a limited basis in one of Vendor's offices or alternatively with an onsite Vendor associate who can present this information in a properly secured WebEx / teleconference meeting. These controls serve to maintain the appropriate security posture for protecting all clients' data.

These policies must include, but not be limited to, the following:

- **IT Staff Usage Agreement.** All vendor employees performing services for the County must sign and agree to an IT usage agreement within their own organization as part of an overall security training and

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awareness program. At a minimum, vendor employees must sign a statement of understanding within their own organization regarding Internet dangers, IT security, and IT ethics and best practices.

- **IT Security Policies and Procedures**.

- **IT Operations Security Policy**. Written standards for operational security for any facilities where the County data, staff or systems shall exist. These documents must include, but not be limited to, physical security, network security, logical security, systems/platform security, wireless access, remote access, and data protections.

- **Data Management Security Policy**. Policy for the safeguarding and management of all data provided by the County or accessed by vendor as part of implementation and ongoing maintenance. This policy must, at a minimum, include check-in, check-out, copy control, audit logs and separation of duties.

- **Security Incident Notification and Management Process**. A detailed document that outlines the contact names and order and escalation of events that will occur in the case of a security breach concerning the County staff, data, or systems. This document must be updated immediately upon any change. The vendor shall be held liable to the time-tables and protections outlined in the document.

In addition to developing, maintaining, and enforcing the above named policies, the vendor must:

- Bear the cost of compliance for any required changes to security infrastructure, policies and procedures to comply with existing regulations, unless such change is unique to the County.

- Comply with applicable requests by the County for audits of security measures, including those related to identification and password administration.

- Comply with applicable requests by the County for onsite physical inspections of the Cerner owned location from which the vendor provides services to County.

- Provide the County with any annual audit summaries and certifications, including but not limited to HIPAA, ISO or SOX audits, as applicable.

- Designate a single point of contact, which is the Immediate Response Center (IRC)to facilitate applicable IT security activities related to services provided to the County, with the allowance of appropriate backups. Such contact(s) must be available on a 7/24/365 basis.

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Business Continuity / Disaster Recovery Plans

Application Service Providers must have a viable risk management strategy that is formally documented in a Business Continuity Plan (BCP) and/or a Disaster Recovery Plan (DRP). This BCP/DRP plan(s) must identify recovery strategies within the application service areas, outline specific recovery methods and goals, and provide the mutually agreed upon recovery time and point objectives.

Backup and Restore

The vendor must allow viewing in a controlled environment their routine Backup and Restore policy and procedure which includes their backup data security strategy. These procedures shall allow for protection of encryption keys (if applicable) as well as a document media destruction strategy including media management tasks (i.e., offsite vaulting and librarian duties).

Staff Verification

For any employee a vendor contemplates using to provide services for the County, the vendor shall use its standard employment criteria as used for similar services provided to other customers in evaluating the suitability of that employee for such roles.

At a minimum, subject to the requirements of applicable law, such criteria must include the information as outlined below for each employee:

- **Relevant Skills, Licenses, Certifications, Registrations**. Each service employee must possess the educational background, work experience, skills, applicable professional licenses, and related professional certifications commensurate with their position. The County may, at any time and at its sole discretion, request that the vendor demonstrate compliance with this requirement as applicable to the nature of the services to be offered by the vendor's employee. The County may, at its sole discretion, also request the vendor's certification that the vendor employee has undergone a chemical/drug screening, with negative results, prior to granting access to the County facilities.

- **Background Checks**. In accordance with applicable law, the vendor must, at the County's request, obtain as a condition of employment, a background investigation on any vendor employee selected to work for the County. The security and background investigation shall include criminal record checks, including records of any conviction in the U.S. or other relevant jurisdiction where the employee resides. Costs for background investigations must be borne by the vendor.

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At a minimum, subject to the requirements of applicable law, the vendor must:

1. Ensure that all vendor service employees performing applicable services or supporting the vendor's duties and obligations under a County agreement: (i) have not been convicted of any crime involving violence, fraud, theft, dishonesty or breach of trust under any laws; and (ii) have not been on any list published and maintained by the Government of the United States of America of persons or entities with whom any United States person or entity is prohibited from conducting business.

2. Follow such verification procedures as may be reasonably specified by the County from time to time. If either the vendor or the County becomes aware that any vendor employee has been convicted of a crime involving violence, fraud, theft, dishonesty or breach of trust, or has been included on any such list of persons or entities convicted of such crimes, then the vendor shall promptly remove the employee from providing services to the County and prohibit that employee from entering any facilities at which services are provided.

IT Physical Security and Access Control

The vendor must establish processes and procedures for physical access to and control of their own facilities that are, at a minimum, consistent with relevant industry-specific best practices.

Vendor employees are expected to:

- Comply with facility access procedures, using procedures such as sign-in/sign-out requirements and use of assigned ID badges.

- Scan ID badges, where applicable, at any secure door and/or entrance and exit gates, including any door or gate that may already be open.

- Refrain from using recordable media in conjunction with County-owned equipment.

- Comply with check-in/check-out requirements for materials and/or equipment.

- Adhere to the facility's established emergency, safety and evacuation procedures.

- Report any unsafe conditions to the facility's safety representative.

- Report any access violations or security threats to the facility's local security administrator.

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IT Security Compliance and Training

The vendor must ensure that all vendor employees comply with security policies and procedures and take all reasonable measures to reduce the opportunity for unauthorized access, transmission, modification or misuse of the County's data by vendor employees.

The vendor must ensure that all vendor employees are trained on security measures and practices. The vendor will be responsible for any costs related to such training.

At a minimum, the vendor is expected to:

- Ensure that a formal disciplinary process is defined and followed for vendor employees who violate established security policies and procedures.

- Proactively manage and administer access rights to any equipment, software and systems used to provide services to the County.

- Define, maintain and monitor access controls, ranging from physical access to logical security access, including a monthly review of vendor employees' access to systems used to provide services to the County.

The vendor shall monitor facilities, systems and equipment to protect against unauthorized access.

At a minimum, the vendor is expected to:

- Monitor access to systems; investigate apparent security violations; and notify the County of violations, including routine reporting on hacking incidents, penetrations and responses.

- Maintain data access control and auditing software and provide adequate logging, monitoring, and investigation of unusual or suspicious activity.

- Initiate immediate corrective actions to minimize and prevent the reoccurrence of actual security violations.

- Document details related to actual security violations and provide documentation to the County.

- Provide necessary documentation and evidence to the County in connection with any legal action or investigation related to the provision of the services by Vendor to County.

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Security Testing Recommendations

The vendor should perform a series of steps to verify the security of applications, some of which are noted below. This section will not be validated by the County, but reflects best practices that the vendor should consider and follow.

1. Look for vulnerabilities at various layers of the target environment. In the lowest layer, the vendor's testing team should look for flaws in the target network environment, including any routers and firewalls designed to control access to the web server and related target components. The team should attempt to determine whether such filters provide adequate protection at the network layer of the target hosts that the team can reach across the Internet.

2. Look for flaws in the Internet-accessible hosts associated with the target infrastructure, including the web server. This host-based component of the test will analyze which network-accessible services are available on the target hosts across the Internet, including the web server process. The testing team should look for incorrect configuration, unpatched or enabled services, and other related problems on the target hosts.

This review performed by the vendor should include but not be limited to:

- The web application (i.e., the software that interacts with users at their web browsers; typically, custom-crafted code created by the web development team)

- The web server application (the underlying software that sends and receives information via HTTP and HTTPS, typically off-the-shelf software such as Microsoft's IIS or the open-source Apache software)

- Any separate backend application servers that process information from the web application

- The backend database systems that house information associated with the web application.

- Infrastructure diagrams.

- Configuration host review of settings and patch versions, etc.

- Full code review.

- Identification and remediation of well-known web server, code engine, and database vulnerabilities.

- Identification and remediation of any server and application administration flaws and an exploitation attempt of same.

- Analysis of user interface, normal application behavior, and overall application architecture for potential security vulnerabilities.

- Analysis of data communications between the application and databases or other backend systems.

- Manual analyses of all input facilities for unexpected behavior such as SQL injection, arbitrary command execution, and unauthorized data access.

- Analyses of user and group account authentication and authorization controls to determine if they can be bypassed.

- Identification of information leakage across application boundaries, including the capability to enumerate other users' data and "show code" weaknesses that reveal internal application logic.

- Identification of areas where error handling is insufficient or reveals too much sensitive information.

- Identification of opportunities to write to the host file system or execute uploaded files.

- Identification of product sample files, application debugging information, developer accounts or other legacy functionality that allows inappropriate access.

- Determination as to whether or not fraudulent transactions or access can be performed.

- Attempts to view unauthorized data, especially data that should be confidential.

- Examination of client-side cached files, temporary files, and other information that can yield sensitive information or be altered and re-submitted.

- Analysis of encoded and encrypted tokens, such as cookies, for weakness or the ability to be reverse engineered.

Vendor Deliverables

The following items are to be provided by the vendor:

- OCHCA Security Requirements and Guidelines for Application Vendors and Application Service Providers - Questionnaire

- Business Continuity Plan Summary (as related to service provided)

- SSAE 18 SOC 2 Type 2 or SOC 3 compliance certificate

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- The vendor will allow viewing in a controlled environment Network Diagram that demonstrates vendor network and application segmentation including the security controls in place to protect HCA data (to the degree applicable to the hosting services included in this Agreement

- Vendor will allow OCHCA to view Vendor policies in one of the Vendor's offices or alternatively with an onsite Vendor associate who can present this information in a properly secured WebEx/teleconference meeting
  - IT Security Staff Usage Policy
  - IT Security Policies and Procedures
  - IT Operations Security Policy
  - Data Management Security Policy

- Security Incident Notification and Management Process

- Security Contact Identification (24x7x365)

- Staff Related Items for Cerner associates that work with the County
  - Pre-Employment Screening Policy/Procedure
  - Background Checking Procedure
  - Ongoing Employment Status Validation Process
  - Staff and Roster Duties

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