



STATEWIDE CONTRACT

No. 23023

ELECTRONIC HEALTH RECORDS SOLUTION

For Use by Eligible Purchasers

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

EPIC SYSTEMS CORPORATION

Dated August _____, 2024

STATEWIDE CONTRACT

No. 23023

ELECTRONIC HEALTH RECORDS SOLUTION

INTRODUCTION

This Washington Statewide Contract (“Contract”) is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency (“Enterprise Services”) and Epic Systems Corporation, Inc, a Wisconsin corporation (“Vendor” or “Epic”) and is dated and effective as of August ___, 2024.

RECITALS

- A. Pursuant to Legislative authorization, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish enterprise procurement solutions, including statewide contracts, for goods and/or services to support Washington state agencies. The Washington State Legislature also has authorized Enterprise Services to make these contracts available, pursuant to an agreement in which Enterprise Services ensures full cost recovery, to other local or federal government agencies or entities, public benefit nonprofit organizations, and any tribes located in the State of Washington.
- B. Pursuant to its statutory authority, Enterprise Services is establishing a Contract for Electronic Health Records Solutions that is designed to enable eligible purchasers to procure specified electronic health record software from the awarded Vendor in a cost-effective, efficient manner using the terms and conditions of the Contract, as may be augmented and clarified by the terms of various Purchase Orders with eligible Purchasers.
- C. On behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued Competitive Solicitation No. 23023 dated October 6, 2023.
- D. Enterprise Services evaluated all responses to the Competitive Solicitation and identified Vendor as an apparent successful bidder.
- E. Enterprise Services has determined that entering into this Contract will meet the identified needs and be in the best interest of the State of Washington.
- F. The purpose of this Contract is to enable eligible purchasers to license Goods and purchase the Services as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **TERM.** The term of this Contract is seventy two (72) months, commencing on the date set forth in the Introduction to this Contract; Provided, however, that if Vendor is not in default and if, by September 1, 2029, in Enterprise Services’ reasonable judgment, Vendor satisfactorily has met the performance-based goals for contract extension, Enterprise Services shall extend the term of this Contract, by written amendment, for up to forty eight (48) additional months. Such extension amendment shall

be on the same terms and conditions as set forth in this Contract. To earn the performance-based Contract term extension, Vendor must achieve the following performance-based metrics:

PERFORMANCE METRIC	PERFORMANCE REQUIREMENT FOR CONTRACT EXTENSION
Data Security Certifications and Notices:	Vendor timely provides to Purchaser annual security reports, attestations and Data Breach notifications (if applicable) as required by this Contract. <i>See Section 17(j)</i> of Exhibit D.
Services Availability Service Level Standard:	See Section 8.5.
Technical Support Service Level Standard:	See Section 8.5.
Insurance Endorsements:	Upon Enterprise Services’ written request, but no more than once annually, Vendor timely provides to Enterprise Services at the designated address, a certificate of insurance evidencing the insurance coverages required by this Contract in accordance with Section 13 and <i>Exhibit C – Insurance Requirements</i> .
Vendor Management Fee:	Vendor timely remits to Enterprise Service, with no less than a 75% on time rate over the contract term, the applicable Vendor Management Fee (VMF).
Contract Sales Reports:	Vendor timely provides to Enterprise Services, with no less than a 75% on time rate over the contract term, the required Contract quarterly sales reports.

2. ELIGIBLE PURCHASERS. This Contract may be utilized by any of the following types of entities by such entity entering into a Purchase Order substantially in the form of Exhibit D to this Contract, signed by such entity and Vendor:

- 2.1. Washington State Healthcare Authority
- 2.2. OTHER WASHINGTON STATE AGENCIES. Other Washington state agencies, departments, offices, divisions, boards, and commissions not listed in Section 2.1.
- 2.3. WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION (COLLEGES). Any of the following institutions of higher education in Washington:
 - State universities – i.e., University of Washington & Washington State University;
 - Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University

- Evergreen State College;
 - Community colleges; and
 - Technical colleges.
- 2.4. **CONTRACT USAGE AGREEMENT PARTIES.** Any of the following types of entities that have executed a Contract Usage Agreement with Enterprise Services:
- Political subdivisions (e.g., counties, cities, school districts, public utility districts) in the State of Washington;
 - Federally-recognized Indian Tribes located in the State of Washington; and
 - Other organizations with Vendor’s consent.
- 2.5. For the avoidance of doubt, vendor is not required to enter into a Purchase Order with any entity. If the terms of a Purchase Order between Vendor and a Purchaser so allow it, certain of the entities set forth in Sections 2.2 through 2.4 who do not execute a Purchase Order with Vendor may nonetheless make use of certain Goods and Services through an arrangement with such Purchaser.
- 3. SCOPE – INCLUDED GOODS AND/OR SERVICES AND PRICE.**
- 3.1. **CONTRACT SCOPE.** Pursuant to this Contract, Vendor is authorized to sell and provide only those Goods and/or Services set forth in *Exhibit A – Included Goods/Services* consistent with the pricing information in *Exhibit B – Prices for Goods/Services*. Vendor shall not represent to any Purchaser under this Contract that Vendor has contractual authority to sell or provide any Goods and/or Services beyond those set forth in *Exhibit A – Included Goods/Services*.
- (a) **Goods.** For purposes of this Contract, “Goods” means software as described on Exhibit A.
 - (b) **Services.** For purposes of this Contract, “Services” means services of any nature ordered by Purchaser pursuant to a Purchase Order.
 - (c) **Specifications.** Where applicable, specifications for Goods and/or Services are detailed in this Contract and the Purchase Order.
- 3.2. **PRICE METHODOLOGY.** During the term of this Contract, Epic agrees to provide the Goods and/or Services consistent with the pricing information in *Exhibit B – Prices for Goods/Services*.
- 3.3. **NOT USED.**
- 4. VENDOR REPRESENTATIONS AND WARRANTIES.** Vendor makes each of the following representations and warranties as of the effective date of this Contract.
- 4.1. **QUALIFIED TO DO BUSINESS.** Epic represents and warrants that Epic is (a) in good standing; (b) qualified to do business in the State of Washington; and (c) registered with the Washington State Department of Revenue.
- 4.2. **TAXES.** Epic represents and warrants that to its knowledge, Epic is current and is not overdue in paying applicable taxes owed to the State of Washington.
- 4.3. **LICENSES; CERTIFICATIONS; AUTHORIZATIONS; & APPROVALS.** Epic represents and warrants that to its knowledge Epic possesses all required licenses, certifications, permits, authorizations, and

approvals necessary for Epic's proper performance of this Contract, except where the failure to do so would not have a material adverse effect on Epic's ability to perform this Contract.

- 4.4. **SUSPENSION & DEBARMENT.** Epic represents and warrants as of the date of this Contract that, to its knowledge, neither Epic nor its principals that Epic intends to provide Goods or Services under a Purchase Order presently are debarred, suspended, declared ineligible, or voluntarily excluded from participation in any Federal Health Care Program (as defined in 42 U.S.C. Section 1320 a7b(f), or any applicable successor statutory section). Additional terms related to debarment are set forth in Section 17(n) of Exhibit D.
- 4.5. **WAGE VIOLATIONS.** Epic represents and warrants that as of the date of this Contract and the three (3) year period immediately preceding the award of the Contract, Epic has not been determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of the State of Washington, to be in willful violation of any provision of Washington state wage laws set forth in RCW 49.46, 49.48, or 49.52.
- 4.6. **CIVIL RIGHTS.** As of the date of this Contract, Epic has policies not to discriminate against any employee or applicant for employment to be employed in the performance of this Contract based on their status as protected veterans or individuals with disabilities, race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 4.7. **PUBLIC CONTRACTS AND PROCUREMENT FRAUD.** Epic represents and warrants that, to its knowledge, within the three (3) year period prior to this Contract, neither Epic nor its corporate officers in the course of their duties: (a) have been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a government (federal, state, or local) contract or purchase order under a public contract; (b) have been finally determined by a court of competent jurisdiction to be in violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or (c) have been indicted for or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (b) of this provision.
- 4.8. **PROCUREMENT ETHICS & PROHIBITION ON GIFTS.** Epic expects all of its employees not to give or receive gifts that could be perceived as influencing the recipient. Epic's Gift Policy provides guidelines for acceptable gifts. Epic also regularly provides reminders of elements of the policy at its all-employee Staff Meetings. Epic also makes available answers to frequently asked questions about gift giving to help employees make good choices.
- 4.9. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS).** Epic represents and warrants that Epic is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of Epic's information therein is current and accurate and that throughout the term of this Contract, Epic shall maintain an accurate profile in WEBS.
- 4.10. **WASHINGTON'S STATEWIDE PAYEE DESK.** Epic represents and warrants that Epic is registered with Washington's Statewide Payee Desk. Enterprise Services represents to Epic that state agencies can only make payments to entities that are registered with Washington's Statewide Payee Desk.
- 4.11. **CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT.** The award of this Contract to Epic is not in any way an endorsement of Epic or Epic's products and services by Enterprise Services and

must not be so construed by Epic in any public-facing advertising or publicity materials without Enterprise Services' consent. The foregoing restriction does not apply to or prohibit Epic from (i) using Purchaser's or Enterprise Services' name in direct communications with customers or prospective customers (such as in a response to an RFP or another direct communication), or (ii) including Purchaser's name and a list of the Program Property that a Purchaser licenses in marketing materials that contain a list of Epic's customers.

- 4.12. **CONTINGENT FEES.** Epic represents and warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents of Epic.
- 4.13. **FINANCIALLY SOLVENT.** Epic represents and warrants that, as of the date of this Contract, Epic has not commenced bankruptcy proceedings and that, except as would not have a materially adverse effect on Epic's ability to perform under this Contract, there are no judgment, liens, or encumbrances of any kind affecting title to any Goods and/or Services that are the subject of this Contract.
- 4.14. **Not Used.**
- 4.15. **ACCESSIBILITY.** As of the date of this Contract, Epic intends to conform to the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines 2.1 Level AA for its future patient-facing, web-based development. Upon a Purchaser's reasonable request, but no more than annually, a Purchaser's Epic implementation executive or technical coordinator will meet with Purchaser to discuss any recent accessibility enhancements and Epic's then-current plans for future enhancements.

5. QUALITY; WARRANTY; REMEDIES.

- 5.1. **GOODS, SERVICES, AND IT WARRANTY.** The terms of a warranty and corresponding remedies are set forth in Section 6 of Exhibit D.

6. SAFETY; SECURITY.

- 6.1. **ACCIDENT AND INJURY REPORTING.** Vendor and Enterprise Services do not anticipate that Vendor will be on Enterprise Services' premises in the course of carrying out its obligations under this Contract. Any necessary terms related to injuries and accidents involving Vendor and Subcontractor employees while on-site at a Purchaser's premises will be set forth in Purchase Orders.
- 6.2. **ON SITE REQUIREMENTS.** Terms governing requirements for Vendor's employees while onsite at a Purchaser's facilities are set forth in Section 2(e) of Exhibit D.
- 6.3. **DATA SECURITY.**
 - (a) **ANNUAL SECURITY CERTIFICATIONS.** Terms related to annual security certifications are set forth in Section 17(j) of Exhibit D.
 - (b) **DATA BREACH.** Terms related to data breaches and reporting are set forth in Section 8(b) of Exhibit D and Exhibit D-5 thereto.

7. SUBCONTRACTORS.

- 7.1. **VENDOR RESPONSIBILITY.** Epic may subcontract its activities under this Contract or any Purchase Order to any Epic Owned Entity. Epic also may subcontract such activities to subcontractors that are not Epic Owned Entities. Epic will inform a Purchaser in advance of any proposed Subcontractor that is not an Epic Owned Entity and the activities it would carry out. Notwithstanding any provision to the contrary, in the event Epic elects to utilize subcontractors to perform this Contract, Epic shall: (a) be fully responsible for the performance of any such subcontractors (regardless of tier) to the same extent as it is for Epic’s own work; (b) be the sole point of contact for Enterprise Services and any Purchasers regarding all contractual matters; and (c) ensure that Subcontractors are registered in WEBS. For purposes of this Contract, “Subcontractor” means a non-employee person or entity that Vendor engages to provide implementation services at Purchaser’s premises that Vendor is obligated to provide pursuant to the terms of this Contract or a Purchase Order, and excludes Owned Entities of Vendor or their employees. For the purposes of this Contract, “Owned Entity” of a party means an entity that (y) directly or indirectly owns or controls more than fifty percent of the applicable party, or (z) is more than fifty percent owned or controlled, directly or indirectly, by the applicable party or an entity described in clause (y).
- 7.2. **NOT USED.**
- 7.3. **SUBCONTRACTING TERMS IN PURCHASE ORDER.** Additional terms related to subcontracting services under a Purchase Order are set forth in Section 17(f)(i) of Exhibit D.

8. USING THE CONTRACT – PURCHASES.

- 8.1. **ORDERING REQUIREMENTS.** An entity becomes a “Purchaser” under this Contract upon the execution by such entity and Epic of an agreement substantially in the form of Exhibit D hereto. Such Purchase Order must reference the Contract number. Subsequent purchases made by such Purchaser may be made by using any ordering mechanism agreeable both to Epic and Purchaser. In the event of any direct conflict between the terms of a Purchase Order and the terms of this Contract, the terms of this Contract shall prevail. The parties agree that the terms of the form of Purchase Order attached to this Contract as Exhibit D do not conflict with the terms of this Contract. The parties also agree that Vendor and a Purchaser may agree to additional or varying terms in a Purchase Order, such as a statement of work for implementation services that includes more detail than the detail set forth in Exhibit D.
- 8.2. **LOCATION OF SERVICES.** Terms related to the locations from where Epic provides support are set forth in Section 17(k) of Exhibit D.
- 8.3. **LICENSE GRANT.**
 - (a) **AUTHORIZED USERS.** Terms related to the scope of the license grant to a Purchaser are set forth in Exhibit D, including Section 1 thereof.
 - (b) **PRE-EXISTING MATERIALS.** Enterprise Services acknowledges that it is not gaining any intellectual property interest under this Contract. Terms related to intellectual property ownership as between Purchaser and Epic are set forth in Exhibit D.
 - (c) **CHANGES IN FUNCTIONALITY.** Terms related to changes in functionality are set forth in Section 5(c)(v) of Exhibit D.
- 8.4. **DATA OWNERSHIP, USE, RECOVERY.**

- (a) DATA OWNERSHIP AND USE. Terms related to the use of certain data in maintenance activities are set forth in Section 5(e) of Exhibit D.
- (b) EXTRACTION OF DATA. Terms related to the extraction of data are set forth in Section 14(h) of Exhibit D.
- (c) RETURN OF DATA. Terms related to the return or destruction of certain data are set forth in Exhibit D-5.

8.5. MAINTENANCE PROGRAM.

- (a) GENERAL. Terms related to the maintenance program Epic provides for software are set forth in Section 5 of Exhibit D.
- (b) ERROR CORRECTION SERVICE LEVEL STANDARD. Terms related to Epic's Error Correction Services are set forth in Exhibit D-7.
- (c) TECHNICAL SUPPORT SERVICE LEVEL STANDARD. Terms related to Epic's technical support policies are set forth in Exhibit D-6.

9. INVOICING & PAYMENT.

9.1. VENDOR INVOICE. Epic shall submit properly itemized invoices to Purchaser's designated invoicing contact for Goods and/or Services delivered under this Contract. Such invoices shall itemize the following:

- (a) Contract No. 23023;
- (b) Purchaser's Purchase Order Number;
- (c) Vendor name, address, telephone number, and email address for billing issues (i.e., Epic Customer Service Representative);
- (d) Epic's Federal Tax Identification Number;
- (e) Date(s) of delivery;
- (f) Applicable Goods and/or Services;
- (g) Invoice amount; and
- (h) Payment terms, including any available prompt payment discounts.

Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

9.2. PAYMENT. Payment is the sole responsibility of, and will be made by, the Purchaser. Terms related to payment by Purchasers are set forth in Section 4 of Exhibit D.

9.3. PROJECT IMPLEMENTATION FEES. Purchasers shall pay to Epic the project implementation fees consistent with the information set forth in *Exhibit B - Prices for Goods/Services* and as mutually agreed between the Purchaser and Epic.

9.4. TAXES/FEES. Except for taxes based on or measured by Epic's net income, all taxes (including sales, use, excise, property, and similar taxes) arising out of this Contract or any Purchase Order or otherwise related to the license, use, implementation, maintenance or modification of the Program Property, or other software or services will be Enterprise Services or Purchaser's responsibility (as applicable) under each Purchase Order. If Epic pays or is required to pay such taxes (or related penalties or interest), Purchaser will promptly reimburse Epic. Epic's invoices to Purchasers shall separately state (a) taxable and non-

taxable charges and (b) sales/use tax due by jurisdiction. In regard to federal excise taxes, Epic shall include federal excise taxes only if, after thirty (30) calendar days written notice to Purchaser, Purchaser has not provided Epic with a valid exemption certificate from such federal excise taxes.

10. CONTRACT MANAGEMENT.

10.1. **CONTRACT ADMINISTRATION & NOTICES.** Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Contract (but not Purchase Orders). Enterprise Services’ contract administrator shall provide Contract oversight. Epic’s general counsel shall be Epic’s principal contact for business activities under this Contract. The parties may change contract administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email (in the case of notice to Enterprise Services but not Epic), and shall be sent to the respective addressee at the respective address or email address (if any) set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services

Attn: DES Contracts Team Cypress
Washington Dept. of Enterprise Services
PO Box 41411
Olympia, WA 98504-1411
Tel: (360) 407-2218
Email:
DESContractsTeamCypress@des.wa.gov

Vendor

Attn: General counsel
Epic Systems Corporation
1979 Milky Way
Verona, WI 53593
Tel: (608) 271-9000

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed to Enterprise Services, upon transmission to the designated email address of said addressee.

10.2. **VENDOR CUSTOMER SERVICE REPRESENTATIVE.** Epic shall designate a customer service representative for each Purchaser, who shall be responsible for addressing Purchaser issues pertaining to the Purchase Order.

10.3. **LEGAL NOTICES.** Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, or postage prepaid and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address as the parties may designate as a replacement for the below address in writing:

Enterprise Services

Attn: Legal Services Manager
Washington Dept. of Enterprise Services
PO Box 41411
Olympia, WA 98504-1411

Epic

Attn: Judith R Faulkner, CEO
With a copy to: General Counsel
Epic Systems Corporation
1979 Milky Way
Verona, WI 53593

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt. This Section 10.3 refers solely to legal notices set forth in this Contract as a whole. The terms of Section 15 of Exhibit D address legal notices to be given under a Purchase Order.

11. VENDOR SALES REPORTING; VENDOR MANAGEMENT FEE; & VENDOR REPORTS.

11.1. CONTRACT SALES REPORTING. During the first eight (8) years of this Contract, Vendor shall report Core Contract Sales quarterly to Enterprise Services, as set forth below.

- (a) Contract Sales Reporting System. Vendor shall report quarterly Core Contract Sales (as defined in Section 11.2(a) below) in Enterprise Services’ Contract Sales Reporting System (the “CSRS”). Enterprise Services will provide Vendor with a login password and vendor number. The steps required in order for Vendor to report its sales in the CSRS (the “CSRS Workflow”) are set forth on Exhibit E.
- (b) Due Date for Contract Sales Reporting. Quarterly Core Contract Sales Reports must be submitted electronically by the following deadlines for Core Contract Sales collected during the applicable calendar quarter.

QUARTER	FOR AMOUNTS COLLECTED IN CALENDAR QUARTER ENDING	CONTRACT SALES REPORT	
		DUE BY	PAST DUE
1	January 1 – March 31	April 30	May 1
2	April 1 – June 30	July 31	August 1
3	July 1 – September 30	October 31	November 1
4	October 1 – December 31	January 31	February 1

11.2. VENDOR MANAGEMENT FEE. During the first eight (8) years of this Contract, the Vendor will pay to Enterprise Services a vendor management fee (“VMF”) of one-quarter of one percent (0.25%) of Core Contract Sales, calculated in accordance with Section 11.2(b).

- (a) Core Contract Sales. For purposes of this Contract, “Core Contract Sales” means fees actually collected by Vendor as license and maintenance fees for software developed by Vendor and for which Vendor has granted to a Purchaser a perpetual license pursuant to a Purchase Order. Core Contract Sales do not include any other fees, including fees for software not developed by Vendor or its Owned Entities, taxes, implementation or other hourly services, fees for software made available on a subscription basis, or reimbursement of expenses. Accordingly, Enterprise Services acknowledges and agrees that in certain months and over the life of the Contract, the amount reported as Core Contract Sales may differ materially from amounts invoiced to a Purchaser.
- (b) The sum owed by Vendor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total Core Contract Sales for the applicable quarter multiplied by 0.0025.
- (c) Enterprise Services will invoice Vendor quarterly based on Core Contract Sales reported by Vendor and Vendor is not expected to remit payment until Vendor receives an invoice from Enterprise Services. Vendor will use

reasonable efforts to ensure that its VMF payment to Enterprise Services references this Contract number, the year and quarter for which the VMF is being remitted, and Contractor’s name. Vendor will pay the VMF within forty-five (45) days after the invoice date, or if later, the date specified on the invoice. Interest will accrue for overdue undisputed VMF fees at the lesser of one percent (1%) per month or the maximum rate allowed by law.

- 11.3 TERM OF CONTRACT SALES REPORTING AND VENDOR MANAGEMENT FEE. Vendor will have no obligations to report contract sales or pay a VMF following the eighth (8th) anniversary of this Contract.

12. RECORDS RETENTION & AUDITS.

- 12.1. RECORDS RETENTION. Each party acknowledges that it is responsible for maintaining its own copies of contracts and purchase orders entered into under this Contract.
- 12.2. PURCHASE ORDER AUDIT. Terms related to auditing of Epic’s hourly charges and reimbursable expenses are set forth in Section 17(m) of Exhibit D.
- 12.3. VENDOR MANAGEMENT FEE. If Enterprise Services reasonably suspects that Vendor has underreported Core Contract Sales, Enterprise Services can so notify Epic in accordance with Section 10.1 and ask that Epic provide records such as invoices and payment receipts related to the applicable amounts. If, following examination of such records, Enterprise Services reasonably continues to believe that Epic has underreported Core Contract Sales, Enterprise Services can request immediate escalation pursuant to Section 15. Enterprise Services agrees that because Core Contract Sales do not include all amounts that will be invoiced to a Purchaser, the existence of a material difference between Core Contract Sales reported and total amounts invoiced to a Purchaser does not constitute a reasonable basis to suspect Vendor has underreported Core Contract Sales.

13. INSURANCE.

- 13.1. REQUIRED INSURANCE. Vendor, at its expense, shall maintain in full force and effect the insurance coverages set forth in Exhibit C – Insurance Requirements in accordance with the terms thereof. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for Goods and/or Services and no additional payment shall be made to Vendor.
- 13.2. WORKERS COMPENSATION. Enterprise Services has notified Epic that the State of Washington has workers compensation laws and regulations that may apply to Epic.

14. CLAIMS.

- 14.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. The terms of a mutual tort indemnity are set forth in Section 12(d) of Exhibit D.
- 14.2. THIRD-PARTY CLAIMS; GENERAL INDEMNITY. Terms related to indemnification for claims related to patient care and misuse of third party products are set forth in Sections 12(b) and 12(c) of Exhibit D, respectively.
- 14.3. INTELLECTUAL PROPERTY INDEMNITY. Terms relating to indemnification for intellectual property matters are set forth in Section 12(a) of Exhibit D.

15. DISPUTE RESOLUTION. Enterprise Services and Epic wish to work together to assure effective cooperation and to resolve issues as they may arise. The parties shall cooperate to resolve any dispute pertaining to this Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved in a timely manner, it may be escalated within each organization. The goal of the escalation procedures will be to resolve the specific issue as quickly as reasonably possible. Disputes related to a Purchase Order and between Epic and a Purchaser will be resolved pursuant to the terms set forth in Exhibit D.

16. TERMINATION; EXPIRATION; SUSPENSION; & REMEDIES.

- 16.1. **TERMINATION.** This Contract may be terminated: (a) upon the mutual written agreement of the parties; (b) for material breach by the non-breaching party where the breach is not cured within sixty (60) calendar days after written notice of breach is delivered to the breaching party, unless a different time for cure is otherwise stated in this Contract; and (c) as otherwise expressly provided for in this Contract. Subject to applicable bankruptcy and insolvency laws, if either party (i) ceases the active conduct of business; (ii) voluntarily becomes subject to a bankruptcy or insolvency proceeding under federal or state statute; (iii) has filed against it an involuntary petition for bankruptcy that is not dismissed within sixty (60) days of filing; (iv) becomes insolvent or subject to direct control by a trustee, receiver, or similar authority; or (v) winds up or liquidates its business, voluntarily or otherwise, then the other party may, at its sole option, terminate this Contract immediately. In addition to any other available remedies, the non-breaching party may terminate this Contract as provided in subsection (b) above without further liability by written notice to the breaching party. The notice will be provided in accordance with Section 10.3, will reference this Section 16.1 or state it is a notice of material breach, and will describe the breach in sufficient detail to permit the breaching party to cure the breach. Where another provision of this Contract includes an express termination right and cure period, this Section 16.1 will not apply. A termination for breach will not affect rights or obligations accrued or owed before the effective date of the termination notice.
- 16.2. **TERMINATION FOR NONAPPROPRIATION OR REDUCTION OF FUNDS OR CHANGES IN LAW.** Terms that provide for appropriations matters are set forth in Section 14(e) of Exhibit D.
- 16.3. **TERMINATION FOR WITHDRAWAL OF AUTHORITY.** In the event that Enterprise Services' authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion of this Contract or any Purchase Order hereunder such as to make full or partial performance of this Contract impossible, Enterprise Services may immediately terminate this Contract by providing written notice to Epic. The termination will be effective on the date specified in the termination notice. Such termination will not impact the term of any Purchase Order under this Contract. Epic will not be liable for payment of any Vendor Management Fees following such termination. Enterprise Services agrees to notify Epic of such withdrawal of authority at the earliest possible time. In addition, terms that provide for termination in the event of withdrawal of the authority of any Purchaser are set forth in Section 14(f) of Exhibit D.
- 16.4. **TERMINATION FOR PUBLIC CONVENIENCE.** Terms that provide for a Purchaser's termination of any Purchase Order for public convenience in the best interest of the State of Washington are set forth in Section 14(d) of Exhibit D.
- 16.5. **PURCHASER OBLIGATIONS – EXPIRATION OR TERMINATION.** Terms related to termination or expiration of a Purchase Order are set forth in Exhibit D.

- 16.6. IMPACT OF TERMINATION ON PURCHASE ORDERS. For the avoidance of doubt, termination or expiration of this Contract does not automatically terminate Purchase Orders entered into hereunder, and termination or expiration of a Purchase Order does not automatically terminate this Contract.
- 16.7. Not Used.
- 16.8. LIMITATION ON DAMAGES.
- (a) **General.** THE TERMS IN THIS SECTION APPLY WHETHER THE LIABILITY ARISES OUT OF OR RELATES TO SOFTWARE, SERVICES OR OTHERWISE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY UNDER THIS CONTRACT. NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, ENHANCED, CONSEQUENTIAL OR INDIRECT DAMAGES, OR LOSS OF BUSINESS, PROFIT OR REVENUE (OTHER THAN AMOUNTS OWED FOR EPIC SOFTWARE AND SERVICES), ANTICIPATED SAVINGS, GOODWILL, OR REPUTATION, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES OR THEY WERE OTHERWISE FORESEEABLE. UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY EXCEED, IN THE AGGREGATE FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS CONTRACT, THE AGGREGATE VENDOR MANAGEMENT FEES PAID IN THE EIGHTEEN (18) MONTHS PRECEDING THE DATE THE LAST SUCH CLAIM WAS FILED.
 - (b) **Applicability.** The limitations of liability in this Contract apply only to this Contract and not to Purchase Orders hereunder. Similarly, the limitations of liability set forth in Purchase Orders apply only to Purchase Orders and not to this Contract.
 - (c) **Timing of Actions.** Neither party will commence a Claim in arbitration or court for a matter arising out of or relating to this Contract or any software, services, materials, reports, or other information provided by Epic more than twelve (12) months after the cause of action first arose.

17. PUBLIC INFORMATION & PUBLIC RECORDS DISCLOSURE REQUESTS.

- 17.1. WASHINGTON'S PUBLIC RECORDS ACT. Unless exempt from public disclosure, this Contract may be subject to public disclosure as required by Washington's Public Records Act, RCW 42.56.
- 17.2. PARTIES' OBLIGATIONS RELATED TO PUBLIC RECORDS REQUESTS. Epic will use reasonable efforts to identify any information that is claimed by Epic to be proprietary information. To the extent not strictly prohibited under RCW 42.56, Enterprise Services will maintain the confidentiality of Epic's proprietary information. If a public disclosure request is made to view Epic's proprietary information, Enterprise Services will provide Epic an opportunity to review the requested information and to request that Enterprise Services withhold, or redact those portions of, such information that Epic reasonably asserts are confidential or exempt from disclosure. Prior to such disclosure, Epic may seek a protective order relating to the request at Epic's expense. In the event Epic fails to take action or respond to Enterprise Services timely notification in a timely manner so as to allow Enterprise Services to comply with the response requirements under public records and disclosure laws, it will not be deemed a breach of Enterprise Services' confidentiality obligations under this Contract if Enterprise Services fulfills its obligations under this Section 17.2 (including, without limitation, that

Enterprise Services has notified Epic of the disclosure request and provided Epic with a reasonable opportunity to oppose it) and disclose Epic's confidential information only to the extent strictly required by law.

18. GENERAL PROVISIONS.

- 18.1. ENTIRE AGREEMENT. This Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.
- 18.2. AMENDMENT OR MODIFICATION. Except as set forth herein, this Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party. Terms related to the amendment of Purchase Orders are set forth in Exhibit D.
- 18.3. AUTHORITY. Each party to this Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Contract and that its execution, delivery, and performance of this Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- 18.4. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Contract. Neither party is an agent of the other party nor authorized to obligate it.
- 18.5. INDEPENDENT CONTRACTOR. The parties intend that an independent contractor relationship is created by this Contract. Epic and its employees or agents performing under this Contract are not employees or agents of Enterprise Services and Enterprise Services and its employees or agents are not employees or agents of Epic. Epic and Enterprise Services are not joint employers of the other's employees and do not have the right to share or codetermine the essential terms and conditions of employment for the other's employees. Each party agrees that the terms of and fees under this Contract and any Purchase Order for the Program Property are the product of an arm's length transaction between the parties and are intended to satisfy the requirements of the Manner Exception (45 CFR 171.301) for providing access, exchange, or use of electronic health information in the "manner requested." Neither party shall not have authorization, express or implied, to bind the other to any agreement, liability, or understanding, except as expressly set forth herein.
- 18.6. ASSIGNMENT. Epic may assign this Contract either to an Owned Entity or as part of the acquisition of substantially all of Epic's assets by another entity. In either case, the assignee must agree in writing to the assignment and the Contract's terms. Epic will remain liable for Epic's obligations under this Contract if the assignee fails to satisfy them. Enterprise Services will not assign this contract without Epic's written consent. Terms related to a Purchaser's and Epic's ability to assign a Purchase Order are set forth in Exhibit D.
- 18.7. BINDING EFFECT; SUCCESSORS & ASSIGNS. This Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 18.8. SEVERABILITY. If any provision of this Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Contract, and to this end the provisions of this Contract are declared to be severable. If such invalidity becomes known or

apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Contract.

- 18.9. **WAIVER.** Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Contract, nor shall any purported oral modification or rescission of this Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation, contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.
- 18.10. **SURVIVAL.** The following terms will survive termination of this Contract: Section 7, Section 9 (to the extent applicable for pre-termination use or obligations), Sections 10, 14, 16.6, 16.8, 17, and 18, and the terms of any addenda, amendments, or software orders governed by this Contract to the extent provided in such agreements or covering similar subject matter to other surviving terms. A Purchase Order will also survive termination or expiration of this Contract, and a Purchase Order will only terminate or expire pursuant to the terms of such Purchase Order.
- 18.11. **GOVERNING LAW, FORUM, AND JURISDICTION.**
- (a) **TREEHOUSE MEETING.** If the parties are unable to resolve a dispute after escalating the issues as set forth in Section 15 above, then prior to a party commencing a legal action in the State of Washington, the parties will meet in Verona, Wisconsin at Epic's Treehouse (or another mutually acceptable conference room at Epic's campus) to attempt to resolve the dispute. Enterprise Services' most senior executive (e.g., the Director) (or equivalent executive if such office is vacant at the time), Enterprise Services' counsel, and any of Enterprise Services' other executives or employees whom Epic reasonably deems necessary for resolution of the dispute, shall attend the discussion. Epic's CEO and President (or equivalent executives if any such offices are vacant at the time), and Epic's counsel, as well as additional executives as Epic's CEO feels appropriate, shall attend the discussion. Unless the dispute is resolved sooner, the discussion will be held for no fewer than ten (10) business days. However, the parties may agree to extend the discussion period upon mutual consent. If the parties wish, they may agree to include a mutually acceptable third party to help facilitate the discussion.
 - (b) **GOVERNING LAW AND VENUE.** This Contract will be governed and interpreted under the law of the State of Washington, without reference to its conflicts of laws principles, and any action arising out of or relating to this Contract will be brought exclusively in Thurston County, State of Washington. Provided the action is brought in accordance with this Section 18.11, each party consents to the personal jurisdiction and venue of the state and federal courts located in the State of Washington.
 - (c) **GENERAL.** The parties agree that Sections 15, 18.11(a), and 18.11(b) set forth the exclusive means and forum for resolution of disputes between the parties, the discussion process in Section 18.11(a) must be completed prior to either party commencing a legal action in the State of Washington (except an action seeking


interim injunctive relief as appropriate to address potential irreparable harm), this Section 18.11 presents a fair and reasonable allocation of risk between the parties, and this Section 18.11 is a material term that has been negotiated, agreed to and relied upon by the parties in entering into this Contract.

- 18.12. **ATTORNEYS' FEES.** In the event of litigation or other action brought to enforce this Contract, each party shall bear its own attorneys' fees and costs.
- 18.13. **FAIR CONSTRUCTION & INTERPRETATION.** The provisions of this Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Contract. Each party hereto and its counsel has reviewed and revised this Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Contract. Each term and provision of this Contract to be performed by either party shall be construed to be both a covenant and a condition.
- 18.14. **FURTHER ASSURANCES.** In addition to the actions specifically mentioned in this Contract, the parties shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Contract.
- 18.15. **EXHIBITS.** All exhibits referred to herein are deemed to be incorporated in this Contract in their entirety.
- 18.16. **CAPTIONS, HEADINGS, AND RECITALS.** The captions, headings, and recitals in this Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Contract nor the meaning of any provisions hereof.
- 18.17. **ELECTRONIC SIGNATURES.** An electronic signature or electronic record of this Contract or any other ancillary agreement shall be deemed to have the same legal effect as delivery of an original executed copy of this Contract or such other ancillary agreement for all purposes.
- 18.18. **NONDISCRIMINATION.**
- (a) **Nondiscrimination Requirement.** As of the date of this Contract, Epic has policies against discrimination that are consistent with the non-discrimination clauses set forth in RCW 49.60.530(3). Epic does not have a collective bargaining or other similar agreement with a labor union.
 - (b) **Subcontractors.** As of the date of this Contract, Epic's Subcontractors have policies that are consistent with the non-discrimination clauses set forth in RCW 49.60.530(3). No such Subcontractor has a collective bargaining or similar agreement with a labor union.



18.19. COUNTERPARTS. This Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
Department of Enterprise Services

By: 
Elena McGrew
Its: Statewide Enterprise Procurement
Manager

EPIC SYSTEMS CORPORATION,
a Wisconsin corporation

By: 
Judith R. Faulkner
Its: Chief Executive Officer




STATEWIDE CONTRACT

No. 23023

ELECTRONIC HEALTH RECORDS SOLUTION

For Use by Eligible Purchasers

By and Between

**STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES**

and

EPIC SYSTEMS CORPORATION

EXHIBITS

Dated August ____, 2024

EXHIBIT A

INCLUDED GOODS/SERVICES

INCLUDED GOODS

- Software, including but not limited to electronic health records software, as set forth in detail in each Purchase Order under this Contract

INCLUDED SERVICES

- Implementation, support, training, and additional services related to the Goods provided in each Purchase Order under this Contract

PRICING METHODOLOGY FOR GOODS/SERVICES

Pricing will be set forth in a Purchase Order. The methodology used for such pricing will be consistent with the methodology described and/or used in the sample pricing submitted in Vendor's response to the Competitive Solicitation No. 23023 dated October 6, 2023. Pricing will vary by Purchaser based on factors such as a Purchaser's size, specific software selected/used by a Purchaser, and services performed for a Purchaser.

Exhibit C**INSURANCE REQUIREMENTS**

Beginning upon execution of this Contract and continuing for the duration of any Purchaser's participation in the Maintenance Program as defined in Exhibit D, Epic will maintain the following insurance coverage at (except as set forth below) levels no lower than as set forth under this Exhibit C (which may be covered through a combination of commercial general liability, umbrella, and/or excess liability insurance policies and/or self-insurance):

- (i) Employer's Liability insurance, with limits not less than one million dollars (\$1,000,000) per claim/accident, one million dollars (\$1,000,000) per disease/each employee, and one million dollars (\$1,000,000) disease policy limit;
- (ii) Commercial General Liability insurance, with limits not less than one million dollars (\$1,000,000) per claim/occurrence and two million dollars (\$2,000,000) annual aggregate;
- (iii) Excess/Umbrella Liability insurance coverage, with limits of five million dollars (\$5,000,000) per claim/occurrence and five million dollars (\$5,000,000) annual aggregate;
- (iv) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
- (v) Worker's Compensation insurance in such amounts as are required to comply with applicable state law. This policy must include a waiver of all rights of subrogation and other rights against Purchasers. Enterprise Services and Purchasers also will maintain Worker's Compensation insurance in such amounts as are required to comply with applicable state law. This policy must include a waiver of all rights of subrogation and other rights against Epic.

As of the date of this Contract, Epic also maintains professional liability (errors and omissions) insurance with limits of at least \$10,000,000, which currently includes cyber and privacy insurance coverage for network security and privacy risks. Epic intends to continue to maintain the same or substantially equivalent coverage, provided that it is available at rates and on terms that Epic considers to be reasonable. Epic shall provide Enterprise Services and any Purchasers with a certificate of insurance evidencing the above coverage upon written request (but no more frequently than annually) and subject to the preceding sentence.

* * * END OF INSURANCE REQUIREMENTS * * *

Exhibit D

FORM OF PURCHASE ORDER

Attached separately.



**Exhibit D
Form of Purchase Order**

**LICENSE AND
SUPPORT AGREEMENT**

This Purchase Order (the “Agreement”) is made between Epic Systems Corporation, located at 1979 Milky Way, Verona, Wisconsin 53593 (“Epic”); and _____, with its principal place of business at _____ (“You” or “Purchaser”). The definitions in Appendix A apply to this Agreement.

1. LICENSE

- a. **General.** Epic grants You a non-exclusive, perpetual license to use the Program Property in the United States, subject to the terms of this Agreement. This Agreement does not give You ownership of any part of the Program Property.
- b. **Rights to Copy Program Property.** You may copy the Program Property only: (i) for backup, recovery, training or testing purposes; (ii) to copy Workstation Code onto computers for authorized Affiliates; (iii) to create additional Production Directories in accordance with Subsection 4(c); and (iv) to modify and reproduce the Documentation.
- c. **Sublicense for Third Party Software.** Epic grants You a sublicense to use the Third Party Software and Data with the Program Property, subject to this Agreement, including any applicable addendum or other mutually agreed terms. If “TBD” is listed on Exhibit 1 for any Third Party Software and Data, the license to that item is granted by and subject to a signed copy of Epic’s third party tools order form.

2. INSTALLATION, TRAINING AND OTHER SERVICES

- a. **General.** Epic will first deliver to You the Program Property (including Documentation Manuals) and will assist with Your implementation, all substantially in accordance with the Project Plan. You will provide the hardware and infrastructure that the Program Property operates on. Your project director and Epic’s implementation director will work together to coordinate implementation and training activities.
- b. **Training.** Your project team will travel to Epic to attend Epic’s recommended training courses. Epic will assist Your project team in preparing for Your end-user training, which training will follow Epic’s end-user training methodology (including its physician training and user personalization recommendations). Unless otherwise agreed, Epic will not provide staff to support any go-live event for which You have not met Epic’s end-user training recommendations. As of the date of this Agreement, Epic’s end-user training methodology includes the option to have Epic staff, with assistance from Your super user leads, provide initial Program Property training to Your end users based on the Foundation System. You are responsible for reviewing any end-user training provided by Epic and supplementing it with operational and software training to ensure its appropriateness for Your specific system build, workflows (including third-party integrations), and standard operating procedures. Epic’s budget estimates typically assume a specific number of end-user and qualified project team trainees for Epic’s recommended training courses. Your end users and project team members may participate in additional training at Epic’s standard rates for such services.
- c. **Rates.** Implementation and training services provided by Epic will be at Epic’s standard rates. The applicable rates for these services are listed on Exhibit 4 and will not increase during the first twelve (12) months of this Agreement.

- d. **Access to Servers and Environments.** So that Epic can carry out services and other activities under this Agreement, You will provide Epic personnel access to the servers on which the Program Property is installed and grant Epic the right to access such servers and data stored using the Program Property. The parties will use a LAN-to-LAN IPSec tunnel terminated on Epic's VPN concentrator and a suitable hardware VPN device at Your data center unless otherwise agreed. You are responsible for hardware, software, and line costs on Your end. Support may be impacted if Epic personnel are unable to access Your servers or if access is unreasonably slow. You will upgrade the access technology as needed to meet Epic's reasonable minimum access standards at Your cost. After First Live Use, Epic and You will work together in good faith to allow Epic personnel access using a secure and password-protected system. It is Your responsibility to obtain permissions required for Epic to access data stored using the Program Property, without imposing restrictions on Epic other than those in the Agreement. If You would like Epic to work with You and a third party to assist You in bringing data into the Program Property, You will provide Epic only the non-confidential information of the third party necessary to permit Epic to provide such assistance. Your environment may include shared functions or infrastructure (e.g., the Care Everywhere Certificate Authority, the messaging servers used for Push Notifications, or Nebula services) maintained and updated by Epic or a third party to simplify system management and allow for sharing and distribution of common rules (similar to antivirus software with self-updating virus definitions).
- e. **Onsite Policies.** While on-site at Your facilities or while accessing Your computer systems or networks, Epic personnel will comply with Your reasonable information security policies and procedures applicable to Epic personnel if such policies and procedures have been previously communicated to Epic, apply by their terms to and are appropriate for a vendor's employees (as opposed to Your own employees or vendors that are not similar to Epic), are typical of other Epic customer agreed-upon policies, and do not purport to modify or contradict the terms of this Agreement. If Epic has a concern about Your policies and procedures, the parties will discuss and resolve those concerns prior to applying them to Epic. The parties acknowledge that such policies and procedures may contain statements about maintaining confidentiality of Your information and/or patient-specific information, and any such general policy statements shall not be construed to be inconsistent with, or impose obligations on Epic or its staff in excess of the more detailed confidentiality requirements imposed under Section 8 or Exhibit 5 of this Agreement. If any Epic personnel violates Your applicable policies or procedures, You may, as Your sole and exclusive remedy for such violation, have such Epic personnel removed by Epic from Your project team, and Epic will replace the individual with another qualified individual as quickly as reasonably practicable.
- f. **Requirement for Availability of Certain Interfaces.** If You license an Item with "Resolute" in its name, You will only begin First Live Use of the Item after testing confirms successful operation of Your claims processing using a claims clearinghouse and any established direct-to-payer connections that You and Epic have agreed are in scope for Your implementation of the Item. If You license an Item with "EpicCare" in its name, You will only begin First Live Use of the Item after testing confirms successful operation of Your process for entering laboratory test and procedure results into the results reporting database. **IF YOU PROCEED WITH FIRST LIVE USE OF AN ITEM WITHOUT ACCOMPLISHING THE STEPS REQUIRED ABOVE IN THIS SUBSECTION, ALL WARRANTIES UNDER THIS AGREEMENT FOR THE APPLICABLE ITEM ARE VOID AND YOU WILL BE DEEMED TO HAVE IRREVOCABLY ACCEPTED THE ITEM.**
- g. **Federal Regulatory Changes.** Epic will modify an Item to comply with changes in federal regulations if:
- (i) You are implementing the Item or participating in the Maintenance Program for the Item when the change is proposed;
 - (ii) the change directly relates to the Item's functionality as described in the Documentation Manuals and would result in the operation of the Item in accordance with the Documentation Manuals violating the regulation; and
 - (iii) Epic determines in good faith that the change requires a technically feasible and commercially reasonable software modification.

Modifications under this Subsection will be available only in future releases. If Epic learns of the regulatory change reasonably in advance of its effective date, Epic will make a commercially reasonable effort to deliver the modification reasonably in advance of the date as of which the operation of the Item in accordance with the Documentation Manuals would violate that regulation. If Epic determines it cannot do so, Epic will arrange a meeting of affected customers to discuss how to address the regulation. Modifications may include changes to or the elimination of functionality, but Epic will use commercially reasonable efforts not to substantially reduce functionality.

h. Epic Community Library.

- (i) *Participation.* This Agreement assumes Your participation in the Epic Community Library. As a participant, You may access Support Materials and use them solely with the Program Property. You will not distribute Support Materials or any derivatives of Support Materials. In return for Your access, You will contribute Your Support Materials to the Epic Community Library. You may designate as “Proprietary” Your Support Materials that give You a significant competitive advantage, but You may not use that designation for more than 10% of Your Support Materials. You will not provide designated Proprietary Support Materials or third-party materials to Epic or the Epic Community Library.
- (ii) *Copyrights, Etc.* You waive any copyrights, trade secrets and other proprietary rights related to Support Materials You provide to Epic or the Epic Community Library.
- (iii) *Discontinuation of Participation.* If You discontinue participation in the Epic Community Library or do not contribute Your Support Materials, You will have no further access and You will repay Epic any license fee discount You received for participating.
- (iv) *DISCLAIMER AND WAIVER; YOUR RESPONSIBILITIES.* SUPPORT MATERIALS ARE PROVIDED “AS IS”, WITHOUT ANY WARRANTY OF ANY KIND FROM ANYONE. YOU WILL REVIEW, MODIFY AND VALIDATE SUPPORT MATERIALS FOR APPROPRIATENESS IN YOUR ENVIRONMENT BEFORE USE. YOU ARE SOLELY RESPONSIBLE FOR CARE PROVIDED IN CONNECTION WITH USE OF SUPPORT MATERIALS. YOU WAIVE ALL CLAIMS RELATED TO SUPPORT MATERIALS, INCLUDING AGAINST EPIC, ITS CUSTOMERS, AND OTHERS ASSOCIATED WITH THE SUPPORT MATERIALS. AN ONLINE AGREEMENT GOVERNS ACCESS TO THE EPIC COMMUNITY LIBRARY AND ANY SUPPORT MATERIALS (INCLUDING THOSE PROVIDED IN THE FOUNDATION SYSTEM). IF SUPPORT MATERIALS INCLUDE OR ARE DERIVED FROM THIRD-PARTY MATERIALS, YOU ARE RESPONSIBLE FOR OBTAINING ANY NECESSARY LICENSES FROM THE THIRD PARTY FOR SUCH MATERIALS.

- i. **Participation in Cosmos.** This Agreement assumes Your implementation and use of Cosmos. You agree to the terms of the Cosmos Addendum.
- j. **Additional Services.** Epic may provide additional services at Epic’s then-standard rates under mutually-agreed terms.

3. MODIFICATIONS

- a. **General.** You and Epic may agree to Program Property modifications by entering into Epic’s change order form, which will include specifications and payment terms. You may choose a fixed-price or hourly option. Payment for a fixed-price modification is due on signing. Payments for hourly modification services are due as incurred. If Epic agrees to perform modifications pursuant to this Subsection, Epic will develop such modifications consistent with its interpretation of the associated change order and the general needs of the Epic community, as well as its evaluation of technical considerations related to incorporating new development into Epic’s existing software, including compatibility, consistency, and mitigation or avoidance of reasonably identifiable privacy, safety, and security risks. Epic will not be able to enter into, or prepare specifications for, a change order until all necessary external inputs (specifications from external bodies, certification test scripts, etc.) are available. If Epic designs or develops the

software in a way that is not inconsistent with its descriptions in the associated change order, but You intended it to be different or interpreted the descriptions differently than Epic's reasonable interpretation of them, e.g., You want additional detail or a different presentation format, or anything not specifically described in the agreed specifications, then You may submit a request for additional software modification services under this Subsection. If Epic agrees to provide the additional services, Epic will provide an estimate of the timeline and fees for the modification, and Epic's then-current rates will apply.

- b. **Rates.** Modification services provided by Epic will be at Epic's standard rates. The current rates for these services are listed on Exhibit 4 and will not increase during the first twelve (12) months of this Agreement.
- c. **Ownership.** Epic tries to generalize modifications for the benefit of the Epic community. This allows You to benefit from modifications initiated by others, and Epic to better support modifications and manage its releases. Accordingly, Epic owns all Code and Documentation and all intellectual property rights in modifications.
- d. **Retrofits.** Modifications are typically made available in a future release unless otherwise agreed in the associated change order. Retrofits are available only with Epic's consent on such form. A "retrofit" is a modification to the Code of any version other than the version in development by Epic at the time of the modification.

4. PAYMENTS

- a. **License Fee.** You will pay Epic the Program Property License Fee on the schedule in Exhibit 1.
- b. **Increasing the Licensed Volume.** The Program Property license and maintenance fees on Exhibit 1 are based on the initial Licensed Volume for Your licensed use of the Program Property. At the time any Annual Volume exceeds a Licensed Volume, You will pay Epic an additional license fee and begin paying monthly maintenance fees to increase the Licensed Volume. Such increased Licensed Volume tier must cover the greater of the Annual Volume for the current license year or the estimated Annual Volume for the next license year. The additional license fee to increase Your Licensed Volume is the difference between the license fee for the new Licensed Volume tier and the then-standard license fee for Your previous Licensed Volume tier. Fees for Affiliate Licensed Volume vary depending on Your relationship with the Affiliate and their size. You will permit Epic access to Your servers to determine the Annual Volume.
- c. **Additional Production Directories.** Unless otherwise stated in Exhibit 1, You are licensed to one Production Directory. If You would like to use an additional Production Directory, You and Epic may enter into an amendment to this Agreement or You may sign another form prepared by Epic documenting the fees and terms for such use of the Program Property and Third Party Software and Data.
- d. **Expected Use.** Although Epic's software is generally configurable for use in a range of settings, each Item listed in Exhibit 1 as an "Inpatient Item" or an "Ambulatory Item" is designed for use in specific healthcare contexts. For example, EpicCare Inpatient is designed primarily for use in hospitals. The fees listed in Exhibit 1 assume that You will use these Items in the context for which they were designed. Accordingly, additional fees may be due if You use (i) any "Inpatient Item" with respect to patients who are not admitted to a hospital at the time, or (ii) any "Ambulatory Item" with respect to patients who are admitted to the hospital at the time, unless the Item is used only to view or update the admitted patient's ambulatory record (rather than to document care provided during the patient's inpatient stay). However, the additional fees will not apply for use of such Items in clinics or hospital departments that are open less than 24 hours per day and typically have clinical encounters with both admitted and non-admitted patients.
- e. **Subscription Fees.** For each "Subscription Item" and "Annual Fee Item" on Exhibit 1, You will pay Epic a fee for Your use at the then-current standard subscription or annual rate. Unless otherwise stated on Exhibit 1, subscription fees are due quarterly in arrears, and annual fees are due annually in advance on January 1 (but Your first year's

annual fee will be due on and prorated based on the date the license key for the Item is first activated). The current subscription and annual rates are stated on Exhibit 1 and are subject to change.

- f. **Credit for Certain Post-Live Activities Fees.** To encourage You to conduct certain post-live activities to help optimize Your implementation, Epic will waive 50% of the fees for the services listed on Exhibit 3 as described in Exhibit 3. To qualify for such discount, You will prepay Epic for the other 50% of the fees when You sign this Agreement.
- g. **Third Party Fees.** Except as otherwise stated on Exhibit 1, license fees for Third Party Software and Data are due on delivery, and maintenance fees are due annually in advance of the applicable maintenance period. Subscription and annual fees are due as stated in Exhibit 1 or the applicable addendum. Maintenance and subscription fees for Third Party Software and Data are subject to change.
- h. **Hourly and Training Fees; Out-of-pocket Expenses.** All hourly and training fees, travel, and other out-of-pocket expenses sustained by Epic under this Agreement are due as incurred. You will approve travel in writing in advance. If You are more than sixty (60) days past due in paying reimbursable expenses, Epic may require prepayment of expenses.
- i. **Payment Date; Interest.** You will pay Epic all fees and expenses by thirty (30) days after the invoice date or, if later, by the date specified on the invoice or in this Agreement. Interest will accrue for overdue Uncontested Amounts at the lesser of one percent (1%) per month or the maximum rate allowed by law. If an Uncontested Amount is more than sixty (60) days overdue, Epic may, with written notice to You, suspend services until the amount is paid and Your non-payment will be a material breach of this Agreement. You will only begin First Live Use of an Item if all due Uncontested Amounts have been paid.
- j. **Maintenance Fees.** You will pay Epic a maintenance fee for each Item for which the Maintenance Program is then in effect. Maintenance fees are due monthly in advance. Except as otherwise set forth in this Agreement, Program Property maintenance fees will remain at the initial rates for twelve (12) months from the date of this Agreement and are subject to annual increases thereafter. However, during the first five (5) years of this Agreement, when any such annual increase is made it will not exceed the percentage increase in the ECI plus 2% per year from the date of the Agreement. Maintenance fees will also increase as otherwise specified in the Agreement.

5. MAINTENANCE

- a. **General.** During the term of the Maintenance Program and subject to the terms of this Agreement, Epic will provide the following services for each live Item as described in this Section: (1) consultation and assistance as set forth in Exhibit 6; (2) Updates; and (3) error-correction services as set forth in Exhibit 7.
- b. **Maintenance Requests.** You will maintain a support team with a sufficient number of trained and knowledgeable employees who will contact Epic with Maintenance Program requests. If Epic identifies a pattern of direct requests by others, Epic will discuss such activity with You. If the requests persist, Epic may charge You at its then-current rates.
- c. **Term and Termination of Maintenance Program.**
 - (i) *Term.* The Maintenance Program for an Item begins on its First Live Use and continues for successive one-year terms until terminated under this Subsection 5(c). Epic will coordinate Your maintenance payments so that each Item has the same maintenance year.
 - (ii) *Termination.* After the first maintenance term for an Item, You may terminate the Maintenance Program for that Item by giving at least ninety (90) days' notice to Epic. However, if You participate in the Maintenance Program for any Item, You must participate for all other Items that are in production use. If the Maintenance Program for all Program Property is terminated, maintenance for all Third Party Software and Data also will

terminate. If You do not participate in the Maintenance Program and Epic provides You with services that are normally covered by the Maintenance Program, Epic's then-current non-participant fees and terms will apply.

- (iii) *Re-Enrollment*. If You terminate the Maintenance Program for an Item, You may later re-enroll subject to Epic's then-current re-enrollment fee and terms.
 - (iv) *Staying Current*. During the Maintenance Program, You will use the Current Version of each Item, as well as other Epic-recommended infrastructure and software, such as the hardware operating system, Operating Environment, KB SQL software, and business intelligence and relational database management software, all subject to the Transition Period ("Staying Current"). The current "Transition Period" is the eighteen (18) month period beginning on release of the newer version. The Transition Period may change in connection with changes to Epic's release cycle. Epic may not retrofit Updates except to the extent You are Staying Current and Epic determines it is needed to correct a Substantive Program Error that does not have a Reasonable Workaround. While You are not Staying Current, Epic may increase Your monthly maintenance fees by five percent (5%) upon the end of the Transition Period and each subsequent six month period. If You are not Staying Current, Epic also may end the Maintenance Program on ninety (90) days' notice to You (during which time You may become current to avoid termination).
 - (v) *No-Sunset Commitment*. Epic will offer the Maintenance Program for all Items for at least ten (10) years after the date of this Agreement. Epic may cease offering the Maintenance Program for an Item only with at least one year advance notice to You.
 - (vi) *Relationship with License*. Termination of the Maintenance Program under this Subsection does not terminate Your license to an Item. However, termination of Your license to an Item also terminates Your participation in the Maintenance Program for the Item.
- d. **Third Party Software Maintenance**. Unless otherwise agreed, the maintenance program for any Third Party Software and Data to which a maintenance fee applies begins thirty (30) days after delivery. During Your participation in these maintenance programs, You will contact Epic for consultation or assistance about the third-party item. Epic will respond by assisting You or coordinating support from the supplier. You must participate in these maintenance programs while You participate in the Maintenance Program for any Item of Program Property. Epic also may advise its customers on issues related to Third Party Products not under maintenance through Epic upon request. Assistance that goes beyond determining whether an issue is a Program Error is chargeable at Epic's then-standard rates for such services.
- e. **Performance and Use Monitoring**. Epic supports Your use of the Program Property in a variety of ways, such as by providing implementation, maintenance, and other services, and some of those activities can only be accomplished if Epic may access and use Your Data. Epic may use Your Data in accordance with the terms of this Agreement and Epic's data activity policy, which is currently available on Galaxy. For example, Epic may use automated configuration checking to determine if You are affected by a software error, or to proactively identify problems with or ways to enhance Your use of the Program Property. You may also choose to participate in certain elective activities, such as benchmarking programs where Epic aggregates and shares Performance and Use Data to allow cross-organizational comparisons. Epic may also use Performance and Use Data to improve software and services. As between You and Epic, You own Your Data. Epic will not sell Your Data. Epic also will not disclose Performance and Use Data to others in a manner that would reasonably identify You as its source without Your consent.

6. WARRANTY

- a. **General**. As is the case with all complex software, the Program Property is likely to contain some errors. Both Epic and You must test for errors in the Program Property, and You are responsible for all final testing of the Program Property. During the Warranty Period, Epic warrants that the Program Property will not contain Substantive Program

Errors. If You notify Epic of a Substantive Program Error during the Warranty Period and state that You are making a warranty claim, Epic will either correct the Substantive Program Error or provide a Reasonable Workaround as provided below in this Section.

- b. **Cure Periods.** If You notify Epic of a Substantive Program Error during the Warranty Period as described above in this Section, Epic will have forty-five (45) days after the end of the Warranty Period to provide a correction or Reasonable Workaround. You will then have thirty (30) days from its receipt to notify Epic (in the same manner as Your original warranty notice) of Substantive Program Errors that: (i) were timely reported to Epic but are uncured; or (ii) arise from the correction or Reasonable Workaround. Epic will then have fifteen (15) days to correct or provide a Reasonable Workaround for the uncured or new Substantive Program Errors.
- c. **Correction of Program Errors After Warranty Period.** After the Warranty Period while You participate in the Maintenance Program, the correction of Program Errors (except those reported under Subsections 6(a)-(b)) is governed by the terms of the Maintenance Program.
- d. **Exclusive Remedy.** Your sole and exclusive remedy for an uncured breach of the warranty in Subsection 6(a) is to reject and terminate Your license to the affected Item by notifying Epic within thirty (30) days after the last cure period for the Substantive Program Error. Upon termination, Epic will provide a refund of the License Fee Paid for the Item. Epic will also adjust the outstanding portion of the Program Property License Fee accordingly, if applicable. If You do not exercise the remedy set forth in this Subsection for an Item, You will be deemed to have irrevocably accepted the Item.
- e. **Disabling Code.** Epic warrants that the Program Property does not contain Code designed by Epic to intentionally interfere with its normal operation after First Live Use to enforce this Agreement. In addition, after First Live Use of an Item, Epic will not disable Your use of an Item for such purposes without Your consent or a court order. In addition, Epic agrees that it will use commercially available off-the-shelf virus protection software (or other similar tools that Epic reasonably believes are appropriate given changes in technology) to test for viruses and other similar malicious code (such as Trojan horses or worms) before shipping Program Property Code to You. In the event of any breach of this Subsection 6(e) by Epic, Your sole and exclusive remedy will be for Epic, at Your request and at no cost to You, to remove such virus or other similar malicious code from the Program Property and repair damage to the Program Property caused thereby. You also will use commercially available virus protection software (or similar tools that You in good faith believe are appropriate) to test for viruses or other malicious code in the Program Property after it is delivered to You by Epic.
- f. **Ownership.** Epic warrants that it has the right to license the Program Property to You under this Agreement. Your sole and exclusive remedy for a breach of this warranty is to require Epic to fulfill its obligations under Subsection 12(a).
- g. **Services Warranty.** Epic warrants that it will perform its services in a competent manner. Your sole and exclusive remedy for a breach of this warranty is to have Epic re-perform the services at no additional charge by Epic.
- h. **NO OTHER REPRESENTATION OR WARRANTY. THE ABOVE EXPRESS LIMITED WARRANTIES ARE EXCLUSIVE. EPIC DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF ACCURACY, TITLE, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY, AND WARRANTIES AGAINST INFRINGEMENT AND INTERFERENCE WITH ENJOYMENT. NO EPIC EMPLOYEE OR OTHER PARTY IS AUTHORIZED TO MAKE A WARRANTY OR REPRESENTATION NOT IN THIS AGREEMENT.**

7. LIMITATIONS OF LIABILITY

- a. **DISCLAIMER; CAP. THE TERMS IN THIS SECTION APPLY WHETHER THE LIABILITY ARISES OUT OF OR RELATES TO SOFTWARE, SERVICES OR OTHERWISE AND NOTWITHSTANDING**

THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY UNDER THIS AGREEMENT. NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, ENHANCED, CONSEQUENTIAL OR INDIRECT DAMAGES, OR LOSS OF BUSINESS, PROFIT OR REVENUE (OTHER THAN AMOUNTS OWED FOR EPIC SOFTWARE AND SERVICES), ANTICIPATED SAVINGS, GOODWILL, OR REPUTATION, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES OR THEY WERE OTHERWISE FORESEEABLE. UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY EXCEED, IN THE AGGREGATE FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE EPIC FEES PAID IN THE EIGHTEEN (18) MONTHS PRECEDING THE DATE THE LAST SUCH CLAIM WAS FILED. THE LIMITATIONS SET FORTH IN THIS SUBSECTION 7(A) WILL NOT APPLY TO: (I) EITHER PARTY'S EXPRESS INDEMNIFICATION, DEFENSE, AND HOLD HARMLESS OBLIGATIONS UNDER THIS AGREEMENT; (II) CLAIMS ARISING OUT OF OR RELATING TO YOUR THEFT OR MISAPPROPRIATION OF PROGRAM PROPERTY OR OTHER EPIC SOFTWARE FOR THE PURPOSE OF DESIGNING, DEVELOPING, ENHANCING, OR SUPPORTING A PRODUCT THAT OVERLAPS WITH EPIC SOFTWARE; AND (III) YOUR OBLIGATIONS TO EPIC FOR ALL LICENSE, MAINTENANCE, AND OTHER FEES PAYABLE IN ACCORDANCE WITH THIS AGREEMENT (INCLUDING, IF YOU USE THE PROGRAM PROPERTY IN A MANNER THAT EXCEEDS THE LICENSED VOLUME OR OTHER RESTRICTIONS ON YOUR USE SET FORTH IN THIS AGREEMENT, THE AMOUNT EPIC WOULD CHARGE YOU WITH RESPECT TO SUCH USE).

- b. **Force Majeure.** Neither party is liable for delay in performance or nonperformance caused by circumstances beyond the party's reasonable control, including acts of God, fire, acts of a common enemy, war, actual or threatened terrorism, third party criminal acts, civil disturbance, embargo, law or governmental regulations or labor dispute. In such event, the period for performance will be extended to reflect such delay or as otherwise agreed by the parties.
- c. **Timing of Actions.** Neither party will commence a Claim in arbitration or court for a matter arising out of or relating to this Agreement or any software, services, materials, reports, or other information provided by Epic more than twelve (12) months after the cause of action first arose.
- d. **Limitations.** Epic is not responsible for issues or damages caused by or resulting from Non-Program Errors or third party criminal acts. These include issues or damages caused by or resulting from Connected Products, such as: data corruption in Your Epic or other downstream systems; mapping or saving data to patient records incorrectly (e.g., sending correct data to the wrong patient or incorrect data to the right patient); fraudulent or other unethical conduct (e.g., inappropriately prescribing narcotics or zeroing out a balance due); degraded system response times, performance, or availability; and security vulnerabilities or privacy breaches, including where the Connected Product acts as a vector for hacking, ransomware, or other cybersecurity attacks. These risks are more significant for Connected Products that write data into the Program Property. You are responsible for ensuring that interactions between Connected Products and the Program Property operate as intended. In addition, with respect to any software modification or other development services, Epic's development obligation is limited to the functions expressly described in the specifications attached to the fully executed associated change order.

8. CONFIDENTIAL INFORMATION

- a. **Confidentiality.** Epic will not disclose Your Confidential Information and You will not disclose Epic Confidential Information, each except: (a) as required by law or court order; or (b) with the other party's written consent, including as provided in this Agreement. If either party is required by law or court order to disclose the other party's Confidential Information, the disclosing party will use reasonable efforts to provide the other party with prior written notice of such required disclosure and reasonably cooperate with the other party to limit such disclosure. Epic and You will each require (either through inclusion in a written agreement with such individuals or policies that apply

to them) that their personnel maintain the confidentiality of the other party's Confidential Information and use it only within the scope of their duties.

- b. **Business Associate Exhibit.** To address the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and associated regulations, the parties agree to the terms of Exhibit 5.
- c. **Protected Communications.** Notwithstanding anything to the contrary in this Agreement, as long as Epic remains subject to 45 CFR 170 as a developer of certified health IT, You are permitted to make certain communications about Epic's certified applications in accordance with Section 4002 of the 21st Century Cures Act and 45 CFR 170.403 (the "Communications Rule"). You recognize that Epic needs to avoid outright copying of its intellectual property by third parties in order to remain viable as a company. To help support this, You will ensure that any communications involving Epic Confidential Information are within the scope of the protected subject areas in the Communications Rule, and that each such communication follows the "Communications about Epic Software Under the ONC Communications Rule" overview, as updated from time to time at <https://www.epic.com/commsrulepolicy>, including that each communication uses the least amount of Epic Confidential Information necessary to fulfill its purpose.
- d. **Public Records Requests.** Epic acknowledges that You may be subject to chapter 42.56 RCW, the Public Records Act. Epic will use reasonable efforts to identify any information that is claimed by Epic to be proprietary information. To the extent not strictly prohibited under RCW 42.56, You will maintain the confidentiality of Epic Confidential Information. If a public disclosure request is made to view Epic Confidential Information, You will provide Epic an opportunity to review the requested information and to request that You withhold, or redact those portions of, such information that Epic reasonably asserts are confidential or exempt from disclosure. Prior to such disclosure, Epic may seek a protective order relating to the request at Epic's expense. In the event Epic fails to take action or respond to Your timely notification in a timely manner so as to allow You not to violate public records and disclosure laws, it will not be deemed a breach of Your confidentiality obligations under this Agreement if You fulfill Your obligations under this Section 8(d) (including, without limitation, that You have notified Epic of the disclosure request and provided Epic with a reasonable opportunity to oppose it) and disclose Epic Confidential Information only to the extent strictly required by law.

9. PROGRAM PROPERTY PROTECTIONS

- a. **General.** You will:
 - (i) Not reverse engineer any Program Property.
 - (ii) Limit access to the Program Property to Your Affiliates in the United States.
 - (iii) Store the Program Property securely and use Epic-approved security technology to provide and track electronic access to the Program Property, so that access is limited to permitted Affiliates.
 - (iv) If You discover that anyone with access to any Program Property is directly or indirectly assisting in the development, design, or enhancement of software that overlaps with any Epic software (and Epic has not provided advance written consent for such activity), promptly discontinue such access or ensure that such activity is terminated.
 - (v) Notify Epic promptly in writing if You discover any person or entity has obtained non-permitted access to Program Property.
- b. **Copyrights and Trademarks.** You will preserve all copyright and trademark notices in the Program Property and Third Party Software and Data. If You customize the Program Property, You will include Epic's logos and other trademarks in accordance with the requirements in the Documentation.

c. **Specifications, Source Code, and Extensions.**

- (i) *Industry-defined Specifications.* Epic participates in developing certain industry-defined interoperability standards, such as HL7, FHIR, and similar specifications. Fees may apply to use Epic's implementations of such standards (e.g., interfaces, APIs). As of the date of this Agreement, Epic makes certain of its industry-standard and public APIs (as identified on Epic's [open.epic APIs listing](#)) available to You through open.epic under the separate terms and fees available at <https://fhir.epic.com/Download/ApiLicenseAgreement>.
- (ii) *Confidential Information.* Epic will provide You with access to certain Epic Confidential Information under this Agreement, including Proprietary Data Schema and non-public program service calls. You may use such non-public information (A) for Your internal maintenance of the Program Property, and (B) to develop Extensions for internal use by You and Your Affiliates (but not other distribution) (collectively, "Internal Use"). You may only develop or assist in developing software that potentially overlaps with Epic software if everyone involved in the development has been restricted, by procedure and in practice, from having direct or indirect access to Epic Confidential Information. If You would like certain of Your Personnel (e.g., individuals with only limited and incidental access to Epic Confidential Information) to participate in developing software that potentially overlaps with Epic software without the protections described in the preceding sentence, at Your request Epic will discuss with You in good faith whether You and Epic can agree on reasonable alternative safeguards to protect against misuse of Epic Confidential Information. Development includes coding, defining requirements or specifications, and other design, development, and testing activities.
- (iii) *Source Code.* Epic may provide You with source Code, to which access must be limited to a list of individuals approved by Your chief information officer (or similar executive). Like other Epic Confidential Information, You may use any source Code provided to You for Internal Use. If You would like to use source Code for any other purpose, such as to develop Extensions for commercialization, You may request a software development kit agreement for such use. You will maintain source Code provided to You only in the country for which it is licensed in Subsection 1(a), except with Epic's prior written consent. You also will not provide any third party with access to source Code without Epic's express written consent, which Epic typically only provides under a written agreement with You and the third party that contains specific protections against misuse (e.g., audit rights). In the future, Epic may limit or discontinue source Code access (e.g., due to security, confidentiality, or information management concerns). At Epic's request, You will delete all source Code that has been provided to You.
- (iv) *Extensions.* Epic encourages and supports Your innovation efforts. However, it is important that Epic can continue developing its software for use by the Epic community without being blocked by intellectual property claims. Therefore, You and Your Affiliates will not enforce against Epic, its Owned Entities, or its or their direct or indirect customers or sublicensees, intellectual property rights in (i) Extensions, or (ii) an invention (e.g., method or system patent claims) by or in which data is exchanged with an electronic health record. In addition, You and Your Affiliates will not assign any such intellectual property rights to a third party that has not agreed to the restriction in the preceding sentence, and any purported assignment otherwise is void. You may share an Extension with the Epic community only by donating it to the Epic Community Library or with Epic's prior written consent. If You change the source Code, Proprietary Data Schema, or non-public program service calls, Epic's warranty and maintenance obligations will cease. Development of Programming Points Code is not a change to the source Code. You will not modify the source Code or use data structures or program service calls in a manner that circumvents Volume counts.

- d. **Unlicensed Software.** Given the integrated nature of Epic's software, Epic may provide You code for software that You have not licensed. Epic typically restricts access to unlicensed software using license keys. You will respect Epic's access restrictions and not use unlicensed code, except for incidental copying necessary for licensed use of the Program Property. The restrictions on use and the confidentiality and safekeeping terms that apply to the Program Property also apply to unlicensed code and documentation.

- e. **Third Party Assistance.** Some organizations choose to have third parties assist with their operations (e.g., implementation or operational services, outsourcing, administrative staff augmentation, hosting) and would like such third parties to have access to Epic Confidential Information. To protect confidentiality and reduce Your involvement in disputes that may arise, before providing such access You will work with Epic to ensure the access is covered by a written agreement between the third party and Epic, and You will only provide access as provided in that agreement. In addition, in certain cases Epic may rely more heavily on Your management and control of a third party, and You may need to sign a multi-party agreement with Epic, the third party, and possibly certain of the third parties' employees. For example, since the Program Property is licensed for use in the United States and international access can pose security and other concerns, You may need to sign an agreement permitting access outside the United States. Epic also may decline to enter into an agreement with the third party in certain circumstances, e.g., due to concerns about intellectual property protections in the country in which the third party operates, its security or confidentiality practices, Epic's or other customers' past experiences with the third party, or misappropriation of Epic's intellectual property for overlapping software development.

10. YOUR RIGHT TO TRANSFER THIS AGREEMENT

- a. **General.** You may assign this entire Agreement either to an Owned Entity or as part of the acquisition of substantially all of Your assets (except where the rights granted under this Agreement would constitute a majority of the total value of Your assets being acquired) by another entity. In either case, the assignee must be a hospital or physician organization, must not be an Epic competitor, and must agree in writing to the assignment and the Agreement's terms. You will be liable for the obligations under this Agreement if the assignee fails to satisfy them. You will not assign, transfer, delegate, sublicense, or timeshare this Agreement, in part or in whole, other than as expressly provided in this Agreement. Any attempt to do so, whether by You or on Your behalf, is void.
- b. **Financial Sponsor Change of Control.** You will promptly inform Epic in writing if You undergo or intend to undergo a Financial Sponsor Change of Control. To help Epic protect its intellectual property from use not intended or allowed by this Agreement, You agree that:
- (i) unless Epic agrees otherwise in writing, no Financial Sponsor Entity will qualify as an Affiliate under this Agreement, and You will not assign, transfer, delegate, sublicense or timeshare this Agreement to any Financial Sponsor Entity or allow any Financial Sponsor Entity to access Cosmos or any other Epic Confidential Information; and
 - (ii) if Epic learns of an actual or proposed Financial Sponsor Change of Control, Epic may at any time implement additional safeguards for its intellectual property by modifying portions of this Agreement relating to Epic Confidential Information. For example, Epic may remove or limit Your access to source Code, Proprietary Data Schema, Epic private APIs and other non-public program service calls, and require You to remove or limit certain users' access to the Program Property. These changes may limit Epic's ability to deliver services to You in the same manner as before Epic learned of the Financial Sponsor Change of Control and may require adjustments to fees, e.g., to address increased support time required from Epic. Epic will communicate these changes to You, and such changes will take effect with no further action on Your part.

If You disagree with any modifications Epic makes under this Subsection, You may escalate Your concerns following the escalation procedures in Exhibit 7. Following any such escalation, if Epic and You have not been able to resolve those concerns, You may terminate this Agreement upon one hundred twenty (120) days' written notice to Epic.

11. USE OF PROGRAM PROPERTY BY AFFILIATES

- a. **General.** You may allow an Affiliate to access and use the Program Property, subject to the terms below and elsewhere in this Agreement:

- (i) You will not allow access to an individual or entity that licenses software to health care organizations (or any other potential Epic competitor) without Epic's prior written consent.
 - (ii) You will only provide Affiliates with access to the Program Property to the extent necessary for use of the Program Property in Your and Your Affiliates' health care delivery operations.
 - (iii) Subject to Section 9 and except as agreed in writing by Epic, only Your employees may access Code other than Workstation Code.
 - (iv) Affiliates are subject to all of the limitations of this Agreement. You will have the same responsibility to Epic for an Affiliate's actions and omissions as if they were Your own actions and omissions.
 - (v) While You are providing access to Affiliates, You will (i) maintain designated staff resources who oversee Your relationships with Affiliates and complete and maintain Epic's then-recommended training curriculum for that role, and (ii) use Epic's then-recommended method (e.g., by setting service area designations) to identify each Affiliate.
 - (vi) If Epic informs You that it has concerns about how You are extending to or supporting Your Affiliates, You and Epic will work together to address Epic's concerns. Until Epic informs You that its concerns have been resolved, You will cease all sales and implementation activities with Affiliates unless otherwise approved by Epic in writing.
 - (vii) Epic may communicate directly with Affiliates as Epic reasonably deems necessary to work with You toward the goal of fostering effective extensions to and support of Affiliates. Epic may provide services for Affiliate implementations and support, including by sharing software expertise and recommendations on staffing, governance, and overall strategy based on Epic's experience and recommended practices. Any such services will be provided at Epic's then-standard rates. In addition, to gauge the success of Your Affiliates' use of the Program Property and identify potential improvements, Epic or another rating agency selected by Epic (e.g., KLAS) may survey or otherwise collect feedback from Affiliates and may share that feedback with You. You and Epic will work together on such activities. You agree that a rating agency that surveys or collects feedback from Affiliates may share the results directly with Epic.
- b. **Single Licensee.** Except as otherwise provided in this Agreement or pricing documentation for additional Production Directories or Licensed Volume, all Affiliates will be combined with You and treated as a single licensee under this Agreement. For example: (1) except as provided for a specific Affiliate, all Volume attributable to You or any Affiliate will be aggregated to determine if You have exceeded the Licensed Volume; (2) no additional copies of the Program Property will be provided to any Affiliate (except applicable Workstation Code); (3) all implementation, maintenance, modification requests, and the like will be conducted through the employees designated by You to contact Epic; and (4) You will be responsible for all payments to be made to Epic with regard to the activities of any Affiliate. Termination of this Agreement or a license to an Item will terminate the corresponding rights of any Affiliate.

12. INDEMNIFICATIONS

- a. **Intellectual Property Indemnification.** Epic will defend or settle, indemnify, and hold harmless Your Indemnitees from any third-party Claim brought against them to the extent: (1) it is a Claim of infringement of a patent, copyright, or trademark, in each case enforceable in the United States; (2) it is based on use of the Program Property as delivered to You by Epic and in accordance with the Documentation Manuals and this Agreement; and (3) it is not based on use of the Program Property in combination with other hardware or software except to the extent use of the Program Property alone would constitute infringement. You will promptly notify Epic in writing of the Claim, provide Epic with the information reasonably required for its defense, and grant Epic exclusive control over its defense and settlement. If such a Claim is or Epic becomes aware that it may be brought, Epic may:

- (i) procure the right for You to continue to use the Program Property that is the subject of the Claim; or
- (ii) modify, replace, or remove the Program Property, with the resulting Program Property having functionality substantially similar to or better than it did as of the date of this Agreement;

or, if Epic determines that options (i) and (ii) are not technically feasible or commercially reasonable,

- (iii) modify, replace, or remove the Program Property, with the resulting Program Property having less functionality than it did as of the date of the Agreement. Epic will use good faith efforts to minimize feature reduction and to provide non-infringing substitute functionality or other workarounds. If there is a material reduction in Program Property functionality under this Subsection 12(a)(iii), You may terminate Your license to the affected Item;

or, if Epic determines that (i), (ii), and (iii) are not technically feasible or commercially reasonable,

- (iv) terminate Your license to the affected Item.

Upon termination under Subsection 12(a)(iii) or (iv), You will cease use of the Item and return it to Epic. Epic will then reduce any depreciated license fee outstanding and refund to You any depreciated License Fee Paid to Epic for the Item, with such reduction and refund determined based on the license fee for the Item less depreciation calculated on a straight line basis over ten (10) years from the date of this Agreement through the date of termination. This Subsection states the entire liability and obligation of Epic to Your Indemnitees arising out of or relating to violations of intellectual property rights.

- b. **Clinical Products.** The Program Property contains tools intended for trained personnel to use as they provide care. It is not a substitute for competent human intervention and judgment. Accordingly, in using the Program Property You and Your Personnel will:

- (i) Enter and read information accurately and completely.
- (ii) Ensure that Your Personnel are properly trained.
- (iii) Be responsible for configuration and connection decisions (e.g., workflows and the use or non-use of specific features, Support Materials, and Third Party Products), including by monitoring and addressing any identified issues with Connected Products.
- (iv) Confirm the accuracy and relevance of information, including data made available or modified by a Connected Product, in the same manner as if it were in paper form (e.g., verification of allergies, medications, and results).
- (v) Report to Epic immediately all suspected Program Errors and other issues that Your Personnel know or should know could adversely affect patient care.
- (vi) Take all reasonable measures to avoid or mitigate harm that could be caused by Program Errors or other issues. Mitigation steps include immediately alerting all relevant members of Your Personnel and educating them about the problem, implementing safeguard procedures, and deploying alternate workflows or functionality (which may include turning off affected functionality), and promptly installing related Updates.
- (vii) Test for and assure Yourself of accuracy, completeness, appropriateness, and compliance of functionality and content (including Program Property, Support Materials, and Third Party Products) before You release them or authorize their release into a production environment.
- (viii) Maintain, train Your Personnel on, and carry out disaster recovery and system unavailability procedures that will permit Your Personnel to preserve patient care quality in the event of system unavailability.
- (ix) Use the Program Property only in accordance with the Documentation Manuals and applicable standards of good medical practice.

Many factors, including the provider-patient relationship, can affect outcomes and related Claims. Accordingly, to the extent not prohibited by law, You will indemnify, hold harmless and defend Epic Indemnitees from any Claim

by or on behalf of any patient of Your Personnel (or a third party claiming damage due to a relationship with such a patient), regardless of the cause (including Epic Indemnitee negligence), if such Claim in any way arises out of or relates to care or outcomes. However, the indemnification in the preceding sentence will not apply if Epic's negligence with respect to a Program Error is the sole cause of the event giving rise to the Claim and Your Personnel have, in connection with the Claim, satisfied each of the responsibilities listed in (i) through (ix) above. Epic will promptly notify You in writing of any Claim under this Subsection, provide You with the information reasonably required for its defense, and grant You control over its defense and settlement. You must obtain Epic's prior written consent to any settlement or judgment in which You agree to any action or forbearance by an Epic Indemnitee, finding of fault of an Epic Indemnitee, or defect in the Program Property or Epic Indemnitee services.

To the extent the indemnification described above in this Section 12(b) is prohibited by law, You agree that You must operate the Program Property accurately, use the Program Property only in accordance with the Documentation Manuals, and satisfy each of the Customer Responsibilities, and You will accept full responsibility for all losses or injuries that are incurred by any failure of Your Personnel to do so or as a result of any other fault by Your Personnel.

- c. **Third Party Products.** You will use Third Party Products in connection with Your use of the Program Property, and such Third Party Products have their own use limitations. Accordingly, You will, to the extent not prohibited by law, indemnify, hold harmless, and defend Epic Indemnitees from any Claim arising out of or relating to Your use of a Third Party Product unless it is sublicensed under and used by You only in accordance with this Agreement. Epic will promptly notify You in writing of any such Claim, provide You with the information reasonably required for its defense, and grant You control over its defense and settlement. To the extent the indemnification described above in this Section 15(c) is prohibited by law, You will accept full responsibility for all claims related to any acts or omissions by Your Personnel with respect to any Third Party Product.
- d. **Mutual Tort Indemnity.** Each party, to the extent not prohibited by law, will defend, indemnify and hold harmless the other party and its Indemnitees from a Claim brought by a third party for death, bodily injury, or damage to tangible personal property, all to the extent that both (a) such death, injury, or damage is proximately caused by negligence, recklessness, or willful misconduct by the indemnifying party, and (b) the Claim is not specifically related to the operation (including without limitation the design, programming, implementation, maintenance, or use) of the Program Property. The party requesting indemnification (the "Indemnified Party") will promptly notify the other party (the "Indemnifying Party") in writing of the Claim, provide the Indemnifying Party with the information reasonably required for its defense, and grant the Indemnifying Party exclusive control over its defense and settlement. An Indemnified Party will have the right to participate in the defense at its cost with its choice of counsel; provided, however, that the Indemnifying Party may not make any admission on behalf of the Indemnified Party without its consent. You will accept full responsibility for any death, bodily injury, or damages to tangible personal property for which You would otherwise have indemnification obligations under this section 12(d) to the extent such indemnification obligations would be prohibited by law.

13. TAXES

Except for taxes based on or measured by Epic's net income, all taxes (including sales, use, excise, property, and similar taxes) arising out of this Agreement or otherwise related to the license, use, implementation, maintenance or modification of the Program Property, or other software or services will be Your responsibility. If Epic pays or is required to pay such taxes (or related penalties or interest), You will promptly reimburse Epic. You have advised Epic that *[all of/[]/[none of]* the transactions related to this Agreement are tax-exempt. You will substantiate any tax-exempt status by providing Epic with evidence satisfactory to the relevant tax authorities. At Epic's reasonable request, You also will provide other relevant documentation, confirm Your payment of taxes, or facilitate Epic's collection of taxes. If Your tax status changes, You will promptly inform Epic by an email to finance@epic.com. *[Epic and DES or Purchaser to discuss any additional requests on taxes, e.g., how taxable and non-taxable charges and associated taxes are stated on Epic's invoices.]*

14. TERM AND TERMINATION

- a. **General.** This Agreement (including all licenses) will continue in effect until the Agreement or the applicable license is terminated in accordance with this Section or another express termination provision of this Agreement.
- b. **Termination Upon Bankruptcy, Insolvency and the Like.** Subject to applicable bankruptcy and insolvency laws, if either party (i) ceases the active conduct of business; (ii) voluntarily becomes subject to a bankruptcy or insolvency proceeding under federal or state statute; (iii) has filed against it an involuntary petition for bankruptcy that is not dismissed within sixty (60) days of filing; (iv) becomes insolvent or subject to direct control by a trustee, receiver, or similar authority; or (v) winds up or liquidates its business, voluntarily or otherwise, then the other party may, at its sole option, terminate this Agreement immediately.
- c. **Termination Upon Material Breach; Cure Periods.** A party (the “Notifying Party”) may terminate this Agreement if the other party (the “Breaching Party”) materially breaches its obligations and does not cure the breach within sixty (60) days of receipt of notice from the Notifying Party. The notice will be provided in accordance with Section 15, will reference this Subsection or state it is a notice of material breach, and will describe the breach in sufficient detail to permit the Breaching Party to cure the breach. Where another provision of this Agreement includes an express termination right and cure period, this Subsection will not apply.
- d. **Termination for Convenience.** When, at Your sole discretion, it is in the best interest of the State of Washington, You may terminate this Agreement in whole or in part by providing at least ninety (90) days’ written notice. If You so request in the notice of termination, Epic will immediately cease further implementation or training activities and You will not incur further fees for such services after the date Epic receives such notice (provided that if You do not request immediate termination of such services, Epic will continue to provide such services until the earlier of the termination date or the date You request cessation of such services, and You will incur fees for such services until such time). In case of such termination for convenience, You will pay to Epic: (i) the prorated monthly charges for maintenance services that are provided prior to the date of termination; (ii) payment in accordance with the terms of this Agreement for services rendered and deliverables received prior to the effective date of termination, including any outstanding fees for Your use of Subscription Items and Annual Fee Items under Section 4(e) and Exhibit 1 prior to the effective date of termination; and (iii) the balance of any unpaid license fees as of the termination date, regardless of whether such fees are yet due and payable. For the avoidance of doubt, (i) license fees for software that Epic licenses to You on a perpetual basis accrue immediately on signing, even if Epic allows You to pay those amounts over time, and (ii) no additional fees for Subscription Items or Annual Fee Items will accrue after You discontinue Your use of such Items. The amounts for such deliverables in development but not delivered and accepted will be costs actually and reasonably incurred by Epic, as based on the then-current hourly rate at the time of termination, but such costs will not exceed the deliverable price stated in a modification request or implementation estimate, except as otherwise amended by the parties in writing. In addition, You agree to compensate Epic for reasonable and necessary costs incurred by Epic as a result of Your termination for convenience, including but not limited to costs associated with undepreciated or unamortized equipment and software licenses, early termination of leases, termination of subcontractors and staff, subject to Your reasonable judgment, the availability of State and Federal funds, and receipt of supporting documentation from Epic. **Whether provisions 14(d)-14(f) are included in a Purchase Order will depend on the identity of the Purchaser**
- e. **Termination for Nonallocation of Funds.** If funds are not allocated to continue this Agreement in any future period, You may immediately notify Epic of its determination to terminate this Agreement effective as of the last day of Your current fiscal budget year (or such earlier date upon which You will have insufficient appropriated funds to perform Your payment obligations hereunder) by providing written notice to Epic. The termination will be effective on the date specified in the termination notice in accordance with the prior sentence. You will be liable only for payment for service fees, license fees, deliverables, maintenance fees and costs in the same manner as provided in Subsection 14(d) above. You agree to notify Epic in writing of such nonallocation at the earliest possible time. Except for the fees payable pursuant to Subsection 14(d) above, no penalty will accrue to You in the event the

termination option in this Subsection is exercised. As an alternative to termination of the Agreement, You may terminate the maintenance program as provided in Subsection 5(c).

- f. **Termination for Withdrawal of Authority.** In the event that Your authority to perform any of Your duties is withdrawn, reduced, or limited in any way after the commencement of this Agreement and prior to normal completion in a manner that makes it impossible for You to perform under this Agreement, You may immediately terminate this Agreement by providing written notice to Epic. The termination will be effective on the date specified in the termination notice. You will only be liable for payment for service fees, license fees, deliverables, maintenance fees and costs in the same manner as provided in Subsection 14(d) above. You agree to notify Epic of such withdrawal of authority at the earliest possible time. Except for the fees payable pursuant to Subsection 14(d) above, no penalty will accrue to You in the event the termination option in this Subsection is exercised.
- g. **Effect of Termination.** All licenses granted under this Agreement terminate when this Agreement terminates. Within thirty (30) days of the effective date of termination of this Agreement or a license, You will return all copies of the applicable Code and Documentation to Epic, or destroy such copies and certify to Epic that such actions have occurred. You will remain liable to Epic for all fees and expenses accrued prior to such termination.
- h. **Transition Assistance.** Upon Your request, Epic will provide reasonable assistance to effect a transition to another information system, including by cooperating with You or a third party with respect to data conversions and interfaces. Epic will provide You with patient data previously processed by the applicable Program Property in an electronic format that You can transition to another information system. You agree to provide Epic with reasonable advance written notice of any requests for cooperation under this Subsection, and the parties will in good faith seek to agree on a timeline for Epic to perform such services taking into account Epic’s available resources, then-current development projects and commitments, and the scope and nature of the services requested. All services Epic performs under this Subsection are chargeable at Epic’s then-current rates for such services.
- i. **Survival.** The following terms will survive termination: Subsections 2(g)(ii) and (iv), 3(c), Section 4 (to the extent applicable for pre-termination use or obligations), Subsections 5(e) (for Performance and Use Data collected before termination), 6(d), (g), and (h), Sections 7-10, 12-13, Subsection 14(g), and Sections 15-17, and the terms of any addenda, amendments, or software orders governed by this Agreement to the extent provided in such agreements or covering similar subject matter to other surviving terms.

15. NOTICE

- a. **General.** Notice required under this Agreement must be in writing, delivered by reputable overnight courier, by U.S. mail via registered, certified, or overnight delivery and return receipt requested, or by personal delivery, and addressed to the following addresses (or another address a party designates by notice to the other party):

If to Epic:

Judith R. Faulkner
 CEO
 Epic Systems Corporation
 1979 Milky Way
 Verona, WI 53593

If to You:

with a copy to:

General Counsel
 Epic Systems Corporation
 1979 Milky Way
 Verona, WI 53593

with a copy to:

- b. **Invoices.** Invoices should be sent by email to the following email address (or another email address You designate by email to finance@epic.com): _____.
- c. **Payments.** Payments should be payable to Epic Systems Corporation and sent to the following address (or to another address Epic designates by notice to You):

Epic Systems Corporation
Box 88314
Milwaukee, WI 53288-0314

16. RECORDS REQUIREMENTS

To the extent 42 U.S.C. § 1395x(v)(1)(I) (as amended) and regulations promulgated thereunder apply, until the expiration of four (4) years after furnishing services and/or products under this Agreement, Epic will make available, upon written request of the Secretary of the Department of Health and Human Services, or upon request of the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and the books, documents, and records of Epic that are necessary to certify the nature and extent of the costs for which You seek reimbursement. In addition, if Epic carries out its duties under 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 will contain a similar clause allowing access to the subcontract, and books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

17. MISCELLANEOUS

- a. **Governing Law, Forum and Jurisdiction.** This Agreement will be governed and interpreted under the law of the Jurisdictional State, without reference to its conflicts of laws principles, and any action (including by arbitration, if applicable) arising out of or relating to this Agreement will be brought exclusively in the Jurisdictional State. If Epic institutes the applicable legal action, then the “Jurisdictional State” for such action and all counterclaims to such action will be the state of Washington and the exclusive venue will be the state and federal courts in Thurston County, Washington. If You institute the applicable legal action, then the “Jurisdictional State” for such action and all counterclaims to such action will be the State of Wisconsin and the exclusive venue will be the state and federal courts in Dane County, Wisconsin. Provided the action is brought in accordance with this Subsection 17(a), Epic and You consent to the personal jurisdiction and venue of the state and federal courts (and arbitration, if applicable) located in the Jurisdictional State.
- b. **Severability.** The provisions of this Agreement will be severable, so that if any provision is found unenforceable, it and related provisions will be interpreted to best accomplish the unenforceable provision’s essential purpose. However, severability will not apply if it materially changes the benefit of this Agreement to either party.
- c. **No Waiver; No Course of Conduct.** Failure to enforce a provision of this Agreement will not bar future enforcement. The parties’ conduct will not be used to interpret this Agreement.
- d. **Purchase Orders.** Epic accepts Your purchase orders only for accounting convenience. Purchase order terms, other than those in a software or service order prepared by Epic and signed by You, will not amend this Agreement or otherwise constitute an agreement between the parties.
- e. **Entire Agreement.** The appendices, exhibits, and addenda to this Agreement, and software or service orders prepared by Epic and signed by You, are part of this Agreement. Except as expressly provided in another written agreement between You and Epic or an Epic Owned Entity, this Agreement is the entire understanding between the parties on its subject matter. Any amendment must be in writing and agreed to by a duly authorized representative of each party.

f. **Subcontracting and Assignment by Epic.**

- (i) *Subcontracting.* Epic may subcontract its activities under this Agreement to any Epic Owned Entity. Epic also may subcontract such activities to non-Epic subcontractors. Epic will inform You in advance of any proposed non-Epic subcontractor and the activities it would carry out, and You may approve or reject the subcontractor. Epic is responsible to You for work performed by its subcontractors to the same extent as it is for Epic's own work. Relevant terms of this Agreement apply to subcontractors in the same manner as they apply to Epic. Code or documentation provided to You by an Epic subcontractor is owned by Epic and treated as Code and Documentation under this Agreement.
- (ii) *Assignment by Epic.* Epic may assign this Agreement either to an Owned Entity or as part of the acquisition of substantially all of Epic's assets by another entity. In either case, the assignee must agree in writing to the assignment and the Agreement's terms. Epic will remain liable for Epic's obligations under this Agreement if the assignee fails to satisfy them.

g. **Restriction on Offers of Employment.** Epic and You will not solicit, discuss prospective employment with, or hire (directly as employees or indirectly) any employee of the other party, except with the other party's prior written consent. The restriction in the previous sentence applies during an individual's employment with the other party and for twelve (12) months following such employment, and only to employees who have worked on the development, implementation, or maintenance of Epic software. Epic may choose not to work with or train former Epic staff hired in violation of this Subsection.

h. **Relationship of the Parties; Nature of the Transaction.** Epic and You are independent contractors and not each other's agents. Except to the extent expressly specified, this Agreement does not create third-party beneficiaries. Epic and You are not joint employers of the other's employees and do not have the right to share or codetermine the essential terms and conditions of employment for the other's employees. Each party agrees that the terms of and fees under this Agreement for the Program Property are the product of an arm's length transaction between the parties and are intended to satisfy the requirements of the Manner Exception (45 CFR 171.301) for providing access, exchange, or use of electronic health information in the "manner requested."

i. **Interpretation; Authorization; Counterparts.** Headings in this Agreement will not affect the interpretation of this Agreement. In this Agreement, the words "include" and "exclude" and their variants are not words of limitation, and examples are for illustration and not limitation. In addition, all references in this Agreement to Epic's standard rates or fees mean those rates or fees Epic normally charges at such time to its similarly situated customers for the applicable services or software. Moreover, all references in this Agreement to the "United States" mean the fifty states and the District of Columbia. Each party represents that the individual signing on its behalf is authorized to bind the party. This Agreement and its incorporated documents may be signed on paper, by facsimile or electronically, and may also be signed in counterparts.

j. **Annual Security Certifications.** Epic has undergone third-party audits of Epic's information security program, policies, and practices with respect to its implementation and support services ("the Audited Services"). Epic will use commercially reasonable efforts to obtain an assessment of the Audited Services from a qualified, independent, and certified auditor using a generally accepted objective and comprehensive audit standard of Epic's choosing (e.g., the SOC 2 standard, or its successors, the ISO 27000 series standard, or its successors, or HITRUST, or its successors) on an annual basis (the "Independent Audit") for so long as obtaining such assessments remains a priority for Epic customers. Upon Your request up to once annually, Epic will provide You with a copy of its most recent Independent Audit report(s) that are intended for distribution to third parties to the extent permitted by Epic's agreement with such independent auditor. Any information shared with You in connection with the Independent Audit or the preceding sentence will be deemed Epic Confidential Information under this Agreement. Epic may update the Audited Services and scope and methodology for Independent Audits provided such updates are intended to enhance Epic's overall security program.

- k. **Offshore Support.** As of the date of this Agreement, Epic does not maintain an office outside of the United States for purposes of providing maintenance support to customers located in the United States, and Epic currently has no plans to open such an office. If, in the future, Epic decides to begin providing support from an offshore location and such support would involve Epic accessing Your Protected Health Information from outside the United States, Epic will first provide applicable You with advance written notice of such intention and, at Your request will meet with You to discuss appropriate technical precautions and other reasonable measures to take with respect to such access to Your Protected Health Information. For clarity, Epic or Epic Owned Entity personnel who happen to be outside of the United States (e.g., while on vacation, business travel, or located outside the United States to perform services for another Epic customer) while providing services to You are not considered to be accessing Your Protected Health Information from outside of the United States if: (a) the personnel, while providing such services, have first connected to Epic's network or computing resources using a VPN connection (or similar type of connection) that uses an encryption algorithm that meets industry standard criteria, or by using another method You use to provide access to Your environments; or (b) You or any of Your personnel make Protected Health Information available to such personnel through then-available means (e.g., via email, in a Sherlock ticket, by using video conferencing technology, or by provisioning access to Your systems).
- l. **Accessibility.** As part of Epic's implementation services, Epic will assist You upon Your request to configure workflows in a manner to maximize the accessibility features available in the Program Property. As of the date of this Contract, Epic intends to conform to the World Wide Web Consortium (W3C) Web Accessibility Initiative (WAI) Web Content Accessibility Guidelines 2.1 Level AA for its future patient-facing, web-based development. Upon Your reasonable request, but no more than annually, Your Epic implementation executive or technical coordinator will meet with You to discuss any recent accessibility enhancements and its then-current plans for future enhancements.
- m. **Audit.** Once per calendar year and at its own expense, You may engage Your internal staff or an independent third party (an "Auditor") to perform a review and audit of relevant records relating to hourly charges or reimbursable expenses billed to You by Epic pursuant to this Agreement (an "Audit") covering the then-current or the previous calendar year. Upon Your reasonable request, Epic then will provide its reasonable cooperation and assistance to You (during Epic's normal business hours and without any interference with Epic's business operations) with respect to the Audit at Epic's then-standard rates. You will provide Epic with at least fifteen (15) business days' advance notice to prepare materials for the audit. The Auditor will prepare and submit to You a written report of the results of the Audit. You will deliver to Epic a copy of any Audit report within thirty (30) days of its receipt thereof. You will require any third-party auditing staff to comply with all reasonable confidentiality, non-solicitation and security requirements that Epic may reasonably impose.
- n. **Suspension and Debarment.** Epic represents and warrants as of the date of this Agreement that, to its knowledge, neither Epic nor its employees or Owned Entities that Epic intends to provide services under this Agreement are debarred, suspended, declared ineligible, or voluntarily excluded from participation in any Federal Health Care Program (as defined in 42 U.S.C. Section 1320 a7b(f), or any applicable successor statutory section). If Epic, or any employee of Epic while providing services under this Agreement, is excluded or debarred from participation in any Federal Health Care Program, or becomes otherwise ineligible to participate in any such program, Epic will notify You in writing within five (5) business days after learning of such event. If an employee is at issue, Epic will remove such employee from working on Your project. If Epic becomes excluded, debarred or ineligible for participation, whether or not such notice is given to You, You may upon notice to Epic immediately suspend doing business with Epic. In the event Epic has not cured such exclusion from participation or debarment and restored its eligibility to participate within ninety (90) days, then You may immediately terminate this Agreement upon written notice to Epic.
- o. **Insurance.** Beginning upon execution of this Agreement and continuing for the duration of Your participation in the Maintenance Program, Epic will maintain the following insurance coverage at (except as set forth below) levels

no lower than as set forth under this Subsection 17(o) (which may be covered through a combination of commercial general liability, umbrella, and/or excess liability insurance policies and/or self-insurance):

- (i) Employer's Liability insurance, with limits not less than one million dollars (\$1,000,000) per claim/accident, one million dollars (\$1,000,000) per disease/each employee, and one million dollars (\$1,000,000) disease policy limit;
- (ii) Commercial General Liability insurance, with limits not less than one million dollars (\$1,000,000) per claim/occurrence and two million dollars (\$2,000,000) annual aggregate;
- (iii) Excess/Umbrella Liability insurance coverage, with limits of five million dollars (\$5,000,000) per claim/occurrence and five million dollars (\$5,000,000) annual aggregate;
- (iv) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
- (v) Worker's Compensation insurance in such amounts as are required to comply with applicable state law. This policy must include a waiver of all rights of subrogation and other rights against You. You also will maintain Worker's Compensation insurance in such amounts as are required to comply with applicable state law. This policy must include a waiver of all rights of subrogation and other rights against Epic.

As of the date of this Agreement, Epic also maintains professional liability (errors and omissions) insurance with limits of at least \$10,000,000, which currently includes cyber and privacy insurance coverage for network security and privacy risks. Epic intends to continue to maintain the same or substantially equivalent coverage, provided that it is available at rates and on terms that Epic considers to be reasonable. Epic shall provide You with a certificate of insurance evidencing the above coverage upon Your written request (but no more frequently than annually) and subject to the preceding sentence.

THIS AGREEMENT HAS BEEN ENTERED INTO AS OF THE DATE OF YOUR SIGNATURE BELOW.

By: _____

Name: _____

Title: _____

Date: _____

EPIC SYSTEMS CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

APPENDIX A DEFINITIONS

1. "Affiliate" means Your Owned Entities; any hospital or physician organization in the State of Washington with fewer than 200 licensed beds and an expected Annual Volume (calculated based on the organization's full operations as if each Item were fully implemented) of fewer than 200,000 Ambulatory Visits that is within Your service area, shares Your Production Directory, and shares or is reasonably likely to share patients with You; and, anyone else (e.g., larger organizations) approved by Epic in writing. "Affiliates" include You and the above entities' employees and medical staff.
2. "Annual Volume" means the aggregate Volume for the Program Property during (a) the 12-months following the date of this Agreement, and (b) each subsequent 12-month period.
3. "Claim" means all claims, demands and actions, and all associated liabilities, damages, refunds and costs, including settlements and attorney's fees.
4. "Code" means all object and source code provided by Epic to You under this Agreement, including for the Program Property and in the master patient index and training environments. Code is delivered when it is first made available to You.
5. "Confidential Information" means Your Confidential Information or Epic Confidential Information, as applicable given the context.
6. "Connected Product" means a Third Party Product that connects to Epic software (e.g., through interfaces, data connectors, APIs, or other program service calls).
7. "Contested Amount" means the amount of an Epic charge that You dispute in good faith in a written notice describing the dispute and provided to Epic by the due date, so long as You have paid all undisputed amounts then due.
8. "Current Version" means the most recent release of an Item, including subsequent special updates to that release.
9. "Documentation" means all documents or materials in any format, including technical data associated with the Program Property, relating to the functionality, operation, use, source code, data structures, implementation, or maintenance of the Program Property or other Epic software, which are (a) provided to You under this Agreement, or (b) created by You or on Your behalf (only to the extent revealing Epic Confidential Information).
10. "Documentation Manuals" means the Setup and Support Guides and Release Notes provided by Epic for the Program Property, and exclude other Documentation, such as data models, data dictionaries, or objects listings.
11. "ECI" means the Employment Cost Index for total compensation (not seasonally adjusted) for private industry workers, management, professional and related occupations, excluding incentive paid occupations, December 2005 = 100, published by the U.S. Department of Labor, Bureau of Labor Statistics. Unless otherwise specified, the ECI published most recently before the date of the Agreement applies. In any year from the date of the Agreement when the percentage increase in the ECI is less than 1%, the percentage increase in the ECI will be deemed to be 1%. If the ECI is discontinued, Epic will substitute a similar cost index.
12. "Epic Confidential Information" means, except as provided below, all information concerning: the functionality, operation, use, code, data structures, or development of either Epic software (including the Program Property) or Third Party Software and Data; Proprietary Data Schema; Epic's training, implementation, maintenance, and other services; and this Agreement's terms. "Epic Confidential Information" excludes information: (a) generally available to the public without fault by You; (b) rightfully known by You non-confidentially before

- Epic first provides You access to such information; (c) independently developed by You without use of any Epic Confidential Information; or (d) rightfully obtained by You from a third party with the right to disclose it non-confidentially.
13. “Epic Fees Paid” means all fees paid by You to Epic for (a) Your license to the Program Property, and (b) the hourly and Maintenance Program services provided to You by Epic under this Agreement.
 14. “Extension” means any development that incorporates or references any (a) Epic source Code libraries, (b) Epic APIs that are not available for public use through open.epic, (c) Proprietary Data Schema, or (d) other Epic Confidential Information.
 15. “Financial Sponsor” means a private equity, venture capital, family office, or other entity engaged in the business of investing pools of capital in businesses with the primary goal of generating financial return for its investors.
 16. “Financial Sponsor Change of Control” means any transaction or series of related transactions following which a party to this Agreement is an Owned Entity of a Financial Sponsor or group of Financial Sponsors, or, if the direct or indirect ownership or control interests of all Financial Sponsors were aggregated in a single entity, would be an Owned Entity of such single entity.
 17. “Financial Sponsor Entity” means a Financial Sponsor and its affiliated organizations, excluding You and Your Affiliates that are hospital or physician organizations and were using or implementing the Program Property for live production use prior to a Financial Sponsor Change of Control.
 18. “First Live Use” for an Item occurs when You first use the Item to process actual patient data for production purposes.
 19. “Indemnitees” means the applicable party and its Owned Entities, and its and their employees, officers, directors, and contractors. Your Indemnitees also include Affiliates.
 20. “Item” means each uniquely identified item of Epic software (together with its specified components) licensed to You under the Agreement. The initial Items are specified as Program Property on Exhibit 1. Items may be added by amendment or an Epic-prepared order form signed by You. An Update is not a new Item.
 21. “License Fee Paid” means the portion of the Program Property License Fee You have paid Epic that is attributable to a given Item, or, for software licensed after the date of this Agreement, the portion of the license fee You have paid Epic.
 22. “Licensed Volume” means the limitations on the Annual Volume specified in Exhibit 1 and increased under Subsection 4(b). You represent that You reasonably calculated the expected Annual Volume based on Your and Your Owned Entities’ current operations as if each Item were fully implemented and such expected Annual Volume does not exceed the Licensed Volume. Certain Affiliates may be assigned separate Licensed Volumes.
 23. “Maintenance Program” means the maintenance services for the Program Property described in Section 5.
 24. “Non-Program Error” means an apparent or real defect, error, or other anomaly that Epic reasonably determines either does not originate from an Item (e.g., incorrect use or input (including data made available or modified by a Connected Product) and issues related to hardware, Third Party Products, or other non-Program Property code) or is a result of the design, configuration, presentation format, or general flow and function of, or a non-Epic modification to, the Program Property. A Non-Program Error is not a Program Error.
 25. “Operating Environment” means the InterSystems or other operating environment that Epic may specify from time to time. The Operating Environment is initially specified on Exhibit 1.
 26. “Owned Entity” is an entity that (a) directly or indirectly owns or controls more than fifty percent of the applicable party, or (b) is more than fifty percent

- owned or controlled, directly or indirectly, by the applicable party or an entity described in clause (a).
27. “Performance and Use Data” means the following data relating to Your use of the Program Property: operating system metrics (e.g., CPU utilization, file system usage, disk read performance), Operating Environment metrics (e.g., database accesses per second, available licenses, database free space), Program Property activity metrics (e.g., number of appointments created, average length of stay, medications ordered), configuration selections (e.g., workflows, item selections) and other performance metrics and usage data. Performance and Use Data excludes Protected Health Information (as defined in Exhibit 5).
 28. “Production Directory” means each (a) copy of the server Code used to process actual patient data; and (b) actual patient database exceeding one (if any) processed by the same server Code copy of Program Property. For example, if You use three copies of the server Code to process data, two of those copies each process one patient database and one copy processes two patient databases, You use four Production Directories. Directories used solely for testing or training; disaster recovery; shadow copies supporting MyChart or EpicCare Link; or reporting copies supporting read-only reporting functions are not Production Directories.
 29. “Program Error” means a reproducible error or defect in an Item that results in its failure to operate in substantial conformity to descriptions of such operation in the Documentation Manuals. For the avoidance of doubt, operation of an Item that is not inconsistent with its operation as described in the Documentation Manuals will not constitute a Program Error.
 30. “Program Property” means, for each Item, the Code, Documentation, Updates, and other modifications provided to You under this Agreement and described as included in the Item’s Documentation Manuals. If You would like to license additional functionality, additional fees will apply.
 31. “Program Property License Fee” is the amount specified on Exhibit 1 as the “Program Property License Fee”.
 32. “Programming Points Code” means code external to the source Code that is executable, in accordance with Epic’s instructions, at designated places in the Code.
 33. “Project Plan” is the project plan agreed to and periodically revised as agreed by the parties’ implementation teams. A sample is attached as Exhibit 2.
 34. “Proprietary Data Schema” means metadata describing the specific location, arrangement, or structure of the data elements used in the Program Property, excluding publicly available standard HL7 formats or other Epic-published exchange formats.
 35. “Reasonable Workaround” means a workaround of a Program Error that does not materially decrease the general utility of the Program Property.
 36. “Substantive Program Error” means a Program Error that materially and adversely affects Your operations.
 37. “Support Materials” are content, formats, forms, data, software, configuration, tools, and other materials created for use with the Program Property and made available through the Community Library or otherwise by Epic (e.g., in starter sets and the Foundation System), such as: report formats, SmartForms, SmartSets, SmartText, SmartPhrases, pathways, decision support rules, selection lists, flowsheets, care plans, patient education, handouts and letter forms, after visit summary forms, preference lists, reference master files, category lists and other reference tables.
 38. “Third Party Product” means equipment, software, data, code sets, or other information or material used with, by or in the Program Property, whether or not supplied by Epic.
 39. “Third Party Software and Data” means the items of software and content specified in the Third Party Software and Data section of Exhibit 1, or as otherwise may be added by amendment or an Epic-prepared form signed by You.

40. “Uncontested Amount” means an amount charged by Epic to You that is not a Contested Amount.
41. “Update” means a release of or patch to an Item (with error corrections, enhancements, or extensions) that Epic generally makes available free of charge to its similarly situated customers under the Maintenance Program, including applicable Documentation Manuals. Updates are limited to functionality and features described as included in an Item in its Documentation Manuals. If You would like to license additional functionality, additional fees will apply.
42. “Volume” means the actual level of use of the Program Property determined under Exhibit 1 and Subsection 11(b).
43. “Warranty Period” means, for each Item, the period beginning on delivery and ending ninety (90) days after First Live Use.
44. “Workstation Code” means the components of the object Code designed to operate on personal computers for the purpose of accessing the object Code on Your server(s).
45. “Your Confidential Information” means, except as provided below, all confidential patient data stored using the Program Property and Your confidential information concerning Your business strategies and finances. “Your Confidential Information” excludes information that: (a) is generally available to the public without fault by Epic; (b) is rightfully known by Epic non-confidentially before Epic’s first access to such information from You; (c) is independently developed by Epic without use of any Your Confidential Information; (d) is rightfully obtained by Epic from a third party with the right to disclose it non-confidentially; (e) relates to the identity of the Program Property licensed by You, the types and configuration of hardware or operating systems running the Program Property, the identity of software or hardware with which the Program Property interfaces for You, the sites where Epic is implementing, interfacing or maintaining the Program Property (or expects to do so), or development relating to the Program Property; or (f) concerns software, data structures, medical content, internet portals or technology, or related development, implementation, maintenance, or other services.
46. “Your Data” means (a) Your Confidential Information to which Epic has access, and (b) Performance and Use Data.
47. “Your Personnel” means You and Your Affiliates, all of Your and their employees and agents, and all persons involved in any way with the Program Property.

List of Exhibits

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
D-1	Program Property, Third Party Software and Data; Additional Terms and Billing Information
D-2	Sample Project Plan
D-3	Post-Live Activity Credit
D-4	Epic's Current Standard Hourly Rates
D-5	Business Associate Exhibit
D-6	Epic's Support Policies
D-7	Epic Error Correction Services
Addendum	Care Everywhere Addendum
Addendum	Carequality Addendum
Addendum	Cosmos Addendum
Addendum	Epic Cognitive Computing Addendum
Addendum	Payer Platform Addendum
Addendum	Customized MyChart Addendum
Addendum	InterSystems Software Addendum: Terms of InterSystems Sublicense
Addendum	SQL Addendum: Terms of KB Systems' KB_SQL Sublicense
Addendum	CPT Addendum
Addendum	ACC-NCDR® Registry Communication Module Addendum

Epic Program Property:	Initial Monthly Maintenance Fee:	Comments:
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]
[Item Name]	\$xxxx	[Standard product-specific comments]

Licensed Volume:

- [xxxxx] annual Ambulatory Visits
- [xxxxx] annual Inpatient Day Equivalents
- [xxxxx] annual Home Care Visits
- [xxxxx] annual Prescription Dispenses
- [xxxxx] Cognitive Computing Models
- [others]

See Attachment A for Volume definitions.

License Fee Schedule:

Program Property License Fee: \$xxxxxxxx

The Program Property License Fee is payable as follows: [xxxxxxxxxxxx].

***Other Program Property
(not included in Program Property License Fee)***

Epic Program Property:	License Fee:	Initial Monthly Maintenance Fee:	Comments:
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]

Epic Program Property:	License Fee:	Initial Monthly Maintenance Fee:	Comments:
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]
[Item Name]	[_____]		[Standard product-specific comments]

Notes and Assumptions for Program Property:

- Each Item of Program Property is licensed solely for use in a single Production Directory in accordance with the Documentation Manuals and with the other Items of Program Property included in this Exhibit 1 at the Licensed Volume specified for the Program Property. If any Licensed Volume increases or additional Epic software or Production Directories are licensed, additional fees will apply.
- Fees for the Program Property are based on Your use of the Program Property, as limited by Your Licensed Volume. Use of Epic-provided user interfaces or connectors or any other software or code (whether developed by You or otherwise) that utilizes any web service or other program service call, code, algorithm, or data structure provided with Epic software will count toward Your use of the Program Property. To the extent any such use causes You to exceed any Licensed Volume or otherwise increase Your use of Epic software, additional fees may apply. Epic will use reasonable efforts to inform You in advance about the manner in which such use will be counted, including by modifying the Volume definitions in Attachment A if applicable.
- Each Item listed in the first table above is an “Enterprise Item” unless otherwise noted above as an “Inpatient Item” or “Ambulatory Item”. See Subsection 4(d) (Expected Use) of this Agreement.
- Subscription fees for Subscription Items and annual fees for Annual Fee Items are subject to increases.
- If You extend use of applications that do not count towards Your Licensed Volumes, additional fees may apply.
- All Program Property requires use of EpicCare Inpatient Electronic Health Record Suite or EpicCare Ambulatory Electronic Health Record Suite.
- Initial monthly maintenance fees listed are before any annual or other increases (e.g., changes in Licensed Volume or additional Program Property). Maintenance fees for each application begin upon First Live Use. See Section 4(j) (Maintenance Fees) of this Agreement.
- Additional functionality that You have not licensed as of the date of this Agreement, including functionality that Epic develops in the future as a separately licensed application, may be added to Exhibit 1 through a completed software order or license amendment.
- [ONC Certification Details](#)

Product-Specific Notes for Program Property:

- *Blood Administration* – This application is currently listed as a medical device with the US FDA. You are responsible for installing and using it only in accordance with Epic’s instructions in the Documentation Manuals, and You agree to cooperate with Epic during any recall or corrective action. This Item is only available while You are participating in the Maintenance Program. If Epic decides to stop licensing software regulated by the FDA, Epic may disable this Item.
- *Carequality SSA Determination and Carequality Electronic Case Reporting* – Although the subscription fee for these Items is waived at this time, if the subscription fee for these Items is no longer waived, You agree to pay Epic the subscription fee for Your use of these Items in accordance with Section 4(e) of the Agreement.
- *Chart Gateway* – Chart Gateway is an Epic service that allows life insurance companies and law firms to electronically request and receive patient-authorized medical records for processing certain insurance products such as life, disability, and general liability

insurance policies. Use of Chart Gateway requires use of Health Information Management – Release of Information and Care Everywhere, and the same Care Everywhere terms that apply to exchanges with other organizations also apply to the exchange of records using Chart Gateway. Based on Epic's then-current pricing terms for Chart Gateway, Epic may pay You for records You transmit to life insurance companies using Chart Gateway, and any such payments You receive will be applied as a credit towards Epic invoices.

- *Cognitive Computing Cloud Models* - This Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform. Cloud Models are counted towards Your Cognitive Computing Models Licensed Volume.
- *Cognitive Computing Machine Learning Model Library* - The license and maintenance fees for the initial 10 Cognitive Computing Models are waived. If You increase Your Licensed Volume for the Cognitive Computing Machine Learning Model Library, then license and maintenance fees will apply based on the applicable Licensed Volume tier and the other Items of Program Property licensed by You and their Licensed Volumes. In the future, Epic may develop additional types of advanced cognitive computing models or similar tools that are licensed separately and not included as an Update to the Cognitive Computing Machine Learning Model Library, and additional fees may apply for use of such models or tools.
- *Cognitive Computing Developer Platform* – If used to deploy Cloud Models, this Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform.
- *Cosmos* – There will be software and services included with Cosmos, such as the Cosmos data submission infrastructure and access to the Cosmos web portal. Other software, or future features of Cosmos, may be licensed separately. Use of Cosmos for Externally-Funded Research may be chargeable.
- *Epic Video Client* - This Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform.
- *Genomic Cloud Storage* - This Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform.
- *Guesthouse* - Epic may require You to limit certain third parties' access to the Program Property to be solely via Guesthouse (e.g., due to concerns about the intellectual property protections in the country in which the third party operates, or the third party's involvement with overlapping software development). In such event, You will so limit access to the Program Property as instructed by Epic. You may not provide any third party with access to the Program Property, including via Guesthouse, unless such access is covered by a written agreement between the third party and Epic in accordance with the Agreement, which may require any third party that is required to use Guesthouse to enter into a new agreement (or amend an existing agreement) with Epic to cover such access. Notwithstanding anything in the Agreement, Epic may, in its discretion, modify or remove functionality made available through Guesthouse.
- *Haiku, Canto, and Limerick* – If You would like to use speech-to-text products that may be integrated with these applications, You will need to obtain a separate license from the vendor. Speech recognition is a statistical process and errors are inherent.
- *Hello World - SMS, SMS Channel Management, and Two-Way Engine* - This Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform. Other software, or future features of Hello World, may be licensed separately.
- *MyChart Builder* – Fees for this Item are in addition to the subscription fees due for MyChart.
- *MyChart Patient Experience Platform and MyChart Bedside Portal for Admitted Patients* - These Items are limited to use in connection with EpicCare and Your other licensed software (i.e., use in connection with a non-EpicCare EMR, if permitted by Epic, would be charged separately). Submission of a branded application to an app store is available as a separate chargeable service.
- *Nebula Cloud Platform* – Your use of Nebula Cloud Platform and any product or feature that runs on, uses, or is enabled by Nebula Cloud Platform is subject to the then-current Nebula Cloud Platform Legal Terms, as updated by Epic from time to time, available at: <https://galaxy.epic.com/NebulaCloudPlatformTerms>. If You cannot access these terms, contact Epic for a current version for reference purposes.
- *Push Notifications* – Messages sent using this application may pass through and be stored by intermediaries before reaching their recipients. They should not contain confidential information or be used as the sole method of sending urgent information.
- *Rehab* – Uniform Data System for Medical Rehabilitation (“UDS”), a division of UB Foundation Activities, Inc., is the owner of all copyrights and other rights and interests in and to the FIM® instrument, a scale for assessing physical and cognitive disability. You agree to obtain any third party licenses that may be required from UDS related to the FIM® instrument or the validation of data collected using that instrument.
- *Resolute Hospital Billing* – This Item requires use of Grand Central Patient Flow
- *Standard Interfaces and Data Connectors* - Fees assume that You will use an interface engine, and if not, additional fees may apply. Interfacing additional professional charges into Resolute Professional Billing or Resolute Hospital Billing may require an increase in Your Licensed Volumes if such charges are not anticipated when You initially license the application.
- *Value-Based Performance Management* - This Item is enabled by Nebula Cloud Platform. See Product-Specific Note for Nebula Cloud Platform.

Third Party Software and Data

Third Party Software and Data (not Program Property)	License Fee	Initial Monthly Maintenance Fee	Comments/Licensed Levels
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxx	\$xxxx	[Standard Notes and Licensed Levels]

Notes and Assumptions for Third Party Software and Data:

- Licensed levels for Third Party Software and Data are designated above in Comments/Licensed Levels column. Each item of Third Party Software and Data is licensed solely for use in a single Production Directory at the specified licensed levels and with the Items of Program Property included in this Exhibit 1 at the Licensed Volume specified for the Program Property. Additional fees will apply if any license levels or Licensed Volumes increase or if applications are added.
- Third party software fees are current as of the date of this Exhibit 1 and subject to change. Maintenance on most third party applications begins 30 days after delivery of the software; trial licenses are available in some cases.

Certain Other 3rd Party Software and/or Data

Certain Other 3rd Party Software and/or Data (not Program Property) (not Third Party Software and Data)	License Fee	Initial Monthly Maintenance Fee	Comments/Licensed Levels
[Third Party Application Name]	\$xxxxxxx		[Standard Notes and Licensed Levels]
[Third Party Application Name]	\$xxxxxxx		[Standard Notes and Licensed Levels]

Notes and Assumptions for Certain Other 3rd Party Software and/or Data:

- Certain Other 3rd Party Software and/or Data is not sublicensed to You by Epic. You must sign a license agreement directly with the applicable third party vendor. Epic will provide You with a copy of the vendor’s form agreement and the vendor’s contact information.
- Licensed levels are designated above in Comments/Licensed Levels column and/or in and subject to the separate agreements. This Certain Other 3rd Party Software and/or Data is licensed solely for use in a single Production Directory at the specified licensed levels and with the Items of Program Property included in this Exhibit 1 at the Licensed Volume specified for the Program Property. Additional fees will apply if any license levels or Licensed Volumes increase or if applications are added.
- Third party software fees are current estimates as of the date of this Exhibit 1 and subject to change. Maintenance on most third party applications begins 30 days after delivery of the software; trial licenses are available in some cases.

Attachment A

Volume Definitions

An "Ambulatory Visit" is determined as follows:

a. Each face-to-face encounter or other encounter that substitutes for a face-to-face encounter as technology develops between a decision-making medical provider and a patient that results in the medical provider entering information into the Program Property constitutes one EpicCare Ambulatory Visit. Decision-making medical providers are providers whose role typically requires a minimum of a 4-year bachelor's degree, with the exception of medical students, registered nurses and licensed practical nurses. Nurses with advanced training, such as nurse practitioners and certified registered nurse anesthetists (CRNAs) are included as decision-making medical providers. Other examples of decision-making providers include, but are not limited to, audiologists, dietitians/nutritionists, midwives, occupational therapists, optometrists, physical therapists, physician assistants, podiatrists, psychologists, social workers, speech therapists and surgical technicians.

b. Each "Hospital Outpatient Visit" constitutes one EpicCare Ambulatory Visit. A Hospital Outpatient Visit is a patient visit to the hospital which meets the criteria set forth in "a" above, where the patient is not assigned to a bed in an inpatient unit. Hospital outpatient department encounters which span multiple days are counted as one EpicCare Ambulatory Visit per day.

An "Inpatient Day Equivalent is determined as follows:

- a. Each day that a patient is an inpatient at an inpatient unit according to the daily census (with a patient being considered an inpatient if such patient stays in the unit after midnight) is counted as one Inpatient Day Equivalent, except that a minimum of one day will be counted for each patient admitted to an inpatient unit. A patient is considered admitted to an inpatient unit if the patient is assigned to a bed in an inpatient unit. For example, one Inpatient Day Equivalent will be counted for each same day stay, same day observation, or same day surgery if the patient is assigned a bed in an inpatient unit, but the patient does not stay after midnight.
- b. Each patient visit to an emergency department or urgent care unit using ASAP Emergency Department that does not result in an inpatient admission is counted as 25% of an Inpatient Day Equivalent.
- c. Each day that a patient is admitted to a long term non-acute care unit or inpatient hospice unit is counted as 25% of an Inpatient Day Equivalent.

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Exhibit D-2

Sample Project Plan

ID	Task Name	Start	Finish	Duration	Project Mileston	Owning Group	Phase
1	Implementation Timeline	Mon 4/5/21	Fri 11/25/22	430 days	No		
2	Pre-Work	Mon 4/5/21	Fri 7/9/21	70 days	No		Pre-Work
3	WFWT and Configuration	Mon 7/12/21	Fri 11/26/21	100 days	No		WFWT and Configuration
4	User and System Readiness	Mon 11/29/21	Fri 7/8/22	160 days	No		User and System Readiness
5	Training and Go Live	Mon 7/11/22	Fri 9/30/22	60 days	No		Training and Go-Live
6	Post Live and Optimization	Mon 10/3/22	Fri 11/25/22	40 days	No		Post Live and Optimization
7	Pre-Work	Mon 4/5/21	Fri 7/9/21	70 days	No		Pre-Work
8	Hold Executive Kickoff	Mon 4/5/21	Fri 4/30/21	20 days	No	Project Management	Pre-Work
9	Project Governance Finalized	Mon 4/5/21	Mon 4/5/21	0 days	Yes	Project Management	Pre-Work
10	Workgroup Members Finalized	Mon 4/5/21	Mon 4/5/21	0 days	Yes	Project Management	Pre-Work
11	Project team staffing complete	Mon 4/5/21	Mon 4/5/21	0 days	Yes	Project Management	Pre-Work
12	Project team certified	Fri 7/9/21	Fri 7/9/21	0 days	Yes	Project Management	Pre-Work
13	Epic team to deliver Data Collection documents	Fri 4/16/21	Fri 4/16/21	0 days	Yes	Project Management	Pre-Work
14	Application Scoping Complete and Signed Off	Fri 7/9/21	Fri 7/9/21	0 days	Yes	Project Management	Pre-Work
15	Project leadership signs off on Interface Scope	Mon 6/28/21	Fri 7/9/21	10 days	Yes	Interfaces	Pre-Work
16	Tier 1 Contracts - Complete Vendor Selection	Mon 4/5/21	Fri 4/9/21	5 days	Yes	Project Management	Pre-Work
17	Tier 1 Contracts - Contracts Complete	Mon 4/5/21	Mon 4/5/21	1 day	Yes	Project Management	Pre-Work
18	Tier 1 Contracts - Vendor Resources and Test Systems Fully Available	Mon 6/14/21	Fri 7/9/21	20 days	Yes	Project Management	Pre-Work
19	Tier 2 Contracts - Complete Vendor Selection	Mon 4/5/21	Fri 4/23/21	15 days	Yes	Project Management	Pre-Work
20	Tier 2 Contracts - Begin Contracting	Mon 4/26/21	Mon 4/26/21	1 day	Yes	Project Management	Pre-Work
21	Integrated Areas	Mon 4/5/21	Fri 5/21/21	35 days	No		Pre-Work
22	Compile a list of all Users (including non-employees), Job Roles, Departments, and Managers using the Role Analysis Workbook	Mon 4/5/21	Fri 5/14/21	30 days	Yes	Integrated Area - Users & Security	Pre-Work
23	CDM Workgroup Kickoff & HB charge code consolidation	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
24	CDM Workgroup Kickoff & PB CGT review	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
25	Complete the Department Matrix within the CDM Matrix	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
26	Review CDM Matrix with Clinical Operations for Sign-off	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
27	Review CGT with Clinical Operations for Sign-off	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
28	Hold Charge Capture Management Kickoff	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
29	Define all Charge Capture Workflows	Mon 4/5/21	Fri 4/30/21	20 days	Yes	Integrated Area - Charging	Pre-Work
30	Complete DMS vendor selection process, determine necessary plug-ins, and complete the vendor agreement	Mon 4/5/21	Fri 5/28/21	40 days	Yes	Integrated Area - Scanning & Faxing	Pre-Work
31	Complete integrated faxing vendor selection process and complete the vendor agreement	Mon 4/5/21	Fri 5/28/21	40 days	Yes	Integrated Area - Scanning & Faxing	Pre-Work
32	Develop Training Project Plan	Mon 4/5/21	Fri 5/7/21	25 days	Yes	Integrated Area - Training	Pre-Work
33	Complete a first draft of the Training Calculator to estimate initial Super User Lead (SUL) needs	Mon 4/5/21	Fri 4/16/21	10 days	Yes	Integrated Area - Training	Pre-Work
34	Identify and recruit SULs, complete workgroup SUL training before beginning workgroup meetings	Mon 4/5/21	Fri 5/14/21	30 days	Yes	Integrated Area - Training	Pre-Work
35	Deliver EMPI extract and begin duplicate analysis	Mon 4/5/21	Fri 6/11/21	50 days	Yes	Application - Identity	Pre-Work
36	Second EMPI patient load and duplicate analysis complete	Mon 6/14/21	Fri 7/9/21	20 days	Yes	Application - Identity	Pre-Work
37	WFWT and Configuration	Mon 7/12/21	Fri 11/26/21	100 days	No		WFWT and Configuration
38	Complete Changes and Risks tab in the Revenue Cycle Steering Playbook	Fri 11/26/21	Fri 11/26/21	1 day	Yes	Integrated Area - ARCR	WFWT and Configuration
39	Complete Changes and Risks tab in the CORE Playbook	Fri 11/26/21	Fri 11/26/21	1 day	Yes	Integrated Area - CORE	WFWT and Configuration
40	Hold Go-Live Strategy Session	Mon 11/22/21	Fri 11/26/21	5 days	Yes	Project Management	WFWT and Configuration
41	Based on the Super User Calculator and site-specific adjustments, finalize the number of Super Users Required	Mon 7/12/21	Mon 7/12/21	0 days	Yes	Integrated Area - Training	WFWT and Configuration
42	Complete identification of all Super Users	Mon 7/12/21	Fri 8/6/21	20 days	Yes	Project Management	WFWT and Configuration
43	Hold Epic Orientation Week	Mon 7/19/21	Fri 7/23/21	5 days	Yes	Project Management	WFWT and Configuration
44	Build Bucket 1 complete	Mon 7/12/21	Fri 7/30/21	15 days	Yes	All Applications	WFWT and Configuration
45	Build Bucket 2 complete	Mon 8/2/21	Fri 8/13/21	10 days	Yes	All Applications	WFWT and Configuration
46	Build Bucket 3 complete	Mon 8/16/21	Fri 8/27/21	10 days	Yes	All Applications	WFWT and Configuration
47	Build Bucket 4 complete	Mon 8/30/21	Fri 9/10/21	10 days	Yes	All Applications	WFWT and Configuration

ID	Task Name	Start	Finish	Duration	Project Mileston	Owning Group	Phase
48	Build Complete for Testing	Fri 9/10/21	Fri 9/10/21	0 days	Yes	All Applications	WFWT and Configuration
49	Building Block Wave 0 Complete	Fri 7/23/21	Fri 7/23/21	1 day	Yes	Project Management	WFWT and Configuration
50	Building Block Wave 1 Complete	Fri 7/30/21	Fri 7/30/21	1 day	Yes	Project Management	WFWT and Configuration
51	Building Block Wave 2 Complete	Fri 8/13/21	Fri 8/13/21	1 day	Yes	Project Management	WFWT and Configuration
52	Building Block Wave 3 Complete	Fri 8/27/21	Fri 8/27/21	1 day	Yes	Project Management	WFWT and Configuration
53	Building Block Wave 4 Complete	Fri 9/10/21	Fri 9/10/21	1 day	Yes	Project Management	WFWT and Configuration
54	Complete Workflow Decision Sign off in Orion	Fri 9/10/21	Fri 9/10/21	1 day	Yes	Project Management	WFWT and Configuration
55	Dates set for Epic Independent Application Reviews	Mon 7/12/21	Mon 7/12/21	0 days	Yes	Project Management	WFWT and Configuration
56	Tier 2 Contracts - Vendor Resources and Test Systems Fully Available	Mon 7/12/21	Fri 8/6/21	20 days	Yes	Project Management	WFWT and Configuration
57	Tier 3 Contracts - Vendor Selection Complete	Mon 9/27/21	Mon 10/25/21	20 days	Yes	Project Management	WFWT and Configuration
58	Tier 3 Contracts - Contracts Complete	Mon 10/25/21	Fri 11/26/21	25 days	Yes	Project Management	WFWT and Configuration
59	Charging Build Kickoff Presentation and IT assign ownership of charges in CDM Matrix and CGT	Mon 7/26/21	Fri 7/30/21	5 days	Yes	Integrated Area - Charging	WFWT and Configuration
60	Clinical and Third-Party charge capture workflow build complete	Mon 8/2/21	Fri 8/27/21	20 days	Yes	Integrated Area - Charging	WFWT and Configuration
61	Clinical Operations and Revenue Integrity review and sign-off of all charge capture build	Mon 11/15/21	Fri 11/26/21	10 days	Yes	Integrated Area - Charging	WFWT and Configuration
62	Incorporate Epic review into final version of the Training Calculator, and communicate final resourcing estimates to project leadership	Mon 7/12/21	Mon 7/12/21	0 days	Yes	Integrated Area - Training	WFWT and Configuration
63	User and System Readiness	Mon 11/29/21	Fri 7/8/22	160 days	No		User and System Readiness
64	Hold Operational Goals & Risks Readiness Review meeting	Mon 5/30/22	Fri 7/8/22	30 days	Yes	Project Management	User and System Readiness
65	Review the Change Management status for Topics and Building Blocks in Orion. Ensure there is a plan for all areas of significant change impacts.	Mon 5/30/22	Fri 7/8/22	30 days	Yes	Project Management	User and System Readiness
66	Independent Application Review 1 delivered	Mon 11/29/21	Mon 11/29/21	0 days	Yes	Project Management	User and System Readiness
67	Independent Application Review 2 delivered	Mon 11/29/21	Mon 11/29/21	0 days	Yes	Project Management	User and System Readiness
68	120 Day Go-Live Readiness Assessment complete	Fri 6/10/22	Fri 6/10/22	0 days	Yes	Project Management	User and System Readiness
69	90 Day Go-Live Readiness Assessment complete	Fri 7/8/22	Fri 7/8/22	0 days	Yes	Project Management	User and System Readiness
70	Complete review of Gold Stars Audit results with leadership	Mon 11/29/21	Mon 11/29/21	0 days	Yes	Project Management	User and System Readiness
71	Communications Testing Complete	Mon 11/29/21	Fri 12/3/21	5 days	Yes	Interfaces	User and System Readiness
72	Complete small scale testing and validation	Mon 12/27/21	Mon 12/27/21	1 day	Yes	Conversions	User and System Readiness
73	Complete large scale testing and validation	Fri 5/6/22	Fri 5/6/22	1 day	Yes	Conversions	User and System Readiness
74	Finalize Workqueue Ownership	Mon 11/29/21	Fri 1/7/22	30 days	Yes	Integrated Area - ARCR	User and System Readiness
75	Schedule Revenue Cycle Pre-Live Edit Training	Mon 11/29/21	Fri 1/7/22	30 days	Yes	Integrated Area - ARCR	User and System Readiness
76	Complete HB Clinical Volume Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
77	Complete HB Billing Volume Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
78	Complete HB Functional Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
79	Complete PB Clinical Volume Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
80	Complete PB Billing Volume Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
81	Complete PB Functional Charge Testing	Mon 11/29/21	Fri 2/25/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
82	Complete Scenario Charge Testing Wave 1	Mon 11/29/21	Fri 2/4/22	50 days	Yes	Integrated Area - Charging	User and System Readiness
83	Complete Scenario Charge Testing Wave 2	Mon 2/7/22	Fri 4/15/22	50 days	Yes	Integrated Area - Charging	User and System Readiness
84	Collect, Modify, and Obtain Operational Sign-off on HB Charging Baselines	Mon 4/11/22	Fri 7/8/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
85	Collect, Modify, and Obtain Operational Sign-off on PB Charging Baselines	Mon 4/11/22	Fri 7/8/22	65 days	Yes	Integrated Area - Charging	User and System Readiness
86	Complete all device testing	Mon 5/9/22	Fri 7/8/22	45 days	Yes	Integrated Area - Device Integr	User and System Readiness
87	Create PRD from a copy of TST	Fri 5/13/22	Fri 5/13/22	1 day	Yes	Integrated Area - Data Migrati	User and System Readiness
88	Incoming Materials Management Interface live in PRD	Mon 5/23/22	Mon 5/23/22	1 day	Yes	Integrated Area - Materials Ma	User and System Readiness
89	Provide information for trainee account creation in EpicU	Mon 2/28/22	Fri 3/4/22	5 days	Yes	Integrated Area - Training	User and System Readiness
90	Collaborate with Epic to create end user training schedule	Mon 4/11/22	Fri 4/15/22	5 days	Yes	Integrated Area - Training	User and System Readiness
91	Super User Leads partner with Epic to coordinate and prepare materials for Day-in-the-Life activities	Mon 4/11/22	Fri 6/10/22	45 days	Yes	Integrated Area - Training	User and System Readiness
92	Training registration complete	Fri 6/10/22	Fri 6/10/22	0 days	Yes	Integrated Area - Training	User and System Readiness
93	Integrated testing complete	Fri 7/8/22	Fri 7/8/22	0 days	Yes	Integrated Area - Testing	User and System Readiness
94	Parallel Revenue cycle testing complete	Fri 7/8/22	Fri 7/8/22	0 days	Yes	Integrated Area - Testing	User and System Readiness

ID	Task Name	Start	Finish	Duration	Project Mileston	Owning Group	Phase
95	Mapped Record Testing	Mon 2/21/22	Fri 7/8/22	100 days	Yes	Integrated Area - Testing	User and System Readiness
96	Testing Complete	Fri 7/8/22	Fri 7/8/22	0 days	Yes	Integrated Area - Testing	User and System Readiness
97	Training and Go Live	Mon 7/11/22	Fri 9/30/22	60 days	No		Training and Go-Live
98	Complete Operations Ready for Go-Live column in the Operational Playbooks	Mon 7/11/22	Fri 8/5/22	20 days	Yes	Project Management	Training and Go-Live
99	Sign acknowledgement form (if first go-live for a clinical application) and return to ID	Mon 7/11/22	Mon 7/11/22	0 days	Yes	Project Management	Training and Go-Live
100	60 Day Go-Live Readiness Assessment complete	Fri 8/5/22	Fri 8/5/22	0 days	Yes	Project Management	User and System Readiness
101	30 Day Go-Live Readiness Assessment complete	Fri 9/2/22	Fri 9/2/22	0 days	Yes	Project Management	Training and Go-Live
102	Workflow Walkthrough Complete	Mon 7/11/22	Mon 7/11/22	0 days	Yes	Project Management	Training and Go-Live
103	Security Go-Live	Mon 7/11/22	Fri 8/19/22	30 days	Yes	Integrated Area - Users & Secu	Training and Go-Live
104	Cutover Dry Runs complete	Mon 7/11/22	Mon 7/11/22	0 days	Yes	Integrated Area - Cutover	Training and Go-Live
105	Super user and Manager training complete	Mon 7/11/22	Mon 7/11/22	0 days	Yes	Integrated Area - Training	Training and Go-Live
106	Staff training complete	Fri 9/23/22	Fri 9/23/22	0 days	Yes	Integrated Area - Training	Training and Go-Live
107	End users attend Day-in-the-Life activities led by Super User Leads	Mon 8/22/22	Fri 9/23/22	25 days	No	Integrated Area - Training	Training and Go-Live
108	Kick off Manual Abstraction of Outpatient Clinic Charts	Fri 8/5/22	Fri 8/5/22	0 days	Yes	Application - EpicCare Ambulat	Training and Go-Live
109	Duplicate patient clean up complete	Fri 8/19/22	Fri 8/19/22	0 days	Yes	Application - Identity	Training and Go-Live
110	Go-Live Day	Fri 9/30/22	Fri 9/30/22	0 days	Yes	Project Management	Training and Go-Live
111	Post-Live Support and Optimization	Mon 10/3/22	Fri 11/25/22	40 days	No		Post Live and Optimization
112	Conduct Post-Live Visit #1	Mon 10/3/22	Fri 10/7/22	5 days	Yes	Project Management	Post Live and Optimization
113	Conduct Post-Live Visit #2	Mon 11/7/22	Fri 11/11/22	5 days	Yes	Project Management	Post Live and Optimization
114	Conduct Post-Live Visit #3	Mon 11/21/22	Fri 11/25/22	5 days	Yes	Project Management	Post Live and Optimization
115	Apply for Good Install credit (if participating in GI Program)	Fri 11/25/22	Fri 11/25/22	0 days	Yes	Project Management	Post Live and Optimization

EXHIBIT D-4

EPIC HOURLY RATES

Service	Hourly Billing Rate (at Epic)	Hourly Billing Rate (on Site)
Implementation	\$65-175*	\$85-195*
Executive Implementation	\$175-275*	\$195-295*
Application Training	\$150	\$175
Technical	\$150	\$175
Executive Technical	\$150-250*	\$175-275*
Interface & Conversion Customization, Training and Support	\$160	\$185
Hardware & Systems Installation, Training, and Support	\$200	\$240
Physician	\$185-220*	\$210-250*
Programming**	\$240-480	\$270-510
Quality Management**	\$165-330	\$195-360
Documentation**	\$135-270	\$165-300

Rates are determined by role or type of service.

These amounts do not include travel or other out of pocket expenses which will be billed as incurred.

**The specific rate charged is based upon the type of service and/or skill level of an individual, and an individual's rate may change within the range indicated above.*

***Rates are increased by 50% for retrofits, and by 50% for rush development. Maintenance fees apply on all development.*

EPIC PROJECT TEAM TRAINING CHARGES

Project team training charges are determined by the number of Your trainees per class per day as provided below, rather than by hourly rates.

Project Team Training*	Charge Per Trainee Per Class Per Day
Fundamentals, Administration, and Other Training Classes (except for the classes specified below)	\$400
Systems and Programming Training Classes	\$600

** The stated charges apply to standard Epic classes offered at their standardly scheduled times. Different fees may apply for any other classes (e.g., custom classes) that Epic agrees to make available.*

EPIC VIRTUAL END-USER TRAINING CHARGES

Virtual end-user training services are charged per trainee per training track assigned to that trainee as provided below, rather than by hourly rates. Training tracks may include e-learning modules, virtual instructor-led classes, in-system exercises, proficiency assessments, or some combination of the above. Some training tracks may be entirely asynchronous. A trainee may have multiple assigned tracks.

Type of Training Track*	Charge Per Trainee Per Assigned Track
Level 0 Track	\$0
Level 1A Track	\$100
Level 1B Track	\$200
Level 1C Track	\$300
Level 2 Track	\$400
Level 3 Track	\$600
Level 4 Track	\$800
Level 5 Track	\$1,000

** Refer to the End-User Training Catalog, which is currently available on Galaxy, for a description of then-available training tracks and the level that applies to each track. Different fees may apply for any custom training tracks and additional levels of tracks that Epic decides to make available.*

The policies and rates on this Exhibit 4 are subject to change except as otherwise provided in the Agreement.

Exhibit D-5

Business Associate Exhibit

BACKGROUND

- A. You (“Covered Entity”) and Epic (“Business Associate”) have entered into a License and Support Agreement (inclusive of this Exhibit, the “Agreement”), pursuant to which Covered Entity has licensed software from Business Associate and Business Associate provides implementation, maintenance, support and other services to Covered Entity.
- B. Covered Entity possesses Protected Health Information that is protected under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), subtitle D of Title XIII of Division A of the American Recovery and Reinvestment Act of 2009 (“HITECH”) and the regulations promulgated thereunder by the United States Department of Health and Human Services, and is permitted to use or disclose such Protected Health Information only in accordance with HIPAA, HITECH and the Regulations.
- C. Business Associate will have access to and may receive Protected Health Information from Covered Entity in connection with its performance of services to Covered Entity. In addition, Business Associate owns and operates a web-based personal health records service, currently known as Lucy, (the “PHR Service”) that can be made available to patients of Covered Entity by way of a link provided on Covered Entity’s patient portal website. The PHR Service allows patients to initiate transfers of data from Covered Entity to the PHR Service.

TERMS

1. **Definitions.** All capitalized terms used but not otherwise defined in this Exhibit have the same meaning as those terms in the Regulations.
 - a. **Breach.** For purposes of Sections 2(d) and 2(k) of this Exhibit only, “Breach” has the meaning set forth in § 164.402 (including all of its subsections) of the Regulations; with respect to all other uses of the word “breach” in this Exhibit (e.g., section 4), the word has its ordinary contract meaning.
 - b. **Individual.** "Individual" has the same meaning as the term "individual" in § 160.103 of the Regulations and shall include a person who qualifies as a personal representative in accordance with § 164.502(g) of the Regulations.
 - c. **Protected Health Information.** "Protected Health Information" has the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - d. **Regulations.** "Regulations" means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A, C, D and E, as in effect on the effective date of the Agreement.
 - e. **Required By Law.** "Required By Law" has the same meaning as the term "required by law" in § 164.103 of the Regulations.
 - f. **Secretary.** "Secretary" means the Secretary of the Department of Health and Human Services or their designee.
2. **Obligations and Activities of Business Associate.**
 - a. Business Associate agrees to not use or disclose Protected Health Information other than as permitted or required by this Exhibit, the Agreement or as Required By Law.

- b. Business Associate agrees to use appropriate safeguards and comply, where applicable, with Subpart C of 45 CFR Part 164 of the Regulations with respect to electronic Protected Health Information, to prevent use or disclosure of the Protected Health Information other than as provided for by this Exhibit or the Agreement.
- c. Business Associate agrees to mitigate, to the extent reasonably practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Exhibit.
- d. Business Associate agrees to report to Covered Entity any Security Incident respecting electronic Protected Health Information in Business Associate's possession or control, and any use or disclosure of the Protected Health Information not provided for by the Agreement (including Breaches of Unsecured Protected Health Information as provided in Section 2(k) below), of which Business Associate becomes aware. Notwithstanding the foregoing, this provision shall constitute notice of any unsuccessful Security Incident, including pings and other broadcast scans, unsuccessful log-on attempts, denial of service attacks and any combination thereof (provided such unsuccessful Security Incidents do not result in the unauthorized access, use or disclosure of PHI).
- e. Business Associate agrees to ensure that, in accordance with 45 CFR § 164.502(e)(1)(ii) and 45 CFR § 164.308(b)(2) of the Regulations, any subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree to comply with the same or similar restrictions and conditions that apply to Business Associate with respect to such information.
- f. If Business Associate maintains Protected Health Information in a Designated Record Set for Covered Entity, Business Associate agrees to provide access, at the request of Covered Entity, and in the time and manner reasonably designated by Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under § 164.524 of the Regulations.
- g. If Business Associate maintains Protected Health Information in a Designated Record Set for Covered Entity, Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to § 164.526 of the Regulations at the request of Covered Entity or an Individual, and in the time and manner reasonably designated by Covered Entity.
- h. To the extent Business Associate is to carry out any of Covered Entity's obligations under Subpart E of 45 CFR 164 of the Regulations, Business Associate will comply with the requirements of Subpart E of 45 CFR 164 of the Regulations that apply to Covered Entity in the performance of such obligations.
- i. Business Associate agrees to make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or to the Secretary, in a time and manner reasonably designated by Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Regulations.
- j. Accounting of Disclosures.
 - 1. Business Associate agrees to document such disclosures by Business Associate of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of

disclosures of Protected Health Information in accordance with § 164.528 of the Regulations.

2. Business Associate agrees to provide to Covered Entity or an Individual, in time and manner reasonably designated by Covered Entity, information collected in accordance with Section 2(j)(1) of this Exhibit, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with § 164.528 of the Regulations.
- k. Notifications Regarding Breaches of Unsecured PHI.
1. Following Business Associate's discovery of a Breach of Unsecured Protected Health Information, Business Associate will notify Covered Entity of such Breach in accordance with §§ 164.410 and 164.412 of the Regulations.
 2. With regard only to Breaches of Unsecured Protected Health Information that occur in connection with the PHR Service, Business Associate will (instead of Covered Entity) provide such notifications to Individuals and to the media as are required by §§ 164.404 and 164.406 of the Regulations.
- l. Restriction against Sale of PHI. Business Associate will not sell PHI or receive any direct or indirect remuneration in exchange for PHI except as permitted by this Exhibit, the Agreement or federal law.

3. Permitted Uses and Disclosures by Business Associate.

- a. Except as otherwise expressly limited in this Exhibit, Business Associate may use or disclose Protected Health Information to perform functions, activities or services for, or on behalf of, Covered Entity in connection with the Agreement and any other agreements in effect between Covered Entity and Business Associate, including without limitation the provision of software implementation, maintenance and support services, provided that such use or disclosure would not violate the Regulations if done by Covered Entity.
- b. Except as otherwise expressly limited in this Exhibit, Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- c. Except as otherwise expressly limited in this Exhibit, Business Associate also may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate if the disclosure is Required By Law, or if Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- d. Except as otherwise expressly limited in this Exhibit, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by § 164.504(e)(2)(i)(B) of the Regulations.
- e. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1) of the Regulations.

4. Termination.

- a. Termination for Cause.

1. By Covered Entity. Upon Covered Entity's knowledge of a material breach by Business Associate of this Exhibit, Covered Entity may:
 - A. Provide a reasonable opportunity for Business Associate to cure the material breach or end the material violation and if Business Associate does not cure the material breach or end the material violation within a reasonable time, Covered Entity may terminate this Exhibit and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information; or
 - B. If Business Associate has breached a material term of this Exhibit and cure is not possible, immediately terminate this Exhibit and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information.
2. By Business Associate. Upon Business Associate's knowledge of a material breach by Covered Entity of this Exhibit, Business Associate may:
 - A. Provide a reasonable opportunity for Covered Entity to cure the material breach or end the material violation and if Covered Entity does not cure the material breach or end the material violation within a reasonable time, Business Associate may terminate this Exhibit and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information; or
 - B. If Covered Entity has breached a material term of this Exhibit and cure is not possible, immediately terminate this Exhibit and the provisions of the Agreement that require or permit Business Associate to access Protected Health Information.

b. Effect of Termination.

1. Except as provided in paragraph (2) of this section, upon termination of this Exhibit, for any reason, Business Associate will return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision applies to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate will retain no copies of the Protected Health Information.
2. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate will provide to Covered Entity notification of the conditions that make return or destruction infeasible. In such event, Business Associate will extend the protections of this Exhibit to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.
3. If the provisions of the Agreement that require or permit Business Associate to access Protected Health Information are terminated pursuant to any provision in Section 4(a) above, then the maintenance program under the Agreement will also terminate. Upon such termination, Business Associate will refund any maintenance fees previously paid by Covered Entity to Business Associate with respect to the unused portion of the maintenance program for the future. Except as provided herein, any termination of the maintenance program or provisions of the Agreement that permit Business Associate to access Protected Health Information will not affect the parties' other obligations or rights under the Agreement.

5. Miscellaneous.

- a. Changes to Regulations. If the Regulations are amended, including by way of anticipated regulations yet to be promulgated as provided in HITECH, in a manner that would alter the obligations of Business Associate as set forth in this Exhibit 5, then the parties agree in good faith to negotiate mutually acceptable changes to the terms set forth in this Exhibit 5.
- b. Survival. The respective rights and obligations of Business Associate under Section 4 of this Exhibit survive the termination of this Exhibit.
- c. Interpretation. Any ambiguity in this Exhibit shall be resolved to permit compliance with the Regulations.
- d. Unencrypted PHI. Covered Entity will not send unencrypted PHI to Business Associate in any form, including via email or on mobile devices such as USB drives. Should Covered Entity do so, Business Associate is not responsible for any damages arising out of or relating to unencrypted PHI that Covered Entity sends to Business Associate in any form.
- e. Application of Civil and Criminal Penalties. Business Associate acknowledges that pursuant to §§ 13401(b) and 13404(c) of HITECH:
 1. in the case Business Associate violates any security provision specified in § 13401(a) of HITECH, sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to Business Associate with respect to such violation in the same manner such sections apply to a covered entity that violates such security provision; and
 2. in the case Business Associate violates any provision of 13404(a) or 13404(b) of HITECH, the provisions of sections 1176 and 1177 of the Social Security Act (42 U.S.C. 1320d-5, 1320d-6) shall apply to the Business Associate with respect to such violation in the same manner as such provisions apply to a person who violates a provision of part C of title XI of such Act.

Exhibit D-6

Epic Support Policies

Support Available 24 x 7

Epic provides telephone consultation and assistance support to You through its technical services staff at any time, 24 hours per day and 7 days per week.

Where to Call

For all calls, whether during the Daytime Support Hours or the Nighttime Support Hours, call Epic's general telephone number at (608) 271-9000. The "Daytime Support Hours" are 7 a.m. to 8:00 p.m., Monday through Friday, Central Time, excluding holidays (currently New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas Eve, Christmas, and New Year's Eve). "Nighttime Support Hours" are all other times.

Consultation and Assistance

- **General Daytime Support.** All telephone consultation and assistance by technical services staff concerning the Program Property during Daytime Support Hours is provided at no additional charge.
- **General Nighttime Support.** All telephone consultation and assistance by technical services staff concerning the Program Property during Nighttime Support Hours for urgent support needs is provided at no additional charge.
- **Support Relating to Correction of Errors.** Consultation and assistance concerning any Program Error is always provided at no charge regardless of the date or time of Your call.

Releases

- You, in connection with Your hosting provider (as applicable), are responsible for installing all Updates. If You install a new release or Update on Your production environment during an "Epic Release Weekend" (typically scheduled once per month) or on an "Epic Release Night" (at times to be determined) there is no additional charge for the telephone consultation and assistance that Epic personnel typically provide with respect to such releases. There is also no additional charge for telephone consultation and assistance that Epic personnel typically provide with respect to Your installation of up to four non-production environments per release during Daytime Support Hours.
-

Other Services

Services not listed above, including assistance concerning Third Party Products (e.g., robotic process automation technologies and other non-Epic code) and their interactions with the Program Property, are chargeable at Epic's then-standard rates for such services.

These services are available only to customers on standard maintenance.
Epic reserves the right to change these policies and prices from time to time.

Exhibit D-7

Epic Error Correction Services

A description of Epic’s error correction services is below. Epic will generally rely on You to designate a Program Error’s level of priority, subject to reasonable rebuttal by Epic after initial investigation.

Level of Priority:

“Severity Level 1”: A type of Substantive Program Error that: (1) renders the entire Program Property or a significant part of the Program Property inoperative; or (2) causes the Program Property to fail catastrophically, causes loss of important data or damages data integrity.

“Severity Level 2”: A Substantive Program Error that is not a Severity Level 1 Program Error.

“Severity Level 3”: Program Errors that are not Severity Level 1 or Severity Level 2 Program Errors.

Response:*

Severity Level 1: Epic will acknowledge the Program Error report within one (1) hour, initiate action immediately thereafter, and diligently work to provide a Reasonable Workaround or correction of any Program Error discovered.

Severity Level 2: Epic will acknowledge the Program Error report within one (1) hour, initiate action as agreed to between You and Epic (normally within four (4) hours), and diligently work to provide a Reasonable Workaround or correction of any Program Error discovered.

Severity Level 3: Epic will typically acknowledge the Program Error report within one (1) business day, initiate action, and work to provide a Reasonable Workaround or correction of any Program Error discovered if appropriate in light of the nature of the problem. Typically, corrections for Level 3 Program Errors will only be provided in future releases of the Program Property.

* You must report suspected Severity Level 1 and Level 2 Program Errors by telephone. All response times to Program Error reports are determined from the time that You speak with an Epic receptionist or Technical Services employee and both clearly inform that person that You are making a Program Error report and specify its severity level. Voicemail messages, emails, and support logs are not Program Error reports for purposes of this response time policy. The parties expect that Epic will normally respond much more quickly than the response times listed, but it is understood that Epic will respond at least within the above response times except in isolated and unusual circumstances.

Escalation:

If Epic does not respond as set forth above, You may escalate the issue as provided in this paragraph. The goal of escalation is to (i) resolve the specific issue as quickly as possible; and (ii) ensure that future delays in service response times are prevented. At each stage of this process, the individuals occupying the positions below, or a functional equivalent, will confer and attempt to resolve the issue. These discussions may occur by telephone, videoconference or in person. Escalation at each step of this process will occur based on Your determination that the existing level of involvement is not satisfactorily resolving the problem.

EPIC:

Support Coordinator
Director of Technical Support
V.P. – Research & Development
President
Chief Executive Officer

YOU:

To Be Provided

Notwithstanding any of the foregoing, if You determine that a Level 1 Problem is not being addressed quickly, You may escalate the issue to Epic’s Chief Executive Officer at Your sole discretion.

Care Everywhere Addendum

The following provisions apply to Your use of Care Everywhere to exchange patient information with Epic systems of other Epic customers who also license Care Everywhere (“Care Everywhere Customers” or “Care Epic Customers”) and to exchange basic continuity of care information meeting the supported form with non-Epic systems, except as otherwise noted below. For the sake of clarity, the subset of Care Everywhere functionality supporting such exchanges between Epic systems was previously referred to as “Care Epic” and the subset of Care Everywhere functionality supporting such exchanges between Epic and non-Epic systems was previously referred to as “Care Elsewhere.” References to Care Epic or Care Elsewhere in the Rules of the Road and Governing Council Procedures will be read in that context.

1. **Termination.** You may at any time disconnect from the Care Everywhere Network (referred to in the Governing Council Procedures as the CE Network or Network) or from any specific connection with a non-Epic system (each, a “Non-Network Connection”), thereby discontinuing all communications with all other Care Everywhere Customers and all Non-Network Connections or with that Non-Network Connection, respectively, and You will inform Epic of such disconnection as soon as possible under the circumstances, but in no event more than one (1) business day thereafter.
2. **Requirements.**
 - a. You agree to abide by the then-current “Rules of the Road” posted on Epic’s user web site, which apply to the Care Everywhere Network. The current Rules of the Road are attached as Exhibit A to this Addendum and may be revised as provided in the Rules of the Road. Failure to comply with the Rules of the Road may result in Epic (or the Governing Council, as explained in Section 3) taking appropriate action consistent with the policies and procedures of the Rules of the Road, and You agree to accept any determination made or action taken by Epic or the Governing Council pursuant to this Addendum or the Rules of the Road, as applicable, concerning violations of this Addendum or the Rules of the Road.
 - b. If You use Care Everywhere, You agree that, except as provided in the Rules of the Road, You will not restrict any other Care Everywhere Customer who follows the above-mentioned Rules of the Road from obtaining any of the patient information available through Care Everywhere.
 - c. You may not make any modifications to any of the Code for Care Everywhere or to any Epic-released records related to Care Everywhere, which includes without limitation, restricting any other Care Everywhere Customer from obtaining any of the patient information available through Care Everywhere.
 - d. Use of Care Everywhere with a Non-Network Connection requires that You have enabled and are using the functionality that allows You to respond to Care Everywhere queries for patient information from other Care Everywhere Customers.
 - e. You understand it is Your responsibility (and not Epic’s) to determine and establish, along with each Non-Network Connection, under what circumstances, standards, and terms patient information will be exchanged with that Non-Network Connection. In addition, You agree to be responsible for compliance with all the laws applicable to You (including implementing HIPAA compliant privacy and security measures) regarding the use, disclosure, and exchange of patient information with Your Non-Network Connections. If, in the future, there is a network that permits a Non-Network Connection to connect to the Care Everywhere Network, then You understand that participation in such network would be subject to the then-current Rules of the Road and may require that You and the Non-Network Connection enter into a separate agreement with Epic.
 - f. You agree to implement security and access measures with respect to Your communication infrastructure for Care Everywhere, including access to the communication servers and the digital certificates used to validate You as a Care Everywhere Customer, that are HIPAA compliant. In addition, You understand that Care Everywhere includes certain privacy, security, and

authorization configuration settings such as user privileges, restricted department, and authorization requirement settings, as well as other configuration settings, that need to be configured based on Your workflows and implementation of the Program Property, and You agree to review the available configuration settings in the current and subsequent versions of Care Everywhere, determine the appropriate settings for Your use of Care Everywhere, and then configure and test Care Everywhere in Your system.

3. Indemnification Relating to Oversight Activities. As of the date of this Addendum, the Care Everywhere Customers (with assistance from Epic) have created a Governing Council. The Governing Council, Epic, or both will help oversee the Care Everywhere Network (and to the extent applicable, individual Non-Network Connections) and compliance with this Addendum and the Rules of the Road, including without limitation validating users of Care Everywhere, recommending modifications to the Rules of the Road, determining violations of the Rules of the Road, and establishing appropriate remedies for such violations (such as limiting or removing a Care Everywhere Customer's access to Care Everywhere) (collectively the "Oversight Activities"). The Governing Council may include representatives from Your organization as well as representatives from other Care Everywhere Customers as well as Epic. Epic would like to protect those customer representatives, their organizations, and Epic from liability for agreeing to help with the Oversight Activities. Therefore, to the extent permitted by the law applicable to You, You agree to hold harmless, indemnify, and defend the Governing Council (and to the extent Epic is providing any Oversight Activities, Epic), and each of their officers, employees, contractors, and agents (collectively the "Indemnitees") from and against any Claim brought by You, Your End Users or Your Patients asserted against the Indemnitees or any of them, arising out of, or in any way connected with the Oversight Activities including without limitation claims based on an Indemnitees' negligence. In addition to the foregoing, the Governing Council may, at its discretion, obtain insurance or other indemnity coverage for the Governing Council's conduct related to its Oversight Activities; however, the failure of the Governing Council to obtain such insurance or coverage will not affect the indemnification obligations of the preceding sentence. For purposes of this Section 3: (a) "Claim" means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation reasonable attorneys' fees; (b) "Your End Users" means any individual or entity to whom You provide access to any Program Property if the Claim relates to any situation in which the individual or entity had or would have had access to the Program Property through You; and (c) "Your Patients" means any patient of You or Your End Users or any person making a claim as a result of financial or familial relationship with such patient, in each case if the Claim relates to any situation in which the patient was receiving or seeking medical care from You or Your End Users.

4. Authorization. Although Care Everywhere may be configured to suppress some kinds of sensitive patient information in certain cases, the clinical information released by Care Everywhere may still unavoidably include sensitive information about a patient, including mental and behavioral health issues and treatment, developmental disabilities, sexually transmitted diseases, HIV, and alcohol or drug use, or information such as a medication name that would allow inferences to be made about treatment received by the patient.

In light of this, and because You are in the best position to know the laws applicable to You and Your existing authorization processes, You agree to release clinical information about a patient using Care Everywhere only if the patient has authorized such a release or You have determined that such a release for that patient is permitted without authorization under the law applicable to You. In addition, You agree that You will not release any information for a patient using Care Everywhere, and instead will use a different process to provide the information, if: (i) the patient has restricted the release of information that would otherwise be released by Care Everywhere; (ii) the patient has authorized the release of only a portion of the information that would otherwise be released by Care Everywhere; or (iii) the laws applicable to You restrict the release of any information that would otherwise be released by Care Everywhere and You do not otherwise obtain any required authorization for such release. You represent that You believe that any release authorization You use as a supplier of patient information complies with all the requirements of the laws applicable to You.

Exhibit A

Rules of the Road for the Care Everywhere Network

Care Everywhere enables Epic customers to exchange patient data with Epic systems of other Epic customers that also license Care Everywhere (“Care Everywhere Customers”), as well as with non-Epic systems. These Rules of the Road (including all appendices hereto, the “Rules”) are meant to establish the framework for exchanges between Care Everywhere Customers, including circumstances under which You may seek patient information from another Care Everywhere Customer.

For purposes of these Rules, the Care Everywhere Customer requesting patient information is the “Receiving Customer” and the Care Everywhere Customer providing the patient information is the “Sending Customer”, and each includes any organizations accessing and using Care Everywhere under a Care Everywhere Customer’s license to the Epic software.

For the sake of clarity, the subset of Care Everywhere functionality described above supporting exchanges of patient information between Epic systems was previously referred to as “Care Epic” and the subset of Care Everywhere functionality supporting exchanges between Epic and non-Epic systems was previously referred to as “Care Elsewhere.” References to Care Epic or Care Elsewhere in any agreements or amendments between You and Epic will be read in that context.

1. By making a request for a patient’s information using Care Everywhere, You warrant and represent to the Sending Customer that at the time You are making the request for the patient’s information You are providing treatment to that patient (which may include care coordination for that patient), or performing research as permitted in Section 14. You understand that You may not request patient information using Care Everywhere for any other purpose, including without limitation healthcare operations, research other than as permitted in Section 14, marketing, or fundraising purposes. For purposes of these Rules, “treatment” will mean providing healthcare to a patient such that You may receive clinical information about that patient from another healthcare provider under the law applicable to You. For example, if You are in the United States, “treatment” will have the meaning assigned to it under HIPAA (see 45 CFR 164.501), which is currently defined as follows: “Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination of management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.”
2. Prior to completing Your request for a patient’s information using Care Everywhere, You will collect any additional required authorization from that patient using the authorization form, if any, that the Sending Customer may have supplied and made available in Care Everywhere. In addition, You represent that You believe that any release authorization You supply for use with Care Everywhere complies with all the requirements of the laws applicable to You as a Sending Customer.
3. If a Care Everywhere Customer requests a review of their patient records accessed by You using Care Everywhere, then to the extent such Care Everywhere Customer reasonably determines more information is required than is captured by the audit logs of Care Everywhere, You agree to fully cooperate with the review, including providing detailed information as to what information You accessed, who accessed it, why it was accessed, and copies of any authorization or consent forms collected at the point of care. If You have previously requested records for research purposes as permitted in Section 14, You agree to also provide copies of the research consent forms that provided a basis for You to request patients records through Care Everywhere, and information related to the Institutional Review Board approval for the study for which the records were used, including the study protocol, approval number, and expiration date assigned to the study by the Institutional Review Board. You will provide the requested information within five (5) business days of the request (or longer if mutually agreed by You and such other Care Everywhere Customer).
4. You agree to implement security and access measures with respect to providing access to Care Everywhere functionality that meet the minimum standards required by the law applicable to You (e.g. if You are in the United States, HIPAA) and, even if not otherwise required by law, the following minimum security and

access measures:

- a. training Care Everywhere end-users regarding the appropriate (and inappropriate) use of Care Everywhere;
 - b. using individual logins and passwords for each user of the Care Everywhere functionality; You will not create any shared or public logins or passwords to access the Care Everywhere functionality;
 - c. using and regularly monitoring the audit capabilities of Care Everywhere;
 - d. requiring that all patient information obtained using Care Everywhere be treated as any of Your other clinical documentation/patient information; and
 - e. appointing one employee as Your Care Everywhere Coordinator who will act as Your liaison with other Care Everywhere Customers and Epic regarding Care Everywhere, and whose responsibilities will also include timely communication and deployment of information regarding Care Everywhere within Your organization.
5. You agree to implement security and access measures with respect to Your communication infrastructure for Care Everywhere, including access to the communication servers and the digital certificates used to validate You as a Care Everywhere Customer, that meet the minimum standards required by the law applicable to You (e.g. if You are in the United States, HIPAA). You further agree to keep the Care Everywhere “phonebook” and the information in it confidential. In addition, You understand that Care Everywhere includes certain privacy and security configuration settings such as user privileges and restricted department settings, as well as other configuration settings, that need to be configured based on Your workflows and implementation of the Program Property, and You agree to review the available configuration settings, determine the appropriate settings for Your use of Care Everywhere, and then configure and test Care Everywhere in Your system.
6. You agree that You will not restrict any other Care Everywhere Customer from obtaining any of the patient information available through Care Everywhere with the following exceptions:
- a. Information for any patient for whom patient authorization is required in Your system to provide information using Care Everywhere if the requesting Care Everywhere Customer has not certified that such authorization has been granted;
 - b. Information for a patient that has not agreed to participate, or has requested to not participate, in the exchange of that patient’s information using Care Everywhere, if such agreement or request is required from each of Your patients prior to using Care Everywhere to exchange that patient’s information;
 - c. Information for a patient marked by You in the system as having a specific status that is available in Care Everywhere (e.g. VIP patients) to restrict the transfer of information for patients having such status;
 - d. Information that is requested by a Care Everywhere Customer that is located in a different country than You if You reasonably believe that fulfilling the request would cause You to violate the laws applicable to You regarding transfers of patient information. In such a circumstance, upon request, You will provide a reasonably detailed explanation of Your rejection to the requesting Care Everywhere Customer;
 - e. Requests for research purposes that are not permitted under Section 14; or
 - f. All requests for research purposes, if You have opted out of responding to such requests in accordance with Section 14.
7. Care Everywhere Customers in Different Countries.

- a. If You request patient information from a Care Everywhere Customer that is located in a different country than You, the Sending Customer may undertake manual steps, such as matching of the patient's demographic information in their system and review of the patient's authorization form, before sending any patient information to You. Although each Care Everywhere Customer has agreed to undertake any manual steps in accordance with Section 7(b) of these Rules, You acknowledge that this often will not occur immediately. You further acknowledge that subsequent requests to the same Sending Customer regarding the same patient may require additional manual steps by the Sending Customer.
 - b. If You receive a request for patient information from a Care Everywhere Customer that is located in a different country than You, and if You choose to undertake any manual steps before responding to the request, You agree that You will use good faith efforts to complete any manual steps in a prompt manner to facilitate the timely flow of data to other Care Everywhere Customers in accordance with Your obligations under these Rules of the Road, including without limitation Section 6 above.
8. Care Everywhere creates a community of users, all with the same goal of improving patient care by making additional patient information available to other providers. It is critical that all Care Everywhere Customers cooperate with each other regarding issues that may arise regarding use of Care Everywhere and work together to informally resolve issues. As such, it is not Epic's role to act as a policing authority to enforce these Rules. Instead, a governing council of elected volunteers will be created to oversee compliance by Care Everywhere Customers with the Rules of the Road (the "Governing Council") as provided in the Operating Procedures for the Care Everywhere Governing Council attached as Schedule 1 to these Rules of the Road. The Governing Council described in Schedule 1 is created in lieu of the Ombudsman Committee and any references in any agreements or amendments between You and Epic will mean the Governing Council.

In the event that You are unable to resolve a dispute that may arise between You and another Care Everywhere Customer, then You may submit Your grievance to the Governing Council, and the Governing Council will render a decision and impose any sanctions following the procedures described in Schedule 1 to these Rules of the Road.

In addition, during the pendency of the grievance process and notwithstanding anything contained in these Rules (or the agreement or amendment pursuant to which You license Care Everywhere) to the contrary, if You reasonably determine that the threat still exists based on the alleged violation of the Rules of the Road, then You may restrict the following individuals from making Care Everywhere requests to You (a "Temporary Restriction"): (i) the individual users involved the alleged violation or (ii) everyone making requests through that Care Everywhere Customer if it is not reasonably possible to identify or restrict those individual users or if the continued threat cannot be addressed by taking such action. You acknowledge that restricting an entire organization will result in disconnecting any active links between You and that Care Everywhere Customer and will likely result in errors related to this fact. At the conclusion of the grievance process, You will remove any Temporary Restrictions and will abide by the final decision of the Governing Council.

If You are named in a grievance, You agree to cooperate with any investigation conducted by the Governing Council. You agree to accept and comply with the Governing Council's decision unless You discontinue Your use of Care Everywhere until You do so comply. You also agree to permit Epic to modify the Care Everywhere related-configurations in Your system (e.g. the Epic-released records) to the extent necessary to carry out the decision of the Governing Council. You agree not to sue Epic, its officers, employees, contractors, or agents with respect to any action taken by Epic related to its carrying out of the decision of the Governing Council with respect to any grievance, including without limitation, Epic removing You or another Care Everywhere Customer from the Care Everywhere community or any harm to a patient because You or Your end users do not have access to the patient's information as a result of Epic's action or inaction.

You will use disciplinary procedures with respect to inappropriate use of Care Everywhere information in the same manner as You do for inappropriate use of Your own similar information.

9. You acknowledge and agree that any licensed Epic customer using Care Everywhere is a third party beneficiary of these Rules of the Road and shall have the right to enforce any violations of them in the same

manner as if such Epic customer had a direct contract with You containing these Rules of the Road. Each Care Everywhere Customer's rights with respect to a violation of the Rules of the Road are not limited by any remedies provided in the Rules of the Road. This provision may not be modified by the Governing Council.

10. These Rules of the Road are expected to be continually refined. Changes to the Rules of the Road (including changes to the Operating Procedures in Schedule 1) may be proposed by Epic or the Governing Council from time to time and put to a vote of the Care Everywhere Customers (at an advisory committee, at UGM, or otherwise). Epic, or the Governing Council, will inform the Care Everywhere Coordinator of each Care Everywhere Customer of the results of the vote, and if Epic and a majority of the Care Everywhere Customers approve a proposed change to the Rules of the Road, or if the number of Care Everywhere Customers specified in the Governing Council Operating Procedures as required for approval of an amendment approve a proposed amendment to the Governing Council Operating Procedures, then the Rules of the Road or Governing Council Operating Procedures, as applicable, will be amended to include the proposed changes and will apply automatically to all Care Everywhere Customers. Each Care Everywhere Coordinator will communicate the result and effect of the vote within the coordinator's organization. The updated Rules or Governing Council Operating Procedures will be posted on Epic's user web site for use of Care Everywhere and generally will be effective forty-five (45) days after the date of posting unless the change, in Epic's determination, is meant to address an issue of immediate concern.
11. Certain Care Everywhere Customers are governmental bodies (e.g. a military body or administrative subdivision) of sovereign nations and are prohibited from sharing patient information except in certain circumstances, i.e. where the recipient meets certain security requirements such as secret clearance, specific certifications, or adherence to certain federally government mandated standards (each such customer, a "Qualifying Government Customer"). Upon the request of a Qualifying Government Customer, Epic and the Governing Council will discuss whether it is appropriate to grant the Qualifying Government Customer an exception to the requirements of these Rules of the Road, including without limitation Section 6. If by majority vote the Governing Council determines that exceptions are appropriate under the circumstances and Epic agrees, the Governing Council will document such exceptions (including any limitations on such exceptions) by announcement to the Care Everywhere Coordinator of each Care Everywhere Customer. If the Governing Council grants an exception to any requirements of the Rules of the Road to a Qualifying Government Customer, each Care Everywhere Customer may, in its discretion and by written notice to Epic, opt out of some or all data exchange with such Qualifying Government Customer. Exceptions may be revoked by majority vote of the Governing Council with Epic's agreement. Any such revocation will be announced to the Care Everywhere Coordinator of each Care Everywhere Customer. A list of Qualifying Government Customers who have received exceptions under this Section 11 will be posted on Epic's user web site for use of Care Everywhere. The terms of this Section 11 are not intended to limit or otherwise affect the process for cross-border data transfers described in Section 7.
12. Epic and Care Everywhere Customers place a high emphasis on maintaining privacy and security for exchanges that occur using Care Everywhere. It is possible that a security vulnerability could be identified that threatens the confidentiality, integrity, or availability of patient data exchanged using Care Everywhere. In emergency circumstances, where such a vulnerability exists and poses an imminent threat to the confidentiality, integrity, or availability of patient data exchanged using Care Everywhere, the Governing Council and Epic may take action to limit or suspend exchange for those Care Everywhere Customers affected by such vulnerability. Any such action will be designed to both (i) mitigate the risk to the confidentiality, integrity, and availability of patient data due to the security vulnerability, and (ii) permit as much patient data exchange as possible to continue occurring while such action is in effect. For example, a security vulnerability on a Care Everywhere Customer's communication servers may allow attackers to decrypt traffic to and from that communication server, compromising the confidentiality of protected health information across the Care Everywhere network. In this scenario, the Governing Council and Epic may take action to mitigate the effect of the vulnerability on the Care Everywhere network (e.g., removing the impacted Care Everywhere Customer from the Care Everywhere network until the security vulnerability is resolved).
13. In order to promote a collaborative interoperability community and to maximize the effectiveness of health

information exchange, it is helpful for Care Everywhere Customers to better understand how their trading partners and other Care Everywhere Customers have configured Care Everywhere. This information can be used to compare and improve participant configuration settings at an institutional level or across regional trading partners. Accordingly, You agree to make information about your Care Everywhere configuration available to Epic and all other Care Everywhere Customers. You may choose to opt out of sharing some or all of Your Care Everywhere configuration information upon request to Epic. Epic will make available on the Epic UserWeb a list of the configuration information to be collected, as well as the collected information.

14. Research During Public Health Emergencies.

- a. During a national epidemic that has been declared a “Public Health Emergency” by the Secretary of the Department of Health and Human Services in accordance with Section 319 of the Public Health Service (PHS) Act, the Governing Council and Epic may vote to permit requests for a patient’s information using Care Everywhere to support research directly related to that Public Health Emergency. For the purposes of these Rules, “research” will have the meaning assigned to it under HIPAA (see 45 CFR 164.501). Upon such approval, if You are based in in the United States and are licensed for Epic’s Research module, You can request a patient’s information using Care Everywhere from other organizations in the United States for Public Health Emergency-related research purposes if Your request meets all of the following requirements:
 - i. It is made to enable research that:
 1. is directly related to treatment, testing, or vaccine development for that Public Health Emergency; and
 2. has been approved by Your Institutional Review Board.
 - ii. You have obtained informed consent and an authorization to use and disclose each research participant’s Protected Health Information for research purposes that each satisfy the requirements of 45 CFR Part 46, 45 CFR Section 164.508, and 21 CFR Parts 50 and 56 as applicable, and such consent and authorization clearly indicate to the participant that You intend to request their information from other healthcare organizations for research purposes that meet the requirements of Section 14(a)(i).
- b. You cannot make a request using Care Everywhere to initially identify or recruit research participants.
- c. You may opt out of responding to all requests for a patient’s information using Care Everywhere for research purposes during Public Health Emergencies. If You opt out of this use case, You agree that:
 - i. You will not respond to any requests for a patient’s information using Care Everywhere for research purposes, regardless of which organization initiates a request.
 - ii. You will not make any requests for a patient’s information using Care Everywhere for research purposes.
- d. Requests for research purposes are only permitted under this Section 14 throughout the duration of the applicable Public Health Emergency. Prior to the expiration or other termination of the Public Health Emergency, the Governing Council or Epic may decide to no longer permit requests for a patient’s information using Care Everywhere for research purposes related to that Public Health Emergency.

Appendix 1 to the Rules of the Road for Care Everywhere Network

Provisions Specific to Organizations Located in the Netherlands

Solely as to organizations that are located in the Netherlands and use Care Epic, the following provisions will apply in addition to and/or in lieu of, as applicable, certain provisions of the Rules of the Road:

1. The last sentence of Section 1 of the Rules of the Road is replaced with the following:

“For example, if You are in the Netherlands you must be directly involved in the patient’s medical treatment agreement (see art. 7:446 Civil Code), which is currently defined as follows: “the agreement under which a natural or legal person, the care provider, engages himself in the course of his medical professional practice or medical business towards another, the principal, to perform medical actions which directly affect the principal personally or a specific third party. The person who is directly affected by the medical actions is referred to as the patient. The term 'medical actions' means: a. all activities - including examinations and providing medical consults - directly affecting a person and intended to cure him of a disease, to protect him from a disease, to assess his state of health or to render obstetric assistance. b. actions other than those referred to under point (a) which directly affect a person and which are carried out by a medical doctor or dentist acting in that capacity. The actions referred to also include the attendant care and nursing of the patient and the provision in any other way for the latter's direct benefit of the material facilities under which such actions may be carried out.”

2. Section 4 of the Rules of the Road is replaced with the following:

“You agree to implement security and access measures with respect to providing access to Care Epic functionality that meet the minimum standards required by the law applicable to You (e.g. if You are in the Netherlands, the Dutch Personal Data Protection Act, i.e. Wet bescherming persoonsgegevens, referred to as ‘Wbp’) and, even if not otherwise required by law, the following minimum security and access measures:

- a. training Care Epic end-users regarding the appropriate (and inappropriate) use of Care Epic;
- b. using individual logins and passwords for each user of the Care Epic functionality; You will not create any shared or public logins or passwords to access the Care Epic functionality;
- c. using and regularly monitoring the audit capabilities of Care Epic;
- d. requiring that all patient information obtained using Care Epic be treated as any of Your other clinical documentation/patient information; and
- e. appointing one employee as Your Care Everywhere Coordinator who will act as Your liaison with other Care Epic Customers and Epic regarding Care Epic, and whose responsibilities will also include timely communication and deployment of information regarding Care Epic within Your organization.”

3. The first sentence of Section 5 of the Rules of the Road is replaced with the following:

“You agree to implement security and access measures with respect to Your communication infrastructure for Care Epic, including access to the communication servers and the digital certificates used to validate You as a Care Epic Customer, that meet the minimum standards required by the law applicable to You (e.g. if You are in the Netherlands, Wbp) and You further agree to keep the Care Everywhere ‘phonebook’ and the information in it confidential.”

4. The first sentence of Section 6 of the Rules of the Road is replaced with the following: “You agree that, taking into account Your applicable obligations under the duty of medical secrecy under art 7:457 Civil

Code (if any), You will not restrict any other Care Epic Customer from obtaining any of the patient information available through Care Epic with the following exceptions:”.

5. Section 9 of the Rules of the Road is replaced with the following:

If You suffer damages due to another Care Epic Customer’s violation of the Rules of the Road, then You will be a third party beneficiary of the portion of Epic’s contract with such Care Epic Customer that contains the Rules of the Road and You will have the right to pursue a claim against such Care Epic Customer based on that portion of Epic’s contract with such Care Epic Customer, but You will not become a party to Epic’s contract with such Care Epic Customer. Article 6:254 subsection 1, Civil Code is thus not applicable. Conversely, if another Care Epic Customer suffers damages due to Your violation of the Rules of the Road, then such Care Epic Customer will be a third party beneficiary of the portion of Epic’s contract with You that contains the Rules of the Road and such Care Epic Customer will have the right to pursue a claim against You based on that portion of Epic’s contract with You, but such Care Epic Customer will not become a party to Epic’s contract with You. Again, Article 6:254 subsection 1, Civil Code is thus not applicable.

6. You acknowledge that users of Care Epic rely on the equal participation and free exchange of data by all member organizations, and You further acknowledge it would be unfair for You to join the Care Epic network if You do not intend to participate and exchange data. By using Care Epic, You represent and warrant that You have considered Your applicable obligations under the duty of medical secrecy under art 7:457 Civil Code and have determined that You are able to send information for at least some of Your patients using Care Epic. You further agree that if You conclude in the future that You can no longer send patient information to other participants in the Care Epic network, You will inform Epic and will voluntarily remove Yourself from further participation in the Care Epic network.

Schedule 1

Operating Procedures of the Care Everywhere Governing Council

These Operating Procedures of the Care Everywhere Governing Council (the “Operating Procedures”) were made and established by the healthcare organizations participating in the Care Everywhere Network on September 20, 2010, in order to form a Governing Council to assist in the oversight of the Care Everywhere Network.

Care Everywhere enables Epic customers to exchange patient data with Epic systems of other Epic customers that also license Care Everywhere (“Care Everywhere Customers”), as well as with non-Epic systems. The Governing Council and these Operating Procedures apply only to exchanges between Care Everywhere Customers.

For the sake of clarity, the subset of Care Everywhere functionality described above supporting exchanges of patient information between Epic systems was previously referred to as “Care Epic” and the subset of Care Everywhere functionality supporting exchanges between Epic and non-Epic systems was previously referred to as “Care Elsewhere.”

These Operating Procedures were amended effective October 2, 2012 to define the procedure by which a Participant may lodge a grievance against one or more other Participants.

1. Definitions

- a. “Appeal Panel” has the meaning provided in section 5.i.
- b. “Appeal Panel Chair” means the chair of an Appeal Panel.
- c. “Appeal Process” means the process for appealing dispositions of Grievances, as described in section 5 of these Operating Procedures.
- d. “Appellant” means a party that is appealing the decision of a Grievance Panel.
- e. “Appellee” means the non-appealing party to an appeal from the decision of a Grievance Panel.
- f. “Care Everywhere” or “CE” means the Care Everywhere software application licensed by Epic that enables Participants to exchange patient data with Epic systems of other Participants, as well as with non-Epic systems.
- g. “Care Everywhere Coordinator” has the meaning provided in the Rules of the Road.
- h. “CE Network” or “Network” means all Participants and their usage of CE.
- i. “Claimant” means the Participant filing a Grievance.
- j. “Council Chair” means the chair of the Governing Council.
- k. “Day” means a business day (excluding Saturdays, Sundays and federal holidays).
- l. “Epic” means Epic Systems Corporation.
- m. “Epic License Agreement” means the main or master license agreement with Epic pursuant to which the Epic software is licensed.
- n. “Governing Council” means the Care Everywhere Governing Council described in these Operating Procedures.
- o. “GP Chair” means the chair of a Grievance Panel.

- p. “Grievance” means a written complaint lodged with the Governing Council according to the Grievance Process by one Participant alleging a material violation of the Rules of the Road by one or more other Participants.
- q. “Grievance Panel” has the meaning provided in section 5.c.
- r. “Grievance Process” means the process for evaluation and adjudication of Grievances, as described in section 5 of these Operating Procedures.
- s. “Participant” means an Epic customer that has entered into an Epic License Agreement and is currently licensed to use CE under that Epic License Agreement.
- t. “Protected Health Information” or “PHI” will have the meaning set forth at 45 C.F.R. s.160.103 of the Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of the Electronic Protected Health Information (45 C.F.R. Parts 160 and 164) promulgated by U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as in effect on the date set forth in section 2.a. of these Operating Procedures and as may be amended, modified, or renumbered.
- u. “Respondent” means each Participant that allegedly violated the Rules of the Road, as described in the Grievance filed by the Claimant.
- v. “Response” means a Respondent’s written response to a Grievance filed in accordance with section 5.d.
- w. “Rules of the Road” means the framework for the exchange of patient information between Participants on the Network, including circumstances under which Participants may seek patient information from another Participant, and with which all Participants have agreed to comply pursuant to their Epic License Agreement.

2. The Governing Council

- a. On September 20, 2010, the Participants together with Epic formed the Governing Council through the establishment of these Operating Procedures.
- b. Nothing in these Operating Procedures or the procedures set forth herein modifies or amends the Rules of the Road or any Epic License Agreement.

3. Purpose

- a. The Governing Council has the following purposes.
 - i. *Primary Purpose.* The primary purpose of the Governing Council is to oversee compliance by Participants with the Rules of the Road, including the adjudication of Grievances among Participants related to the Network. The process by which the Governing Council performs this adjudication is outlined in section 5 of these Operating Procedures.
 - ii. *Secondary Purposes.*
 - 1. The Governing Council may propose updates to the Rules of the Road for the consideration of all Participants, as described in the Rules of the Road. The Governing Council will forward all proposed changes to the Rules of the Road to Epic to be distributed to all Participants along with the Governing Council’s and Epic’s recommendation for each proposed rule change.

2. The Governing Council may promote best practices among the Participants, including but not limited to making non-binding recommendations concerning audit processes, security practices, and user training approaches.
- b. The Governing Council will have no authority to:
- i. Determine compliance with the Epic License Agreement or any other agreements related to the Participants.
 - ii. Allocate liability associated with violations of the Rules of the Road.
 - iii. Assess any monetary penalty or damages of any kind.

4. Membership and Officials

- a. *Voting Members.* The Governing Council shall have fifteen (15) voting members.
- i. The voting members shall be elected by the Participants according to the following process:
 1. The Governing Council shall set dates for the opening and close of voting so that (a) the close of voting occurs at least fifteen (15) calendar days prior to the end of the term of office for Governing Council Members being replaced by the voting process and (b) the time period for Participants to submit their vote is at least fifteen (15) but no more than twenty-five (25) calendar days.
 2. Candidates for Governing Council membership may be nominated by any Participant through letter or electronic mail to the current Recorder of the Governing Council.
 - a. No more than ninety (90) calendar days and no less than seventy-five (75) calendar days prior to the end of the term of office for Governing Council members, the Recorder shall publish a call for nominations to all Participants and will accept nominations for a period of thirty (30) calendar days from the date the calls for nominations is published.
 - b. Each Participant may nominate at most one candidate. Any biographical or professional information included with the nomination is limited to no more than 250 words.
 - c. To be considered for election, a nominee must be an employee of the nominating Participant or of its affiliated contract provider group which is a primary part of the Participant's integrated care delivery system, and the Recorder will not include any nominated candidate in the election process who does not meet this requirement. If a nominee is no longer an employee of the nominating party or of its affiliated contract provider group which is a primary part of the Participant's integrated care delivery system, the nominating Participant will promptly notify the Recorder.
 - d. If the number of nominees received by the Recorder is less than the number required to fill the positions then up for election, the Governing Council will extend the nomination period described in section 4.a.i.2.a. for a period of ten (10) calendar days in order to solicit additional nominations.

3. Within ten (10) calendar days following the close of the nomination period, the Recorder will open the election period and will provide to the Care Everywhere Coordinator of each Participant (by electronic mail or other reasonable means) a list of the candidates for the election and the deadline for receipt of votes. Any biographical or professional information about the candidate that was provided by the nominating Participant under section 4.i.2.b. will be distributed along with the list.
 4. Each Participant shall have one (1) vote per open Governing Council position and can allocate at most one (1) vote to a particular candidate. Participants are encouraged to use all votes but are not required to do so. Each Participant's vote will be submitted by its Care Everywhere Coordinator to the Recorder, via electronic format prior to end of the voting period.
 5. At the end of the voting period, the Recorder will report the results of the election to all Participants.
 - a. The specific votes of each Participant shall be kept confidential by the Recorder, who will report only the total number of votes for each candidate.
 - b. The open Governing Council seats will be filled by the eligible candidates with the most total votes—the first open seat being filled by the candidate with the most votes, the second open seat being filled by the candidate with the second most votes, and so on until all the open seats are filled.
 - c. If there is a tie impacting the outcome, a runoff vote, with one (1) vote per Participant, for each affected seat will be held over the five (5) Days immediately following the date the results are reported, with the results of the runoff reported to all members by the Recorder.
 6. Members elected according to the above-described process will serve for at most one (1) consecutive full term of three (3) years.
 7. A Participant may have only one representative on the Governing Council concurrently.
- b. *Non-Voting Members.* The Governing Council will have two (2) non-voting members appointed by Epic from among its employees or officers. These members are entitled to participate in any proceedings and deliberations of the Governing Council and assist any panels, but unless otherwise provided in these Operating Procedures, will not have a vote on the Governing Council.
- c. *Governing Council Officials.* The Governing Council shall have a Chair and a Recorder.
- i. At the first Governing Council meeting following the annual election of Governing Council members, the Governing Council will elect the Chair and a Recorder from among the voting Governing Council members by a majority vote by the voting Governing Council per office.
 1. The Governing Council may choose to elect two members to serve concurrently as Co-Chair or Co-Recorder.
 2. A member may not serve as Chair and Recorder concurrently.

- ii. Each official will serve for one (1) year, unless such official submits his or her resignation to the other Governing Council Members.
 - 1. An official may resign from office and continue serving as a Governing Council member.
 - 2. Nothing will prohibit a Governing Council member from being re-elected to either official position.
- iii. If an office is vacant mid-term, the Governing Council will elect a new member as soon as reasonably practicable to hold the office for the remainder of the term of the vacated office.
- iv. The Chair's duties will be:
 - 1. Convening and facilitating meetings of the full Governing Council.
 - 2. Organizing the formation of Grievance Panels and Appeal Panels as described in section 5.
 - 3. Organizing the formation of any additional panels that the Governing Council decides are necessary.
- v. The Recorder's duties will be:
 - 1. Administering the nomination and election of Governing Council members as described in section 4.a.i.
 - 2. Establishing and maintaining all records of all elections and actions of the Governing Council and the Panels, including minutes of any meetings. All discussions and records of the actions of the Governing Councils and Panels will be confidential and will be disclosed only to Participants, Governing Council Members, and Epic (except as further restricted in 5.i., below).
 - 3. Publishing approved minutes of the Governing Council's public proceedings to all Participants.
 - 4. Providing for the orderly transition of the Governing Council's records to the Recorder's successor.
- d. *Payment.* Governing Council members and officials will not be paid by the Governing Council or Epic.
- e. *Resignation.* A Governing Council member may submit his or her resignation from the Governing Council to the other Governing Council members at any time. If at any time a Governing Council member is no longer employed by the Participant that nominated him or her, then such Governing Council member is considered to have resigned effective immediately upon termination of employment. If the employer of a Governing Council Member changes due to a merger, acquisition or other type of affiliation (rather than a termination of the Member's employment) and the new employer is not currently represented on the Governing Council, then subject to the approval of the Governing Council, the Member may elect to continue serving on the Governing Council for the remaining duration of his or her term.
- f. *Vacancies.*
 - 1. Any Governing Council seats that are vacant at the start of a Governing Council election

will be included in the election as additional open seats and will be filled according to the process described in 4.a.i. The number of votes allotted to each Participant as specified in 4.a.i.4 will increase accordingly. For the purposes of 4.a.i.5, seats will be filled in descending order of the length of term – seats with full term lengths will be filled first, then the vacated seat with the longest remaining term will be filled next, and then the vacated seat with the second-longest remaining term will be filled, and so on until all the open seats are filled. Each member elected to an originally vacant seat will serve for the remainder of the term of the original member whose position is being filled by this process.

2. If any Governing Council seat becomes vacant no more than six (6) months after the close of a Governing Council election (regardless of whether that seat was filled during such election), the eligible candidate from the most recent election who had received the most total votes and who is not currently filling a seat on the Governing Council may fill the vacant seat on the Governing Council. If that candidate declines to fill the vacancy, the eligible candidate from the most recent election who had received the next-most votes may fill the vacant seat, and so on until the seat is filled or all eligible candidates from the previous election have declined the seat. If all eligible candidates from the previous election who are not currently filling a seat on the Governing Council decline to fill the vacancy, the seat will remain vacant until the next election. Each member appointed through this process will serve for the remainder of the term of the original member whose position is being filled by this process.
- g. *Panels.* Upon a majority vote of the Governing Council members, the Governing Council may form panels and/or workgroups to better serve the Governing Council’s purpose as outlined in section 3 of these Operating Procedures. The only panels or workgroups mandated by these Operating Procedures are those panels required under the Grievance Process and Appeal Process, described in section 5 of these Operating Procedures.
 - h. *Standard of Conduct.* The Governing Council members shall perform their duties in good faith and with a view to the overall interests of the Network, with that degree of diligence, care, and skill that ordinarily prudent persons would exercise under similar circumstances in like positions.
 - i. *Removal.* Any elected Governing Council member may be removed by an affirmative vote of two-thirds (2/3) of all Participants. The Governing Council shall establish written procedures of due process for such action.

5. Grievances

- a. *Grievances Generally*
 - i. Prior to filing a Grievance, Participants are encouraged to make reasonable efforts to resolve any dispute through informal discussions.
 - ii. All written submissions and correspondence described in these rules shall be sent in PDF format via email to the party’s email address maintained by Epic.
 - iii. Parties to a Grievance are encouraged to conduct all Grievance process activities in an expeditious manner and within less than the maximum timeframes indicated below. Any time deadlines may be extended for good cause shown if needed in particular cases.
 - iv. No Protected Health Information shall be included in any materials submitted to or by a Grievance Panel or Appeal Panel. If needed for disposition of a Grievance, clinical information shall be fully de-identified or anonymized in any materials submitted to the Grievance Panel or Appeal Panel.

- v. A diagram of the Grievance process flow is presented as Attachment A to this document.
- vi. The Rules of the Road permit a Claimant to impose a “Temporary Restriction” as necessary during the pendency of the Grievance process. See Section 8 of the Rules of the Road for more information.
- b. *Submission of Grievance.* To initiate the Grievance Process, a Claimant submits a written Grievance to the Council Chair on the prescribed form (Attachment B), with a copy sent to the Respondent(s).
- c. *Formation of Grievance Panel.* Within five (5) Days of receipt, the Council Chair convenes a four-member panel, including one non-voting member (a “Grievance Panel”). If there are less than three (3) eligible voting members, additional members of the Grievance Panel will be selected as provided in section 5.m until there are three (3) voting members selected for the Grievance Panel. A chair of the Grievance Panel shall be selected by the members of the Grievance Panel, and shall continue as the chair of that Grievance Panel for a twelve-month period. Promptly upon appointment, each member of the Grievance Panel submits a statement to the Council Chair as to whether s/he has a conflict of interest with respect to any party to the Grievance (see section 5.m of these Operating Procedures). If so, the Council Chair appoints a replacement member.
- d. *Determination of Jurisdiction to Hear Grievance.* Within five (5) Days of appointment, the GP Chair reviews the Grievance to determine if it is properly within the jurisdiction of the Grievance Panel under the Rules of the Road. If so, the GP Chair sends a written acknowledgement to Claimant and Respondent, with a request for Respondent to submit a written Response to the Claimant and the Grievance Panel within fifteen (15) Days. If the Grievance is not properly reviewable by the Grievance Panel, the GP Chair sends a written notice to the Claimant. A decision not to review a Grievance may be appealed pursuant to sections 5.h, 5.i, 5.j, 5.k and 5.l below.
- e. *Review of Grievance.* Within ten (10) Days of receipt of the Response, the Grievance Panel reviews the Grievance and Response on the merits and determines if there is need for further fact-finding or if a hearing would otherwise be appropriate (e.g., to clarify any aspect of the grievance, allow the parties to address the Grievance Panel or discuss potential remedies or resolution of the grievance). If so, the Grievance Panel determines whether additional written submissions, other information and/or a hearing is required or appropriate. The GP Chair may conduct a conference call with the parties to clarify the need for fact-finding. The GP Chair issues a letter to the parties on whether additional fact-finding is required and:
 - i. if a hearing will not be held, the letter specifies a process and schedule for gathering any required additional information or submissions by the parties or Epic, and for closing the record.
 - ii. if a hearing will be held, the letter specifies the time, place and manner for conducting the hearing (e.g., telephone conference), as well as a process and schedule for gathering any required additional information or submissions by the parties or Epic, and for closing the record.
- f. *Written Decision of Grievance Panel.* Within thirty (30) Days after closing of the record, the Grievance Panel issues a written decision summarizing the basis for the decision and the remedy or sanction(s) and corrective or remedial actions, if any, per section 5.o of the Operating Procedures. (Review standards are included as Attachment C to this document.) A copy of all Grievance Panel decisions shall be distributed to the members of the Governing Council. On an exceptional basis for sensitive matters, the names of the parties or other information may be redacted from such copies for good cause shown.

- g. *Report on Remedial Actions After Disposition of Grievance.* Within thirty (30) Days after receipt of the decision (or such other period(s) of time specified in the decision), the Claimant and Respondent will submit a joint report to the Grievance Panel and the Governing Council confirming whether the remedy, sanctions and corrective or remedial actions have been completed.
- h. *Reconsideration and/or Appeal of Decision.* Within fifteen (15) Days from receipt of a final decision issued by the Grievance Panel, a party may file a request for reconsideration by the Grievance Panel or a written appeal with the Chair of the Governing Council, with copies sent to all parties and the Grievance Panel. (If a request for reconsideration is filed, the date for filing an appeal is suspended until the Grievance Panel issues its written decision on the reconsideration request.) A request for reconsideration and an appeal shall include a complete statement of the basis on which review is sought. (A diagram of this Appeals process is presented as Attachment D to this document.) If a request for reconsideration is filed, the Grievance Panel will issue a written decision within ten (10) Days of receipt of the request.
- i. *Formation of Appeal Panel.* Within five (5) Days of receipt of an appeal, the Council Chair convenes a seven-member appeal panel composed of voting Governing Council members (an "Appeal Panel"). If there are less than seven (7) eligible voting members, additional members of the Appeal Panel will be selected as provided in section 5.m until there are seven (7) voting members selected for the Appeal Panel. A chair of the Appeal Panel shall be selected by the members of the Appeal Panel. Promptly upon appointment, each member of the Appeal Panel submits a statement to the Council Chair as to whether s/he has a conflict of interest with respect to any party to the Grievance (see section 5.m of the Operating Procedures). If so, the Council Chair shall appoint a replacement member. Within five (5) Days of appointment, the Appeal Panel Chair sends an acknowledgement notice to the Appellant and Appellee, with a request for a written response from the Appellee within fifteen (15) Days.
- j. *Review of Appeal.* Within ten (10) Days of receipt of the Appellee's response: the Appeal Panel determines if there is need to hold a hearing on the appeal or if it will decide the appeal based on the record compiled by the Grievance Panel and the appeal. The Appeal Panel Chair issues a letter to the parties on whether an appeal hearing will be held and:
 - i. if an appeal hearing will not be held, the letter specifies a process and schedule for gathering any required additional information and submissions by the parties or Epic, and for closing the record.
 - ii. if an appeal hearing will be held, the letter specifies the time, place and manner for conducting the hearing (e.g., telephone conference), as well as a process and schedule for gathering any required additional information and submissions by the parties or Epic, and for closing the record.
- k. *Written Decision of Appeal Panel.* The Appeal Panel issues a written decision within thirty (30) Days after closing of the record, summarizing the basis for the decision and remedies, if any, per section 5.o of the Operating Procedures. (Review standards are included as Attachment C to this document.)
- l. *Report on Remedial Actions After Disposition of Appeal.* Within thirty (30) Days after receipt of the decision on appeal (or such other period(s) of time specified in the decision), the Appellant submits a report to the Appeal Panel and the Governing Council confirming whether the remedy, sanctions and corrective or remedial actions have been completed. A copy of all Grievance Panel decisions shall be distributed to the members of the Governing Council. On an exceptional basis for sensitive matters, the names of the parties or other information may be redacted from such copies for good cause shown.

- m. *Eligibility; Conflict of Interest* A Governing Council member is eligible to serve on a Grievance Panel or an Appeal Panel with respect to a specific Grievance unless such member has a conflict of interest related to that Grievance, which includes but is not limited to, current or prior employment at a Participant who is party to the Grievance, or the existence of a close business relationship between such Governing Council member's current organization and a Participant who is party to the Grievance. A Governing Council member with a conflict of interest will disclose the conflict and will not be eligible to serve on the Grievance Panel or Appeal Panel with respect to that Grievance. If there are insufficient eligible Governing Council members to select a Grievance Panel or Appeal Panel (whether due to conflicts of interest or otherwise), the remaining panel member(s) will be selected using the following methods, with Method 1 being used until no further members can be selected using such method, in which case the remaining panel member(s) will be selected using the Method 2:
 - i. Method 1: A Participant will be randomly selected among those Participants currently live on CE (i.e. using CE in a production environment to exchange patient information) as a part of the Network and that do not have a representative on the Governing Council, the Grievance Panel, or Appeal Panel. The selected Participant will appoint an employee or official of that Participant to the Grievance Panel or Appeal Panel, as applicable, and such individual will be considered a temporary voting member of the Governing Council solely for the purpose of the applicable Grievance provided such individual does not have a conflict of interest as described in this section 5.m.
 - ii. Method 2: A Participant will be randomly selected among those Participants that are not currently live on CE as a part of the Network and that do not have a representative on the Governing Council, Grievance Panel, or Appeal Panel. The selected Participant will appoint an employee or official of that Participant to the Grievance Panel or Appeal Panel, as applicable, and such individual will be considered a temporary voting member of the Governing Council solely for the purpose of the applicable Grievance provided such individual does not have a conflict of interest as described in this section 5.m.
- n. *Compliance with Breach Notification Laws.* These Operating Procedures and the Grievance Process are not intended to modify any obligation a Participant, the Governing Council, Governing Council members, or Epic may have under any applicable laws, including any federal or state notification requirements. For purposes of clarity, participation by the Governing Council, Governing Council members, and Epic in the Grievance Process does not make such parties responsible for complying with any federal or state notification requirements unless otherwise required by applicable law.
- o. *Sanctions.* If the Grievance Panel finds for the Claimant, the Grievance Panel may impose sanctions against a Respondent as further described in Attachment C to these Operating Procedures.
- p. *Confidential Deliberations.* All deliberations and votes of the Grievance Panel and Appeal Panel are confidential and closed. A Claimant will not disclose any PHI as a part of any Grievance or appeal of a Grievance decision and will ensure that all PHI is redacted from any document submitted pursuant to such processes. All documents submitted related to a Grievance or appeal of a Grievance decision will be retained in the Governing Council's general records and maintained in confidence.

6. Meetings

- a. *Annual Meeting.* The Governing Council shall meet in person at least once per year, and it is expected that most Governing Council and panel business will be conducted by web or telephone conference. The Chair will be responsible for organizing and convening any in-person meetings. If a Governing Council member is unable to attend the annual in-person meeting, that member

may designate and authorize a proxy to attend that meeting by notifying the Chair in writing of the designation and authorization. Any proxy must meet the requirements of section 4.a.i.2.c.

- b. *Quorum.*
 - i. Governing Council. At least two-thirds (2/3) of the voting Governing Council members and one (1) non-voting member must be in attendance at an in-person meeting, web conference, or telephone conference to constitute a quorum of the Governing Council.
 - ii. Grievance Panels and Appeal Panels. At least two-thirds (2/3) of the voting members of a Grievance Panel or Appeal Panel, but in no event less than three (3) voting members, together with one (1) non-voting member must be in attendance at an in-person meeting, web conference, or telephone conference to constitute a quorum of a Grievance Panel or Appeal Panel.
 - iii. Other Panels and Workgroups. Any other panels or workgroups formed by the Governing Council do not have a quorum requirement to have a valid meeting and to conduct business.
- c. *Voting on Actions or Recommendations.* Unless otherwise required by these Operating Procedures, (i) any act or recommendation of the Governing Council requires a majority vote of at least a quorum of the Governing Council and (ii) any act or recommendation of a Panel requires a majority vote of at least a quorum of the Panel.
- d. *Annual Participant Meeting.* The Governing Council also shall, with Epic's assistance, organize and facilitate an annual, in-person meeting of all Participants to discuss the state of the Network, proposed changes to the Rules of the Road or these Operating Procedures, requested enhancements to the application, and other topics as needed or requested. The annual meeting will take place at Epic's annual User Group Meeting, unless the Governing Council agrees upon another date in accordance with the terms of these Operating Procedures and provides at least sixty (60) calendar days notice of such meeting to all Participants.

7. Initial Adoption of Operating Procedures and Amendments to Operating Procedures

- a. Adoption of these Operating Procedures require an affirmative vote of at least two-thirds (2/3) of all Participants.
- b. As provided in the Rules of the Road, Amendments to these Operating Procedures require an affirmative vote of Epic and a majority of Care Everywhere Customers. Amendments may be proposed by any Participant, by the Governing Council, or by Epic. The Governing Council, together with Epic, will review any comments or suggested revisions put forward by any of the Participants, and, together with Epic, will determine if the suggested revision will be put to a vote and will draft the final version of the amendment.

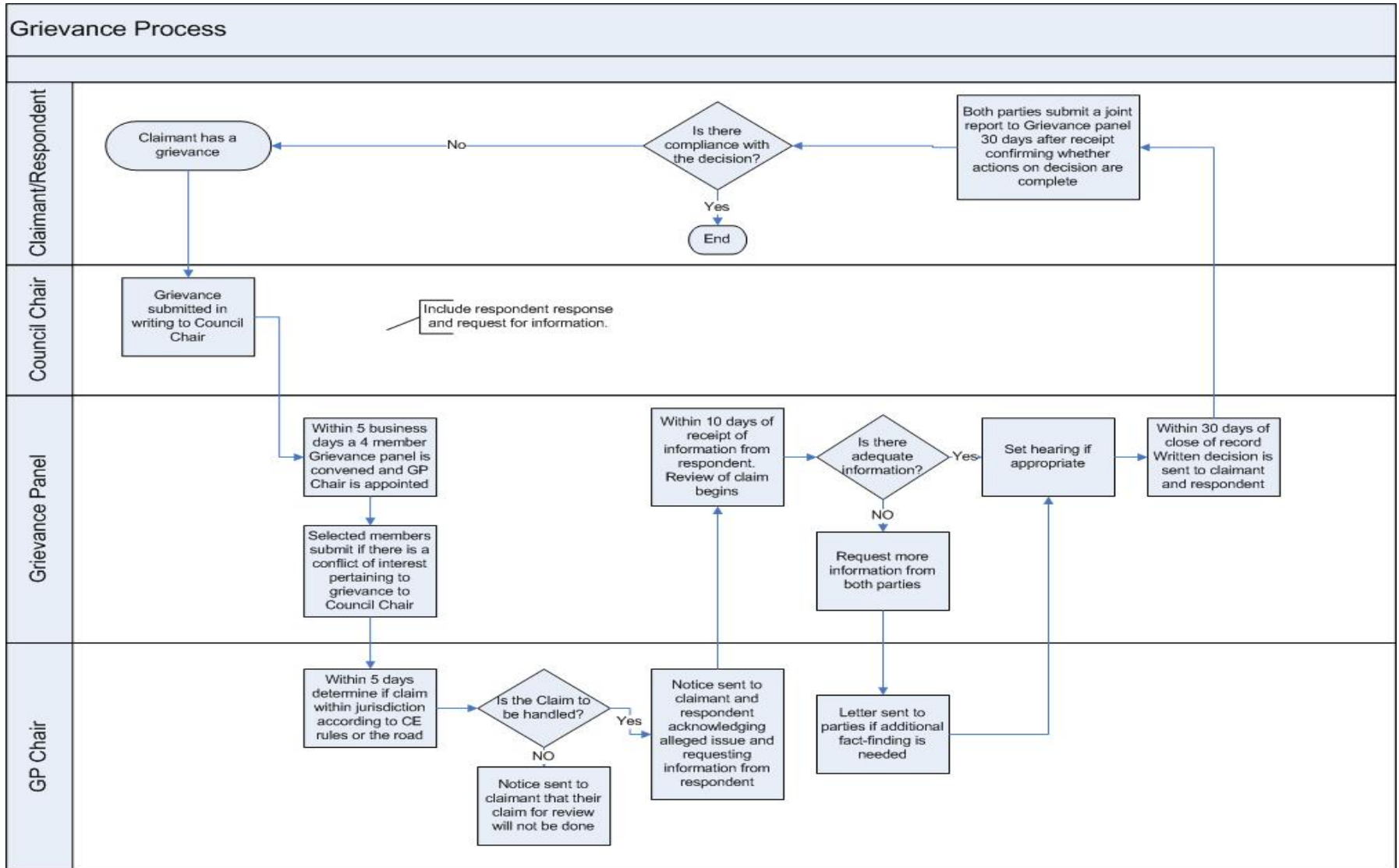
8. Governing Council Expenses.

Omitted

9. Termination

Once formed, dissolution of the Governing Council requires the affirmative vote of least two-thirds (2/3) of all Participants.

Attachment A
Care Everywhere Grievance Process Flow Diagram



Attachment B
Care Everywhere Grievance Claim Form

Date			
Claimant (Site filing grievance)			
Claimant's contact information	Last name		First name
	Street		City
	State		Zip
Phone Number			
Email Address			
Rules of The Road process violated			
Date(s) of the violation			
Respondant (Site against whom grievance is filed)			
Other involved CE participants			
Description of violation	<p>(Provide a complete summary. Additional supporting information maybe requested)</p>		
Attempted Resolution			
Respondent's position/response			
Is Hearing requested?			
Desired Outcome/ Resolution	<p>(what would you like to see happen, what is a good outcome)</p>		
Attach Supportive Documentation	<p>Any supporting screenshots or audits must have all PHI redacted</p>		

Attachment C
 Care Everywhere Review Standards and Sanctions

Summary of Recommendations (full explanation below)

- **Review Standards**
 - Grievance Panel – “Clear and convincing evidence” that the Respondent violated the Rules of the Road
 - Grievance Appeal Panel – “Clearly erroneous” finding by the Grievance Panel; “clear and convincing” standard if the Grievance Appeal Panel finds that clear error was made by Grievance Panel; “de novo” standard to review sanction determinations.

- **Sanctions**
 - The Sanction(s) imposed should be determined in light of the facts and circumstances that gave rise to the violation, the Respondent’s course of conduct in response to the grievance (and similar problems) and the harms caused by the violation.
 - Sanctions must be approved by a majority of a Grievance Panel or Grievance Appeal Panel. The Grievance Panel or Grievance Appeal Panel may choose to open the vote on a particular sanction to the entire Governing Council. In that case, the sanction must be approved by a majority of the Governing Council.

Review Standards – In order to ensure consistency and fairness in the grievance process, the Grievance Panel and the Grievance Appeal Panel will apply the following standards in deciding grievances and appeals.

1. **Grievance Panel** – The Grievance Panel serves both as the finder of fact and (in some circumstances) as the body that determines the sanction (if any) that follows. Therefore, the Grievance Panel must first use a standard to determine whether the Claimant’s assertion is true (determination of a Rules of the Road violation) before it can impose any sanction. The standard to be used for determining whether a Rules of the Road violation occurred is:

Clear and convincing evidence: This means the panel finds that there either is sufficient uncontradicted evidence to support the claim or that the evidence supporting the claim substantially outweighs the evidence against the claim.

2. **Grievance Appeal Panel** – Either the Claimant or the Respondent may appeal the Grievance Panel’s decisions with respect to either (or both) the finding of a Rules of the Road violation or the determination of sanctions. The standards of review to be used by the Grievance Appeal Panel are:

- **Clearly erroneous** – This is the standard to be used by the Grievance Appeal Panel when determining whether the Grievance Panel’s **determination of a Rules of the Road violation** should stand. This standard requires the Grievance Appeal Panel to find that: (i) the Grievance Panel’s decision was based on a clearly erroneous finding of the underlying facts or a clearly erroneous interpretation or application of the Rules of the Road, and (ii) such error was material to the finding of violation (or no violation). The burden rests on the Appellant to identify for the

Grievance Appeal Panel the specific facts or Rules the Appellant believes the Grievance Panel to have found (or applied) in error.

- **Clear and convincing** (described above) – This is the standard to be used by the Grievance Appeal Panel when, following its finding that a clear error was made by the Grievance Panel, it will **review the entire record** to resolve the grievance.
- **De Novo** – This is the standard to be used by the Grievance Appeal Panel when reviewing the **sanction imposed** by the Grievance Panel. This standard requires the Grievance Appeal Panel to make its own determination of what sanction is to be imposed (based on the factors listed below).

Sanctions – Although the facts and circumstances giving rise to each grievance will be unique, the guidelines below are intended to promote fairness and consistency to the extent possible in sanction decisions as they are made over time in response to various grievances. When imposing sanctions, the Grievance Panel and Grievance Appeal Panel should also keep in mind the paramount goals of promoting patient care and safety and trust in the operation of the Care Everywhere network among both CE Participants and the patients they serve.

3. **Factors in Determining Sanction(s).** The Grievance Panel (or Grievance Appeal Panel) will take into account the factors listed below when determining which sanction(s) to apply. The presence of factors listed on the left will argue for a less severe or onerous sanction, while the presence of factors listed on the right will argue for a more severe or onerous sanction. It is expected that there will be a mix of “left” and “right” factors present in most grievances, in which case the more “right” factors that are present would result in a progressively more onerous sanctions (and vice versa).

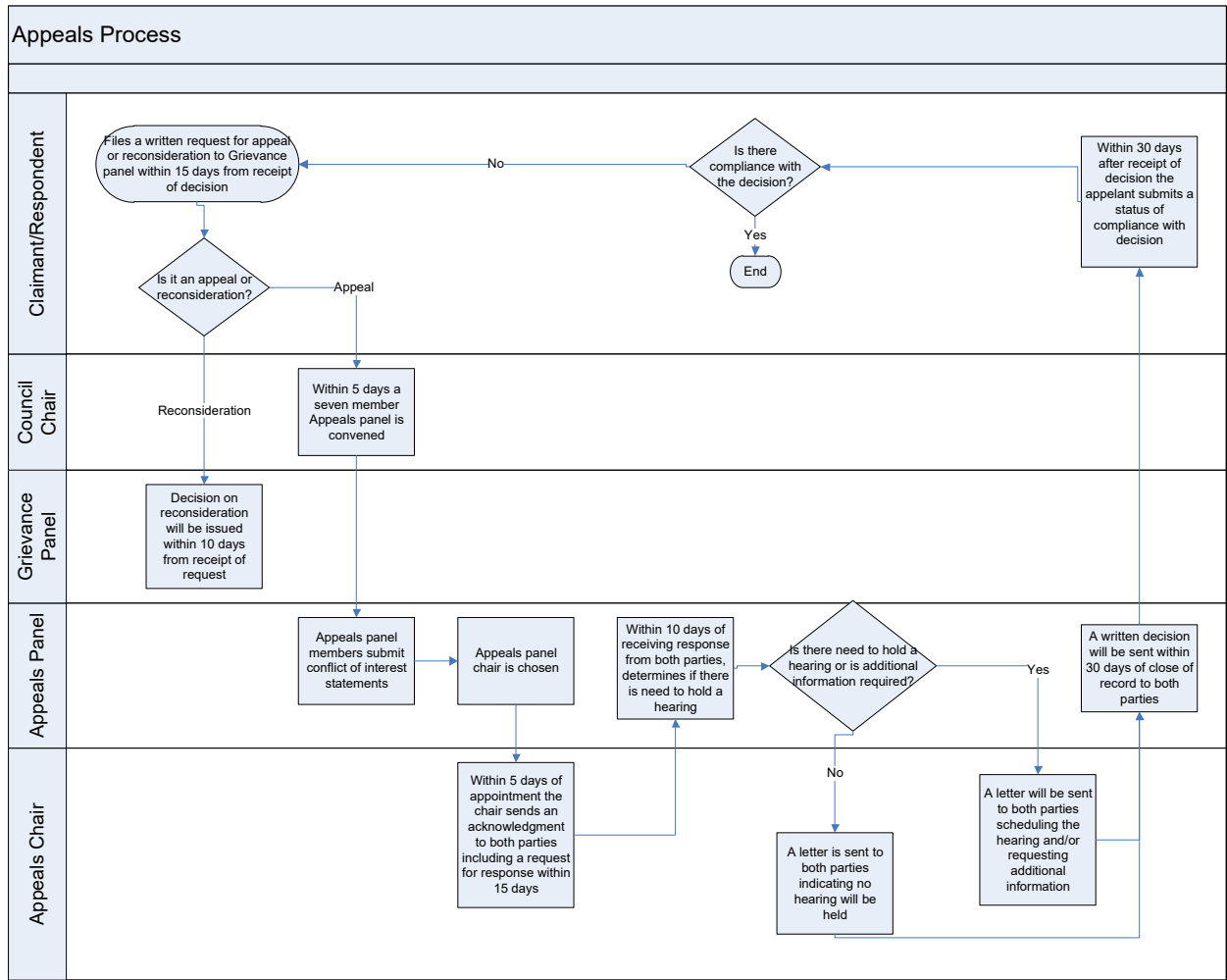
<p align="center">Factors Weighing in Favor of Less Onerous Sanctions</p> <p><i>Examples: Corrective action plan with monitoring; or temporary individual restrictions</i></p>	<p align="center">Factors Weighing in Favor of More Onerous Sanctions</p> <p><i>Examples: temporary institutional restrictions; permanent individual or institutional restrictions</i></p>
Mistake, simple negligence, good faith	Gross misconduct, intentional, bad faith
Respondent had no prior actual or imputed knowledge of the problem	Respondent knew or should have known of the problem
If there was prior knowledge, Respondent took good faith steps to correct it	If the Respondent knew of the problem, it did not take good faith steps to correct it
No or minimal history of similar problems	History of similar problems in the institution and/or Respondent did not take reasonable actions to address them or comply with prior sanctions
Conduct not egregious or substantially outside the norm of local community practice	Conduct was illegal or for personal or organizational gain
Reasonable measures were in place to prevent this type of problem, even if those measures did not work in this case (e.g., training or monitoring)	Reasonable measures to prevent this type of problem were not in place
Behavior was caused by an individual, not the institution	Conduct resulted from institutional or systemic problems (such as lack of adequate training, poorly designed workflows, lack of cooperation with other users’ monitoring activities or failure to remedy prior

	violations)
Respondent cooperated in good faith with Complainant’s attempt to resolve/correct the concern	Respondent ignored or did not provide reasonable cooperation with Complainant’s attempt to resolve/correct the concern
It is reasonably likely that, given a less restrictive sanction, Respondent will be able to fix the problem	Unlikely that less onerous sanction would prevent similar problems in the future
No indication that issue has resulted in harm to the Care Everywhere network/functionality or in harm to the reputation of Care Everywhere participants	Conduct could result in harm to the Care Everywhere network/functionality or in harm to the reputation of Care Everywhere participants
No harm to Respondent or patient(s)	Harm to Respondent or patient(s)
Presence of other mitigating factors	Presence of other aggravating factors

4. Approval Level. Sanctions must be approved by a majority of a Grievance Panel or Grievance Appeal Panel. The Grievance Panel or Grievance Appeal Panel may choose to open the vote on a particular sanction to the entire Governing Council. In that case, the sanction must be approved by a majority of the Governing Council.

Attachment D

Care Everywhere Grievance Appeals Process Flow Diagram



Carequality Addendum

Epic's Care Everywhere application ("Care Everywhere") allows Epic customers to exchange patient data with other Epic customers that also license Care Everywhere and to exchange continuity of care information meeting the supported form with organizations that are not using Epic software. Epic has entered into an arrangement with Carequality that allows Care Everywhere users to exchange patient data with other participants in Carequality (each, a "Carequality Participant") for certain use cases using the Carequality framework. The following provisions apply to Your use of Care Everywhere – Carequality Treatment Exchange (the "Carequality Treatment Functionality"), Care Everywhere – Carequality SSA Determination (the "Carequality SSA Functionality"), and Care Everywhere – Carequality Electronic Case Reporting (the "Carequality eCR Functionality", and collectively with the Carequality Treatment Functionality and the Carequality SSA Functionality, the "Carequality Functionality") to enable such exchanges. In the future Epic may also develop other functionality related to Carequality, including without limitation the ability for You to utilize additional Carequality permitted purposes of use (e.g. Payment, Operations, Public Health, Research), and such additional functionality may be licensed separately.

1. **Termination.** You may at any time disconnect from Carequality as provided in the Carequality Connection Terms. You will inform Epic of such disconnection as soon as possible under the circumstances, but in no event more than one (1) business day thereafter. Your termination of communications with other Carequality Participants will not affect Your use of other portions of Care Everywhere. However, termination of Your license to Care Everywhere will simultaneously terminate Your license to the Carequality Functionality.
2. **Requirements.**
 - a. The terms of the Agreement that apply to Care Everywhere (e.g., terms regarding compliance with laws, patient consent, and security requirements, among others) also apply to Your use of the Carequality Treatment Functionality. However, the terms of this Addendum (including without limitation the Carequality Connection Terms) apply only to Your use of the Carequality Functionality and do not affect or modify any of the terms applicable to Your use of Care Everywhere generally. For purposes of clarity, any transfer of patient information between You and another Epic customer that occurs using Care Everywhere will be governed exclusively by the terms of the Agreement that apply to Care Everywhere (including without limitation the Care Everywhere Rules of the Road), even if the other Epic customer is also a Carequality Participant.
 - b. Use of the Carequality Treatment Functionality requires that You have enabled the functionality that allows You to respond to Care Everywhere queries for patient information from other licensees of Care Everywhere.
 - c. If Epic's agreement with Carequality is terminated, Epic will no longer have the right to permit You to use the Carequality Functionality. Accordingly, Your license to the Carequality Functionality will terminate automatically if Epic's agreement with Carequality is terminated, and Epic will inform You of such termination as soon as reasonably possible after it takes effect.
 - d. You agree to abide by the then-current Carequality Connection Terms (the "Carequality Connection Terms") posted on Epic's user web site, which apply to use of the Carequality Functionality to exchange patient information with other Carequality Participants in Carequality. The current Carequality Connection Terms are attached as Exhibit 1 to this Addendum. The Carequality Connection Terms, as amended as provided in this Section 2(d), are made a part of the Agreement. The Carequality Connection Terms may be revised by Carequality from time to time. If revisions are made to the Carequality Connection Terms, Epic will inform You of such revisions and the effective date of such revisions as soon as reasonably practicable (which may include informing You via an email to Your organization's contact for Care Everywhere as specified pursuant to the Care Everywhere Rules of the Road). If You do not wish to abide by the Carequality Connection Terms as amended, You may inform Epic that You are terminating Your use of the Carequality Functionality at any time within thirty (30) days from the date Epic informed You of the amended Carequality Connection Terms. If You do not so inform Epic, then

on the later of thirty (30) days from the date Epic informed You of the revised Carequality Connection Terms and the specified effective date of the revisions, the updated Carequality Connection Terms will automatically apply to You and govern Your use of the Carequality Functionality without any further action by You, Epic, or Carequality. Failure to comply with the Carequality Connection Terms may result in Epic taking appropriate action consistent with the Carequality Connection Terms, and You agree to accept any action taken by Epic pursuant to this Addendum concerning violations of this Addendum or the Carequality Connection Terms.

- e. Section 8.3 of the Carequality Connection Terms contains provisions regarding limitations of liability for liabilities arising out of the Carequality Connection Terms. For purposes of clarity, nothing in Section 8.3 of the Carequality Connection Terms will operate to modify the terms of the Agreement as between You and Epic, and the terms of the Agreement will prevail and take precedence in the event of a conflict between the Carequality Connection Terms and the Agreement.
- f. Section 11 of the Carequality Connection Terms contains provisions regarding Your obligation to inform Epic of “Adverse Security Events” (as that term is defined in the Carequality Connection Terms). Your designated contact point for delivering these notifications is Your assigned Care Everywhere Technical Services representative at Epic. The current process for delivering these notifications to Epic is available on the UserWeb, currently at <https://userweb.epic.com/Thread/46674>.
- g. As of the date of the Agreement, the Carequality Treatment Functionality only supports the “Treatment” use case under Carequality’s Query Based Document Exchange Implementation Guide, and use of the Carequality Treatment Functionality is accordingly limited to exchange of patient data for treatment purposes.
- h. The Carequality SSA Functionality only includes functionality to exchange patient data with the SSA for SSA benefits determination purposes in accordance with Carequality’s Coverage Determination purpose of use under its Query Based Document Exchange Implementation Guide. Your license to this Item does not include, among other things, use of this Item for any other type of benefits determination. Please contact Your Epic representative to discuss strategies for private payer benefits determination if You want to pursue that use case using Epic software.
- i. You are fully and solely responsible for the accuracy, completeness, quality, integrity, legality, reliability, and appropriateness of all information You exchange using the Carequality SSA Functionality and the Carequality eCR Functionality, including that it is Your responsibility to ensure You have received a valid consent for disclosure of data to the SSA.
- j. Use of the Carequality eCR Functionality may require an increase in Your Licensed Volume for Standard Interfaces and Data Connectors.

3. Escalation and Indemnification.

- a. Capitalized terms used in this Section 3 and not otherwise defined in the Agreement (including this Addendum) have the meanings given to them in the Carequality Connection Terms. Epic and You agree that Epic is the Sponsoring Implementer and You are a Carequality Connection. In the event that a Dispute arises between You and another Carequality Connection, You agree to follow the informal dispute resolution process set out in the Carequality Connection Terms. If such process does not result in a resolution of the Dispute, You may request that Epic further escalate the Dispute to the other Carequality Connection’s Implementer. You agree to comply with the terms of any resolution that is arrived at as a result of the Dispute Resolution Process, and You agree that Epic may take appropriate action to carry out the terms of such a resolution to a Dispute.

- b. You acknowledge that Epic is a party to an agreement with Carequality pursuant to which Epic is required to take responsibility for the acts of its Carequality Connections and their End Users. Epic's willingness to enter into such agreement with Carequality is a prerequisite to Epic making the Carequality Functionality available to You. You further acknowledge that Epic has no ability to oversee or control Your use of the Carequality Functionality. Therefore, to the extent permitted by the law applicable to You, You agree to hold harmless, indemnify, and defend Epic and its officers, employees, contractors, and agents (collectively the "Indemnitees") from and against any Claim brought by any other Implementer, Carequality Connection, End User, or any of Your or their patients asserted against the Indemnitees or any of them, arising out of, or in any way connected with the Carequality Functionality, including without limitation claims based on an Indemnitee's negligence. For purposes of this Section 3(b) of this Addendum, "Claim" means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation, reasonable attorneys' fees. End User as used in this Section 3(b) is as defined in the Carequality Connection Terms.

Exhibit 1

Carequality® Connection Terms

The contents of this Exhibit 1 are the Carequality Connection Terms that must be legally binding on every Carequality Connection, as that term is defined below. Sponsoring Implementer, as defined below, must ensure that these terms are included, directly or by reference, in a legally enforceable agreement or any other legally enforceable mechanism selected by Sponsoring Implementer (the “Enforcing Agreement”). These terms must be presented, directly or by reference, in the Enforcing Agreement as they appear in this Exhibit 1, without alteration or modification.

1. **Definitions:** As used herein, the following terms have the following meanings:
 - 1.1. **Adverse Security Event:** The unauthorized acquisition, access, disclosure, or use of individually identifiable health information (as defined in the HIPAA Regulations) while such information is being transmitted between Implementers or Carequality Connections as specified by a Carequality Implementation Guide and pursuant to a valid CCA or Carequality Connection Terms, as applicable, but shall not include (i) any unauthorized acquisition, access, disclosure or use of encrypted data; (ii) any unintentional acquisition, access, disclosure, or use of health information if (I) such acquisition, access, disclosure, or use was made in good faith and within the course and scope of the employment, or if not an employee, as a member of the workforce of an End User; and (II) such health information is not further acquired, accessed, disclosed or used by the End User; or (iii) any acquisition, access, disclosure or use of information that was not directly related to use of the Carequality Elements.
 - 1.2. **Applicable Law:** (i) If Organization is not a Federal agency, all applicable statutes and regulations of the State(s) or jurisdiction(s) in which Organization operates, as well as all applicable Federal statutes, and regulations; or (ii) if Organization is a Federal agency, all applicable Federal statutes, regulations, standards and policy requirements of the Organization agency.
 - 1.3. **Business Associate:** An organization that is defined as a “business associate” in 45 C.F.R. § 160.103 of the HIPAA Regulations.
 - 1.4. **Business Day(s):** Monday through Friday excluding federal or state holidays.
 - 1.5. **Carequality Connection:** An organization that is properly listed in the Carequality Directory in accordance with the requirements of Section 15 of the CCA.
 - 1.6. **Carequality Directory:** A set of information that includes entries for all organizations who have been accepted as Carequality Implementers, along with those organizations’ Carequality Connections, which serves as the definitive reference for identifying those organizations who are valid participants in exchange activities through the Carequality Elements, and for obtaining the information needed to establish technical connectivity with such organizations.
 - 1.7. **Carequality Elements:** Those elements that have been adopted by Carequality to support widespread interoperability among Implementers including, but not limited to, the Carequality Connected Agreement, the Carequality Connection Terms, the Carequality Directory, Implementation Guides, and the Carequality Policies.
 - 1.8. **Carequality Policies:** Those policies and procedures adopted by Carequality which are binding on Carequality, Implementers, Carequality Connections or all of them.
 - 1.9. **Carequality Use Case:** A combination of a set of functional needs and a particular technical architecture for addressing those needs, for which the Carequality Steering Committee (“Steering Committee”) has adopted an Implementation Guide.

- 1.10. Confidential Information: Proprietary or confidential materials or information of a Discloser in any medium or format that a Discloser labels as such upon disclosure or given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered confidential. With respect to Carequality, Confidential Information also includes those components of the Carequality Elements that the Carequality Steering Committee determines should be labeled Confidential. Notwithstanding any label to the contrary, Confidential Information does not include any Contribution (even if included in a Carequality Element); any information which is or becomes known publicly through no fault of a Recipient; is learned of by a Recipient from a third party entitled to disclose it; is already known to a Recipient before receipt from a Discloser as documented by the Recipient’s written records; or, is independently developed by Recipient without reference to, reliance on, or use of, Discloser’s Confidential Information.
- 1.11. Contribution: Any submission by a Discloser to Carequality intended by the Discloser to be considered for inclusion in any of the Carequality Elements, including comments submitted on any media, oral discussions at meetings of any work group, committee or sub-committee or other types of submissions.
- 1.12. Covered Entity: An organization that is defined as a “covered entity” in 45 C.F.R. §160.103 of the HIPAA Regulations.
- 1.13. Discloser: The entity that discloses Confidential Information to a Recipient.
- 1.14. Dispute: Any controversy, dispute, or disagreement arising out of or relating to the interpretation or implementation of the Carequality Elements.
- 1.15. End User: An individual or program generating a request for information, responding to a request for information, publishing information to a list of recipients or receiving published information through the Carequality Elements.
- 1.16. Exchange Activity: Any use of the capability provided or supported by the Carequality Elements to exchange information among Implementers or their Carequality Connection.
- 1.17. Governmental Entity: A local, state or Federal agency.
- 1.18. HIPAA Regulations: The Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information (45 C.F.R. Parts 160 and 164) promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as in effect on the effective date of the Enforcing Agreement and as may be amended, modified, or renumbered.
- 1.19. Implementation Guide: A guide adopted by Carequality that sets forth the technical specifications and additional business rules that apply to Implementers and Carequality Connections who declare support for a specific Carequality Use Case. Additional business rules will include, but not be limited to, permitted purposes for the Carequality Use Case, roles associated with the Carequality Use Case and specifications on compliance with Section 8 of these Carequality Connection Terms (“Non- Discrimination”).
- 1.20. Implementer: An organization that has signed the Carequality Connected Agreement and been accepted as such by Carequality.
- 1.21. Organization Business Rule: A data sharing restriction that Organization has adopted for itself and its End Users. An Organization Business Rule may only be based on a policy decision that Organization has made with respect to the handling of patient data identified as clinically or legally sensitive, or to the consent or authorization that is required to share data with other

Implementers and Carequality Connections. It is not necessary that the Organization Business Rule be required by Applicable Law or be based on Applicable Law.

- 1.22. Organization: The Carequality Connection on which these Carequality Connection Terms are binding.
- 1.23. Recipient: The entity that receives Confidential Information from a Discloser.
- 1.24. Sponsoring Implementer: The entity that is a party to the Carequality Connected Agreement and is ensuring that these Carequality Connection Terms are legally binding on Organization, either directly through contract or some other appropriate relationship with Organization, or by relying on one or more intermediaries. This term is used to distinguish this specific entity from other Implementers, and applies to that entity both during the period in which it is seeking to attain Implementer status, and after it is accepted as an Implementer.

2. ***Recognition as a Carequality Connection.***

- 2.1. Organization. Upon Sponsoring Implementer determining to its satisfaction that Organization has met the requirements to be a Carequality Connection, and Sponsoring Implementer's inclusion of Organization in the Carequality Directory, Organization shall be recognized as a Carequality Connection, subject to all obligations, terms and conditions contained herein and entitled to all rights and benefits conferred upon Carequality Connections including, but not limited to, inclusion in the Carequality Directory.
- 2.2. Sub-Organization Entities. Sponsoring Implementer may delegate to Organization the authority to identify to Carequality those of Organization's subsidiary and related entities that Organization wishes to be listed in the Carequality directory as Carequality Connections of Sponsoring Implementer ("Sub- Organization Entities"). Such entities include, but are not limited to, separately branded business divisions, individual hospitals, individual clinics or medical offices, and otherwise-unaffiliated entities who contract with Organization for use of Organization's electronic health record system. For all Sub- Organization Entities that Organization identifies, it shall ensure that each Sub-Organization Entity is legally required to comply with these CC Terms. In addition, Organization shall work cooperatively with Sponsoring Implementer to assure that its Sub-Organization Entities are not already listed in the Carequality Directory by another Carequality Implementer.

3. ***Suspension and Termination.***

- 3.1. Suspension. Sponsoring Implementer or Carequality may suspend Organization's ability to participate in any exchange activity under the Carequality Connection Terms in the event that Sponsoring Implementer or Carequality determines, following completion of a preliminary investigation, that (i) Organization has breached a material provision of these Carequality Connection Terms and failed to cure such breach within fifteen (15) days or such other period of time that the Parties have agreed to, of receiving notice of same; or (ii) there is a substantial likelihood that Organization's acts or omissions create an immediate threat or will cause irreparable harm to Carequality, Sponsoring Implementer, another Implementer, Carequality Connection, End User or individual (collectively, a "Threat Condition"). Organization may provide notice to Sponsoring Implementer that it wishes to temporarily remove itself from the Carequality Directory in the event that Organization or any of Organization's End Users cannot comply with these Carequality Connection Terms.
- 3.2. Termination. Sponsoring Implementer may terminate Organization's status as a Carequality Connection with immediate effect by giving notice to Organization if: (i) Organization is in material breach of any of these Carequality Connection Terms and fails to remedy such breach within 30 days after receiving notice of such breach; or (ii) Organization breaches a material provision of these Carequality Connection Terms where such breach is not capable of remedy.

Subject to the terms of any agreement between Organization and Sponsoring Implementer, Organization may voluntarily terminate its status as a Carequality Connection at any time by providing written notice to Sponsoring Implementer and to Carequality at least 60 prior to the effective date of the termination. The notice shall indicate the reason(s) for Organization deciding to terminate its status as a Carequality Connection. If Organization is a U.S. federal agency, then the Contract Disputes Act (“CDA”), 41 U.S.C. sections 7101 et seq., shall govern alleged breaches under these Carequality Connection Terms.

4. **Legal Requirements.** Organization shall, at all times, fully comply with all Applicable Law relating to these Carequality Connection Terms and the use of the Carequality Elements. To further support the privacy, confidentiality, and security of health information exchanged pursuant to these Carequality Connection Terms, Organization agrees that when acting as a Carequality Connection, it will comply with the provisions of the HIPAA Regulations that are applicable to Business Associates as a minimum contractual standard of conduct even if Organization is not a Covered Entity, a Business Associate, or a Governmental Entity. Notwithstanding any provision of these Carequality Connection Terms to the contrary, an Organization that is a federal agency and is not otherwise subject to the HIPAA Regulations shall not be required to comply with the HIPAA Regulations under these Carequality Connection Terms.
5. **Compliance with the Implementation Guides and Carequality Policies.** Organization shall implement and maintain support of at least one Carequality Use Case and shall indicate to Sponsoring Implementer the Organization’s role in such Carequality Use Case (“Carequality Use Case Role”). For all Carequality Use Cases supported by Organization, Organization shall comply with all components (unless such components are designated as optional) set forth in the applicable Implementation Guide that apply to (i) the Organization’s Carequality Use Case Role or (ii) all Carequality Connections. Organization is encouraged, but not required, to comply with all optional components of the applicable Implementation Guide(s). Organization also agrees that, if it is not in compliance with all applicable components of the Implementation Guide(s) and all Carequality Policies applicable to Carequality Connections, Sponsoring Implementer may exercise its right to suspend Organization in accordance with Section 3.1. Notwithstanding any provision of these Carequality Connection Terms to the contrary, if Organization is a U.S. federal agency, no change in policies or procedures shall apply to such agency until the agency has received 60 days’ prior written notice of the change and has assented in writing to the change. If the agency does not assent or does not object based on federal law to the change(s) in writing within 60 days, the change(s) shall apply to the agency. In the event of an agency objection based on federal law, if the objection is not resolved prior to the effective date of the change(s) to which the agency objects, the agency may voluntarily and/or selectively suspend participation or Carequality may suspend the agency if the agency is unable to comply with the change(s) pending continued efforts to reach a resolution.
6. **Non-Discrimination.** With respect to Implementers and Implementers’ Carequality Connections that have implemented the same Carequality Use Case as Organization and Organization’s End Users, neither Organization nor its End Users shall unfairly or unreasonably limit exchange or interoperability with such Implementers or their Carequality Connections. Each Carequality Use Case’s Implementation Guide will provide specific requirements for compliance with this requirement in the context of that Carequality Use Case.
7. **Organization Autonomy.** To the extent that Organization has adopted Organization Business Rules, Organization is permitted to continue acting in accordance with such Organization Business Rules, even if they restrict Organization’s ability to support exchange of information with other Implementers or Carequality Connections or to meet the requirements of Section 6 above, provided that Organization applies such Organization Business Rules consistently with respect to other Implementers and Carequality Connections and the Organization Business Rules do not impose conditions that would unfairly or unreasonably limit interoperability.
8. **Accountability.**
 - 8.1. **Organization Accountability.** Organization shall be responsible for any harm to Carequality, its Sponsoring Implementer, other Carequality Connections of its Sponsoring Implementer, other

Implementers and their Carequality Connections which harm is caused by Organization's, or its End Users, acts and omissions. Organization shall not be responsible for the acts or omissions of any Implementer or other Carequality Connection. Notwithstanding any provision in these Carequality Connection Terms to the contrary, Organization shall not be liable for any act or omission if a cause of action for such act or omission is otherwise prohibited by Applicable Law. This section shall not be construed as a hold harmless or indemnification provision.\

- 8.2. Carequality Accountability. Organization will not hold Carequality, or anyone acting on its behalf, including but not limited to members of the Steering Committee, Advisory Council, Dispute Resolution Panel or any work group, or subcommittee, of any of these or Carequality's contractors, employees or agents liable for any damages, losses, liabilities or injuries arising from or related to these Carequality Connection Terms. This section shall not be construed as an indemnification provision.
- 8.3. Limitation on Liability. Notwithstanding anything in these Carequality Connection Terms to the contrary excluding section 8.4, in no event shall Carequality's, Sponsoring Implementer's or Organization's total liability to each other and all third party beneficiaries arising from or relating to these Carequality Connection Terms exceed an aggregate amount equal to three million dollars (\$3,000,000), whether a claim for any such liability or damages is premised upon breach of contract, breach of warranty, negligence, strict liability, or any other theories of liability, even if the entity whose conduct creates the liability has been apprised of the possibility or likelihood of such damages occurring.
- 8.4. Federal agencies. Notwithstanding any provision of these Carequality Connection Terms to the contrary, if Organization is a U.S. federal agency nothing in these Carequality Connection Terms shall be construed to limit in any way the sovereign immunity enjoyed by federal agencies or to limit the ability of the federal agency to seek to recover damages from Carequality, Implementers, or their Carequality Connections.

9. ***Dispute Resolution.***

- 9.1. Organization acknowledges that it may be in its best interest to resolve Disputes between or among Organization, or its End Users, and Carequality, other Implementers or their Carequality Connections through a collaborative, collegial process rather than through civil litigation. Organization has reached this conclusion based upon the fact that the legal and factual issues involved in these Carequality Connection Terms are unique, novel, and complex and limited case law exists which addresses the legal issues that could arise from these Carequality Connection Terms or the Enforcing Agreement. Organization acknowledges that Carequality has adopted a Dispute Resolution Process which Organization agrees to follow. Further, Organization agrees to use its best efforts to resolve Disputes with Carequality, other Carequality Connections and their Implementers or with another Implementer directly if the Dispute does not involve another Implementers' Carequality Connections, through discussions with those involved in such Dispute before even submitting the Dispute to its Implementer pursuant to the Dispute Resolution Process. If Organization requires assistance in identifying contact information for another Carequality Connection, or an Implementer, it shall seek that assistance from Sponsoring Implementer.
- 9.2. If, despite using its best efforts, Organization cannot resolve any Dispute through discussions with the other parties involved, then Organization will notify the Sponsoring Implementer of the Dispute and request that the Implementer initiate the Dispute Resolution Process. Organization is required to undertake these efforts in the event of a Dispute before seeking any other recourse.
- 9.3. Notwithstanding the above, Organization may be relieved of its obligation to participate in the Dispute Resolution Process if Organization (i) believes that another Implementer's or Carequality Connection's act or omission will cause irreparable harm to Organization or another organization or individual (e.g. Implementer, Carequality Connection, End User or consumer) and (ii) pursues

immediate injunctive relief against such Implementer or Carequality Connection in a court of competent jurisdiction. Organization must inform its Sponsoring Implementer of such action within two business days of filing for the injunctive relief and of the result of the action within 24 hours of learning of same. If the injunctive relief sought is not granted and Organization chooses to pursue the Dispute, the Dispute must be submitted to the Organization's Sponsoring Implementer in accordance with the Dispute Resolution Process so that the Sponsoring Implementer can determine next steps.

10. ***Cooperation.*** Organization understands and acknowledges that numerous activities with respect to Carequality shall likely involve its Sponsoring Implementer, other Implementers and their Carequality Connections, employees, agents, and third party contractors, vendors, or consultants. To the extent not legally prohibited, Organization shall: (a) respond in a timely manner to inquiries from Carequality, its Sponsoring Implementer, other Implementers or their Carequality Connections about possible issues related to the Carequality Use Case(s) in which Organization is involved; (b) collaboratively participate in discussions coordinated by Carequality to address differing interpretations of requirements set forth in an applicable Implementation Guide(s) prior to pursuing the Dispute Resolution Process; (c) make reasonable efforts to notify its Sponsoring Implementer when persistent and widespread connectivity failures are occurring with its Sponsoring Implementer or with other Implementers or their Carequality Connections, so that all those affected can investigate the problems and identify the root cause(s) of the connectivity failures; (d) work cooperatively, including without limitation facilitating contact with other Implementers or their Carequality Connections, to address the root cause(s) of persistent and widespread connectivity failures; (e) subject to Organization's right to restrict or condition its cooperation or disclosure of information in the interest of preserving privileges in any foreseeable dispute or litigation or protecting Organization's confidential information, provide reasonable information to others in support of collaborative efforts to resolve issues or Disputes; (f) provide information and other relevant assistance to Sponsoring Implementer in connection with this Section 10; and (g) subject to Organization's right to restrict or condition its cooperation or disclosure of information in the interest of preserving privileges in any foreseeable litigation or protecting Organization's Confidential Information, provide reasonable information to aid the efforts of Organization's Sponsoring Implementer, other Implementers or their Carequality Connections to understand, contain, and mitigate an Adverse Security Event, at the request of such Implementer or Carequality Connection. In no case shall Organization be required to disclose individually identifiable health information in violation of Applicable Law. In seeking another's cooperation, Organization shall make all reasonable efforts to accommodate the other's schedules and reasonable operational concerns.

11. ***Adverse Security Event Reporting.***

- 11.1. As soon as reasonably practicable, but no later than five (5) business days after determining that an Adverse Security Event has occurred and is likely to have an adverse impact on an Implementer(s) or Carequality Connection(s), Organization shall provide Sponsoring Implementer with notification of the Event through the notification protocol specified by Sponsoring Implementer. The notification should include sufficient information for Sponsoring Implementer to understand the nature of the Adverse Security Event and identify other Implementers or Carequality Connections that may be impacted by the Adverse Security Event. Notwithstanding the foregoing, Organization agrees that (a) within one (1) hour of learning that an Adverse Security Event occurred and that such Event may involve an Implementer or Carequality Connection that is a Federal agency, it shall alert the Federal agency in accordance with the procedures and contacts provided by such Federal agency, and (b) that within twenty-four (24) hours after determining that an Adverse Security Event has occurred and is likely to have an adverse impact on an Implementer(s) or Carequality Connection(s) that is a Federal agency, Organization shall provide a notification to the Federal agency in accordance with the procedures and contacts provided by such Federal agency, and Organization shall copy Sponsoring Implementer and Carequality on any such notification.

- 11.2. This Section 11 shall not be deemed to supersede Organization's obligations (if any) under relevant security incident, breach notification or confidentiality provisions of Applicable Law. Compliance

with this Section 11 shall not relieve Organization of any other security incident or breach reporting requirements under Applicable Law including, but not limited to, those related to consumers.

12. ***Acceptable Use.*** Carequality has adopted permitted purposes for the use of the Carequality Elements that are specifically set out in the Implementation Guide for each Carequality Use Case. Organization shall only engage in exchange activities through the Carequality Elements for permitted purposes as defined in the Implementation Guides. If Organization does not comply with these permitted purposes or other applicable provisions in the Implementation Guide, Carequality may exercise its right to suspend Organization in accordance with Section 3 of these Carequality Connection Terms. If Organization is not a Covered Entity or Governmental entity, then (i) Organization may only use the interoperability available through Carequality to transmit or receive information on behalf of its End Users and not on its own behalf; and (ii) Organization will not re-use, re-disclose, aggregate, de-identify or sell any information transacted by its End Users for its own benefit unless its respective Carequality Connections or End Users have given Organization the explicit written authority to do so.
13. ***Confidentiality.***
 - 13.1. Organization agrees to use any Confidential Information that it obtains solely for the purpose of performing its obligations under the Carequality Connection Terms, and for no other purpose. Organization will disclose the Confidential Information it receives only to its employees and agents who require such knowledge and use in the ordinary course and scope of their employment or retention, and are obligated to protect the confidentiality of such Confidential Information. In the event Organization has any question about whether information and/or materials it receives is Confidential Information, it shall treat the same as if it were Confidential Information. For the avoidance of doubt, the Carequality Elements that are not labeled as Confidential Information by the Carequality Steering Committee are not confidential and are not covered by the provisions of this section.
 - 13.2. Organization may be given access to all or a portion of the Carequality Directory by Sponsoring Implementer. The Carequality Directory is intended to be used by Implementers, Carequality Connections, and End Users to create and maintain operational connectivity under the Carequality Elements, including the development and maintenance of effective user interfaces for relevant systems. Organization agrees that it will only use and disclose information contained in the Carequality Directory as necessary to advance the intended use of the Carequality Directory. For example, Organization is permitted to disclose information contained in the Carequality Directory to the personnel of its EHR vendor who are engaged in assisting Organization with establishing and maintaining connectivity via the Carequality Elements. Further, Organization shall not use the information contained in the Carequality Directory for marketing or any form of promotion of its own products and services, unless this use and disclosure is part of an effort by Organization to expand, or otherwise improve, connectivity via the Carequality Elements, and any promotion of Organization's own products or services is only incidental to the primary purpose. In no event shall Organization use the information contained in the Carequality Directory in a manner that should be reasonably expected to have a detrimental effect on another Implementer, Carequality Connection, End User, or other individual or organization.
14. ***Contributions; IP Rights; Ownership of Materials; License.*** Organization acknowledges that any copyrights, patent rights, trade secrets, trademarks, service marks, trade dress, and other intellectual property in or related to Carequality including, but not limited to, these Carequality Connection Terms, Implementation Guides, Carequality Elements, Carequality Policies, related materials, information, reports, processes (the "Carequality IP"), are protected under applicable United States law. Recognizing that the Carequality IP is the work product of the membership of Carequality, and that Carequality is the collective representative of all Implementers' interests, these intellectual property rights are asserted and held by Carequality in its capacity as the representative of its total membership and licensed to Organization hereunder. This does not apply to Carequality trademarks, service marks or trade dress rights, which are discussed separately below. Organization is encouraged to provide Contributions to Carequality and

understands that Carequality must obtain certain rights in such Contributions in order to include the Contribution in Carequality IP. Notwithstanding any provision of these Carequality Connection Terms to the contrary, if Applicant is a U.S. federal agency and considers certain information to be the intellectual property of the U.S. government, the agency shall not contribute such information unless and until it has entered into a written agreement with Carequality for the transfer or license of such intellectual property rights.

- 14.1. With respect to each Contribution, Organization represents that: (a) no information in the Contribution is confidential; (b) Carequality may freely disclose the information in the Contribution; and (c) to the best of its knowledge, such Contribution is free of encumbrance as it relates to the intellectual property rights of others.
- 14.2. To the extent that a Contribution or any portion thereof is protected by copyright or other rights of authorship, Organization grants a perpetual, irrevocable, non-exclusive, royalty-free, world-wide, sublicensable right and license to Carequality under all such copyrights and other rights in the Contribution to copy, modify, publish, display and distribute the Contribution (in whole or part) and to prepare derivative works based on or that incorporate all or part of such Contribution, in each case, for the purpose of incorporating such Contributions into the Carequality IP. Organization also grants Carequality the right: (a) to register copyright in Carequality's name any Carequality IP even though it may include Contributions; and (b) to permit others, at Carequality's sole discretion, to reproduce in whole or in part the resulting Carequality IP.
- 14.3. Organization shall identify to Carequality, through the issuance of a letter of assurance, any patents or patent applications which Organization believes may be applicable to any Carequality Element specifically including, but not limited to, any Implementation Guide. This assurance shall be provided without coercion and shall take the form of a general disclaimer to the effect that the patent holder will not enforce any of its present or future patent(s) that would be required to implement or use the Carequality Element relevant to any person or entity using the patent(s) to comply with such Carequality Element.
- 14.4. Sponsoring Implementer grants to Organization a perpetual, irrevocable, non-exclusive, royalty-free, world-wide, right and license to use, the Carequality IP for the purpose of enhancing interoperability (including through the modification of its products and services to implement the Carequality Use Cases and conform to the Implementation Guides) Organization and its End Users have and will continue to possess the usage rights to the Carequality IP as authorized by Sponsoring Implementer's Carequality Connected Agreement and these Carequality Connection Terms. Organization retains ownership of any Contribution it provides, granting only the licenses described in this Section. Nothing shall prevent Organization from (i) changing Organization's technology, services or any Contribution in any way, including to conform to the requirements of an Implementation Guide or (ii) making any change available to any other person or entity. Notwithstanding anything to the contrary in the Carequality Connection Terms, all right, title, and interest in any change to Organization's technology, services or any Contribution will accrue to the benefit of, and be owned exclusively by, Organization.
- 14.5. The trademarks, services marks, trade dress, business names, company names, and logos owned by Carequality, including without limitation CAREQUALITY and all Carequality logos, (collectively, the "Carequality Marks") are an important part of maintaining the strength and reputation of Carequality and its efforts to enable the interoperable exchange of healthcare information. Organization may not use the Carequality Marks to brand any of Organization's products or services and may not incorporate any Carequality Marks in any of Organization's domain names except as provided in Carequality's published guidelines on use of trademarks. Organization shall not apply for registration of any trademark, service mark, trade dress, business name or company name, or logo that incorporates any Carequality Mark or any element confusingly similar to any Carequality Mark. In connection with any non-trademark, descriptive use of Carequality Marks, Organization will use the registration symbol ® or the trademark or service mark symbols, TM or SM, as more fully set out in the Carequality guidelines on use of

trademarks, and indicate in the text that the Carequality Mark used “is the registered trademark of Carequality,” “is the trademark of Carequality,” or “is the service mark of Carequality,” respectively.

15. ***Disclaimers.*** Organization acknowledges that Implementers and Carequality Connections may be added to or removed from the Carequality Directory at any time; therefore, Organization may not rely upon the inclusion in the Carequality Directory of a particular Implementer or Carequality Connection. IT IS EXPRESSLY AGREED THAT IN NO EVENT SHALL CAREQUALITY OR ORGANIZATION BE LIABLE TO EACH OTHER OR ANY THIRD PARTY BENEFICIARY FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE, OR LOSS OF INFORMATION OR DATA, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORIES OF LIABILITY, EVEN IF THE ENTITY WHOSE CONDUCT CREATES THE LIABILITY HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. NO PROVISION OF THE CCA, OR THE CAREQUALITY CONNECTION TERMS, SHALL BE CONSTRUED AS AN INDEMNIFICATION REQUIREMENT FOR ANY IMPLEMENTER OR CAREQUALITY CONNECTION, INCLUDING BUT NOT LIMITED TO A FEDERAL AGENCY, THAT IS PRECLUDED BY LAW FROM INDEMNIFYING THIRD PARTIES.

16. ***Miscellaneous/General***

- 16.1. **Amendment.** These Carequality Connection Terms may be amended by Carequality from time to time, subject to the requirements of Section 21.4 of the CCA. Sponsoring Implementer will inform Organization of such amendments along with their effective date, which shall be at least thirty (30) days after the date on which Sponsoring Implementer informs Organization of such amendments.
- 16.2. **Third Party Beneficiary.** Carequality, other Carequality Connections of the Sponsoring Implementer, other Implementers and their Carequality Connections shall be deemed third party beneficiaries of these Carequality Connection Terms for purposes of enforcing Organization’s compliance with these Carequality Connection Terms.

Cosmos Addendum

1. **Purpose of Cosmos.** Cosmos brings together health information from millions of patient records to bring evidence-based medicine into clinical practice, improve patient care, support public health interventions, and serve as a resource for research and discovery. By participating in Cosmos, Your organization joins other Epic community members and Epic in realizing the promise of observational health data to discover insights that will empower your clinicians and help people live healthier, longer, and more productive lives.
 - A. *License.* You are granted a license to use Cosmos in accordance with this Addendum, the Cosmos Rules of the Road, and applicable Documentation Manuals.
 - B. *Benefits of Participation.* Your participation in and use of Cosmos has the potential to rapidly advance clinical and public health research and improve lives. It also makes Your organization eligible to receive fees generated through Externally-Funded Research (defined in Section 2.B.ii. below). Fees received by Epic or Cosmos participants for services related to Externally-Funded Research will be distributed among Cosmos participants and Epic. For clarity, nothing in this Addendum is intended to be, or should be construed as, an inducement or payment for recommending or arranging for the purchase of goods, data, or services.

2. Cosmos Terms.

- A. *Data Sharing.* You agree to share Limited Data Sets containing Epic-specified data elements (“Your Cosmos Data”) with Epic, which will be combined with other data into Cosmos to create the “Cosmos Dataset”. You grant Cosmos Users (including Epic) a perpetual and irrevocable license to use Your Cosmos Data for Research, Public Health, and Health Care Operations purposes and disclose Your Cosmos Data to other Cosmos Users, consistent with the Cosmos Rules of the Road (the “Rules”).

Access to Cosmos will be granted only to: (1) You, (2) Epic community members that contribute data to Cosmos and agree to the Rules, (3) Epic and Epic Owned Entities, (4) government entities or enforcement agencies pursuant to a formal government investigation or valid, mandatory court order, and (5) others as permitted by the Cosmos Governing Council and Epic consistent with the Rules. You agree to share Your Cosmos Data under the condition that the only entities that will access Your Cosmos Data are as set out above, (collectively, “Cosmos Users”). “Epic community members” means Epic’s then-current customers, and their “affiliates” and “authorized users” (as permitted in their agreements with Epic). Epic may subcontract hosting of the Cosmos Dataset and related activities to an Epic Owned Entity or other third party.

- B. *Data Use.*
 - i. You can use the Cosmos Dataset for Your own self-funded Research and publish Your findings, which might include insights derived from the Cosmos Dataset. If You publish findings made possible by Cosmos, You agree to acknowledge that Cosmos supported Your Research in such publication. You can also use the Cosmos Dataset to utilize Epic functionality that might be powered by Cosmos. You will not (1) sell the Cosmos Dataset, (2) allow third parties to access the Cosmos Dataset or Cosmos, or (3) use the Cosmos Dataset or Cosmos in exchange for direct or indirect payment from a third party, unless permitted by these terms and the Rules.
 - ii. Cosmos is also intended to support Your ability to perform Research that is funded by private sector organizations or government agencies and has a primary purpose of contributing to evidence-based clinical practice and improving the delivery of care (“Externally-Funded Research”). If You want to use Cosmos for Externally-Funded Research or to share findings made possible by Cosmos with a third party in exchange for any form of compensation (payments, royalties, license fees, etc.), You will first submit Your request to Epic for review using Epic’s then-applicable process for such requests. Epic will review Your request in consultation with the Governing Council to determine whether the use is appropriate and aligned with the purpose of Cosmos. If Epic approves Your request, the third party that is funding Your Externally-Funded Research (whether in part or in whole) or compensating You for findings may be required to pay Epic for such use of Cosmos software and You may be responsible for facilitating such payment. Epic will distribute a portion of these fees from third parties to Cosmos participants who assisted, directly or indirectly, in the generation of such fees.

If You identify other potential uses of Cosmos (such as the development of new commercial tools, products, or services) that are consistent with the Regulations but not addressed in this Addendum or the Rules, then upon Your request, the Governing Council and Epic will discuss such uses with You.

- iii. To help support Your Research activities, a further de-identified version of the Cosmos Dataset will be made available for analysis using data science tools. You agree that Epic may further de-identify the Cosmos Dataset consistent with the requirements in 45 CFR § 164.514(b).
- iv. *HIPAA Data Use Agreement.* In accordance with 45 CFR § 164.514(e), Epic will:
 - 1) Not use or disclose Your Cosmos Data except as permitted by the Rules and this Addendum, or as otherwise required by law;
 - 2) Use appropriate safeguards to prevent use or disclosure of Your Cosmos Data other than as provided for in the Rules and this Addendum;
 - 3) Report to You any use or disclosure of Your Cosmos Data not provided for by the Rules or this Addendum of which Epic becomes aware;
 - 4) Not identify individual patients whose data is included in Your Cosmos Data or contact such individuals; and
 - 5) Require everyone given access to the Cosmos Dataset, including agents who receive Your Cosmos Data, to agree to a Cosmos data use agreement with the same restrictions and conditions that apply to Epic with respect to use of Your Cosmos Data. The Cosmos data use agreement will, at a minimum, require Cosmos Users to:
 - use appropriate safeguards to prevent use or disclosure of the Cosmos Dataset other than as provided for in the Rules and the Cosmos data use agreement;
 - not use or disclose the Cosmos Dataset except as permitted by the Rules and the Cosmos data use agreement or required by law;
 - report to Epic any use or disclosure of the Cosmos Dataset not provided for by the Rules or the Cosmos data use agreement of which they become aware; and
 - not identify, attempt to identify, or contact individuals using the Cosmos Dataset.

The current version of the Cosmos data use agreement for Cosmos participants is available on [Galaxy](#).

- C. *Your Responsibilities.* You agree that You have determined You may disclose Your Cosmos Data to Epic and other Cosmos Users as described in this Addendum. You are responsible for Your Cosmos Users' compliance with the Rules to the same extent as You are responsible for Your Affiliate under the Agreement. You agree to access the Cosmos Dataset and de-identified versions of the Cosmos Dataset using only Epic-specified means and tools.
- D. *Term; Changes to Cosmos; and Discontinuing Participation.*
 - i. Your license to use Cosmos will automatically renew each calendar year under the then-current Cosmos terms unless You notify Epic at least 60 days before the start of the upcoming renewal year that You wish to discontinue Your use of Cosmos. Epic may modify these Cosmos terms upon 90 days' advance notice to You. The Rules will also change over time, and Epic will make future versions available to You through Epic's UserWeb or another website.
 - ii. You may discontinue using and contributing Your Cosmos Data to Cosmos at any time. To protect Cosmos Users' ability to continue and validate their Research, Your Cosmos Data will remain in Cosmos after You stop contributing data or Your license to use Cosmos ends, subject to the terms of this Section 2. This section will survive any termination of Your use of Cosmos and the Agreement. Epic may elect to stop providing Cosmos for Your use at any time, provided that Epic will inform You of such decision reasonably in advance. If Epic decides to stop providing Cosmos, Epic will return or destroy Your Cosmos Data in accordance with the Regulations.
- E. *Governing Council Indemnification.* The Cosmos Governing Council and Epic oversee Cosmos and

administer the Rules, including recommending modifications to the Rules, determining when there are violations, and establishing appropriate remedies (the “Oversight Activities”). In connection with the Oversight Activities, Epic may periodically monitor use of Cosmos to confirm compliance with the Rules and the Cosmos terms. The Governing Council may include representatives from Your organization, other Cosmos users, and Epic. Epic would like to protect the Governing Council from liability for carrying out the Oversight Activities. Therefore, to the extent permitted by the law applicable to You, You agree to indemnify, defend, and hold harmless the Governing Council and Epic, and each of their officers, employees, contractors, and agents (collectively, the “Indemnitees”) from and against any Claim brought by You, Your Users or Your Patients and arising out of or in any way connected with the Oversight Activities, including Claims based on an Indemnitee’s negligence. For purposes of this Section 2.E., (1) “Claim” means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation reasonable attorneys’ fees; (2) “Your Users” means any individual or entity to whom You provide access to any Program Property if the Claim relates to any situation in which the individual or entity had or would have had access to the Program Property through You; and (3) “Your Patients” means any patients whose data is included in Your Cosmos Data.

3. **Limitations.** Cosmos runs on infrastructure that is shared across all users and Epic may need to balance loads or take other actions to throttle or limit Your volume of Cosmos usage to ensure a productive experience for all Cosmos Users. Cosmos is provided “AS IS”, without any warranty and is subject to all limitations specified in the Agreement. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, EPIC’S TOTAL LIABILITY TO YOU FOR ALL CLAIMS (INDIVIDUALLY AND IN THE AGGREGATE) ARISING UNDER OR RELATING TO THIS ADDENDUM AND/OR USE OF COSMOS WILL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000) (WHETHER THE LIABILITY ARISES OUT OF THE SOFTWARE, SERVICES, OR OTHERWISE).**

Exhibit A

Cosmos Rules of the Road

When we have participation from hundreds of organizations combining EHR data from hundreds of millions of patients, together we can improve the health and lives of people everywhere. Cosmos is what helps make that possible. It brings together data from across the Epic community to form the world's largest database of EHR patient information, to help You:

- **Provide the best care.** Cosmos will share insights based on millions of patients and interactions right at the point of care with *Best Care for My Patient*.
- **Collaborate with peers.** Through *Look-Alikes*, Cosmos will connect clinicians who care for similar patients with rare characteristics so they can collaborate and learn from each other's experience.
- **Accelerate the pace of healthcare innovation.** When You and hundreds of Your peers share data with Cosmos, You can draw upon the collective data of the Epic community to analyze health information and create knowledge at an unprecedented scale.

The Cosmos Rules of the Road establish a governance framework and a common set of participation guidelines for organizations using Cosmos.

1. Using Cosmos.

- 1.1. In order to use Cosmos, You will appoint a Cosmos representative to serve as Your primary contact on Cosmos matters.
- 1.2. You will send data to Cosmos through the "Cosmos Data Transport Framework," which helps automate data exchange. The data You share will be a HIPAA Limited Data Set of defined data from all patient encounters documented in Your production environment. You can find some reasonable exclusions to this rule in Section 4.3. Contributing data to the Cosmos Dataset and participating in a maintenance program for EpicCare Ambulatory EHR or EpicCare Inpatient Clinical System provides You the right to use Cosmos.

2. Access to the Cosmos Portal.

- 2.1. You may grant access to the Cosmos Portal to individuals such as Your clinicians, Your clinical researchers, and Your employed executives who have access to Your Epic system and use that access for work-related purposes on Your behalf. Any other potential users, such as those employed by academic institutions, require Epic's approval. Additionally, You will follow Epic's and the Governing Council's most recent guidance about [granting Cosmos Portal access](#).
- 2.2. Cosmos Users access the Cosmos Portal through a secure web-based application made available by Epic.
- 2.3. Cosmos Users who are also permitted to access Your Epic system are bound by the terms of the then-current Cosmos user agreement signed by You. Other Cosmos Users, such as academic researchers, must accept the then-current online Cosmos user agreement before using Cosmos. You agree that Your Cosmos Users' acceptance of the online user agreement constitutes a legally binding agreement between each Cosmos User and Epic. For clarity, You remain responsible for the activities of all Cosmos Users that You allow to have access to Cosmos.
- 2.4. Cosmos Users cannot download, copy, screenshot, or otherwise remove any of the Cosmos Dataset from Cosmos.
- 2.5. You will manage the process to provide Your Cosmos Users with their credentials for the Cosmos Portal, and You are responsible for Your Cosmos Users, including their compliance with these Rules, HIPAA, license terms, and other Cosmos requirements.
- 2.6. You will not allow third parties (e.g., consultants, vendors, outsourcing firms) to have access to Cosmos unless their access is recommended by the Cosmos Governing Council, agreed to by the majority of Cosmos community members, and agreed to by Epic.

3. Uses of the Cosmos Dataset.

- 3.1. You can use the Cosmos Dataset as outlined in the Cosmos Terms. Cosmos allows You to improve the understanding of the causes, treatment, and prevention of disease, to advance healthcare knowledge, and to use Epic-provided tools like Look-Alikes and Best Care for My Patient. Epic might also use the Cosmos Dataset for the same reasons above and to improve its software, services, and analytics, and to test, audit, and administer Cosmos.
- 3.2. You cannot use the Cosmos Dataset in any way that violates HIPAA or the Cosmos Terms, including:
 - 3.2.1. To try to identify individuals whose data comprises the Cosmos Dataset, whether using the Cosmos Dataset alone or in combination with any other data; or
 - 3.2.2. To try to identify clinicians or specific organizations associated with the Cosmos Dataset, whether using the Cosmos Dataset alone or in combination with any other data unless agreed to by Epic and such clinicians or specific organizations (such as in connection with participation in Clinical Trials Matchmaking); or
 - 3.2.3. For advertising purposes or published healthcare-related market comparisons/analyses of clinicians or organizations.
- 3.3. The Cosmos Dataset and access to the Cosmos Portal cannot be sold or exchanged for any type of payment or consideration unless allowed under Section 2, above.
- 3.4. Epic may also:
 - 3.4.1. Collect Cosmos performance data, including executed queries, for auditing and other purposes associated with Cosmos or Epic's operations;
 - 3.4.2. Publish insights gained through analysis of the Cosmos Dataset, usage statistics, data set characteristics, and other operational data about Cosmos; and
 - 3.4.3. Identify Cosmos Users as needed to improve Epic's software and services, and to support functionality in Epic's software, such as Look-Alikes and public health reporting tools, and in other cases with a user's consent.

4. Cosmos Dataset Review.

- 4.1. Epic may revise the Cosmos Dataset from time to time, consistent with the requirements of a Limited Data Set under HIPAA. You will have an opportunity to review such revisions and determine whether to continue participating in Cosmos.
- 4.2. The Cosmos Dataset is discretely structured and mapped to specified standards to ensure the data is high-quality. To share data, You will map necessary data elements and update these mappings as terminology, or the Cosmos Dataset, evolves. You can learn more about dataset mapping in Epic's Cosmos Setup and Support Guide.
- 4.3. Because internal policies and regulatory obligations vary, You are responsible for ensuring that:
 - 4.3.1. Your participation and data submissions are consistent with applicable laws, regulations, and policies.
 - 4.3.2. When You send data to Cosmos, You exclude third-party materials or data that You do not have the right to submit (e.g., proprietary third-party content).

5. Governing Council.

- 5.1. Epic facilitates a Cosmos Governing Council (the "Governing Council"), which is a board of representatives from the Epic community that provides strategic guidance for Cosmos and oversees compliance with these Rules.
- 5.2. If You identify a use of Cosmos that is inconsistent with these Rules or other Cosmos requirements, let Epic know. Epic and the Governing Council will follow a set process to adjudicate grievances. Cosmos Users who misuse Cosmos could be denied access to it. Users named in a grievance agree to cooperate and either accept and comply with the Governing Council's decision or stop participating in Cosmos. While grievances are being settled, the Governing Council or Epic might decide to suspend access to Cosmos for

a user or their organization. During that time, the user's organization is not required to send data to Cosmos.

- 5.3. If the Governing Council or Epic identifies a use of Cosmos or the Cosmos Dataset that is inconsistent with the spirit of Cosmos, they might temporarily impose additional restrictions on such use until the use can be reviewed and the Rules can be updated if needed. Epic will post any additional restrictions on the UserWeb and inform Your Cosmos Coordinator about such restrictions.
- 5.4. As the developer of Cosmos, Epic may revise its governance or the Governing Council's Operating Procedures from time to time.
- 6. Publications.** When You publish Your findings made possible through Cosmos, in accordance with Section 2.B.i. of the Cosmos Terms, please acknowledge, somewhere within each publication, that Cosmos was used for Your research. Please also send the Governing Council, on a semi-annual basis, a list of citations to Your publications and any other publications that cite Your findings or otherwise reference the research You conducted using Cosmos.
- 7. Privacy and Security.**
 - 7.1. To protect the Cosmos Dataset, please implement safeguards, including training for Cosmos Users on the appropriate and inappropriate uses of Cosmos. Disciplinary procedures for the inappropriate use of the Cosmos Dataset should be the same as for inappropriate use of other, similar information.
 - 7.2. If Epic identifies a security vulnerability that could threaten the privacy and security of Cosmos, Epic may take action to limit access or data transmission to Cosmos.
- 8. Ceasing Your Use of Cosmos.** If You decide to stop using Cosmos, You agree to inform Epic of Your decision in accordance with the Cosmos Terms. If You do not participate in the maintenance program for EpicCare Ambulatory EHR, EpicCare Inpatient Clinical System, or other key items of software identified by Epic, Your license to use Cosmos will be terminated. After Your license to use Cosmos ends, Your users will no longer have access to Cosmos. However, any data You contributed prior to ending Your use of Cosmos will continue to be available to current Cosmos users, to the extent supported by Epic.
- 9. Refinement of the Rules.**
 - 9.1. These Rules will be refined over time. Changes to these Rules will require approval by a majority vote from the Governing Council and by Epic.
 - 9.2. Updated Rules will be posted on the UserWeb and will typically take effect 45 days after they are posted. If Epic determines the matter is of immediate concern, the change might take effect before the updated Rules are posted or soon thereafter.

Capitalized terms that are not defined in the Rules or the Cosmos Terms have the definitions assigned in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A, C, D, and E, as in effect on the date the Rules were last revised (such regulations, "HIPAA"). References to Cosmos include the Cosmos Dataset (defined above) as appropriate given the context, and with respect to permitted uses of the Cosmos Dataset, references to users include Epic. Each organization using Cosmos is a third-party beneficiary of these Rules.

Epic Cognitive Computing Addendum

The following terms apply to the Cognitive Computing Model Library and other algorithms and content You operate, including any models You create or modify using the Cognitive Computing Developer Platform, if licensed by You, (collectively, the “Cognitive Computing Tools”):

1. *Clinical Judgement and Validation.* Epic has tested the Cognitive Computing Models using its standard testing methodologies and certain available data sets. However, because of the number of factors (including the variability of patient populations) that can influence the reliability of statistical models, You must also review, validate and modify (as needed) the Cognitive Computing Tools for clinical and operational appropriateness with Your data before You use them in a live, patient care environment. In addition, although Cognitive Computing Tools may display relevant contextual information about patients, they are not intended to serve as a substitute for a clinician’s professional experience, judgment and decision making. Clinicians should exercise appropriate clinical judgment.
2. *Regulatory Changes.* In the future, if Epic believes any Cognitive Computing Tool likely is or will become subject to regulation as a medical device, Epic may modify or disable the applicable functionality. You and Epic will reasonably cooperate in activities related to the relevant regulation (for example, by adjusting Your workflows, installing an Update released by Epic, and/or entering into an amendment to modify the license terms for the affected functionality). In addition, if Epic informs You that it will permanently disable Your access to one or more Cognitive Computing Models because it is no longer licensing software that is regulated as a medical device, Epic will repay to You the prorated license fee You have paid Epic for such Cognitive Computing Model(s), if any, less depreciation calculated on a straight line basis over a ten (10) year period from the date of this Agreement.
3. *Waiver.* EPIC HAS NO RESPONSIBILITY FOR MEDICAL CARE PROVIDED IN CONNECTION WITH USE OF COGNITIVE COMPUTING TOOLS. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, YOU AGREE TO WAIVE ANY CLAIMS YOU MAY HAVE AGAINST EPIC OR ANY EPIC INDEMNITEE RELATED TO CLINICAL, FINANCIAL, OR OPERATIONAL DECISIONS ASSOCIATED WITH YOUR OR YOUR AFFILIATE USERS’ USE OF ANY COGNITIVE COMPUTING TOOLS.

Payer Platform Addendum

The following provisions apply to Your use of Payer Platform.

1. **Termination.** Payer Platform facilitates data exchange between healthcare providers and payers that license qualifying Epic software. You may discontinue use of Payer Platform at any time, thereby suspending data exchange connections with all other Epic customers that were facilitated by Payer Platform. If You elect to discontinue Your use of Payer Platform, You will inform Epic as soon as possible under the circumstances, but in no event more than two (2) business days thereafter.
2. **Requirements.**
 - a. You agree to abide by the then-current Payer Platform Rules of the Road (the “Rules of the Road”) posted on Epic’s user web site, which apply to information exchange through the Payer Platform network. The current Rules of the Road are attached as Exhibit A to this Addendum and may be revised as provided in the Rules of the Road. Failure to comply with the Rules of the Road may result in Epic (or the Payer Platform Governing Council, as explained in Section 3) taking appropriate action consistent with the policies and procedures of the Rules of the Road, and You agree to accept any determination made or action taken by Epic or the Payer Platform Governing Council pursuant to this Addendum or the Rules of the Road, as applicable, concerning violations of this Addendum or the Rules of the Road.
 - b. If You use Payer Platform, You agree that, except as provided in the Rules of the Road, You will not restrict any other Payer Platform participant that follows the Rules of the Road from obtaining any of the patient or member information available through the Payer Platform network.
 - c. You may not make any modifications to any Epic-released records related to Payer Platform.
 - d. You understand it is Your responsibility (and not Epic’s) to determine and establish under what circumstances patient or member information will be exchanged. You agree to be responsible for compliance with all the laws applicable to You (including implementing HIPAA-compliant privacy and security measures) regarding the use, disclosure, and exchange of patient or member information.
 - e. You understand that You are responsible for configuring certain privacy, security, and authorization settings such as user privileges, restricted department, and authorization requirement settings, as well as other configuration settings, to exchange and use data based on Your workflows and implementation of the Program Property. You agree to review the available configuration settings in the current and subsequent versions of Payer Platform and other relevant Program Property, determine the appropriate settings for Your use of such software, and then configure and test such software in Your system.
3. **Indemnification Relating to Oversight Activities.** Epic facilitates a Payer Platform Governing Council, as described in the Rules of the Road. The Payer Platform Governing Council, Epic, or both, will help oversee Payer Platform and Payer Platform participants’ compliance with this Addendum and the Rules of the Road, including without limitation maintaining infrastructure related to Payer Platform, validating users of Payer Platform, recommending modifications to the Rules of the Road, determining violations of the Rules of the Road, and establishing appropriate remedies for such violations (such as limiting or removing a Payer Platform participant’s access to Payer Platform) (collectively the “Oversight Activities”). The Payer Platform Governing Council may include representatives from Your organization, representatives from other Payer Platform participants, and Epic. Epic would like to protect those customer representatives, their organizations, and Epic from liability for agreeing to help with the Oversight Activities. Therefore, to the extent permitted by the law applicable to You, You agree to hold harmless, indemnify, and defend the Payer Platform Governing Council (and to the extent Epic is providing any Oversight Activities, Epic), and each of their officers, employees, contractors, and agents (collectively the “Indemnitees”) from and against any

Claim brought by You, Your End Users or Your Patients or Members asserted against any of the Indemnitees, arising out of, or in any way connected with the Oversight Activities including without limitation claims based on the Indemnitees' negligence. In addition to the foregoing, the Payer Platform Governing Council may, at its discretion, obtain insurance or other indemnity coverage for the Payer Platform Governing Council's conduct related to its Oversight Activities; however, the failure of the Payer Platform Governing Council to obtain such insurance or coverage will not affect the indemnification obligations in the preceding sentence. For purposes of this Section 3: (a) "Claim" means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation reasonable attorneys' fees; (b) "Your End Users" means any individual or entity to whom You provide access to any Program Property if the Claim relates to any situation in which the individual or entity had or would have had access to the Program Property through You; and (c) "Your Patients or Members" means any patient or member of You or Your End Users or any person making a claim as a result of financial or familial relationship with such patient or member, in each case if the Claim relates to any situation in which the patient or member had a relationship with You or Your End Users.

4. **Authorization.** Although Payer Platform may be configured to suppress some kinds of sensitive information in certain cases, the information released by Payer Platform may still unavoidably include sensitive information about a patient or member, including mental and behavioral health issues and treatment, developmental disabilities, sexually transmitted diseases, HIV, alcohol or drug use, or information such as a medication name that would allow inferences to be made about treatment received by the patient or member.

In light of this, and because You are in the best position to know the laws applicable to You and Your existing authorization processes, You agree to release information about a patient using Payer Platform only if the patient has authorized such a release, has not requested to restrict disclosures of their information in accordance with 45 C.F.R. 164.522(a)(1)(vi), or You have determined that such a release for that patient is permitted without authorization under the law applicable to You.

Exhibit A

Payer Platform Rules of the Road

Welcome to the **Payer Platform Rules of the Road**. These Rules of the Road (“Rules”) help establish a trusted network of data exchange between healthcare providers and payers who license Payer Platform and agree to the Rules (“**Participants**”) by providing a common set of guidelines for data exchange.

About Payer Platform

Payer Platform improves patient care through strengthened collaboration between providers and payers. Providers and payers can use Payer Platform for certain population health, treatment, healthcare operations, and payment activities as specified in these Rules. By providing a more complete picture of a patient or member’s care and facilitating the identification and reduction of unnecessary services, Payer Platform can help increase the quality of patient care and reduce administrative costs and delays.

Rules of the Road

1. Organization Participation:

- a. *Participation Types*: There are two types of participation in Payer Platform:
 - i. A Participant is a “Payer User” if the participant is a Covered Entity acting as a Health Plan.
 - ii. A Participant is a “Provider User” if the participant is a Covered Entity acting as a Health Care Provider.
- b. *Organizations Performing Both Provider and Payer Functions*: Participation types are not mutually exclusive. If a Covered Entity uses Payer Platform for both participation types, the Covered Entity must comply with the Rules applicable to both Payer Users and Provider Users as appropriate to the participation type it is performing.

2. Uses for Payer Platform:

- a. *Uses and Responsibilities for Payer Users*: By using Payer Platform to request information for one or more patients or members, a Payer User warrants and represents that at least one of the following is true:
 - i. At the time of the request, they have an Active Relationship with the patient(s) or member(s); or
 - ii. They previously had an Active Relationship with the patient(s) or member(s), and are requesting encounter information only from the time period of that Active Relationship and longitudinal patient information.

An “Active Relationship” means the patient is currently enrolled as a member of one of the Payer User’s health plans.
- b. *Uses and Responsibilities for Provider Users*: By using Payer Platform to request information for one or more patients, a Provider User warrants and represents that at least one of the following is true:
 - i. At the time of the request, they have or are scheduled to have a Treatment relationship as defined by HIPAA with the patient(s);
 - ii. Care for the patient(s) is attributable to that Provider User;
 - iii. Clinical outcomes for the patient(s) are attributable to that Provider User; or
 - iv. Financial risk for the patient(s) is attributable to that Provider User.
- c. *Permitted Uses*:

- i. To the extent permitted by law, Participants can use data that they obtained through Payer Platform in accordance with sections 2(a) and 2(b) for:
 1. Treatment;
 2. Population health activities conducted for the purpose of health improvement or health care cost reduction, including but not limited to care coordination, care management, transition of care planning, defining a population, identifying care gaps, stratifying risks, engaging patients or members, and measuring outcomes;
 3. Healthcare operations activities conducted for the purpose of utilization management review, quality assessment and improvement, clinical guidelines and protocols development, patient safety improvement, care coordination, and regulatory reporting and management;
 4. Payment purposes:
 - a. For Provider Users, this includes obtaining reimbursement for the provision of health care;
 - b. For Payer Users, this includes reviewing claims and determining and fulfilling coverage obligations and the provision of benefits under a health plan.
- ii. Payer Platform participants are not permitted to use Payer Platform for any other purposes, including the following non-exhaustive examples of prohibited activities:
 1. Obtaining or using information from Payer Platform in violation of any applicable laws;
 2. Selling data obtained through Payer Platform (including for any direct or indirect payment)
 3. Allowing access to data obtained through Payer Platform other than as permitted by these Rules or Required By Law;
 4. Providing data obtained through Payer Platform to any third party for commercial research purposes;
 5. Using data obtained through Payer Platform for underwriting; or
 6. Using data obtained through Payer Platform in any externally published marketing comparisons of the performance of Payer Platform participants without the express written consent of each of the Payer Platform participants being compared.

3. Information Exchange:

- a. *Information to be Exchanged by Payer Users:* Subject to section 3(c), a Payer User will share with Provider Users, at minimum, a set of information defined by Epic. If a Payer User is unable to share this set of information with Provider Users using Payer Platform, that Payer User must notify Epic and Epic may suspend its use of Payer Platform until the issue is resolved.
- b. *Information to be Exchanged by Provider Users:* Subject to section 3(c), a Provider User will share with Payer Users, at minimum, a set of information defined by Epic. If a Provider User is unable to share this set of information with Payer Users using Payer Platform, that Provider User must notify Epic and Epic may suspend its use of Payer Platform until the issue is resolved.
- c. *Information Restrictions:* A Participant may have information for a patient or member that the Participant should not share with other Payer Platform participants according to the laws and legal requirements applicable to that Participant, or cannot share because the Participant does not have the appropriate permissions or rights to share such information. Each Participant is responsible for configuring Payer Platform to share only information that is appropriate to share with other participants. Except as provided in these Rules, each Participant will not restrict any other Payer Platform Participant from obtaining any of the patient or member information available through Payer Platform.

- d. *Alternative Health Information Exchange Mechanisms.* Participants are committed to sharing information through Payer Platform for as many patients and members as possible. Epic understands that certain legal and organization-specific requirements may, in rare cases, necessitate Participants to respond to a Payer Platform request through other exchange mechanisms. Participation in Payer Platform is not intended to preclude Participants from exchanging patient or member data through such other mechanisms when necessary because of a functionality constraint in Payer Platform. If a Participant elects to use an alternative exchange mechanism to fulfill a data request received through Payer Platform, the Participant agrees to notify the requesting entity of its decision to use such alternative exchange mechanism. Alternative exchange mechanisms may be used, for example, in circumstances when a patient’s information includes data that cannot be shared due to the absence of a specific patient consent, a patient elects to restrict disclosures of self-paid healthcare services, or a patient or member has requested not to participate in the exchange of that individual’s information using Payer Platform, if such a request is granted by a Participant.
4. **Notice of Participation Termination:** If an organization decides to stop participating in Payer Platform, it must notify Epic either beforehand or within two business days afterward.
 5. **Reviews and Audits:** If a Participant seeks additional audit information about a Payer Platform request exchanged between their organization and another Participant (such as the circumstances of the request), and that information is not otherwise available to the requestor, the participant to which the request is made must fully cooperate with the review.
 6. **Security and Access:**
 - a. *Security and Access Requirements:* To ensure the security, privacy, confidentiality, and integrity of information, each Participant agrees to follow industry best practices (such as training users on the appropriate and inappropriate uses of Payer Platform) and to implement appropriate privacy and security controls with respect to:
 - i. The infrastructure needed to maintain and exchange information;
 - ii. Access provisioning and access paths to Payer Platform functionality and information; and
 - iii. The physical, administrative, and technical safeguards required by HIPAA and any other laws applicable to their organization.
 - b. *Emergency Action:* In emergency circumstances, Epic may take action to limit or suspend use of Payer Platform. Any such action will be designed to:
 - i. Mitigate the risk to the security, privacy, confidentiality, and integrity of patient or member data; and
 - ii. Permit as much patient or member data exchange as possible to continue occurring while such action is in effect.
 7. **Governance:**
 - a. *Payer Platform Governing Council:* Epic facilitates a Payer Platform Governing Council, which is a board of representatives from the Epic community that provides strategic guidance for Payer Platform and oversees compliance with these Rules. The Governing Council will have representation from Payer Users and Provider Users.
 - b. *Issue Resolution Process:* It is important that Participants cooperate and work together to resolve issues that may arise regarding Payer Platform. If a Participant identifies a use of Payer Platform that is inconsistent with these Rules or other Payer Platform requirements, that Participant should discuss any concerns with the Participant(s) involved in that use. If a Participant is unable to resolve a dispute with another Participant, the Governing Council and Epic will follow a set process, as outlined in the Payer Platform Operating Procedures, to adjudicate grievances. Participants (including individual users at a participating organization) that misuse Payer Platform could be denied access to Payer Platform.

- c. *Cooperation during Issue Resolution Process:* Participants named in a grievance agree to cooperate and either accept and comply with the Governing Council’s decision or stop participating in Payer Platform.
- d. *Third Party Beneficiaries.* Each Participant is a third-party beneficiary of each other Participant’s agreement to follow these Rules. If a Participant is unable to resolve a dispute arising out of another Participant’s violation of the Rules through the grievance process set forth in the Operating Procedures, then that Participant will have the right to enforce any violations of the Rules in the same manner as if such Participant had a direct contract with the violating Participant containing these Rules of the Road. Each Participant’s rights with respect to a violation of the Rules of the Road are not limited by any remedies provided in the Rules of the Road.

8. Rules of the Road Changes:

- a. *Proposed Changes:* These Rules will be refined over time. Changes to the Rules may be proposed by the Governing Council, a Participant, or Epic.
 - i. After the initial review by the Governing Council, Epic or the Governing Council may choose to notify Participants of proposed changes to the Rules.
 - ii. Following notification of proposed changes, Participants will have the opportunity to provide feedback and comments as provided in the operating procedures.
- b. *Change Approval Process:*
 - i. Proposed changes must be approved by Epic and, following the establishment of the Governing Council, a majority of voting Governing Council members.
 - ii. The Governing Council or Epic may choose to open the vote on a particular proposed change to the entire Payer Platform community. In that case, a majority of Provider Users, a majority of Payer Users, and Epic must vote in favor of the proposed change for the change to be approved.
- c. *Change Ratification:* The Rules will be amended to include any approved changes. The updated Rules will become effective and apply to all Participants immediately following publication of such changes by Epic.
- d. *Payer Platform Contacts:* Each Participant will designate one or more Payer Platform Contacts who will receive notifications about the Rules, including proposed and approved changes. Contacts will communicate Rules notifications to the rest of their organization.

9. Organization and Configuration Information Availability: In order to promote a collaborative interoperability community and to maximize the effectiveness of data exchange, it is helpful for Participants to better understand how their trading partners and other Participants have configured Payer Platform and other Epic settings that impact exchange over the network. Accordingly, Participants agree to make information about their current Epic version, future upgrade plans, facility structure, and Epic-related configuration available to Epic and all other Participants. Participants may choose to opt out of sharing some or all of this information upon request to Epic. Epic will make available on the Epic UserWeb a list of the configuration information to be collected, as well as the collected information.

These Rules establish a governance framework and mutual expectations for Payer Platform. Capitalized terms that are not defined in the Rules have the definitions assigned to those terms in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A, C, D and E, as in effect on the date that the Rules were last revised (such regulations collectively, “HIPAA”).

Customized MyChart Addendum

Each of MyChart Builder and MyChart YOYO, if licensed by You, enables You to create customized mobile and web versions of the MyChart Patient Experience Platform for use with Your Production Directory (individually and collectively, “Your Customized MyChart”), subject to the terms of the Agreement and the following additional terms:

1. You may not use Your Customized MyChart in a way that alters or affects the license counts for Epic software or in a way that seeks to replace any software functionality licensed by Epic, other than mobile or web versions of Epic’s MyChart Patient Experience Platform. A connection to the MyChart Patient Experience Platform by Your Customized MyChart will be treated as an “Accessed Record” for purposes of determining Your subscription fees for MyChart Patient Experience Platform.
2. You will retain and will not disable, obscure, remove, or change any Epic copyrights, trademarks, logos (including the names Epic and MyChart and the MyChart logo), or other notices Epic includes (e.g., those generated in creating Your Customized MyChart). Except as may be present in images in a listing of any mobile version of Your Customized MyChart in an approved app store or as otherwise required by Epic, You may not use any Epic trademark or logo in any marketing, advertising, or description of Your Customized MyChart without Epic’s prior written consent.
3. Epic is not obligated to support or maintain Your Customized MyChart or its compatibility with any version of the base Epic MyChart mobile or web applications or other Code (e.g., MyChart Patient Experience Platform server Code) that interacts with Your Customized MyChart or that may be necessary for Your Customized MyChart to operate properly with Epic software.
4. You will defend, indemnify, and hold harmless Epic Indemnitees from any Claim by, or on behalf of, any third party or person claiming damage which is brought against Epic Indemnitees, to the extent such Claim arises out of or relates to Your Customized MyChart (including the development, licensing, support, maintenance, distribution, marketing, and use of or inability to use Your Customized MyChart) regardless of the cause, including Epic Indemnitee negligence. You will obtain Epic’s prior written consent to any settlement or judgment in which You agree to any finding of fault of an Epic Indemnitee, action or forbearance by an Epic Indemnitee, or any defect in the Program Property or Epic Indemnitee services.
5. You understand that Epic’s MyChart mobile and web applications are not currently listed as medical devices with the United States Food and Drug Administration (“FDA”). You agree that You will not use or market Your Customized MyChart in a manner that would make Your Customized MyChart subject to FDA regulation. If, in the future, You become aware that Your Customized MyChart is, or is likely to become, subject to regulation by the FDA, You will promptly notify Epic and fully cooperate with Epic regarding any regulatory obligations and Epic’s actions with respect to such obligations, which may include steps to avoid such obligations.
6. Your Customized MyChart may connect only to Your Production Directory. Any mobile version of Your Customized MyChart may be distributed via Apple Store, Google Play store, and any other third party app store to which Epic may agree, in each case only in compiled form and in geographical locations approved by Epic. You may not otherwise distribute Your Customized MyChart. You are responsible for entering into any third party agreements necessary for submission and distribution of any mobile version of Your Customized MyChart.
7. Your Customized MyChart may incorporate non-Epic code or otherwise allow that code to connect to Your Epic software (e.g., through APIs), which could cause issues such as: data corruption in Your Epic or other downstream systems; mapping or saving data to patient records incorrectly (e.g., sending correct data to the wrong patient or incorrect data to the right patient); fraudulent or other unethical conduct (e.g., inappropriately prescribing narcotics or zeroing out a balance due); degraded system response times, performance, or availability; and security vulnerabilities or privacy breaches, including by acting as a vector for hacking, ransomware, or other cybersecurity attacks. These risks are more significant if that code writes data into Your Epic system. It is Your responsibility to ensure Your Customized MyChart interacts with Your Epic software as You intend, including by testing Your Customized MyChart and its consequences with Your Epic software and promptly addressing any issues. As between You and Epic, You are solely responsible for all liabilities and consequences (including the risks described above in this paragraph and non-compliance of Your Customized MyChart with applicable laws and regulations) that arise from or relate to the use of or inability to use Your Customized MyChart, or that arise from or relate to data transmitted through Your Customized MyChart or direct or indirect use of that data in Your Epic and other downstream systems.

InterSystems Software Addendum

A part of the software supplied to You by Epic consists of the software (either M, Caché or InterSystems IRIS, as applicable) from InterSystems Corporation of Cambridge, Massachusetts. The following terms and conditions apply to the sublicense of the Sublicensed Software from Epic to You, the User, as required and authorized by InterSystems.

1. REPRESENTATION OR WARRANTIES OF INTERSYSTEMS

EXCEPT AS EXPRESSLY PROVIDED HEREIN, INTERSYSTEMS DOES NOT MAKE AND SHALL NOT BE DEEMED TO HAVE MADE ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY, TITLE, DESIGN, OPERATION OR FITNESS FOR A PARTICULAR PURPOSE OF THE SUBLICENSSED SOFTWARE OR ANY OTHER REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESSED OR IMPLIED, WITH RESPECT TO THE SUBLICENSSED SOFTWARE.

a. InterSystems hereby represents and warrants as follows:

- (i) InterSystems has (a) valid title to the Sublicensed Software, free of all liens, encumbrances, restrictions and claims of others, (b) the right to license the same to Epic, and (c) the right to license Epic to grant sublicenses of the type granted to User by Epic.
- (ii) Any Sublicensed Software services performed hereunder or under any Sublicensed Software maintenance agreement between InterSystems and Epic shall be performed by highly skilled personnel qualified to perform such services and such services shall be performed in a professional and workmanlike manner in accordance with the then prevailing standards of the computer services industry.
- (iii) The Sublicensed Software and its use do not and will not violate or infringe upon any currently issued United States patent or any copyright, trade secret or other property right (whether conferred by statute, code, common law, or otherwise) of any other person or entity that is valid or enforceable in the United States or in any country in which Epic now maintains or hereafter maintains any office, property or data processing services.
- (iv) The Sublicensed Software, as delivered by InterSystems, is free from material defects in manufacturing and materials and shall operate substantially in conformance with the Applicable Specifications relating to such Sublicensed Software until thirty (30) days after the later of (a) initial delivery of the Sublicensed Software to User, and (b) the date when User first uses the Epic Program Property, whether for testing, training, processing of patient data or other purpose (the "Software Warranty Period").

b. During the Software Warranty Period, InterSystems shall promptly provide, through Epic and at no charge to User, corrections, modifications or additions to the Sublicensed Software in the event that Epic notifies InterSystems in writing of any substantive errors in the Sublicensed Software. User shall assist Epic and, upon request, InterSystems, in identifying the circumstances in which any such substantive errors are discovered and, if requested by Epic or InterSystems, shall document the existence of the same. In no event shall InterSystems have any responsibility to correct any data base errors or errors or damages caused by or arising out of hardware defects or input errors or resulting from changes to or modifications of the Sublicensed Software made by Epic or User without the express written approval of InterSystems.

c. All warranty claims or other claims pursuant to this section shall be made to InterSystems through Epic.

- d. The foregoing representations and warranties are by InterSystems only. Epic makes no representations or warranties pursuant to, and Epic shall have no liability arising out of, this section.

2. INDEMNIFICATION OF INTERSYSTEMS

- a. InterSystems shall, and hereby agrees to, indemnify, defend, and hold harmless User and its officers, employees, agents, and representatives, from and against any and all third-party claims, actions damages, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees and expenses arising out of the defense of any claim, whether proven or not) arising from or based upon a breach by InterSystems of any of its representations or warranties in Section 1(a)(i) or 1(a)(iii) above.
- b.
 - (i) The indemnities specified in Section 2(a) above shall not apply to a specific claim, action, or allegation unless User shall have provided written notice of such claim, action, or allegation to InterSystems as soon as practicable, and shall have granted InterSystems full opportunity to control the response thereto and the defense thereof, including without limitation any agreement relating to the settlement thereof; provided, however, that User shall have the right to monitor, at its own expense, InterSystems' defense of any such claim, action, or allegation and, if necessary, to preclude a default judgment or other loss of rights, to file pleadings on its behalf in the event InterSystems fails to fulfill its obligation to defend User pursuant to this Section 2.
 - (ii) In the case of a claim based on a breach of the representation and warranty contained in Section 1(a)(iii) above, the indemnity specified in Section 2(a) shall not apply to any claim, action, or allegation (or any judgment or order related thereto) based upon: (a) the use by User of the Sublicensed Software in combination with other hardware or software not supplied by InterSystems, where the use of the Sublicensed Software alone is not claimed or alleged to be an infringement; (b) the modification or alteration of the Sublicensed Software in a manner that is not approved by InterSystems; or (c) the failure by User to implement a release or engineer change order for the Sublicensed Software issued by InterSystems and supplied to User by Epic (which release or change order does not preclude the Sublicensed Software from meeting the standards specified in Section 1(b)).
- c. In the event that the Sublicensed Software (or any component or part thereof) becomes the subject of any claim, action, or allegation of the type specified in Section 1(a)(iii), InterSystems shall promptly use all reasonable efforts at its expense: (a) to procure for User the right to continue using the Sublicensed Software (or applicable component or part thereof); or (b) if such continued use cannot be so procured, to modify it to become non-infringing; or (c) if such modification cannot be so implemented, to provide substitute hardware, software, or other products, components or parts of similar capability acceptable to and approved by User, which approval shall not be unreasonably withheld or delayed.
- d. THE FOREGOING STATES THE ENTIRE OBLIGATION OF INTERSYSTEMS WITH RESPECT TO THE INFRINGEMENT OF PATENTS, COPYRIGHTS, AND OTHER PROPRIETARY RIGHTS.
- e. The foregoing indemnification is by InterSystems only. Epic makes no indemnification pursuant to, and Epic shall have no liability arising out of, this section.

3. LIMITATION OF LIABILITY

Except as specifically set forth in Sections 1 and 2 above, InterSystems shall have no liability of any kind to the User, whether direct or indirect, for any loss or damage suffered by the User or its employees, agents or representatives, or customers or patients using the facilities or retaining the services of the User, as a result of or arising out of the Sublicensed Software.

The liability of InterSystems for any loss or damage directly or indirectly suffered by User as a result of any defects in the Sublicensed Software or any acts of omission of InterSystems or its officers, employees, agents, or representatives hereunder shall in no event exceed any amount equal to the license fees paid or owed to InterSystems by Epic in respect of the specific Sublicensed Software or services on account of which User has suffered loss or damage. The foregoing shall not apply to claims of property damage or bodily injury or those claims based on the willful misconduct of InterSystems.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL INTERSYSTEMS BE LIABLE FOR SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL THEORY EVEN IF INTERSYSTEMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUCH DAMAGES SHALL INCLUDE, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF SAVINGS OR REVENUE, LOSS OF USE OF THE LICENSED SOFTWARE OR ANY ASSOCIATED EQUIPMENT OR SOFTWARE, COST OF CAPITAL, COST OF ANY SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME, THE CLAIMS OF THIRD PARTIES (INCLUDING, WITHOUT LIMITATION, CUSTOMERS OR OTHER PERSONS USING THE FACILITIES OF THE USER), AND PROPERTY DAMAGE.

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- a. The Sublicensed Software and related materials (including, without limitation, the System Documentation) are and shall remain, the sole property of InterSystems or one or more of its affiliates. No right to print or copy, in whole or in part, any such Sublicensed Software, System Documentation or related materials is granted hereunder except as herein expressly provided.
- b. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE USER AGREES NOT TO (i) DECOMPILE, DISASSEMBLE OR REVERSE ENGINEER THE LICENSED SOFTWARE OR (ii) USE OR DISCLOSE OR DIVULGE TO OTHERS ANY DATA OR INFORMATION RELATING TO THE LICENSED SOFTWARE AND/OR THE TECHNOLOGY, IDEAS, CONCEPTS, KNOW-HOW AND TECHNIQUES EMBODIED THEREIN.
- c. The obligations of confidentiality and non-use described in Section 4(b) above shall not be deemed to include disclosure or other use of such data or information to the extent that the User can prove the same is or becomes publicly known within the public domain (other than by acts attributable to the User or any of its officers, agents, shareholders of privately-held companies, employees or representatives). Information shall not be deemed to be in the public domain by reason of the general licensing and other commercial disposition of the Sublicensed Software by InterSystems in the ordinary course of its business. The existence of a copyright notice shall not cause, or be deemed or construed as causing, the Sublicensed Software or System Documentation to be published copyright work or to be in the public domain.
- d. Nothing contained in this Section shall prohibit the User or any of its officers, agents, shareholders, employees or representatives from:
 - (i) using his or its general technical skills when not otherwise inconsistent with the terms hereof; or

- (ii) disclosing data or information pursuant to any enforceable administrative or judicial order, provided, however, that the User first notifies InterSystems of the entry or existence of such order and of the User's intention to comply with its terms. Data or information shall not be deemed to be in the public domain solely by reason of any such order.
- e. The User further agrees:
 - (i) except for back-up security purposes, not to copy, reproduce or duplicate, or allow to be copied, reproduced or duplicated, in whole or in part, the Sublicensed Software, System Documentation or any related materials without the prior written consent of InterSystems;
 - (ii) not to provide or otherwise make available any Sublicensed Software, System Documentation or related materials in any form to any other person or organization, without the prior written consent of InterSystems; and
 - (iii) that it will take appropriate action with its officers, agents, shareholders, employees or representatives, by instruction, agreement or otherwise, to satisfy its obligations under this Agreement with respect to use, copying, modification, and protection and security of the Sublicensed Software, System Documentation and related materials. Without limiting the generality of the foregoing, the User shall in any event devote the same degree of care to protecting the Sublicensed Software and System Documentation as it devotes to the protection of its own confidential and proprietary information.
- f. In the event of any breach or threatened breach of the provisions of this Section, InterSystems shall, in addition to all other rights and remedies available to it at law or in equity, be entitled to a temporary or permanent decree or order restraining and enjoining such breach and the User shall not plead in defense thereto that there would be an adequate remedy at law, it being hereby expressly acknowledged and understood that damages at law will be an inadequate remedy in the event of such a breach or threatened breach.
- g. If, having complied with the foregoing provisions of this Section, the User has actual notice of any unauthorized possession, use or knowledge of any part of the Sublicensed Software or physical embodiment thereof, or of the System Documentation or any other information made available pursuant to this Agreement by anyone else other than persons authorized by this Agreement to have such possession, use or knowledge, the User agrees to notify InterSystems promptly of the circumstances surrounding such unauthorized possession, use or knowledge.
- h. The User shall not remove or destroy any proprietary markings or proprietary legends placed upon or contained within the Sublicensed Software or any related materials or System Documentation in the User's possession.
- i. Subject to other restrictions contained herein, User shall have the right to grant access to the Sublicensed Software to its employees. In addition, the Sublicensed Software may also be used, solely to run Epic's Program Property (and not to develop or run other applications), by other organizations to whom the User provides access to Epic's Program Property, unless the providing of such access is the primary relationship between the User and other said organizations.
- j. User shall use the Sublicensed Software only to run the Epic Program Property or applications developed by the User to be run in conjunction with the Epic Program Property, but the primary use must be to run the Epic Program Property.

5. DEFINITIONS

For the purposes of this Addendum only, the following definitions apply to the capitalized terms as follows.

“Applicable Specifications” means, in the case of any Sublicensed Software, the functional, performance and operational characteristics of such Sublicensed Software as set forth in the System Documentation.

”Sublicensed Software” means the computer programs (which, unless otherwise determined by InterSystems in its sole discretion, shall be in Object Code version only) licensed by InterSystems through Epic to You hereunder, which are more fully identified as InterSystems software in Exhibit 1 to the Epic License and Support Agreement of which this is a part, together with any enhancements and related items which InterSystems may announce while the Agreement is in effect.

”System Documentation” means the documentation, reference manuals, user guides and other standard visually readable materials relating to the Sublicensed Software furnished by InterSystems to Epic and licensed by Epic to You hereunder.

“User” and “You” mean the licensee in the Epic License and Support Agreement to which this InterSystems Software Addendum is a part.

SQL Addendum

This is a software license (the “Sublicense and Limited Warranty”) authorized by Knowledge Based Systems, Inc. (“KBS”), a Virginia corporation, with its mailing address at 43053 Midvale Court., Ashburn, VA 20147. The KB_SQL Software (“SOFTWARE”) is sublicensed by Epic to You as the end user; it is not sold. The SOFTWARE is subject to the following license terms and conditions.

1. LICENSE

1.1 **Copyright**

The SOFTWARE is copyrighted material. Once You have paid the required license fee, You may use the SOFTWARE for as long as You do not violate the copyright and if You follow these simple rules.

1.2 **Maximum Number of Users**

You may use the SOFTWARE on any computer or computer network for which it is designed so long as no more than the specified number of concurrent user(s) (see comments in Exhibit 1 to the main license agreement with Epic) use it at any one time. Your license to use the SOFTWARE allows use of the SOFTWARE both (a) by the specified number of concurrent users in a single production environment, AND, simultaneously, (b) by the specified number of concurrent users in a single shadow environment for real-time or near-real time data access and reporting. Alternatively, you may use the SOFTWARE in two shadow environments for real-time or near-real time data access and reporting, so long as You make no use of the SOFTWARE in any production environment. If Your number of concurrent users in any environment exceeds your licensed level of concurrent users, You must upgrade Your license to an appropriate number of users or pay for additional copies of the SOFTWARE. Additionally, use of the SOFTWARE for real-time or near-real time data access and reporting in more than two environments as described in this paragraph (either production and one shadow or two shadows), requires the purchase of additional copies of the SOFTWARE for each such additional environment.

1.3 **Copies**

You may make copies of the SOFTWARE for backup purposes and for use in non-production environments in conjunction with Epic Software. All such copies, together with the original, must be kept in Your possession or control.

For purposes of this paragraph:

- 1.3.1 a shadow environment is for backup purposes if the SOFTWARE gets copied to the environment only due to replication, or if the SOFTWARE is installed on the environment for disaster recovery, as long as (in either case) the SOFTWARE is not used in the shadow environment;
- 1.3.2 environments such as Test, Release, and Train (whether created as shadows or otherwise), in which no useful, production use of the SOFTWARE occurs, are non-production environments;
- 1.3.3 a shadow environment in which the SOFTWARE is used for real-time (or near real time) data access and reporting purposes (i.e., one which has the purpose or effect of load-balanced reporting) requires appropriate licensing as provided in paragraph 1.2.

1.4 **Modifications**

You may not make any changes or modifications to the licensed SOFTWARE, and You may not decompose, disassemble, or otherwise reverse engineer the SOFTWARE. You may not rent or lease it to others.

1.5 Breach of this Agreement

In the event You breach this Sublicense and Limited Warranty, Epic or KBS may, at their sole option in addition to other remedies, terminate Your right to use the SOFTWARE.

1.6 You acknowledge that you do not have the right to resell or sublicense SOFTWARE under any circumstances.

2. USING COMPILED QUERY ROUTINES

2.1 Query Routines

Compiled Query Routines that are generated by the KB_SQL compiler may be used, given away or sold without additional license or fees.

3. LIMITED WARRANTY

3.1 Distribution Media and Documentation

KBS warrants the physical distribution media (diskettes, tape, etc.) and physical documentation shipped with the SOFTWARE to be free of defects in materials and workmanship for a period of 60 days from the purchase date. If KBS receives notification within the warranty period of defects in materials or workmanship, and such notification is determined to be correct, KBS will replace the defective distribution media or documentation.

3.2 Product Returns

DO NOT RETURN ANY PRODUCT UNTIL YOU HAVE CALLED THE KBS CUSTOMER SERVICE DEPARTMENT AND OBTAINED AUTHORIZATION FOR SUCH RETURN.

3.3 No Other Warranties

KBS SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES SHALL EPIC HAVE ANY LIABILITY WHATSOEVER WITH RESPECT TO THE SOFTWARE OR ANY WARRANTY HEREUNDER.

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THE ENTIRE AND EXCLUSIVE LIABILITY AND REMEDY FOR BREACH OF THIS LIMITED WARRANTY SHALL BE LIMITED TO REPLACEMENT OF DEFECTIVE DISTRIBUTION MEDIA OR DOCUMENTATION AND SHALL NOT INCLUDE OR EXTEND ANY CLAIM FOR OR RIGHT TO RECOVER ANY DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF GOODWILL, PROFIT, USE OF MONEY, DATA OR USE OF THE SOFTWARE, OR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR OTHER SIMILAR DAMAGE CLAIMS, EVEN IF KBS HAS BEEN SPECIFICALLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL KBS'S LIABILITY FOR ANY DAMAGES TO YOU OR ANY OTHER PERSON EVER EXCEED THE LOWER OF SUGGESTED LIST PRICE OR ACTUAL PRICE PAID FOR THE LICENSE TO USE THE SOFTWARE, REGARDLESS OF THE FORM AND LEGAL THEORY OF THE CLAIM INCLUDING BREACH OF EXPRESS OR IMPLIED WARRANTIES, BREACH OF CONTRACT, MISREPRESENTATIONS, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE ARISING OUT OF THIS SUBLICENSE AND LIMITED WARRANTY.

4. GOVERNING LAW AND GENERAL PROVISIONS

4.1 Commonwealth of Virginia

This Sublicense and Limited Warranty shall be construed, interpreted and governed by the laws of the Commonwealth of Virginia notwithstanding Virginia's conflict of law doctrine and any action hereunder shall be brought only in Virginia.

4.2 Choice of Forum

The parties agree that all litigation to continue or enforce this Agreement shall be brought in the United States District Court for the Eastern District of Virginia (Alexandria Division). The parties hereby consent to the exclusive jurisdiction of that court, and universally waive objection based on venue or inconvenient forum to litigation in that court.

4.3 Severability, Contribution, and Modification

If any provision is found void, invalid or unenforceable it will not affect the validity of the balance of this Sublicense and Limited Warranty which shall remain valid and enforceable according to its terms. If any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability and exclusion of damages set forth herein shall remain in full force and effect. This Sublicense and Limited Warranty may only be modified in writing signed by You and a specifically authorized representative of KBS.

4.4 Restricted Rights Legend

Use, duplication or disclosure by the U.S. Government of the computer software and documentation in this package shall be subject to the restricted rights under DFARS 52.227-7013 applicable to commercial computer software. All rights not specifically granted in this statement are reserved by KBS.

CPT Addendum

1. This sublicense grants You the limited right, subject to the terms of this Addendum, to use content from the American Medical Association's ("AMA") ASCII or EBCDIC data file of Physicians Current Procedural Terminology published by the AMA in the English language as used in the United States, a coding work of nomenclature and codes for reporting of healthcare services ("CPT Codes") solely with the Epic Program Property that You have licensed from Epic as set forth in Exhibit 1 to Epic's License and Support Agreement with You (the "Agreement").
2. Your use of the CPT Codes under this sublicense is for non-production (e.g. training and testing) uses of the Program Property only. You agree that you will obtain a license directly from the AMA to use the CPT Codes with the Program Property for production purposes.
3. Your use of the CPT Codes under this sublicense is also limited to the number of users specified in the Agreement (see comments in Exhibit 1 for the licensed user level). If You wish to allow additional users to use the CPT Codes (beyond those specified in Exhibit 1 for non-production purposes), You may obtain a license for such additional users from Epic or the AMA.
4. You acknowledge and understand that Epic's right to obtain updated versions of the CPT Codes for non-production purposes is dependent upon Epic's continued contractual relationship with the AMA and that the price for such updated versions is subject to change. You further acknowledge and understand that You must obtain all updated versions of the CPT Codes for production uses with the Program Property directly from the AMA.
5. This sublicense is nontransferable, nonexclusive, and for the sole purpose of internal use of You in the English language within the United States and its territories.
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7. You may only make copies of the Program Property containing Epic-provided CPT Codes for back up or archival purposes. The CPT Codes are copyrighted by the AMA. CPT is a registered trademark of the AMA. All notices of the AMA's proprietary rights, including its trademark and copyright notices, must appear on all permitted copies.
8. You agree to ensure that anyone who has authorized access to the Program Property containing the CPT Codes complies with the terms of this Addendum.
9. **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CPT CODES AS CONTAINED IN THE PROGRAM PROPERTY ARE PROVIDED BY THE AMA AND EPIC "AS IS" WITHOUT ANY WARRANTY WHATSOEVER. ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE DISCLAIMED BY THE AMA AND EPIC, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, ACCURACY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTY AGAINST INTERFERENCE WITH YOUR ENJOYMENT OF THE PROGRAM PROPERTY OR THE CPT CODES OR AGAINST INFRINGEMENT. YOU ACKNOWLEDGE THAT NO EMPLOYEE OF EPIC OR ANY OTHER PARTY IS AUTHORIZED TO MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE CPT CODES. THE CPT CODES ARE PROVIDED WITHOUT ANY LIABILITY TO THE AMA OR EPIC. THE AMA AND EPIC SHALL NOT BE LIABLE, WITHOUT LIMITATION, FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR SPECIAL DAMAGES OR LOST PROFITS. THE AMA'S SOLE RESPONSIBILITY CONCERNING THE CPT CODES IS TO MAKE AVAILABLE TO EPIC REPLACEMENT COPIES OF THE CPT CODES IF THE CPT CODES ARE NOT INTACT. EPIC AND THE AMA DISCLAIM ANY LIABILITY FOR ANY**

CONSEQUENCE DUE TO USE, MISUSE, OR INTERPRETATION OF INFORMATION CONTAINED OR NOT CONTAINED IN THE CPT CODES. THIS PROVISION SHALL SURVIVE TERMINATION OF THE AGREEMENT AND THIS CPT ADDENDUM.

10. This sublicense will terminate if you are in default of Your obligations under this Addendum, and may be terminated upon written notice to You by Epic if You are in default of Your obligations under the Agreement.
11. The provisions of this sublicense shall be considered as severable, so that in the event a provision is determined to violate any law or is unenforceable the remainder of the provisions will remain in full force and effect.
12. U.S. Government Rights. This product includes CPT which is commercial technical data and/or computer data bases and/or commercial computer software and/or commercial computer software documentation, as applicable, which was developed exclusively at private expense by the American Medical Association, 515 North Lake St., Chicago, IL 60654. U.S. Government rights to use, modify, reproduce, release, perform, display, or disclose these technical data and/or computer data bases and/or computer software and/or computer software documentation are subject to the limited rights restrictions of DFARS 252.227-7015(b)(2) (November 1995) and/or subject to the restrictions of DFARS 227.7202-1(a) (June 1995) and DFARS 227.7202-3(a) (June 1995), as applicable, for U.S. Department of Defense procurements and the limited rights restrictions of FAR 52.227-14 (December 2007) and/or subject to the restricted rights provisions of FAR 52.227-14 (December 2007) and FAR 52.227-19 (December 2007), as applicable, and any applicable agency FAR Supplements, for non-Department of Defense Federal Procurements.

If Your use of Epic Program Property includes the ability to access such Program Property containing the CPT Codes via the Internet, then the following shall also apply:

13. You agree to use user registration technology, that is, application-level security as well as through the single-user password response security software for such Internet use of the Program Property containing the CPT Codes.
14. You will maintain appropriate procedures and technology to track the number of users and maintain server logs for audit purposes for three years following the year to which they pertain.
15. You agree to use firewall technology, such that the Program Property is behind a firewall that filters access and prevents unauthorized retrieval of Program Property containing the CPT Codes.
16. You agree to limit access to users of the CPT Codes to users in the United States.

ACC-NCDR® Registry Communication Module Addendum

The following provisions apply to Your use of the ACC-NCDR® Registry Communication Module.

I. DEFINITIONS.

All capitalized terms used in this Addendum and not defined herein but defined in the Agreement shall have the meanings assigned to such terms in the Agreement.

“ACCF” means the American College of Cardiology Foundation.

“ACC-NCDR® Benchmarks” means the aggregate information derived by an ACC-NCDR® Registry from data submitted to such ACC-NCDR® Registry.

“ACC-NCDR® Registry” means any one of the supported registries maintained by the ACCF to which You may submit pertinent data using the ACC-NCDR® Registry Communication Module.

“Application Specifications” means the requirements for the data submitted to an ACC-NCDR® Registry using the ACC-NCDR® Registry Communication Module.

“Participant” means an institution or practice (or a defined and consistent grouping within such an institution or practice) that is enrolled in one or more ACC-NCDR® Registries and eligible to submit pertinent data to such registry or registries.

II. LICENSE.

A. *Participant Requirement.* Each of Your or Your Affiliates’ institutions or practices (or a defined and consistent grouping within such institutions or practices) (each a “Site”) that accesses or uses the ACC-NCDR® Registry Communication Module must be a Participant in the ACC-NCDR® Registry or Registries to which such Site submits data, and You will limit access to the ACC-NCDR® Registry Communication Module only to such Sites. In addition, prior to Epic activating the license key for the ACC-NCDR® Registry Communication Module for use with the applicable ACC-NCDR® Registry, You will provide to Epic evidence satisfactory to Epic of such enrollment by those Sites in that ACC-NCDR® Registry to which such Sites will submit data using the ACC-NCDR® Registry Communication Module. If at any time during a Subscription Year (as defined below), any Site that accesses or uses the ACC-NCDR® Registry Communication Module is no longer a Participant or stops participating in an ACC-NCDR® Registry, You shall immediately provide Epic with written notice, and You shall, or shall permit Epic to, deactivate such Site’s access to such ACC-NCDR® Registry.

B. *Benchmark Data.* You will not enter the ACC-NCDR® Benchmarks into the Program Property (including without limitation the ACC-NCDR® Registry Communication Module) for reporting purposes.

C. *Updates.* You understand that the ACCF specifies the Application Specifications. If the ACCF modifies the Application Specifications You will install any upgrades to the ACC-NCDR® Registry Communication Module Epic provides to You to address the changes to the Application Specifications prior to the time the ACCF requires Participants to utilize such updated specifications to submit data. You acknowledge that if You do not upgrade to an updated ACC-NCDR® Registry Communication Module You may not be able to submit data to ACC-NCDR® Registries.

D. *Ownership.* Epic does not own any right, title, or interest in the any data stored by or entered into the ACC-NCDR® Registry Communication Module.

III. TERM.

- A. *Term and Subscription Fees.* The subscription year for the ACC-NCDR® Registry Communication Module is from January 1 to December 31 (a “Subscription Year”). For each Subscription Year, You will pay Epic the then-current annual subscription fee with respect to Your use of the ACC-NCDR® Registry Communication Module with the applicable ACC-NCDR® Registry. The initial annual subscription fee for use of the ACC-NCDR® Registry Communication Module with the applicable ACC-NCDR® Registry shall be prorated from the date Epic first activates the license key for the ACC-NCDR® Registry Communication Module for use with that ACC-NCDR® Registry to December 31 of that Subscription Year. In subsequent Subscription Years, the full annual subscription fee for such use will be due each January 31. Notwithstanding anything in the Agreement, subscription fees are subject to annual increases and increases due to increases in Your Licensed Volume. If Your Licensed Volume increases, any incremental annual subscription fees for the ACC-NCDR® Registry Communication Module will be due beginning as of the date the previous Licensed Volume was exceeded. If there is any change in the then-current annual subscription fee (other than for increases in Your Licensed Volume), Epic will provide You with written notice of such new fee on or before December 15 of the then current Subscription Year. Notwithstanding anything contained herein to the contrary, if at any time none of the Sites is a Participant or is participating in any ACC-NCDR® Registries, then You shall immediately provide Epic with written notice, Your license to the ACC-NCDR® Registry Communication Module shall immediately terminate, and You shall permit Epic to deactivate the ACC-NCDR® Registry Communication Module.
- B. *Amendment to Addendum.* Epic reserves the right to amend this Addendum in order to comply with the contractual requirements of the ACCF related to Epic’s licensing of the ACC-NCDR® Registry Communication Module. Epic will provide You with written notice of its intent to amend this Addendum and shall provide You with the proposed amendment by December 15 of the current Subscription Year.
- C. *Right to Terminate.* Upon receipt of a notice under Section III.A. (regarding a change in the annual subscription fee) or under Section III.B. (regarding an amendment of this Addendum), You will have fifteen (15) days to provide Epic with written notice terminating Your use of the ACC-NCDR® Registry Communication Module if You are not willing to accept the change in the annual subscription fee or amendment(s) to the Addendum.

IV. NOTICE.

The ACC-NCDR® Registry Communication Module incorporates aspects of the ACCF Specifications, including data forms, formats, definitions, codes, and codebooks, file specifications, file transfer protocols, procedural guides, application specifications, and publications and reports developed by the ACCF in support of the operation of the ACC-NCDR® Registries which are the sole and exclusive property of the ACCF.


EXHIBIT E

CSRS WORKFLOW

Screenshots of the CSRS Workflow that Vendor will have to follow are attached to this Exhibit E as Exhibit E-1. If the CSRS Workflow changes such that there is a material increase to the amount of time required to perform the CSRS Workflow, the information inputs required to perform the CSRS Workflow, or the overall burden of the CSRS Workflow, Vendor will be permitted to report Core Contract Sales to Enterprise Services via another reasonable method such as by sending a report of Core Contract Sales to the email address set forth in Section 10.1 of this Contract.

Vendor Quarterly Sales Reporting Instructions

Step 1: To report your quarterly sales, go to the DES [Contract Sales Reporting System](#) portal page and log in. If you forgot it, you can reset your password by selecting 'Forgot your password?'. If you need direct help, call DES as (360) 407-2210 or email us: contractingandpurchasing@des.wa.gov.

Contract Sales Reporting System (Test) 

Login

Welcome to Enterprise Services' online Contract Sales Reporting tool for contract vendors.
Please enter your Email Address and Password to log on.
If you do not have an Email Address or Password, or if you are having system trouble, please contact Customer Service at (360) 407-2210 or desmastercontracts@des.wa.gov


[Forget your password?](#)

Login ID:

Password:

[Contract Sales Worksheet](#) - Lists all customer/organizations to be used as a tool to gather customer/organization sales data offline before logging on and reporting sales.

New Enhancement For Contract Sales Reporting Now Available!
The Contract Sales Reporting System now offers the ability for vendors to upload sales data from an excel document, or any accounting system that can save a file in a tab-delimited format. This can save you the time spent manually entering sales reports each quarter. [Click here for instructions](#).

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Vendor Quarterly Sales Reporting Instructions


Step 2: Once you log in, a drop down menu will show all of your active contracts. Select the contract number for which you're reporting. The system will automatically populate your vendor number.

The screenshot shows the 'Contract Sales Reporting System' interface. At the top right is the logo for the Washington State Department of Enterprise Services. Below the header is a navigation bar with 'Welcome' and 'Logout' links. The main content area is titled 'Select contract & reporting period'. It contains two input fields: 'Vendor #' with the value 'W53770' and 'Contract #' with a dropdown menu. The dropdown menu is open, showing the selected option '06515 - TEST Contract - For Training Purposes' and a placeholder '- Select Contract -'. At the bottom left is the 'Access Washington' logo, and at the bottom right is the copyright notice '© Copyright 2012 Department of Enterprise Services'.

Vendor Quarterly Sales Reporting Instructions

Step 3: Select “Reporting Year” and “Reporting Quarter” by click on the drop down menus. ***Do not select a quarter or year in the future.*** The contract information and reporting history will display.

Contract Sales Reporting System



[Welcome](#) | [Logout](#)

Select contract & reporting period

Vendor #:

Contract #: ▼

Reporting Year: ▼

Reporting Qtr: ▼

Contract Title:


Contract Administrator: Veronica Field
 Admin Phone: (360) 407-7949
 Admin Email: veronica.field@des.wa.gov

Vendor Name: TEST COMPANY
 Vendor Start Date:
 Vendor End Date:
 Vendor Contact Name: Fake Fake
 Contact Phone: (206) 555-5555
 Contact Email: testor@test.com

Sales Reporting History

Year	QTR 1	QTR 1 \$	Qtr 2	Qtr 2 \$	Qtr3	Qtr 3 \$	Qtr 4	Qtr 4 \$	Total
2015	N	\$0.00	N	\$0.00	X	\$0.00	X	\$0.00	\$0.00

X = Not required to report Y = Have reported sales N = Have not reported sales



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Vendor Quarterly Sales Reporting Instructions

Step 4: After you select the reporting year and quarter, the system will display three reporting options at the bottom of the screen.



 If the information provided here is incorrect, please contact Customer Service at (360) 407-2210 or contractingandpurchasing@des.wa.gov

a. Check here if sales equal zero for the year and quarter you are reporting.

b. Import sales from file. [Help](#)

c.

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- ***To report zero sales for a quarter***, check the 'a' box. Click 'Next' and your reporting is complete.
- ***To input sales data by customer***, click 'Next', marked with a 'c' on this slide. The following instructions will guide you through this process.
- ***Do not click 'b'. You do not intend to import sales from file.***

Vendor Quarterly Sales Reporting Instructions


The following steps are for Vendors choosing option c. Click 'Next' to input sales by customer.

Step 5: The next page will display the list of approved customers (with signed Master Contract Use Agreements). Vendors can look customers up by name (alphabetically) or by customer number by selecting the corresponding radial.

Contract Sales Reporting System 

Welcome | Logout

Enter Sales

 Help

Display By: Customer Name Customer Number

A B C D E F G H I J K L M N O P Q R S T U V W X Y Z [Show All](#)


Please select a letter of the alphabet for the organization you wish to report sales for.

#	Customer/Organization Name	MCUA	Sales Amount
21401	ABERDEEN CITY OF	Y	<input type="text" value="0"/>
35005	ABERDEEN SCHOOL DISTRICT 5	Y	<input type="text" value="0"/>
165	ACCOUNTANCY STATE BOARD OF	Y	<input type="text" value="0"/>
035	ACTUARY OFFICE OF THE STATE	Y	<input type="text" value="0"/>

Contract Sales Reporting System

Welcome | Logout

Enter Sales - Display by Customer Number

 Help

Display By: Customer Name Customer Number

0 1 2 3 4 5 6 7 8 9 [Show All](#)

Please select the beginning number of the organization number for the organization you wish to report sales for.

#	Customer/Organization Name	MCUA	Sales Amount
001	STATE REVENUE F OR DISTRIBUTION	Y	<input type="text" value="0"/>
005	FEDERAL REVENUE FOR DISTR:B	Y	<input type="text" value="0"/>
010	BOND RETIREMENT AND INTEREST	Y	<input type="text" value="0"/>
011	HOUSE OF REPRESENTATIVE:	Y	<input type="text" value="0"/>
017	SENATE	Y	<input type="text" value="0"/>

Vendor Quarterly Sales Reporting Instructions

Step 6: For each customer, enter the amount of sales for the quarter. You can search through customers(alphabetically or numerically) until you enter ALL sales for the quarter.

As you enter each sale, the update to the system will be noted at the bottom of the page.

82428	RUTH DYKEMAN CHILDRENS CENTER	N	<input type="text" value="0"/>
83784	RYTHER CHILD CENTER	Y	<input type="text" value="0"/>

Sales updated for org # 21906 - ROSALIA CITY OF

Access Washington®

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Vendor Quarterly Sales Reporting Instructions

Step 7: Once you have entered ALL sales for the quarter, scroll to the bottom of the screen and choose one of the appropriate options:

If you cannot find a specific customer, please contact the CRC at (360) 407-2210 or contracting and purchasing@des.wa.gov. MOST customers are part of a larger group.

- ***Do not hit 'a'. You do not need to enter miscellaneous sales.***
- ***To review sales***, select 'Review Sales' (b) and move to step 9 for additional instructions.
- ***To submit at a later time***, select 'Save/Submit Later' (c) and move to step 8 for additional instructions.


82428	RUTH DYKEMAN CHILDRENS CENTER	N	<input type="text" value="0"/>
83784	RYTHER CHILD CENTER	▼	<input type="text" value="0"/>

a.

b.

Sales updated for org # 21906 - ROSALIA CITY OF

c.

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Vendor Quarterly Sales Reporting Instructions

Step 8: After Selecting 'Save/Submit Later', choose one of the following:

- **To save data**, select 'Exit & Submit Later'. Nothing will be reported to DES until you log back in and select 'Submit Sales Report'.
- **To review**, select 'Review & Submit Sales' to review all entered sales for the quarter, prior to submitting for final report to DES.


The screenshot displays the 'Contract Sales Reporting System' interface. At the top left, the title 'Contract Sales Reporting System' is shown in orange. At the top right, the logo for the 'Washington State Department of Enterprise Services' is visible. Below the title bar, there is a navigation bar with 'Welcome | Logout'. The main content area is titled 'Submit Sales Later' in orange. A message states: 'Your sales information for contract 06515 - 2015/Qtr 1 has been saved but not sent to the Department of Enterprise Services.' Below this message, there are two buttons: 'a. Exit & Submit Later' and 'b. Review & Submit Sales', both highlighted with green boxes.

Vendor Quarterly Sales Reporting Instructions

Step 9: After selecting ‘Review Sales’, the system generates a summary of your reported sales for review prior to submitting. If your sales are correct, check the box acknowledging your review. From this screen, you can choose from the following options:

- a. Do **not** click ‘Edit Misc. Sales’. You should not have entered any Misc. Sales.
- b. ‘Edit Customer/Org Sales’. Select this to make edits to sales from a specific customer.
- c. ‘Save/Submit Later’. Select this if you need to log out of the system and continue to enter sales at a later time.
- d. ‘Submit Sales Report’. Select this if all sales are correct.

Your sales report is not submitted until you choose ‘Submit Sales Report’

Contract Sales Reporting System (Test) 

Welcome Wayne Stewart | [Logout](#)

Review Sales

Organization Sales

#	Customer/Org Name	Sales Amount
21401	ABERDEEN CITY OF	\$500.00
035	ACTUARY OFFICE OF THE STATE	\$200.00
35408	AUBURN SCHOOL DISTRICT 408	\$500.00
Total Sales:		\$1,200.00

Please check here to acknowledge that all sales have been reviewed and verified

a. [Edit Misc Sales](#)

b. [Edit Customer/Org Sales](#)


c. [Submit Sales Report](#)

d. [Save / Submit Later](#)

Vendor Quarterly Sales Reporting Instructions

Step 10: After submitting your sales, the system will provide a confirmation page. You will also receive an e-mail confirming your sales have been reported.

Contract Sales Reporting System



Welcome | Logout


Sales Reporting Confirmation

Thank you for reporting sales for:
Vendor #: W53770
Contract #: 06515
Year: 2015
Quarter: 1

You should receive an email confirming your sales report.

For any questions, please contact Customer Service at (360) 407-2210 or by email at contractingandpurchasing@des.wa.gov

[Report sales for another reporting period](#)



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