

LICENSE AND SERVICES AGREEMENT

This License and Services Agreement (the “Agreement”) is entered into by and between Fusion Capital Management, LLC d/b/a Fusion Health, a New Jersey limited liability company, with principal offices at 10 Woodbridge Center Drive, Suite 1010, Woodbridge, New Jersey 07095 (“Licensor”) and Centurion of Florida LLC, a Florida limited liability company, with principal offices at 1203 Governor’s Square, Tallahassee, Florida 32301 (“Licensee”, together with Licensor, the “Parties”, and each a “Party”).

Recitals

WHEREAS, Licensor desires to offer Licensee:

- (A) A license to use the Licensed Software;
- (B) Configuration and installation of Licensed Software, project management services, implementation, training, Go-Live support, hosting, and any other services (collectively the “Professional Services”) that may be necessary or desired by Licensee.

WHEREAS, Licensee desires to:

- (A) Obtain a license to use the Licensed Software;
- (B) Obtain Professional Services offered by Licensor necessary for use of the Licensed Software.

In consideration of the foregoing and the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Definitions.** As used in this Agreement, the following terms will have the meanings provided below:

1.1 “Action” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

1.2 “Agreement” means and includes (1) this LICENSE AND SERVICES AGREEMENT; (2) Statement of Work(s); and (3) the attached schedules, and/or exhibits referred to that identify the product, pricing, and/or service offerings purchased or licensed by Licensee.

1.3 “Authorized User” means each of the individuals authorized to use the Licensed Software as defined in Section 2.

1.4 “Confidential Information” has the meaning set forth in Section 4.1.

1.5 “Disclosing Party” has the meaning set forth in Section 4.1.

1.6 “Direct Contracting Agency” is any and all county, state, or federally operated jails, prisons, mental health facilities, juvenile detention centers, or any healthcare facility that Licensee has entered into a direct contract for providing healthcare services and/or an electronic health record (EHR), whereupon the EHR component is licensed and supplied by Licensor to Licensee.

1.7 “Documentation” means any and all Licensor-provided materials, as well as any Statement of Work(s) for defined Installation Site that Licensor provides or makes available to Licensee which shall describe the functionality, components features of the Licensed Software and/or Professional Services, including any aspect of the installation, configuration, integration, operation, use, support, fees, or maintenance thereof.

1.8 “Go-Live” means the activation of Licensed Software by Licensor and its first day of clinical use by Licensee at designated Installation Site.

1.9 “Installation Site” means the designated and defined location(s) where the Licensed Software will be installed by Licensor as set forth in Exhibit 1 (“Exhibit I”), which is attached hereto and incorporated by reference, and as may be mutually amended from time to time by the Parties.

1.10 “Indemnitor” has the meaning set forth in Section 9.3.

1.11 “Indemnitee” has the meaning set forth in Section 9.3.

1.12 “Initial Term” has the meaning set forth in Section 7.1.

1.13 “Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

1.14 “Law” means any applicable statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement or rule of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

1.15 “Licensee Equipment” means all Licensee computer and communications hardware and communication hardware through which Licensee shall access and use Licensed Software. This includes, without limitation, all of Licensee’s computer hardware, network hardware, electrical, telephone, wiring and all related accessories, components, parts and devices.

1.16 “Licensed Software” means the electronic health record (EHR) software and additional contracted for software components as set out in each separate Statement of Work, together with any Maintenance Releases provided to Licensee pursuant to this

Agreement, as well as any other future updates and versions of such software to which the Licensee gains access through this Agreement.

1.17 “Licensor Indemnitee” has the meaning set forth in Section 9.2.

1.18 “Loss” or “Losses” means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

1.19 “Maintenance Release” means any update, upgrade, release or other adaptation or modification of the Licensed Software, including any updated Documentation, that Licensor may provide to Licensee from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency or quality of the Licensed Software, but does not include any New Version.

1.20 “New Version” means any new version of the Licensed Software that Licensor may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Licensor’s designation of a new version number), and which Licensor may make available to Licensee at an additional cost under a separate written agreement.

1.21 “Permitted Use” means use of the Licensed Software by an Authorized User for the benefit of Licensee or its affiliates in the ordinary course of their respective internal clinical operations at respective, identified Installation Site.

1.22 “Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

1.23 “Professional Services” means consulting, configuration, implementation, training, custom programming, assistance with maintenance or new releases, software support and maintenance, hosting, co-location services, and any other professional services and non-Licensee Equipment services that are provided by Licensor to Licensee pursuant to or in connection with this Agreement or any statement of work (SOW).

1.24 “Project” means a project as described in the applicable Statement of Work.

1.25 “Project Milestone” means an event or task described in a Statement of Work which shall be completed as set forth in the Statement of Work.

1.26 “Receiving Party” has the meaning set forth in Section 4.1.

1.27 “Representatives” means, with respect to a Party, that Party’s employees, officers, directors, consultants, agents, independent contractors, service providers, sublicensees, subcontractors and legal advisors.

1.28 “Statement of Work” or “SOW” means each Statement of Work, for each designated Installation Site for applicable Licensed Software and Professional Services, as entered into by the Parties and incorporated into this Agreement.

1.29 “Term” has the meaning set forth in Section 7.1/Section 7.2.

1.30 “Third-Party Materials” means materials and information, in any form or medium, that are not proprietary to Licensor, including any third-party: (a) documents, data, content or specifications; (b) software, hardware or other products, facilities, equipment or devices; and (c) accessories, components, parts or features of any of the foregoing.

2. License.

2.1 License Grant. Subject to the terms and conditions of this Agreement and conditioned on Licensee’s and its Authorized Users’ compliance therewith, Licensor hereby grants to Licensee a non-refundable, non-exclusive, non-sublicensable and non-transferable, limited license to use the Licensed Software solely for Licensee’s Permitted Use during the Term.

2.2 Scope of Access and Permitted Use. Licensee may permit its healthcare providers who possess a unique NPI number and any Direct Contracting Agency representatives or other necessary clinical staff, each with assigned unique log-in privileges at Licensee’s designated Installation Site(s), to use the Licensed Software consistent with Permitted Use (each an “Authorized User”); provided that Licensee shall be responsible for any acts of its Authorized Users that are inconsistent with this Agreement. Any Authorized User who is an independent contractor of Licensee may be subject to additional commercially reasonable conditions (provided such conditions are specified by Licensor in writing to Licensee) that Licensor deems appropriate to protect confidential and proprietary information relating to Licensor’s Licensed Software.

2.3 Use Restrictions. Except as this Agreement expressly permits or as otherwise mutually agreed upon in writing between the Parties, Licensee shall not, and shall not knowingly permit any Authorized User or any Person to:

- (a) Copy the Licensed Software, in whole or in part;
- (b) modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of any Licensed Software;
- (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Licensed Software to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service;
- (d) reverse engineer, disassemble, decompile, decode or adapt the Licensed Software, or otherwise attempt to derive or gain access to the source code of the Licensed Software, in whole or in part;

- (e) bypass or breach any security device or protection used for or contained in the Licensed Software or Documentation;
- (f) remove, delete, efface, alter, obscure, translate, combine, supplement or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks or serial numbers on or relating to any copy of the Licensed Software or Documentation;
- (g) use the Licensed Software in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable Law;
- (h) use the Licensed Software for purposes of: (i) benchmarking or competitive analysis of the Licensed Software; or (ii) developing, using or providing a competing software product or service;
- (i) use the Licensed Software in or in connection with the design, construction, maintenance, operation or use of any hazardous environments, systems or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Licensed Software could lead to personal injury or severe physical or property damage; or
- (j) use the Licensed Software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by this Agreement.

3. Maintenance and Support.

3.1 During the Term, Licensor shall provide separate maintenance and support services for the Licensed Software (collectively, the “Maintenance and Support”) as set forth in Schedule A (“Schedule A”), which is attached hereto and incorporated by reference. In the event of a conflict, the Agreement shall take precedence over Schedule A.

3.2 Maintenance and Support is a required service component for production access to Licensed Software. In the event of any termination or expiration of this Agreement, whereupon Licensee continues to require access to Licensed Software:

- (a) Limited non-production access to the Licensed Software and its records shall be made available to Licensee by Licensor at no additional cost to Licensee;
- (b) Active production usage of Licensed Software for Permitted Use shall be made available to Licensee by Licensor at no additional cost to Licensee for a transitional period not to exceed three (3) months following termination or expiration of the Agreement to support a transition of the Licensed

Software from the Licensee to a Direct Contracting Agency or a third-party service provider engaged by or otherwise acting on behalf of the Direct Contracting Agency.

3.3 Maintenance Releases. During the Term, Licensor will provide Licensee with Maintenance Releases (including updated Documentation) that Licensor may make generally available to its licensees. All Maintenance Releases, on being provided by Licensor to Licensee hereunder, are deemed Licensed Software subject to all applicable terms and conditions in this Agreement. Licensor will install all Maintenance Releases as soon as practicable, subject to Licensor's assessment of each Maintenance Release for compatibility with Licensee Equipment and compliance with Licensor's information security requirements. Licensee does not have any right hereunder to receive any New Versions of the Licensed Software that Licensor may, in its sole discretion, release from time to time. Licensee may license any New Version that Licensor makes generally available to its licensees at Licensor's then-current list price and subject to a separate agreement, provided that Licensee is in compliance with the terms and conditions of this Agreement.

4. Confidentiality.

4.1 Confidential Information. In connection with this Agreement each Party (as the "Disclosing Party") may disclose or make available to the other Party (as the "Receiving Party") Confidential Information. Subject to Section 4.2, "Confidential Information" means information in any form or medium (whether oral, written, electronic or other) that: (a) if disclosed in writing or other tangible form or medium, whether it is marked "confidential" or "proprietary" or not; or (b) if disclosed orally or in other intangible form or medium, is identified by the Disclosing Party or its Representative as confidential or proprietary when disclosed and summarized and marked "confidential" or "proprietary" in writing by the Disclosing Party or its Representative within seven (7) days after disclosure; or (c) due to the nature of its subject matter or the circumstances surrounding its disclosure, would reasonably be understood to be confidential or proprietary. Without limiting the foregoing: (i) the Licensed Software and Documentation are the Confidential Information of Licensor; and (ii) the financial terms of this Agreement are the Confidential Information of both parties.

4.2 Exclusions and Exceptions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

4.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- (b) except as may be permitted under the terms and conditions of this Agreement, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) and have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 4.
- (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its most sensitive information and in no event less than a reasonable degree of care;
- (d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps to prevent further unauthorized use or disclosure; and
- (e) ensure its Representatives' compliance with and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 3.

Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

4.4 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) if permitted by applicable law, promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 4.3; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 3.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's outside legal counsel, the Receiving Party is legally

required to disclose and, on the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

4.5 Business Associate Agreement. Licensor shall enter into a Business Associate Agreement with Licensee (and/or the Direct Contracting Agency) as required by Licensee (and/or the Direct Contracting Agency) for Licensor's compliance with applicable laws governing access and use of personal health information in connection with the Licensed Software provided by Licensor and Professional Services performed by Licensor in connection with this Agreement.

5. Intellectual Property Rights.

- (a) Intellectual Property Ownership. Licensee acknowledges and agrees that:
- (b) the Licensed Software and Documentation are licensed, not sold, to Licensee by Licensor and Licensee does not and will not have or acquire under or in connection with this Agreement any ownership interest in the Licensed Software or Documentation, or in any related Intellectual Property Rights;
- (c) Any deliverables are licensed, not sold, to Licensee by Licensor and Licensee does not and will not have or acquire under or in connection with this Agreement any ownership interest in the deliverables, or in any related Intellectual Property Rights;
- (d) Licensor is and will remain the sole and exclusive owner of all right, title and interest in and to the Licensed Software and Documentation, including all Intellectual Property Rights relating thereto, subject only to the limited license granted to Licensee under this Agreement; and Licensee hereby unconditionally and irrevocably assigns to Licensor or Licensor's designee, its entire right, title and interest in and to any Intellectual Property Rights that Licensee may now or hereafter have in or relating to the Licensed Software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.

5.2 Licensee Cooperation and Notice of Infringement. Licensee shall during the Term:

- (a) safeguard the Licensed Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse or unauthorized access;
- (b) take all such steps as Licensor may reasonably require to assist Licensor in maintaining the validity, enforceability and Licensor's ownership of the Intellectual Property Rights in the Licensed Software and Documentation;

- (c) promptly notify Licensor in writing if Licensee becomes aware of:
 - (i) any actual or suspected infringement, misappropriation or other violation of Licensor's Intellectual Property Rights in or relating to the Licensed Software or Documentation; or
 - (ii) any claim that the Licensed Software or Documentation, including any production, use, marketing, sale or other disposition of the Licensed Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and
- (d) fully cooperate with and assist Licensor in all reasonable ways in the conduct of any Action by Licensor to prevent or abate any actual or threatened infringement, misappropriation or violation of Licensor's rights in, and to attempt to resolve any claims relating to, the Licensed Software or Documentation.

5.3 No Implied Rights. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Licensee or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Licensed Software or Documentation.

6. Fees and Payment.

6.1 Licensed Software Fees. Licensee shall pay all licensing fees as set forth in each Statement of Work and its corresponding invoice.

- (a) All purchased Licensed Software is non-refundable. In the event that Licensee requests a reduction in license count, said licenses may be removed from active user count but no refund of any kind whatsoever will be provided by Licensor to Licensee. Additional license requests for Licensed Software at a later date would necessitate licenses to be purchased again at the agreed upon Licensed Software fee schedule.

6.2 Professional Services Fees. In consideration of the provision of the Professional Services by the Licensor and the rights granted to Licensee under this Agreement, Licensee shall pay the fees set forth in each Statement of Work and its corresponding invoice:

- (a) where the Professional Services are provided on a time and materials basis, the fees payable for the Professional Services shall be calculated in accordance with Licensor's fee rates as set forth in the applicable Statement of Work; and
- (b) where the Professional Services are provided for a fixed price, the total fees for the shall be the amount set out in the applicable Statement of Work.

6.3 Maintenance and Support Fees. Unless explicitly stated otherwise, Maintenance and Support shall commence and is payable upon Go-Live of the Licensed Software at the initial Installation Site, whereupon Licensee shall pay in full the fees identified in the applicable Statement of Work and its corresponding invoice. Thereafter, the defined Maintenance and Support fee is invoiced annually to Licensee at a date contemporaneous with the Go-Live of Licensed Software at defined Installation Site, provided, however, that Licensor shall not invoice Licensee for any Maintenance and Support fees for any remainder years in the then current Term for Licensed Software usage that would have occurred but for the termination event with or without cause.

6.4 Taxes. All fees and other amounts payable by Licensee to Licensor under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Licensee is responsible for all sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Licensee hereunder, other than any taxes imposed on Licensor's income or net assets. If Licensee is a tax-exempt governmental entity, it shall cooperate with Licensor in providing or completing any forms required for verification purposes.

6.5 Payment. Licensee shall pay all undisputed fees due and owing under this Agreement within thirty (30) days from date of invoice therefor, unless otherwise specified in the applicable Statement of Work or corresponding invoice.

- (a) Licensee shall make all payments hereunder to the address or account specified by Licensor or such other address or account as Licensor may specify in writing from time to time.
- (b) Any fees that are due upon contract execution are due promptly following Licensee's signature hereto, with this Agreement serving as the invoice should Licensee require one. Failure to pay such amounts when due may delay commencement of Professional Services by Licensor under this Agreement.

6.6 Late Payment. If Licensee fails to make any undisputed payment when due pursuant to this Agreement, in addition to all other remedies that may be available to Licensor:

- (a) Licensor may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law;
- (b) Licensor may require Licensee to make future payments by wire transfer; and
- (c) if such failure continues for sixty (60) days following written notice thereof, Licensor may: (i) disable Licensee's use of Licensed Software components that Licensor deems non-critical to its operation (including by means of a disabling code, technology or device); (ii) withhold, suspend or

revoke its grant of a license hereunder; and/or (iii) terminate this Agreement under Section 7.3(a) or Section 7.3(b), as applicable.

6.7 Payment Dispute. If Licensee has a dispute regarding payment arising out of or relating to a particular product/service purchased, provided, or licensed from Licensor, and such dispute is not resolved prior to the due date for payment applicable to such product/service disputed, Licensee may only withhold payment from Licensor applicable to such product/services as identified in specific invoice and shall continue to remit payment for all other products/services when due, and such disputed invoice shall be resolved in accordance with the dispute resolution procedures set forth in Section 16.15.

6.8 No Deductions or Set-off. All amounts due to Licensor for Licensed Software, Professional Services, and annual Maintenance and Support, except as provided for under Section 7.4(c), under this Agreement or otherwise shall be remitted so that they are received by Licensor by terms and conditions set forth in this Agreement and the schedules/exhibits attached hereto are non-refundable, non-cancellable, unconditional and shall not be subject to any abatement, set-off, claim, counterclaim, adjustment, reduction or defense for any reason, including but not limited to any claims that Licensor failed to perform under this Agreement.

6.9 Fee Increases. The Parties agree that Licensor may increase any and all fees specified for Licensed Software fees and Professional Services rates upon written notice to Licensee; provided, that:

- (a) such increases for Licensed Software do not occur prior to end of Initial Term and then no more frequently than once per contract year of the Term thereafter; and
- (b) such increases for Professional Services occur no more frequently than once per contract year of the Term; and
- (c) the amount of such increase shall not exceed 3.5 percent (3.5%).

7. Term and Termination.

7.1 Initial Term. The initial term of this Agreement commences as of the Effective Date and shall continue in effect until five (5) years from such date unless terminated pursuant to any of the Agreement's express provisions (the "Initial Term").

7.2 Renewal Term. This Agreement will then perpetually renew for subsequent one (1) year terms unless earlier terminated pursuant to any of the Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term (each a "Renewal Term" and, collectively, together with the Initial Term, the "Term").

7.3 Termination. This Agreement may be terminated at any time:

- (a) by Licensor, effective on written notice to Licensee, if:
 - (i) Licensee fails to pay any undisputed amount when due under this Agreement, where such failure continues more than sixty (60) days after Licensor’s delivery of written notice thereof (“Payment Failure”);
 - (ii) by Licensor, immediately on written notice to Licensee if any two (2) or more Payment Failures occur in any twelve (12) month period; or
 - (iii) by Licensor, effective immediately, if the Licensee: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.
- (b) by Licensee, effective on written notice to Licensor, if:
 - (i) Licensor: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property; or
 - (ii) Licensee’s contract with the Direct Contracting Agency for healthcare services and/or EHR services supported by the Licensed Systems terminates prior to the end of its then-current term, with or without cause.
- (c) by Licensor or Licensee, if:
 - (i) Other Party materially breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching party with written notice of such breach.

7.4 Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

- (a) Except as provided in Section 3.2, all rights, licenses and authorizations granted to Licensee hereunder will immediately terminate and Licensee shall:
 - (i) immediately cease all use of and other activities with respect to the Licensed Software and Documentation other than those described in Section 7.4(a)(ii);
 - (ii) within sixty (60) days deliver to Licensor, or at Licensor's written request destroy, and permanently erase from all devices and systems Licensee directly or indirectly controls, the Licensed Software, the Documentation and the Licensor's Confidential Information, including all documents, files and tangible materials (and any partial and complete copies) containing, reflecting, incorporating or based on any of the foregoing, whether or not modified or merged into other materials. Concurrently, at Licensee's written request, Licensor shall promptly return or destroy and permanently erase from all devices and systems Licensor directly or indirectly controls, the Licensee's Confidential Information, including all documents, files and tangible materials (and any partial and complete copies) containing, reflecting, incorporating or based on any of the foregoing, whether or not modified or merged into other materials.
- (b) If this Agreement is terminated pursuant to Section 7.3, all amounts payable by Licensee to Licensor as of date of termination event under this Agreement, excluding any remainder years of Maintenance and Support annual Term, are payable as determined via dispute resolution pursuant to Section 16.15 and due no later than thirty (30) days after the effective date of the expiration or termination of this Agreement. If this Agreement is terminated by either Licensor or Licensee prior to the conclusion of the Term for any termination event under Section 7.3, the parties acknowledge and agree that Licensee is not required to pay Maintenance and Support fees for any remainder years of the then current Term for Licensed Software usage that would have occurred but for the termination event.
- (c) If this Agreement is terminated pursuant to Section 7.3(c) where Licensor is the breaching Party as determined via dispute resolution pursuant to Section 16.15, Licensor shall refund to Licensee, no later than thirty (30) days after such final determination, all amounts prepaid for annual Maintenance and Support not yet provided, in a pro-rated amount, based on the number of days remaining in the annual Term of Maintenance and Support.

7.5 Surviving Terms. The provisions set forth in the following sections, and any other right, obligation or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: this Section 7, Section 1 (Definitions), Section 4 (Confidentiality), Section

5 (Intellectual Property Rights), Section 8 (Representations and Warranties), for clarity, including Section 8.7 (Disclaimer), Section 9 (Indemnification), Section 10 (Limitations of Liability) and Section 16 (Miscellaneous).

8. Representation and Warranties.

8.1 Each Party represents, warrants, and covenants to the other Party that:

- (a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
- (b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement;
- (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and
- (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms except as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally.

8.2 Warranties, Representations and Covenants.

- (a) Subject to the limitations and conditions set forth in Section 8.3 and Section 8.4, Licensor warrants to Licensee that from installation of the Licensed Software, the Licensed Software will be delivered and, subject to acceptance testing pursuant to the applicable SOW, accepted as-is by Licensee. Licensor will use commercially reasonable efforts to provide that the Licensed Software will conform to the Licensor provided specifications set forth in its Documentation, when installed, operated and used as recommended in the Documentation and in accordance with this Agreement.
- (b) Licensor will perform the services to be provided in accordance with this Agreement or any SOW in a good and professional manner and in accordance with generally accepted industry practices applicable to such services using competent personnel having expertise suitable to their assignments.
- (c) Licensor represents and warrants that as of the date of this Agreement and as of the date of each SOW, there are no actions, suits or proceedings

pending, or to the knowledge of the Licensor threatened, against the Licensor alleging infringement, misappropriation or other violation of any intellectual property rights related to any services or Licensed Software contemplated by this Agreement and such SOW.

- (d) Licensor warrants and covenants that Licensor will perform its obligations under this Agreement in a manner that complies with applicable Law.

8.3 Exceptions: Notwithstanding any provisions to the contrary in this Agreement, the limited warranty set forth in Section 8.2 does not apply to problems arising out of or relating to:

- (a) Licensed Software, or the media on which it is provided, in each case to the extent that it is modified or damaged by Licensee or its Representatives without the written approval of the Licensor;
- (b) any operation or use of, or other activity relating to, the Licensed Software other than as specified in the Documentation, including any incorporation in the Licensed Software of, or combination, operation or use of the Licensed Software in or with, any technology (including any software, hardware, firmware, system or network) or service not specified for Licensee's use in the Documentation, unless otherwise expressly permitted by Licensor in writing;
- (c) Licensee's negligence, abuse, misapplication or misuse of the Licensed Software, including any use of the Licensed Software other than as specified in the Documentation or expressly authorized by Licensor in writing;
- (d) the operation of, or access to, Licensee's or a third-party's system or network, other than as specified in the Documentation;
- (e) any beta software, software that Licensor makes available for testing or demonstration purposes, temporary software modules or software for which Licensor does not receive a license fee;
- (f) Licensee developed clinical content, reports, or workflows;
- (g) Licensed Software issues with Licensee's Equipment that does not meet the Specifications; or
- (h) Licensee's breach of any provision of this Agreement.

8.4 Remedial Efforts. If Licensor materially breaches any of the warranties set forth in Section 8.2, Licensor shall remedy such breach by taking any of the following steps, as applicable:

- (a) replace any damaged or defective media on which Licensor supplied the Licensed Software;

- (b) amend, supplement or replace any incomplete or inaccurate Documentation;
- (c) repair or correct the Licensed Software, including corresponding Deliverable specified in a SOW; and/or
- (d) replace the Licensed Software with functionally equivalent software (which software will, on its replacement of the Licensed Software, constitute Licensed Software hereunder).

8.5 Sole Remedy. THE REMEDIES SET FORTH IN SECTION 8.4 ARE LICENSEE'S SOLE WARRANTY REMEDIES AND LICENSOR'S SOLE RESPONSIBILITY UNDER THE WARRANTY SET FORTH IN SECTION 8.2. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

8.6 Disclaimer of Warranties. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, ALL LICENSED SOFTWARE, DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS AND SERVICES PROVIDED BY LICENSOR ARE PROVIDED AS IS. LICENSOR HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER (INCLUDING ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE OR DOCUMENTATION, OR ANY OTHER LICENSOR OR THIRD-PARTY GOODS, SERVICES, TECHNOLOGIES OR MATERIALS (INCLUDING ANY SOFTWARE OR HARDWARE), OR ANY LICENSEE CREATED FORMS OR REPORTS, OR ANY PRODUCTS OR RESULTS OF THE USE OF ANY OF THEM WILL MEET LICENSEE'S, DIRECT CONTRACTING AGENCY'S, OR ANY OTHER PERSON'S REQUIREMENTS, NOR OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES OR MATERIALS (INCLUDING ANY SOFTWARE, HARDWARE, SYSTEM OR NETWORK), OR BE SECURE, ACCURATE, OR COMPLETE, OR FREE OR HARMFUL CODE OR ERROR FREE. ALL OPEN-SOURCE COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED AS IS AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN LICENSEE AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN-SOURCE COMPONENTS AND THIRD-PARTY MATERIALS. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT REGARDING CAPACITY, SUITABILITY OF USE OR PERFORMANCE OF PRODUCTS WHETHER MADE OR IMPLIED BY LICENSOR'S EMPLOYEES OR OTHERWISE, WILL BE DEEMED A WARRANTY BY LICENSOR FOR ANY PURPOSE.

9. Indemnification.

9.1 Licensor Indemnification. Licensor shall indemnify Licensee and hold harmless and, at Licensee’s request, defend Licensee, its parent and affiliate companies and each of their respective officers, directors, employees, and agents (collectively, the “Licensee Indemnitees”) against any and all claims, allegations, suits and proceedings (each an “Action”) and all Losses incurred by the Licensee Indemnitees arising from or related to (i) Licensor’s or its employees’ or contractors’ sole gross negligence, willful misconduct, or intentional wrongdoing, (ii) material breach by Licensee of its obligations under this Agreement, or (iii) any allegation that the Licensed Software (including the Documentation and any and all Deliverables specified by a SOW), or any use of the Licensed Software, in accordance with this Agreement (including the Documentation and any and all Deliverables specified by a SOW) infringes any U.S. Intellectual Property Right; provided that, the indemnification obligation in this Section 9.1 does not apply to the extent that such Action or Losses arise from any allegation of or relating to any:

- (a) Third-Party Materials; provided, however, that Licensee Equipment is specifically excluded from this exception to Section 9.1(a);
- (b) patent issued on a patent application published after the Effective Date;
- (c) incorporation by the Licensed Software of, or combination, operation or use of the Licensed Software in or with, any technology (including any software, hardware, firmware, system or network) or service not provided by Licensor or specified for Licensee's use in the Documentation, unless otherwise expressly permitted by Licensor in writing, provided, however, that Licensee Equipment is specifically excluded from this exception to Section 9.1(a);
- (d) modification of the Licensed Software other than: (i) by Licensor or its contractor in connection with this Agreement; or (ii) with Licensor's express written authorization and in strict accordance with Licensor's written directions and specifications;
- (e) failure to timely implement any Maintenance Release, modification, update or replacement of the Licensed Software made available to Licensee by Licensor;
- (f) use of the Licensed Software after Licensor's notice to Licensee of such activity's alleged or actual infringement, misappropriation or other violation of a third party's rights;
- (g) negligence, abuse, misapplication or misuse of the Licensed Software or Documentation by or on behalf of Licensee, Licensee's Representatives or a third party;

- (h) use of the Licensed Software or Documentation by or on behalf of Licensee that is outside the purpose, scope or manner of use authorized by this Agreement or in any manner contrary to Licensor's instructions;
- (i) events or circumstances outside of Licensor's commercially reasonable control (including any third-party hardware, software or system bugs, defects or malfunctions); or
- (j) Action or Losses for which Licensee is obligated to indemnify Licensor pursuant to Section 9.2.

9.2 Licensee Indemnification. Licensee shall indemnify, defend and hold harmless Licensor and its affiliates, and each of its and their respective officers, directors, employees, agents, subcontractors, successors and assigns (each, including Licensor, a “Licensor Indemnitee”) from and against any and all Actions and all Losses arising from or related to (i) Licensee’s or its employees’ or contractors’ sole negligence, willful misconduct or intentional wrongdoing or (ii) breach by Licensee of its obligations under this Agreement (other than an affiliate of a Licensor Indemnitee) to the extent that such Losses arise out of or related to any allegation:

- (a) that any Intellectual Property Right or other right of any Person, or any Law, is infringed, misappropriated or otherwise violated by any:
 - (i) use or combination of the Licensed Software by or on behalf of Licensee or any of its Representatives with any hardware, software, system, network, service or other matter whatsoever that is neither provided by Licensor nor authorized by Licensor in this Agreement or the Documentation or otherwise in writing, excluding all Licensee Equipment; and
 - (ii) information, materials or technology or other matter whatsoever directly or indirectly provided by Licensee or directed by Licensee to be installed, combined, integrated or used with, as part of, or in connection with the Licensed Software or Documentation that is neither provided by Licensor nor authorized by Licensor in this Agreement or the Documentation or otherwise in writing, excluding all Licensee Equipment.
- (b) of or relating to facts that, if true, would constitute a breach by Licensee of any representation, warranty, covenant or obligation under this Agreement;
- (c) any negligence or gross negligence by or on behalf of Licensee or any of its Representatives with respect to the Licensed Software or Documentation or otherwise in connection with this Agreement; or
- (d) any use of the Licensed Software or Documentation by or on behalf of Licensee or any of its Representatives that is outside the purpose, scope or

manner of use authorized by this Agreement or the Documentation, or in any manner contrary to Licensor’s Documentation.

- (e) any bodily injury, death of any person, or damage to real or tangible personal property caused by the negligent or grossly negligent acts or omissions of Licensee, its Authorized Users, and its affiliates, and each of its and their respective officers, directors, employees, agents, subcontractors, successors and assigns (including any reckless or willful misconduct) arising out of relating to use of the Licensed Software or Licensee created workflows, forms, and reports.

9.3 Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 9.1 and Section 9.2, as applicable. The person seeking indemnification (the “Indemnitee”) shall cooperate with the Party providing indemnification (the “Indemnitor”). The Indemnitee’s failure to perform any obligations under this Section 9.3 will not relieve the Indemnitor of its obligations under this Section 9 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure.

9.4 Mitigation. If the Licensed Software, or any part of the Licensed Software, is, or in Licensor’s opinion is likely to be, claimed to infringe, misappropriate, approaching end of life, or otherwise violate any third-party Intellectual Property Right, or if Licensee’s use of the Licensed Software is enjoined or threatened to be enjoined, Licensor may, at its sole option:

- (a) obtain the right for Licensee to continue to use the Licensed Software materially as contemplated by this Agreement; or
- (b) modify or replace the Licensed Software, in whole or in part, while providing equivalent features and functionality, and such modified or replacement software will constitute Licensed Software under this Agreement; or
- (c) if, none of the remedies set forth in the above Section 8.4(a) is reasonably available to Licensor, terminate this Agreement, in its entirety or with respect to the affected part or feature of the Licensed Software, effective immediately on written notice to Licensee, in which event:
 - (i) Licensee shall cease all use of the Licensed Software and Documentation immediately on receipt of Licensor’s notice; whereby
 - (ii) Licensor shall promptly terminate all subsequent annual term(s) of Maintenance and Support of respective Licensed Software, and Licensor shall refund to Licensee, no later than thirty (30) days after such termination, all amounts prepaid for annual Maintenance and Support not yet provided, in a pro-rated amount, based on the

number of days remaining in the annual Term of Maintenance and Support.

- (iii) Sole Remedy. THE REMEDIES SET FORTH IN SECTION 9.3 ARE THE SOLE MITIGATION REMEDIES MADE AVAILABLE UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

10. Limitation of Liability.

10.1 Licensee acknowledges and agrees that all clinical and medical treatment, diagnostic decisions and billing decisions are the responsibility of Licensee and its professional healthcare providers, including but not limited to general clinical staff, nurses, nurse practitioners, and physicians (including psychiatrists). Licensed Software does not make clinical or other decisions (such as narrative conditions, coded diagnosis, submission of claims) and is not a substitute for competent, properly trained and knowledgeable staff who bring professional judgment to the information presented by the Licensed Software. Although Licensor and its third-party vendors have used reasonable care in obtaining information from sources believed to be reliable, Licensee acknowledges that it is Licensee's obligation to be informed about any and all medical best practices, regulations, clinical information, and guidelines that may not be reflected in the Licensed Software. The absence of an alert or warning for without limitation, a given course of treatment, drug or drug combination should not be construed to indicate that the treatment, drug or drug combination is safe, appropriate or effective for any given patient.

10.2 EXCLUSION OF DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, LOST PROFITS OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PERFORMANCE OF EITHER PARTY UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LIABILITY ARISING OUT OF CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL THEORY, EVEN IF A PARTY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY THEREOF.

10.3 CAP ON MONETARY LIABILITY. EXCEPT AS RESPECTS A PARTY'S BREACH OF CONFIDENTIALITY OBLIGATION IN SECTION 4.1 AND A PARTY'S INDEMNIFICATION OBLIGATION UNDER SECTION 9.1(iii), IN NO EVENT WILL THE AGGREGATE LIABILITY OF EITHER PARTY, ITS SUPPLIERS AND SERVICE PROVIDERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED FIFTY (50) PERCENT OF THE TOTAL OF THE AMOUNTS PAID TO LICENSOR UNDER THIS AGREEMENT IN THE ONE (1) YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING

LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

11. Limits of Insurance. Both Parties shall procure and maintain coverage with limits of liability not less than stated below. Both Parties shall provide certificates for the below insurance promptly upon request.

- (a) Commercial General Liability – occurrence form with coverage for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations with policy limits not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate.
- (b) Business Automobile Liability – coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of any aspect of this Agreement with minimum limits not less than \$1,000,000 each accident.
- (c) Workers’ Compensation and Employers’ Liability – statutory coverage for workers’ compensation, with policy coverage including employer’s liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease and policy limits.
- (d) Cyber & Privacy Errors and Omission Insurance – policy limits shall not be less than \$4,000,000 each claim and \$4,000,000 annual aggregate. Such insurance shall include, but not be limited to, coverage for third-party claims and losses with respect to network risks (such as data breaches, unauthorized access or use, ID theft, theft of data) and invasion of privacy regardless of the type of media involved in the loss or private information, crisis management and identity theft response. Coverage shall include cyber extortion, computer program and electronic data restoration expenses coverage (data asset protection), network business interruption, computer fraud coverage, and funds transfer loss.

12. Force Majeure.

12.1 No Breach or Default. Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement (other than Licensee’s obligations to pay Licensor the fees) to the extent arising out of causes beyond the control and without the fault or negligence of that Party including, but not limited to, strikes; lockouts; riots; epidemics; war; governmental regulations; weather; acts of terror; fire; communication line failure; power failure; internet connectivity and infrastructure issues or failure not attributable to facilities or equipment owned, leased, purchased or otherwise operated by Licensor; network or service availability issues related to denial of service attacks; mail bombing and other flooding techniques (each a “Force Majeure Event”).

12.2 Affected Party Obligations. Both Parties will perform their obligations which were suspended or delayed because of a Force Majeure Event as soon as commercially reasonable after the occurrence of such Force Majeure Event has occurred.

13. Licensee Obligations.

13.1 Installation Site.

- (a) Licensee will prepare the Installation Site consistent with this Agreement, any Documentation provided, and any applicable Law.
- (b) Licensee will provide and maintain a suitable, safe and hazard-free Installation Site in material compliance with any Documentation provided by Licensor; perform Licensor recommended routine maintenance and operator adjustments; and ensure that any non-Licensor provided service is performed by, and Licensor products are used by, qualified personnel in accordance with applicable user Documentation.
- (c) Licensee will inform Licensor of changes in technical contact information at each designated Installation Site as soon as reasonably practicable.
- (d) Licensee will also provide at least ninety (90) days' notice prior to requesting additional Installation Site(s) post- Go-Live. Additional Installation Site(s) other than those defined in Exhibit 1 ("Exhibit 1") which is attached hereto and incorporated by reference to this Agreement will be subject to additional license fees and other associated development fees where applicable and as agreed upon in writing between the Parties.

13.2 Licensee Equipment.

- (a) Licensee is responsible for ensuring that its hardware and software conforms with Licensor's minimum hardware and software requirements as made available through Documentation to Licensee as may be amended from time to time upon written notice to Licensee.
- (b) Licensee will be responsible for enabling the connectivity and interoperability between its Licensee Equipment or software or other systems or devices and the Licensed Software provided by Licensor.
- (c) Licensee is responsible for ensuring that Licensee's hardware and network is adequate for the proper operation and performance of Licensed Software and that it otherwise meets Licensor's Documentation (including requirements for preparation of Licensee's Installation Site, remote interconnections and internet protocol address assignments).
- (d) Licensee will establish and maintain its own security, virus protection, backup and disaster recovery plans for any Licensee Equipment. This responsibility includes maintaining secure network and network security

components, firewalls and security- related hardware or software, preventing unauthorized access to the Licensed Software and preventing interception of communications between Licensor’s service center and the Licensed Software.

13.3 Access.

- (a) Licensee will provide Licensor prompt and unencumbered access to the Licensed Software, Installation Site, and Licensee Equipment as necessary to perform Professional Services.
- (b) Licensee will provide Licensor connectivity to the Licensed Software, including without limitation, modem line, VPN persistent access, broadband internet connection, other secure remote access for Licensor to perform support services and meet service levels, including remote diagnostic, monitoring and repair services.

14. Statement of Work (SOW).

14.1 Professional Services and Licensed Software deliverables will be provided in accordance with a Statement of Work (SOW) for each designated Installation Site as mutually agreed upon in writing between the Parties. Each Statement of Work is automatically incorporated into the Agreement upon signature by both Parties.

14.2 Each Statement of Work may include the following information, where applicable:

- (a) a detailed description of the Professional Services to be performed pursuant to the Statement of Work;
- (b) the date upon which the Professional Services will commence and the term of such Statement of Work;
- (c) the fees to be paid to Licensor under the Statement of Work;
- (d) the Project implementation plan;
- (e) Project Milestones and payment schedules;
- (f) any other criteria for completion of the Professional Services/Project;
- (g) procedures for the testing and acceptance of the Professional Services and Deliverables; and
- (h) any other terms and conditions agreed upon by the parties in connection with the Professional Services to be performed pursuant to such Statement of Work.

14.3 Licensed Software and Professional Services provided are based upon information furnished to Licensor by Licensee. Licensee is responsible for modifications, if any, to the configuration due to inaccuracies or incompleteness of the information furnished to Licensor by Licensee, changes in Licensee’s needs or requirements, or for other reasons attributable to Licensee.

14.4 Licensor shall exercise commercially reasonable efforts to perform the Professional Services described in a SOW. Licensor is responsible for the assignment of personnel to perform all Professional Services and may make any change in staffing it deems necessary.

14.5 Changes to Professional Services as defined in a Statement of Work may only be modified in writing when signed by authorized representatives of both Parties and must be made pursuant to a Change Order. Approved changes may require a change in fees reflecting the change in scope and/or schedule of delivery of the Professional Services.

15. Change Order.

15.1 Definitions.

- (a) “Change Order” means a written instrument in the form provided by Licensor that is executed by the Parties and states their mutual agreement to the following:
 - (i) a change in any Licensor obligation under this Agreement (including Statement of Work and respective deliverables);
 - (ii) the amount of any related adjustment in the contract sum;
 - (iii) the extent of any related adjustment to the Go-Live date;
 - (iv) any change in the delivery date of deliverables; and/or
 - (v) any service/software additions or changes as agreed upon by Licensor.
- (b) “Excusable Event” means the occurrence of any:
 - (i) delay or interference with, or suspension or stoppage of, Licensor’s obligations under this Agreement caused by the breach by Licensee of this Agreement;
 - (ii) Licensee’s increase in project or deliverable scope.
 - (iii) act or omission by Licensee or any Licensee representative;
 - (iv) Force Majeure Event;

- (v) change in Law and impacts Licensor’s ability to perform its obligations in a timely manner.
- (c) Procedures for Excusable Events. If, as a result of an Excusable Event, the costs, time, or resource requirements of Licensor’s performance obligations hereunder increase, or Licensor’s performance obligations hereunder are adversely affected:
 - (i) Licensor will assess the Excusable Event and consider the prioritization, estimated work effort, cost, resource availability, and impact on the project completion timeline;
 - (ii) Both Parties agree to address the Excusable Event and make changes through a Change Order. If applicable, such Change Order will become part of the applicable SOW when executed by both Parties. Additional work to be performed will be billed separately at agreed upon hourly rate or at an amount mutually agreed by both Parties.
 - (iii) Both Parties agree to adjust the Go-Live date (without penalty to Licensor); or both Parties shall agree to resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

16. Miscellaneous.

16.1 Audits. Licensor or its nominee including its accountants and auditors may at Licensor’s expense, in Licensor’s sole discretion but no more often than once in a rolling 12-month period, inspect and audit Licensee’s use of the Licensed Software under this Agreement at any time during the Term and for one (1) year following the termination or earlier expiration of this Agreement. If the audit uncovers that the number of Installation Sites or the quantity of Authorized Users using the Licensed Software exceeds the current quantity of Installation defined in Exhibit A or the quantity of Licensed Software purchased under this Agreement and its corresponding Statement of Work, Licensee agrees to pay any underpaid or unpaid fees owed to Licensor within thirty (30) days of the date of notification of the audit results.

16.2 Licensee Contract with Direct Contracting Agency.

- (a) Licensor shall provide Licensed Software, including all deliverables, and perform Professional Services as a subcontractor to Licensee, in order for Licensee to satisfy its own requirements defined by the Direct Contracting Agency’s requirements for an Electronic Medical System, as specified by Licensee’s contract with the Direct Contracting Agency and as reproduced in an Attachment to the applicable Statement of Work.
- (b) Licensee shall provide Licensor with at least one sixty (60) days’ notice prior to the expiration of its contract with Direct Contracting Agency. Prior

to termination of Licensee's contract with Direct Contracting Agency, Licensed Software at the effected Installation Site may need to be transferred, as determined by Licensor and Direct Contracting Agency, to Direct Contracting Agency in order to continue uninterrupted clinical operations at the respective Installation Site of Direct Contracting Agency; whereupon Exhibit I will be updated to reflect active Installation Sites of Licensee currently utilizing Licensed Software.

- (c) As accounted for under Section 7.4(b), If Licensee's contract for healthcare services with Direct Contracting Agency is terminated prior to the end of its then-current Term, with or without cause, Licensee is required to pay Licensor all remaining amounts for all Professional Services performed by Licensor and then due and payable to Licensor at time of termination for the applicable Installation Site(s). The parties acknowledge and agree that Licensee is not required to pay Maintenance and Support fees for any remainder years of the then current Term for Licensed Software usage that would have occurred but for the termination event.
- (d) Licensee shall also provide as much notice as reasonably possible to Direct Contracting Agency and the incoming healthcare vendor replacing Licensee at Installation Site that additional fees may be imposed by Licensor for a transition of Licensed Software to either party. Thereafter, a separate agreement for Licensed Software and Maintenance and Support will need to be executed between Licensor and the new licensee, and that separate agreement will set forth applicable fees for the Licensed Software and Maintenance and support that are subject to good faith negotiations of the Licensor and the new licensee. Licensor shall not responsible for any and all migration services, workflow development requests, or training of new staff for incoming healthcare vendor or the Direct Contracting Agency; and all additional fees will be the responsibility of Direct Contracting Agency and the incoming healthcare vendor, to be decided amongst the respective parties.

16.3 Assignment. Licensee shall not assign, transfer, delegate, or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Licensor. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the Licensee of any of its obligations under this Agreement. This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

16.4 No Third-Party Beneficiaries. This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

16.5 Amendments. No amendment to or modification of or rescission, termination, or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination, or discharge of this Agreement and signed by an authorized representative of each Party.

16.6 Choice of Law. This Agreement and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of New Jersey, without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of New Jersey.

16.7 Choice of Forum. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments, and appendices attached to this Agreement, and all contemplated transactions, including, but not limited to, contract, equity, tort, fraud, and statutory claims, in any forum other than the state and federal courts having their seats in New Jersey. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

16.8 WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS, OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

16.9 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

16.10 Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16.11 Counterparts. This Agreement may be executed in two (2) or more identical counterparts, each of which will be deemed an identical original and which together will constitute one and the same Agreement. The Parties agree that transmission to the other Party of this Agreement with its facsimile or electronically scanned signature shall suffice to bind the transmitting Party to this Agreement in the same manner as if an original signature had been delivered.

16.12 Entire Agreement. This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments, and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. Except as otherwise expressly provided for herein, the terms and conditions of this Agreement will prevail notwithstanding any variations or additions contained in any order or other document submitted by Licensee or any invoice, quote or similar document submitted by Licensor. Each Party hereby represents and acknowledges that in entering into this Agreement it did not rely on any representations or warranties other than those explicitly set forth in this Agreement. Both Parties hereto represent that they have read this Agreement, understand it, agree to be bound by all terms and conditions stated herein, and acknowledge receipt of a signed, true, and exact copy of this Agreement.

16.13 Notices. All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a “Notice”, and with the correlative meaning “Notify”) must be in writing and addressed to the other Party at its designated address (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier, or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section.

16.14 Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

16.15 Dispute Resolution. The Parties shall first attempt in good faith to resolve any dispute by negotiation and consultation between themselves, including without limitation not fewer than three (3) negotiation sessions. In the event that such dispute is not resolved on an informal basis within thirty (30) business days, the Parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration

Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The Parties further agree that all offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the Parties, their agents, employees, experts, and attorneys, and by the mediator and any employees of the mediation service, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation, arbitration, or other proceeding involving the Parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

16.16 Drafting of Agreement. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with or without the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.

16.17 Non-Publicity. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably delayed or withheld.

Signature Page

IN WITNESS WHEREOF, each of the undersigned has agreed to terms and conditions herein and has caused this Agreement to be duly executed as of the last signature date below (the “Effective Date”).


Fusion Capital Management, LLC	Centurion of Florida LLC
Signature: _____	Signature:  _____
Print Name: _____	Print Name: <u>John Campbell</u>
Title: _____	Title: <u>CFO</u>
Date: _____	Date: <u>1/10/2020</u>

EXHIBIT 1 TO AGREEMENT - INSTALLATION SITES

Total of [56] Installation Sites

Region 1

1. ACI
2. CAL
3. CEN
4. FRA
5. GRAD RE
6. GULF
7. JAK
8. HOL
9. JEF
10. LIB
11. NWFRC
12. OKA
13. SRCI
14. TAY
15. WAK
16. WAK CC
17. WAL

Region 2

1. BAK
2. BAK RE
3. CCCI
4. COL
5. FSP
6. FSPW
7. HAM
8. LAN
9. LAW
10. MAD
11. MAYO
12. NEW RIVER
13. PUT
14. RMC M
15. RMC W
16. RMCH
17. SUW

18. TOM
19. UCI

Region 3

1. AVP
2. CFRC
3. FWRC
4. HER
5. LAKE
6. LOW
7. MAR
8. POLK
9. SUM
10. ZCI

Region 4

1. DES
2. HAR
3. CHA
4. DAD
5. ECI
6. HOM
7. MART
8. OKE
9. SFRC
10. SFRC SOUTH

Private Facilities

1. Gadsen CF
2. Bay CF
3. Graceville CF
4. Blackwater CF
5. Lake City CF
6. Moore Haven CF
7. South Bay CF

SCHEDULE A - MAINTENANCE AND SUPPORT

This Maintenance and Support Schedule (“Schedule A”) to the License and Services Agreement (the “Agreement”) between Fusion Capital Management, LLC (“Licensor”) and Centurion of Florida LLC (“Licensee”) governs the subject matter herein and is effective as of the Go-Live Date of the Licensed Software at initial Installation Site. In the event of a conflict, the Agreement takes precedence over this Schedule A.

1. Definitions. Except as otherwise defined herein, capitalized terms shall have the meanings set forth in the Agreement.

1.1 “Agreement” means the separately executed License and Services Agreement entered into by and between Licensor and Licensee that grants to Licensee a license to access and use the Licensed Software at each designated Installation Site pursuant to the terms and conditions set forth therein.

1.2 “Licensee Failure” has the meaning set forth in Section 3.3.

1.3 “Installation Site(s)” has the meaning set forth in the Agreement.

1.4 “Documentation” has the meaning set forth in the Agreement.

1.5 “Error” means a reproducible failure of the Licensed Software to perform in substantial conformity with the specifications set forth in the Documentation, whose origin can be isolated to a single cause.

1.6 “First Line Support” means, in connection with the identification, diagnosis and correction of Errors, the remote provision of: (a) e-mail assistance (Incident Level 1 and 2); (b) telephone and/or chat assistance (Incident Level 3); or (c) Remote Support (Incident Level(s) 1, 2, and 3).

1.7 “Force Majeure Event” has the meaning set forth in the Agreement.

1.8 “Incident” means a support request that begins when Licensee contacts Licensor to report one specific Error and ends when Licensor either: (a) Resolves the Error; or (b) Licensor and Licensee mutually agree that the Error cannot be Resolved and identify an applicable work-around or alternative resolution that is acceptable to both Parties.

1.9 “Licensed Software” has the meaning set forth in the Agreement.

1.10 “Maintenance Release” has the meaning set forth in the Agreement.

1.11 “New Version” has the meaning set forth in the Agreement.

1.12 “Normal Business Hours” means 8 AM – 4 PM (Eastern Time), Monday through Friday.

1.13 “Licensor Personnel” means all Persons involved in the performance of Support as employees, agents or independent contractors of Licensor or any Subcontractor.

1.14 “Representatives” has the meaning set forth in the Agreement.

1.15 “Resolve” means the provision of: (a) Support that, in the mutual determination of Licensor and Licensee, corrects the Error; (b) information to Licensee that corrects the Error; (c) information to Licensee on how to obtain a software solution that corrects the Error; (d) notice to Licensee that the Error is caused by a known, unresolved issue or an incompatibility issue with the Licensed Software; (e) information to Licensee that identifies the Error as being corrected by upgrading to a newer release of the Licensed Software; or (f) notice to Licensee that the Error has been identified as arising out of or resulting from a Service Exception.

1.16 “Respond” means Licensor’s initial communication with Licensee, whether by telephone, e-mail or otherwise, acknowledging Licensee’s request for Support in connection with a specific Error. “Response” has a correlative meaning.

1.17 “Second Line Support” means, in connection with the identification, diagnosis and correction of Errors, the provision of on-site technical support at Licensee’s premises.

1.18 “Support” has the meaning set forth in Section 2.

1.19 “Service Exception” has the meaning set forth in Section 4.

1.20 “Severity Level Three Incident” means an Error that causes the Licensed Software to not operate and has a critical impact on Licensee’s business operations.

1.21 “Severity Level Two Incident” means an Error that results in a lack of Licensed Software functionality and materially degrades significant aspects of Licensee’s business operations.

1.22 “Severity Level One Incident” means an Error that impairs the performance of the Licensed Software, but does not substantially affect Licensee’s business operations.

1.23 “Subcontractor” has the meaning set forth in Section 2.7.

1.24 “Support Schedule” has the meaning set forth in Section 2 (subject to change without notice).

1.25 “Term” has the meaning set forth in the Agreement.

1.26 “Technical Contact” has the meaning set forth in Section 5.7.

1.27 “Third-Party Materials” has the meaning set forth in the Agreement.

2. Maintenance and Support. Subject to the terms and conditions of this Schedule A (herein referred to as “Schedule”), and conditioned on Licensee’s and its Representatives’

compliance therewith, during the Term, Licensor will provide remote Maintenance and Support to Licensee at each Installation Site as set forth in this Section 2 (the “Support”).

2.1 Scope of Support. During the Term, Licensor will use commercially reasonable efforts to remotely Resolve any Incidents reported by Licensee of Licensed Software at each Installation Site as follows:

- (a) Licensor will provide 24x7x365 days a year remote availability and support for Licensee’s Installation Site(s);
- (b) Licensor and Licensee will mutually identify and determine the appropriate Service Level 1-3 Incident, the amount of time it will need to spend to attempt to Resolve any Incident and all actions required to resolve the Service Level 1-3 Incident;
- (c) Licensor will initially provide First Line Support to Licensee to attempt to Resolvethe reported Incident; and
- (d) Licensor will subsequently provide such, if any, Second Line Support as Licensor and Licensee mutually determine is necessary to attempt to Resolve the Incident, to be invoiced separately as necessary to Resolve the Incident.

2.2 Response Time. During the Term Licensor shall use best efforts to Respond to Incidents reported by Licensee at each Installation Site within the following timeframes:

- (a) for a Severity Level One Incident, within twenty-four (24) hours of Licensor’s receipt of Licensee’s notification on a 24/7 basis;
- (b) for a Severity Level Two Incident, within twelve (12) hours of Licensor’s receipt of Licensee’s notification on a 24/7 basis; and
- (c) for a Severity Level Three Incident, within one (1) hour of Licensor’s receipt of Licensee’s notification on a 24/7 basis.

2.3 Scope of Support. Licensor will make available to Licensee prior to Go-Live of initial Installation Site a scope of support document, which may be amended by Licensor from time to time with written notice to Licensee.

2.4 Maintenance Releases. Licensor will provide Licensee with all Maintenance Releases under the terms and conditions set forth in this Schedule. Licensee does not have any right under or in connection with this Schedule or the Agreement to receive any New Versions of the Licensed Software that Licensor may, in its sole discretion, release from time to time. Releases are reviewed first by Licensor, in its sole discretion, for functional value, “bugs”, and capability with Licensor’s proprietary applications, prior to being released to Licensee. Maintenance releases may occur as frequently as once per week and are typically scheduled during non-business and non-peak usage hours.

2.5 Service Changes. Licensor may change with advance written notice to Licensee any aspect of the Support, provided that the change is consistent with Licensor's obligations under this Agreement and no such change reduces or otherwise has a material adverse effect on the: (a) Licensor's level of effort in performing the Support; (b) Licensor's obligation to provide the Support under this Schedule, or (c) the scope of Support-related services to be provided by Licensor.

2.6 Subcontractors. Licensor may, in its sole discretion, perform any of the Support by or through third parties (each, a "Subcontractor") or any other Licensor Personnel, but shall remain fully responsible for any Subcontractor's compliance with all terms and provisions of the Agreement, including this Schedule.

2.7 Remote Support. Licensee acknowledges and agrees that Licensor may provide remote support to Licensee to assist in analyzing and Resolving any Incident. Subject to Licensor's compliance with the applicable information security requirements of Licensee, Licensor may access Licensee's network (including persistent VPN access and administrative rights to Licensee's servers), systems, and/or computers to install and use remote access software ("Remote Access Software") solely to the extent necessary for Licensor to provide the remote support to Licensee. The Remote Access Software contains technological measures designed to collect and transmit to Licensor certain diagnostic, technical, usage and related information, including information about Licensee's computers, systems, network and any Third-Party Materials, relating to or derived from Licensee's use of Licensed Software. Licensee acknowledges and agrees that: (a) Licensor may collect, maintain, process and use this information solely for the purpose of performing the Support under this Agreement, and (b) all or portions of the Remote Access Software may remain on Licensee's network, system, and/or computers after an Incident is Resolved. As between Licensor and Licensee, Licensee is the exclusive owner of all information, including data and content, which Licensor may collect, maintain, process and use in connection with its performance of Support under this Agreement, including all information collected and received by Licensor in connection with its operation of Remote Access Software for accessing Licensee's computers, systems, networks or Third-Party Materials. Licensee does not authorize Licensor to use any such collected information, in raw or aggregate format, for any purpose except for provision of Support under this Agreement.

3. Limitations.

3.1 Response Time and Resolution. Licensor will use commercially reasonable efforts to: (a) Respond within the applicable Response time provided in Section 2.2; and (b) Resolve an Incident.

3.2 Effect of Licensee Failure or Delay. Licensor is not responsible or liable for any delay in Support or failure of Support performance to the extent caused by any material delay or failure to perform any of Licensee's obligations under the Agreement or this Schedule in accordance with the respective terms and conditions of these agreements (each, a "Licensee Failure").

4. Exceptions. Licensor has no obligation to provide Support relating to Errors to the extent arising out of or resulting from any of the following (each a “Support Exception”):

4.1 Licensed Software, or the media on which it is provided, to the extent that is modified or damaged by Licensee or any third party;

4.2 any operation or use of, or other activity relating to, the Licensed Software other than as specified in the Documentation, including any incorporation in the Licensed Software of, or combination, operation or use of the Licensed Software in or with, any technology (including any software, hardware, firmware, system or network) or service not specified for Licensee’s use in the Documentation;

4.3 any Third-Party Materials;

4.4 any negligence of the Licensed Software by Licensee including any use of the Licensed Software other than as specified in this Agreement or the Documentation or expressly authorized in writing by Licensor;

4.5 any Third-Party Materials;

4.6 any negligence by Licensee;

4.7 Licensee’s failure to promptly install any Maintenance Release that Licensor has previously made available to Licensee;

4.8 any beta software, software that Licensor makes available for testing or demonstration purposes, temporary software modules or software for which Licensor does not receive a license fee;

4.9 any Licensee created workflows, forms, or reports;

4.10 any material breach of or noncompliance with any provision of this Schedule or the Agreement by Licensee or any of its Representatives;

4.11 any Force Majeure Event (including abnormal physical or electrical stress); or

4.12 Licensee failing to procure, at its sole expense, the necessary environment at the Licensee’s location(s) to use and access Licensed Software, including without limitation, all computer hardware, peripherals and accessories, Internet access and telecommunications, or to obtain the minimum specifications for Licensee’s hardware and network for connectivity.

5. Licensee Obligations.

5.1 Notification. Licensee shall promptly notify Licensor of any Error and provide Licensor with reasonable detail of the nature and circumstances of the Error. Licensee shall take all necessary steps to replicate the any Severity Level One Error(s) prior to submitting a written notification. Licensee shall set up, maintain and operate in good repair and in

accordance with the Documentation all environmental conditions and components, including all networks, systems and hardware, in or through which: (a) the Licensed Software operates; and/or (b) the Licensee accesses or uses any of the Support.

5.2 Access. In connection with the performance of the Support, Licensee shall provide Licensor Personnel with all such reasonable cooperation and assistance as they may reasonably request and which is reasonably required, to enable Licensor to perform its obligations (including the provision of the Support), and exercise its rights, under and in accordance with the terms and conditions of this Agreement, including:

- (a) reasonable, uninterrupted access, both physical and virtual, to the Licensed Software and Licensee’s premises, systems, networks and facilities;
- (b) a safe working environment;
- (c) access to the appropriate Licensee personnel, including network, systems, operations and applications personnel; and
- (d) all necessary authorizations and consents, whether from third parties or otherwise, in connection with any of the foregoing.

5.3 Data Back-up. As between Licensee and Licensor, Licensee is responsible for the backup of Licensee’s data, files and information prior to the performance of any scheduled Support.

5.4 Technical Contact. Licensee shall designate and maintain throughout the Term one or more individuals to serve as its primary point of contact for day-to-day communications, consultation, decision-making, and active experience, usage of the Licensed Software to conduct preliminary troubleshooting regarding the Support at each Installation Site (each, a “Technical Contact”). The Technical Contact(s) shall be the primary contact(s) between Licensee and Licensor in connection with day-to-day matters relating to the provision of Support and be responsible for reporting Incidents, providing day-to-day consents and approvals on behalf of Licensee, and communicating with and providing timely and accurate information and feedback to Licensor in connection with the Support. Licensee shall ensure its Technical Contact(s) have the requisite organizational authority, skill, experience and other qualifications to perform these duties. Licensee shall provide at least thirty (30) days prior written notice (email shall be sufficient) to Licensor of any replacement or change in the name or contact information of any Technical Contact.

5.5 Information. Licensee shall provide Licensor with all information reasonably requested by Licensor from time to time relating to Licensee’s use of the Licensed Software, Support or Deliverables, including information on Licensee’s hardware, network, systems and any related Third-Party Materials.

6. Fees and Payment.

6.1 Fees. In consideration of the Support and the rights granted by Licensor to Licensee under this Schedule, Licensee shall pay to Licensor fees and other amounts payable pursuant to the terms and conditions of the Agreement at the fees defined in each Statement of Work.

7. Term and Termination.

7.1 Initial Term. The initial term of this Schedule A shall commensurate with the Initial Term set forth in the Agreement.

7.2 Renewal Term. Any Renewal Term(s) of this Schedule A shall commensurate with the Renewal Term set forth in the Agreement.

7.3 Termination. This Schedule A may be terminated in accordance with the terms and conditions as set forth in the Agreement.

[END OF SCHEDULE]