

Electronic Medical Record Master System Agreement

Between:

OCHIN:

OCHIN, Inc.
Union Bank of California Building
707 S.W. Washington St., Ste. 1200
Portland, Oregon 97205
Contact for Notices: Abby Sears
Fax: (503) 943-2501
E-mail: searsa@ochin.org

and

Member:

County of Monterey
1270 Natividad
Salinas, CA 93606
Contact for Notices: John
Maddock
Phone (831) 755-4531
E-mail: maddockjr.co.monterey.ca.us

Background: OCHIN has entered into an agreement with Epic Systems Corporation ("Epic") by which OCHIN has obtained certain rights to practice management and electronic medical records ("EMR") software (the "Epic Agreement"). This agreement sets forth the terms on which OCHIN will offer Member access to certain components of the software and technical infrastructure described below (the "System") and related support and training services described below. Capitalized terms not otherwise defined on these cover pages (the "Cover Pages") have the meanings given in the exhibits.

- Software Modules.** Member will have access to the software modules described in Exhibit A.
- Designation of Sites.** The System will be implemented at sites indicated in Section 13 below (each, a "Site"). Member represents that each Site is directly owned and operated by Member or is otherwise an Affiliate of Member as defined in Section 8.1 of Exhibit B. At Member's request, OCHIN will send invoices for amounts payable under this agreement to one or more specific Sites, but Member will remain primarily responsible for payment and other obligations under this agreement. A breach of this agreement at or by any Site or personnel at or of any Site will constitute a breach of this agreement by Member.
- Initial Payment.** The Initial Payment is due and payable based on the following milestones: 20% upon execution of Agreement, 20% at the beginning of implementation, 20% at Go Live and the final 40% 60 days following Go Live on a per clinic basis using the percentages noted in Exhibit P. Payments are payable within thirty days of the milestone being reached. In the event Member's volume exceeds the projected volume, whether because of increased volume at existing Sites or implementation of additional Sites, the Initial Payment is subject to later adjustment as described in Section 11 of Exhibit B.
- Interfaces.** OCHIN will provide one copy of standard interfaces listed on Exhibit A at the prices indicated on that exhibit. Additional interfaces (such as interfaces that may be requested for an individual Site) will be provided only as mutually agreed. The one-time charge for interfaces is payable by Member within thirty days of mutual execution of this agreement. Recurring annual maintenance fees for interfaces, at the rates indicated on Exhibit A, are invoiced monthly in the month following the first live production use of the System ("Go Live") at any Site.
- Third Party Maintenance Fees And Charges.** Member will be responsible for annual maintenance fees and other recurring charges for the items of third party software listed on Exhibit A at OCHIN's then-current costs. Current pricing is indicated on Exhibit A but is subject to change.
- Recurring Per-Visit Fees.** Member will pay OCHIN Per-Visit Fees at the rate indicated in Exhibit A for access to and use of the System, subject to change by the OCHIN Board of Directors (the "OCHIN Board") as stated in Exhibit B. No less than 90 day written notice will be provided to Member prior to any fee change.
- Connectivity Costs.** Member will pay OCHIN Connectivity Costs based on the actual monthly cost of connectivity for Member. Connectivity Costs are payable as stated in Exhibit B.
- Storage Fees.** Member will pay OCHIN a storage fee for scanned material in an annual amount specified below for Member's projected volume of visits:

Annual Visits	0-20K	>20K-40K	>40K-60K	>60K-80K
Amount	\$500	\$750	\$1,000	\$1,500
Annual Visits	>80K-100K	>100K-150K	>150K-200K	>200K-300K
Amount	\$2,000	\$2,500	\$3,000	\$3,500

The storage fees will be payable in monthly installments at the same time as Member's recurring Per-Visit Fees. Member's projected annual visits for this purpose will be determined by OCHIN at the beginning of each year based on historical experience and reasonable expectations.

9. **Nonstandard Contract Charge.** This agreement is based on OCHIN's standard form of agreement for its electronic medical records and practice management systems. In the event Member requires non-standard forms of agreements that deviate substantially from this form of agreement, OCHIN will charge a \$25,000 fee for non-standard contracting.

10. **Responsibility for Hardware.** OCHIN will provide certain hardware relating to the Technical Infrastructure. Member will be responsible for other hardware relating to Member's use of the System, as described in Exhibit B.

11. **Additional Software and Services.** Additional fees may be assessed if Member chooses to use optional software or services or if additional supporting software is required in connection with use of the System. Other possible charges and costs relating to the System are generally described in Exhibit B and possible charges and costs relating to support are generally described in Exhibit C.

12. **Visit Definition.** For purposes of this agreement, a "visit" means a completed patient appointment or encounter (including medical, dental, mental health, and other visits). A missed appointment for which a patient is nonetheless charged a fee constitutes a visit. Multiple visits for the same patient on the same day constitute a single visit.

13. **Implementation Timeline.** Member will make reasonable efforts to complete implementation of each Site by the scheduled implementation date indicated below.

Site	Address	Scheduled Implementation Date no Later than	Projected Annual Visits
Alisal Health Center	559 E. Alisal Suite 201 Salinas, CA	9/30/2010	35,000
Seaside Family Health Center	1150 Fremont Blvd, Seaside CA	9/30/2010	35,000
Laurel Internal Medicine Clinic	1441 Constitution Blvd, Bld 151	9/30/2010	10,000
Laurel Family Practice Clinic	1441 Constitution Blvd, Bld 200	9/30/2010	20,000
Laurel Women's Health Clinic	1441 Constitution Blvd, Bld 200	9/30/2010	20,000
Laurel Pediatrics Clinic	1441 Constitution Blvd, Bld 200	9/30/2010	20,000
Marina Health Clinic	3155 DeForest Road, Marina CA 93933	9/30/2010	10,000

14. **Contract Project Management.** In addition to OCHIN's standard project management services, OCHIN will provide a contract project manager. The Contract Project Manager will, for the duration of the project, report to the Member and work on-site at the Member's facilities. Costs are reflected in the pricing schedule of Exhibit A. General terms and conditions for the Contract Project Manager are defined in Exhibit O.

15. **Exhibits.** Exhibits marked below are part of this agreement:

<input checked="" type="checkbox"/> Exhibit A	Software Modules and Pricing
<input checked="" type="checkbox"/> Exhibit B	System Terms and Conditions
<input type="checkbox"/> Exhibit C	Technical Support Terms and Conditions
<input type="checkbox"/> Exhibit D	HIPAA Compliance Terms
<input type="checkbox"/> Exhibit D - A	Additional HIPAA Compliance Terms
<input type="checkbox"/> Exhibit E	Public Contracting Terms
<input type="checkbox"/> Exhibit F	Epic Standard License and Support Agreement
<input type="checkbox"/> Exhibit G	Billing Service Terms and Conditions
<input type="checkbox"/> Exhibit H	Organized Health Care Arrangement Terms
<input type="checkbox"/> Exhibit I	Tapestry Modules
<input type="checkbox"/> Exhibit J	Trading Partner Agreements for Each Payor
<input type="checkbox"/> Exhibit K	McKesson Agreement
<input checked="" type="checkbox"/> Exhibit L	Care Everywhere Module
<input checked="" type="checkbox"/> Exhibit M	Help Desk/Work Orders Responsibilities and Expectations
<input checked="" type="checkbox"/> Exhibit N	Additional Third Party Contracts
<input checked="" type="checkbox"/> Exhibit O	Contract Project Manager
<input checked="" type="checkbox"/> Exhibit P	Purchase and Implementation Fee Schedule

OCHIN:

By: AS
Abby Sears, Chief Executive Officer

Date: 10-15-09

Approved as to form: [Signature]
John Saultz, Chair, OCHIN Board of Directors

Member:

By: [Signature]
Leo Foster, Director of Health

Date: 11/3/09

By: [Signature]
Purchasing Officer

Date: 12/1/09

For The County of Monterey

APPROVED AS TO LEGAL FORM

By: [Signature]
County Counsel
Date: 10/20/09
Deputy County Counsel

APPROVED AS TO FISCAL PROVISIONS

By: [Signature]
Auditor-Controller
Date: 10/20-09

APPROVED AS TO INDEMNITY/INSURANCE LANGUAGE

By: _____
Risk Management
Date: _____

Exhibit A Software Modules

Unless otherwise defined, capitalized terms in this exhibit have the meanings given on the Cover Pages or the other exhibits.

EMR Software

After implementation of the EMR component of the System (if Member has purchased access to the EMR component as indicated in the pricing information included in Exhibit A), Member will have access to the following software modules:

- Resolute Professional Billing System
- Electronic Remittance
- Cadence Scheduling System
- Health Information Management – Chart Tracking
- Identity Embedded Master Person Index
- Clarity and Analyst Reporting Package
- SmartForms and Advantage Development Kit
- Bridges EDI Developer's License
- InterSystems Cache *
- KB Systems SQL
- Seagate Crystal Info for Windows (Version 7.x)
- Diagnostic Data
- Distinct Corporation – Object code version of TELNET.DLL
- CPT Code License

- EpicCare Ambulatory EMR
- Hyland On Base Document Management Solution Software
- First Databank Medication Database
- One Laboratory Interface with Quest or Laboratory Corporation
- One Pharmacy Interface with SureScripts
- Prelude
- Solutions
- IMO Personal Health Terminology
- ABN Software

Member will have access to the following software modules only if OCHIN determines in its discretion to purchase a license for and implement the module and Member agrees to pay an additional charge for the module as determined by the OCHIN:

- Identity Enterprise Master Person Index
- MyChart for Patients
- MyEpic Executive Information System
- Customer Relationship Management / Call Management
- Tapestry Managed Care Administration – Enrollment and Benefits Management for Payors
- Tapestry Managed Care Administration – Utilization Review and Case Management for Payors
- Tapestry Managed Care Administration – AP Claims / Capitalization for Health Plan and Insurers
- Tapestry Managed Care Administration – Premium Billing for Payors
- Tapestry Managed Care Administration – Claims Repricing for Payors
- Nurse Triage
- Chronicles Plus
- EpicCare Ambulatory EMR
- EpicWeb Light
- EpicWeb Medium
- MyChart for Patients
- Education Products
- Voice Activated Software
- Reporting Workbench

Member will not have access to the following software modules described on Exhibits 1(a) or 1(c) to the Epic License Agreement:

- Advanced Rules-Based Scheduling
- Dental Billing

Exhibit B

System Terms and Conditions

Unless otherwise defined, capitalized terms in this exhibit have the meanings given on the Cover Pages or the other exhibits.

1. **System Access.** OCHIN will provide Member with access to the System on the terms and conditions specified below.
2. **Software.** Exhibit A specifies software modules to which Member will have access pursuant to this agreement.
3. **Clinical Environment.** Member is responsible for establishing and maintaining a clinical environment suitable for use of the System. At a minimum, Member will take the actions described below.
 - 3.1 **Clinical Content.** Member will designate one or two practicing physicians (or highest ranking Provider, as defined in Section 4) to participate in the Clinical Oversight Workgroup. This workgroup will be primarily responsible for determining and validating all clinical content for the System, initially and on an ongoing basis. Member and other users of the System acting through the workgroup, and not OCHIN, will be responsible for the accuracy of such content.
 - 3.2 **Internal Guidelines.** Member will be responsible for maintaining its own internal scope-of-practice guidelines governing use of the System at Member's clinic sites. These guidelines will specify, without limitation, the scope of authority, responsibility, and oversight of Member's personnel using the System. OCHIN will not be responsible for monitoring compliance with those guidelines.
4. **Provider Definition.** For purposes of this agreement, a "Provider" means a physician or other billable provider such as a nurse practitioner or physician's assistant.
5. **Technical Infrastructure.** OCHIN will procure and maintain the computer hardware to operate the System, and the networking equipment and telecommunications facilities needed to establish a wide-area network ("WAN") for communication of System data to and from Member. The computer hardware, networking equipment, and telecommunications facilities are referred to as the "Technical Infrastructure". The Technical Infrastructure will include:
 - 5.1 **Hardware.** Hardware having capacity sufficient to accommodate a production environment for the application software described on Exhibit A (including a Clarity reporting environment) based on usage estimates available to OCHIN as of the date of this agreement, a testing environment for the software described on Exhibit A, and a training environment.
 - 5.2 **Database and Operating Environments.** Operating environment software provided through third party vendors. This operating software will include: (a) a Cache post-relational database management system ("RDBMS") and production environments and (b) a database for Clarity reporting to be provided through Microsoft Corp. or Oracle Corporation.
 - 5.3 **Networking and Telecommunications.** The WAN connection to Member's primary local area network ("LAN") and all associated routers, equipment, telecommunications facilities, and cabling from the data center to the connection point. OCHIN will establish technical standards and requirements for Member to establish connectivity to the System WAN. Member will be provided a single connection to the System WAN. OCHIN will contract with third parties to provide telecommunications facilities.
6. **Data Center.** OCHIN has established a data center to house the central Technical Infrastructure. OCHIN contracts with a third party to provide and maintain the data center.
7. **Member Hardware Requirements.** Member will be responsible for obtaining, installing, and maintaining the hardware for use of the System within Member's LAN, up to the router or other point at which the System WAN connects to Member's LAN. Specific requirements for such hardware are described below.
 - 7.1 **Personal Computers.** At each of Member's clinic sites, Member will provide a number of personal computers sufficient for use of the System. OCHIN will designate a minimum number of computers that are considered sufficient for Member's number of System users. Member will be responsible for purchasing,

installing, and implementing software maintained on such computers (other than software listed on Exhibit A), and upgrades of the software. Member acknowledges that regular implementation of upgrades to such software is necessary for successful operation of the System.

- 7.2 Other.** Member is responsible for obtaining and maintaining accessories and peripheral devices for Member's personal computers, including individual scanning accessories, faxes, biometric equipment, and printers. Member is also responsible for the cost of (a) desktop equipment and workstations; (b) equipment necessary to accommodate desktop equipment (such as wall mounts and keyboard trays); (c) construction or renovation expenses relating to desktop equipment; (d) supplies (such as printer cartridges, paper, forms, and labels); and (e) all internal network connectivity hardware and installations, including all LAN hardware and appropriate cabling to connect to the System WAN, such as routers, hubs, servers, and communication lines among and between Member's sites and offices.

- 8. Limited Access.** Member will not make the System available to any third party except (a) Affiliates and Permitted Users or (b) as needed by consultants who are assisting Member or an Affiliate with respect to its operations (including, but not limited to, information technology and telecommunications), and who are bound by appropriate confidentiality obligations that are no less protective than those imposed upon Member under this agreement and an agreement of the type described in Section 21(k) of the Epic Agreement providing that such third party and its employees will not develop, design, or enhance any software product that has or is intended to have a similar purpose to or overlapping functionality with, or that competes with, or is intended to compete with, any software product offered by Epic now or in the future. Member will provide such access only to the extent such third parties must have access to the System in order to make proper use of or support the System in Member's operations. Member will not provide access to the System to any individual or entity that licenses software to health care facilities or any other potential competitor of Epic or OCHIN without OCHIN's consent (which shall not be unreasonably withheld) and Epic's consent. Member will have the same responsibilities to OCHIN for the actions and omissions of third parties, Affiliates, and Permitted Users allowed access to the System by Member

as Member has for its own acts and omissions.

- 8.1 "Affiliate"** means any entity which is now or hereafter, directly or indirectly, owned or controlled by, controlling or under common ownership or control with, or managed by or under a joint venture or partnership agreement with, Member.

- 8.2 "Permitted Users"** means the following persons, subject in each case to the requirements of Section 15 below: (a) Member, its Affiliates, and their collective employees, (ii) authorized agents, students (medical, nursing and other students), volunteers, nurses, physicians, medical staff members, technologists, clinicians, and other personnel on staff or otherwise associated with Member and its Affiliates, in each case to the extent involved in any way in the care of any patient involving the System; and (b) any medical practice of a physician who now or hereafter has the privilege to admit patients at, or who provides medical consultation at, Member or an Affiliate to the extent involved in any way in the care of any patient involving the System.

- 9. Lab Interface Requirements.** Member designates OCHIN as Member's representative for transmitting and receiving lab test orders and results. Member is required to have at least one operational interface with its lab vendor for use of the System and to update OCHIN promptly and on at least a monthly basis of any modifications requested by the designated lab vendor. Exhibit A lists OCHIN's standard lab interfaces. OCHIN will agree to develop and implement additional lab interfaces only to the extent and on terms agreed by OCHIN in its sole discretion.

- 10. Indexing Solution.** Member is responsible for scanning information in paper format at each of Member's clinic sites and for determining the amount of information to be scanned for the System. In the event Member is more than one week behind staying current on scanning information, OCHIN may require Member to provide OCHIN with a written plan for staying current.

- 11. Initial Payment.**

- 11.1 General.** Member's Initial Payment is intended to cover Member's share of license fees to Epic, a portion of fees to third party vendors, the costs of the Technical Infrastructure, and basic implementation charges.

11.2 Cache Licenses. The Initial Payment includes the number of licenses for InterSystems Cache indicated on the pricing information in Exhibit A. If Member's level of usage requires additional licenses for InterSystems Cache at any time, Member will be billed an additional license fee at OCHIN's then-current cost from Epic for each additional license required.

11.3 Payment. Member will pay the Initial Payment within thirty days of mutual execution of this agreement. If payment is late, interest will thereafter accrue at the rate of 10 percent per annum.

11.4 Adjustments. The Initial Payment for Member has been determined based on estimates of Member's usage levels as set forth in Section 13 of the Cover Pages. During the first quarter of each calendar year, the OCHIN Board will review Member's actual annual visits and will charge Member for any increased level of annual visits at the rates indicated on Exhibit A (or OCHIN's then-standard rates if different). OCHIN will give member a minimum of 90 day notice of any change in rates or adjustment to the annual visit count.

12. Future Payments.

12.1 All Members. The OCHIN Board may require OCHIN members to make additional payments to cover costs of additional or replacement computer hardware, software licenses, interfaces, enhancements, or comparable items, if due to an increase in visits substantially beyond estimates, changes in technology, equipment failure, or other causes beyond OCHIN's control. The OCHIN Board will allocate such amounts among users of the System in a manner it deems fair and equitable.

12.2 Member-Specific Items. At Member's request, OCHIN may agree to procure or provide for Member additional or customized goods or services related to the System. Member will pay OCHIN additional amounts for obtaining, implementing, and maintaining such goods or services (including any additional maintenance costs for the System generally that are attributable to such goods or services) at OCHIN's then-standard rates.

13. Per-Visit Fees.

13.1 Payment. Member will pay Per-Visit Fees on a monthly basis. Member will

pay OCHIN the Per-Visit Fees for each month within 30 days after the end of that month.

13.2 Adjustment. The Per-Visit Fee may be increased from time to time as the OCHIN Board determines necessary to cover actual and anticipated costs.

13.3 Service Adjustments. If Per-Visit Fees and funds from other sources (such as grants) are not adequate to cover OCHIN's costs, OCHIN may reduce or eliminate certain services. In addition, because OCHIN's agreements with various vendors are subject to change without OCHIN's approval, OCHIN may cancel these agreements if vendors fail to offer terms acceptable to OCHIN. In either case, Member will lose related software and services and will need to contract directly with the vendor if desired. OCHIN will give member a minimum of 90 day notice of any change in Per-Visit Fees.

14. Connectivity Costs.

14.1 General. The Connectivity Costs to be paid by Member are costs of telephone lines and similar telecommunication facilities needed to transmit System data from the Member's LAN to the data center.

14.2 Payment by Member. Connectivity Costs are payable monthly. Member will pay OCHIN the Connectivity Costs incurred by OCHIN within 30 days of invoice.

14.3 Additional Capacity. If Member substantially increases its visit volume and OCHIN is required to obtain additional bandwidth, Member will pay additional telecommunication facilities charges assessed by OCHIN.

15. Compliance. Member's use of the System must in all respects comply with the terms and conditions of the Epic Agreement, including, without limitation, covenants relating to limiting access to authorized users, exercising independent professional judgment in providing patient care, and protecting the trade secrets and other proprietary rights of Epic. Member will not be permitted to copy, reverse engineer, or modify code supplied by Epic, except as permitted by OCHIN and the terms of the Epic Agreement. Member will be required to take certain affirmative steps to assure that Member's users comply with the covenants set forth in the Epic Agreement. Additionally, Member's use of the System must comply with the terms of any agreements between Epic and OCHIN that

arise out of, amend, or relate to the Epic Agreement.

16. Implementation Project Participants

16.1 Implementation Project Personnel.

Each party will appoint an individual responsible for overseeing that party's responsibilities for implementation of the System at Member's Sites and acting as primary project liaison (each a "Project Manager") and an additional person responsible for directing such party's activities with respect to the project (each a "Project Director"). OCHIN will also designate one or more representatives to oversee implementation training (the "Training Implementers") and an OCHIN representative to oversee implementation with regards to claims and billing functions (the "Claims/Billing Implementer"). A single person may serve as both a Training Implementer and Claims/Billing Implementer. Member will also designate personnel to (a) oversee and be OCHIN's primary contact for building of claims interfaces and to manage claims formatting and billing issues; (b) act as OCHIN's primary contact person regarding Member's technical systems; (c) coordinate and serve as OCHIN's primary contact regarding optimization of the System; and (d) coordinate and serve as OCHIN's primary contact for training. With OCHIN's consent (which consent shall not be unreasonably withheld), Member may designate an individual to oversee more than one of the foregoing functions.

16.2 Personnel Continuity. OCHIN and Member will use reasonable efforts to maintain continuity in their personnel during implementation. Any unavailability of personnel, discontinuity in the project team, or other personnel-related cause will not excuse a party's failure to perform as specified in this agreement.

16.3 Member Personnel. Member will allocate sufficient personnel and resources to participate significantly during the initial implementation and on an ongoing basis for subsequent implementations and software upgrades. In the event that OCHIN believes that Member is not fulfilling the responsibilities described in this Section, OCHIN will notify Member in writing and Member will thereafter (a) fulfill its responsibilities by allocating sufficient personnel or resources; (b) fulfill its responsibilities by requesting OCHIN's assistance for which OCHIN will bill

Member at OCHIN's then-current hourly rates for time spent by OCHIN personnel in performing these functions; or (c) notify OCHIN that it disagrees with OCHIN's assessment that Member is not fulfilling the responsibilities described in this Section and the parties will resort to the dispute resolution procedures set forth in Section 21.

"Site Specialist" -- Member will designate employees as Member's "Site Specialists." It is recommended that the Site Specialists have a clinical background and expertise in use of the System. Member shall designate sufficient Site Specialists to provide support in the areas of users, the System, and training. Each Site must have a designated Site Specialist.

"Provider Champion" -- Member will designate at least one "Provider Champion" for each Site. The Provider Champion is expected to be a highly respected individual within the organization (preferably a physician or, if a physician is not available, the highest ranking provider possible) and will be the lead advocate for the System at the Site.

"On-Site Project Manager" -- Member will designate one full time employee (or equivalent) as Member's "On-Site Project Manager" for each Site. The On-Site Project Manager will oversee and be OCHIN's primary contact for Member's implementation and optimization of the System.

Member may designate a single person to serve in the capacities indicated above for more than one Site with OCHIN's consent, which will not be unreasonably withheld.

17. Member's Additional Implementation Responsibilities. Member has the following responsibilities in connection with implementing the System:

17.1 Member will adhere to OCHIN's standards and specifications, or Member's own standards and specifications if approved in writing by OCHIN, for desktop equipment (such as cabling, workstations, and printers), related desktop software, and connectivity.

17.2 Member will be responsible for any other costs or responsibilities relating to implementation of the System and not specifically assigned to OCHIN in this agreement, including, but not limited to: (a) backfill resources for staff training or practice time during implementation or upgrades, (b) building tables and master files for Member's service area within the System and participating in building shared tables and master files for all service areas, (c) the expenses of any services Member requests directly from Epic, (d) providing a facility conducive to the training of Member's personnel, and (e) staff expenses owing to new roles or responsibilities, such as implementation coordination, coordination liaison, end user training, and direct user support (application and technical).

18. Member's Ongoing Responsibilities. Following Go Live, Member will have the following responsibilities at each Site:

18.1 Support Personnel. Member will designate sufficient personnel at each Site ("Contact Personnel") to provide support services to Member's users on an ongoing basis. Member must assign at least one of these Contact Personnel to each of the following areas: billing office operations support, front office operations support, report writing, desktop equipment support, and network and telecommunications support. The same individual may be assigned to more than one of these support areas.

18.2 OCHIN Help Desk Contacts. Member will designate and identify to OCHIN no more than four of its Contact Personnel at each Site to be responsible for contacting the OCHIN help desk. OCHIN may decline to provide help desk support to other individuals, or may charge Member at OCHIN's then-current rates for help desk support provided to other individuals.

18.3 Security. Member will allocate resources within Member's organization and clinics that are sufficient to assure the level of security maintenance required by Section 27 below.

18.4 Upgrade Support. Member will substantially assist in any upgrades and in readying Member's organization for the transition to new releases, including any necessary planning, testing, or training. Member will implement the upgrades and new releases within time frames specified by OCHIN.

18.5 Ongoing Table Maintenance and Master Files Updates. Member will be responsible for the quality and timeliness of updates to the master files required for Member's service area and will contribute to the upkeep of tables and master files across all service areas.

18.6 Workgroup Participation. Member will designate personnel at each Site to serve as one member of each of the OCHIN Maintenance/Operational Team, Claims Workgroup, Reporting Workgroup, and IT Workgroup. Each Site is also encouraged to participate in the Clinical Oversight Workgroup in addition to Member's requirements under Section 3 above. The same person may serve as the member of more than one group.

19. Data Conversion. Member will pay any conversion costs attributable to the conversion of Member's financial data. OCHIN will convert demographic data at no cost using OCHIN's then-standard fields. If Member chooses to convert a sufficiently large amount of historical data that additional hardware must be acquired as part of the Technical Infrastructure, Member will pay the cost of the additional hardware and any related goods or services. The amount of data converted is at Member's discretion; provided, however, that OCHIN may require conversion of any data that OCHIN determines is reasonably necessary to assure that Member's use of the System will not be disruptive to other users.

20. Ownership.

20.1 Ownership of the System. Epic and other third-party vendors will retain ownership of any application source code or associated written materials used in the System. OCHIN will maintain complete ownership of the Technical Infrastructure hardware, with the exception of telecommunications facilities owned by third parties.

20.2 Ownership of Patient Information. Member will retain ownership of Member's patient information. Notwithstanding the foregoing, in order to facilitate continuity of health care and quality assessment activities, the System will utilize a master patient index ("MPI") permitting aggregation of each patient's data in a central patient record accessible by authorized users of the System. As part of this agreement, Member agrees to certain terms relating to the establishment of an organized health care arrangement in accordance with state and federal law (the "OHCA

Terms") attached as Exhibit H to this agreement. Member agrees that continued compliance with the OHCA Terms is a condition to continued access to the System and a material obligation of Member under this agreement.

20.3 HIPAA. In performing their obligations under this agreement, Member and OCHIN will comply with applicable provisions of the Health Insurance Portability and Accountability Act of 1996 and regulations promulgated thereunder ("HIPAA"). Without limiting the generality of the foregoing, Member and OCHIN agree to comply with the HIPAA compliance terms set forth in Exhibits D and D-A to this agreement, and the OHCA Terms.

20.4 Funding Sources. Member will not satisfy any financial obligations incurred in connection with this agreement through use of funds obtained from state or federal governmental entities that give such entities an interest in the System or related property.

21. Warranties.

21.1 General. OCHIN warrants to Member that the software modules described on Exhibit A will be free from Substantive Program Errors to the extent those modules are so warranted by Epic in Section 8 of the Epic Agreement. As used in this Section 21, "Substantive Program Error" has the same meaning ascribed to that term in the Epic Agreement.

21.2 Third Party Vendors. As to any software module listed on Exhibit A that is provided through a third party other than Epic, OCHIN makes the same warranty to Member that the third party makes to OCHIN with respect to the module.

21.3 Customized Code. Any customized code that is added to or modifies the software modules listed on Exhibit A is warranted to be free from Substantive Program Errors only on condition, and to the extent, that the customized code is warranted by Epic under Section 8(d) of the Epic Agreement.

21.4 Notice, Cure, and Response Time. Any claim under the warranty set forth in this Section 21 will be subject to the notice requirements, cure periods, and response time expectations set forth in Sections 8(a) through 8(c) of the Epic Agreement; provided, however, that

(a) notice of any warranty claim under this agreement shall be made to OCHIN rather than Epic, and (b) the Substantive Program Error may be remedied by either OCHIN or Epic.

21.5 Exclusive Remedy. Member's sole and exclusive remedy for breach of any warranty provided in Section 21.1 through 21.3 above shall be termination of this agreement with respect to the particular software module containing the Substantive Program Error and refund of any portion of Member's Initial Payment attributable to that module.

21.6 Software Performance Expectations. OCHIN also warrants that the System will meet the performance expectations set forth in Exhibit 10 to the Epic Agreement to the same extent that, and under the same conditions under which, Epic has provided such warranties to OCHIN. Member's exclusive remedy for any failure to satisfy this warranty shall be a refund of that portion of Member's Initial Payment attributable to Epic software license fees refunded to OCHIN. Member will cooperate in making all software configuration changes required by Epic pursuant to Exhibit 10 of the Epic Agreement and will pay its proportionate share of any deductible required under that exhibit.

21.7 Disclaimer. THE ABOVE EXPRESS LIMITED WARRANTIES ARE EXCLUSIVE AND ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE AND TITLE, AND ANY IMPLIED WARRANTY AGAINST INTERFERENCE WITH MEMBER'S ENJOYMENT OF THE SYSTEM OR AGAINST INFRINGEMENT. Member acknowledges that no employee of Epic or OCHIN, or any other party, is authorized to make any representation or warranty beyond that stated in this agreement.

22. Indemnification.

22.1 By Member. Member will indemnify, defend, and hold harmless OCHIN and its officers, directors, employees, and agents from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this agreement by OCHIN and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by

Member. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County of Monterey. OCHIN shall reimburse Member for all costs, attorneys fees, expenses and liabilities incurred with respect to any litigation in which OCHIN is obligated to indemnify, defend and hold harmless Member under this Agreement.

22.2 By OCHIN. OCHIN will indemnify, defend, and hold harmless Member from claims of third parties arising out of this agreement and relating to intellectual property. This indemnification obligation is limited to circumstances in which the Claim is based on infringement of U.S. patent, copyright, or trade secret. OCHIN will also indemnify, defend, and hold Member harmless against Claims by EPIC that arise out of the EPIC license agreement, provided that the Member is in full compliance with, and has satisfied all of its obligations under this Agreement.

22.3 Indemnification Procedures. Any party seeking indemnification under this Section 22 must promptly notify the indemnifying party of the Claim for which indemnification is sought and provide the indemnifying party with the information reasonably required for the defense of that Claim. The party seeking indemnification shall grant the indemnifying party exclusive control over defense and settlement of the Claim.

22.4 Claims. For purposes of this Section 22, "Claims" include, without limitation, all claims, demands, actions, liabilities, losses, fines, damages, and expenses, including, without limitation, settlement costs and reasonable attorneys' fees at or before trial and on appeal or petition or review.

23. Responsibility for Use.

23.1 Customer Responsible. Certain components of the System allow Member to maintain patient medical records in a computerized, digital format. The System is intended to assist with the accuracy of, and improve accessibility to, medical records. The System, however, does not determine the content of medical records. As with manually kept records, records kept using the System may contain errors, whether resulting from incorrect recording of information, software errors, or other causes. Member and authorized users are solely responsible for ensuring that errors that may occur

in medical records kept using the System are detected and corrected, and that patient care is not compromised on account of such errors.

23.2 Professional Judgment. Physicians and other authorized users should use the system as a resource in the exercise of professional medical judgment, not as a substitute for that judgment. Member acknowledges that neither OCHIN nor Epic practice medicine.

23.3 Medical Care. Member and authorized users are solely responsible for any medical diagnosis, treatment, and advice rendered with the assistance of the System.

24. Dispute Resolution. Disputes initiated by either Member or OCHIN that arise out of Member's use of the System or the terms of this agreement will be resolved through the following procedures:

24.1 The complaining party will write a letter to the other party detailing the basis of the dispute.

24.2 The party receiving the letter will be required to respond in writing or by telephone within 15 working days of receipt. Any party failing to respond within this time frame will be responsible for the full cost of any resulting arbitration proceeding.

24.3 Both parties will be required to meet and negotiate within twenty (20) working days of the date on which the initial letter describing the complaint was received. Any party failing to attend this negotiation proceeding (and receiving adequate notice of the proceeding) will bear the full costs of any resulting arbitration proceeding unless both parties fail to attend in which case arbitration costs will not be affected. Items that remain unresolved after negotiation become elements of a bona fide dispute.

24.4 A bona fide dispute will be resolved through arbitration, except that either party may seek injunctive relief from a court of competent jurisdiction. The award rendered by the arbitrator will be final and binding, and judgment may be entered on the award in any court having jurisdiction. If the dispute involves Epic or another third-party vendor, governing law and venue for the arbitration proceeding will be as set forth in the applicable third-party agreement. Otherwise, the dispute will be governed by California law and

arbitration will occur in Salinas, California, before a single arbitrator.

- 25. Limitation of OCHIN's Liability.** OCHIN will be liable to Member for any claim arising out of this agreement only to the extent that the claim is covered by OCHIN's then-current commercial general liability insurance which coverage is not less than that detailed in the Monterey County PM Agreement. OCHIN will not be liable for incidental, special, or consequential damages or lost profits or revenues resulting from or in any way related to Member's use of the System, including claims based on the negligence of Epic, OCHIN, or other third-party vendors. OCHIN will not be responsible for errors or damages caused by or resulting from input errors, changes by Member to any software provided by OCHIN, or combinations of software provided by OCHIN with other software.

26. Termination.

26.1 For Default. Either party may terminate this agreement if the other party defaults in the performance of its material obligations and does not cure the default within 30 days after notice describing the default. In addition, either party may terminate this agreement if the other party defaults in the performance of the same or substantially the same material obligation more than two times in any 12-month period, regardless of whether the defaults are cured. In addition and without limiting the foregoing, OCHIN may terminate this agreement with respect to a particular Site in the event a default is material with respect to that Site's use of the System or that Site's obligations under this agreement, even if the default would not be considered material in relation to Member's total use of the System or obligations under this agreement.

26.2 By Member for Convenience. Member may terminate this agreement on 12 months' written notice. Member will be responsible for funding any services or expenses incurred by OCHIN directly or indirectly as a result of activities related to Member's exit, including expenses related to facilitating the removal of the System, guaranteeing the privacy and security of System data, and converting System data to a new format.

26.3 By OCHIN. OCHIN may terminate this agreement on 12 months' notice to Member upon determination by the OCHIN Board.

27. System and Data Security.

27.1 Disclosure of Patient Information.

OCHIN will not disclose Member's patient information except (a) to administer and manage the business of OCHIN, including administration of the System, (b) to satisfy applicable legal requirements, (c) to comply with the terms of the Epic Agreement (including making "de-identified" patient data, which is cleansed of all patient-identifying information under the HIPAA Regulations set forth at 45 CFR § 164.574, available to Epic for use in connection with its EpicData service), (d) to participate in a state-wide data warehouse in the state of Member's principal place of business that will contain aggregated and de-identified patient data, (e) in compliance with the terms of Exhibit D, which is intended to include all provisions required in a "business associate contract" under applicable HIPAA regulations, (f) in compliance with the terms of Exhibit D-A, which include provisions required in a limited data set use agreement under HIPAA, or (g) in compliance with the OHCA Terms.

27.2 Security Provided by OCHIN. OCHIN (through a third party) will host data servers and other mechanisms that will store, protect, and provide controlled access to Member's patient information. This environment will be physically secure and provide the appropriate technical security measures required for such sensitive information and required by law, including current HIPAA regulations. OCHIN will make best efforts to comply with future HIPAA regulations concerning data security.

27.3 Security Provided by Member.

Because Member is subject to HIPAA, Member is also independently responsible for protecting the privacy and security of PHI (as defined in Exhibit D) contained within the System. To satisfy this responsibility, Member must establish, within the appropriate time frame, any privacy and security policies or procedures that are necessary to ensure that Member's own operations and the common platform satisfy the requirements of HIPAA. Member will ensure that Member's policies and procedures regarding access to patient information stored in the System respect the privacy and confidentiality rights of patients and maintain the integrity of the overall System. These policies and procedures should

include, but are not limited to, maintaining current user lists, limiting user access, and managing typical network security processes (such as passwords). Further, Member agrees to implement policies and procedures consistent with any security standards or guidelines approved by participants in the OHCA Terms.

27.4 Additional Member Security Responsibilities.

In addition to any other security responsibilities of Member under this agreement, OCHIN will enable Member to set security authorities for Member and its personnel with respect to the System, subject to limitation by OCHIN. Member is not permitted to give more than two individuals the right to set those security authorities. Member is responsible for ensuring that all actions taken by such individuals are in compliance with the Epic Agreement and applicable laws and regulations, and will indemnify OCHIN against any misuse of security authority.

28. Assignment. OCHIN may assign this agreement to any successor organization that acquires substantially all the assets of OCHIN. Neither Member nor OCHIN may otherwise assign any rights or obligations under this agreement without the other party's written consent. This agreement shall be binding upon and inure to the benefit of the parties' respective successors and permitted assigns.

29. Notices. Notices and other written communications under this agreement shall be deemed effectively given when delivered in person or by facsimile transmission, four days after being deposited for delivery by certified mail, return receipt requested, or one business day after being deposited for delivery by overnight courier, addressed as stated on the Cover Pages. The original of any notice sent by facsimile transmission shall be sent promptly by certified mail or overnight courier to the recipient. Either party may change the address at which it receives notices by giving notice of the change to the other party.

30. Governing Law. This agreement shall be governed by California law without regard to conflicts of law principles.

31. Force Majeure. Neither party shall be held responsible because of any delay in performance or noncompliance with any provisions of this agreement that results from an unforeseeable act, event, or omission beyond its reasonable control and without its fault or negligence, including but not limited to, negotiation deadlock, strikes,

walkouts, civil commotion, riots, wars, fires, explosions, floods, earthquakes, embargoes, or acts of civil or military authorities.

32. Payment; Late Fees. Unless otherwise provided in this agreement, payment is due 30 days after invoice date.

33. Severability. If any provision of this agreement is held invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (a) the affected provision shall remain in full force and effect in all other jurisdictions and (b) all other provisions shall remain in full force and effect.

34. Amendment. Any amendment to this agreement must be in writing and signed by both parties. Amendments may be made in the form of additional exhibits to this agreement.

35. Taxes. Member is responsible for all taxes arising out of this agreement or Member's use of the System, including sales taxes, use taxes, business and occupation taxes, gross receipts taxes, and personal property taxes, including any assessments or taxes imposed by foreign governments, but excluding corporate franchise taxes imposed on OCHIN, taxes based on OCHIN's gross or net income, and taxes required to be paid with respect to OCHIN's officers, employees, and agents engaged in the performance of this agreement (including unemployment insurance, social security, and payroll tax withholding). If OCHIN is required to pay any such taxes or penalties or interest relating to items allocated to Member in the preceding sentence, Member will promptly pay to OCHIN an amount equal to any such amounts actually paid or required to be collected or paid by OCHIN. If Member is exempt from paying applicable sales or use taxes, then Member agrees to provide OCHIN, upon OCHIN's request, with a copy of Member's tax exemption certificate or other evidence satisfactory to Member demonstrating that Member is exempt from state, county, city or other local sales or use taxes. Member also agrees to notify OCHIN in a timely manner of any change in Member's sales or use tax status.

36. Insurance Requirements. Without limiting OCHIN's duty to indemnify, OCHIN shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

36.1 Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage,

Independent OCHINs, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

36.2 Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

36.3 Workers' Compensation Insurance, if OCHIN employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

36.4 Professional liability insurance, if required for the professional services being provided (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the OCHIN shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

36.5 Other Insurance Requirements: All insurance required by this Agreement shall be with a company acceptable to the County: In general, insurance companies should be rated A or better, and be an admitted insurer in the State of California. The initial policies and endorsements provided by OCHIN are acceptable to the County, but the County reserves the right of refusal for any changes in carrier or policy limits during the term of this Agreement, which shall not be unreasonably withheld. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required

herein shall continue in effect for a period of three years following the date OCHIN completes its performance of services under this Agreement.

36.6 OCHIN shall give the County written notice at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof of each liability policy. Each policy shall provide coverage for OCHIN and Additional Insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

36.7 Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the OCHIN's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the OCHIN's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11 85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

36.8 Prior to the execution of this Agreement by the County, OCHIN shall file certificates of insurance with the County's Contract Administrator and County's Purchasing Division, showing that the OCHIN has in effect the insurance required by this Agreement. The OCHIN shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

36.9 OCHIN shall at all times during the term of this Agreement maintain in force the General Liability, Professional Liability,

and Workers' Compensation insurance coverage required under this Agreement. OCHIN shall at all times while providing hourly professional services to the County maintain in force the Business Automobile liability insurance. OCHIN shall send, without demand by County, annual certificates to County's Contract Administrator and County's Purchasing Division. If the certificate is not received by the expiration date, County shall notify OCHIN and OCHIN shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by OCHIN to maintain such insurance is a default of this Agreement, which entitles County to terminate this

agreement under the circumstances described in Section 22.1 above.

36.10 In the event OCHIN is required to obtain additional insurance beyond its current coverage as a result of this Section 36, Member will reimburse OCHIN for the cost of obtaining and maintaining such additional insurance, at its sole discretion, to terminate this Agreement immediately.

Exhibit L

Care Everywhere Module

Unless otherwise defined, capitalized terms in this exhibit have the meanings given on the Cover Pages or the other exhibits.

A. Background. Epic and OCHIN are parties to the Epic Agreement, pursuant to which OCHIN has obtained the right to offer Member access to the Care Everywhere module ("Care Everywhere") as an additional component of the System. This exhibit sets forth the terms on which OCHIN will provide Member with access to and use of Care Everywhere.

B. Member Consent to Functionality. Subject to the terms and conditions of this exhibit, OCHIN will implement Care Everywhere, which provides the following functionality:

- Member's employees may query patient records of any Care Everywhere Member. For purposes of this exhibit, "Care Everywhere Member" means an organization, other than OCHIN and its members, that participates in Epic's Care Everywhere community.
- Member's clinicians may view patient records from Care Everywhere Members.
- Care Everywhere Members may query and view Member's patient records.

Member consents to the uses of patient data described above.

C. Patient Authorization. OCHIN shall configure Care Everywhere to require a patient's authorization for the viewing of records by Care Everywhere Members.

D. Fees. Initially, there is no additional fee for implementation and use of Care Everywhere. If, in the future, Epic determines to impose fees on OCHIN for use or maintenance of Care Everywhere, OCHIN and Member will either reach an agreement with all members on an appropriate fee structure and amount or will cease the use of Care Everywhere. If OCHIN chooses to cease use of Care Everywhere for any reason, OCHIN shall give Member 60 days notice of the intent to cease use of Care Everywhere, and, subject to approval by Epic, OCHIN will continue to allow Members access to Care Everywhere at no charge to Member for 60 days from the date of notice by OCHIN.

E. OCHIN Responsibilities. OCHIN will:

- Create reports of requests by Care Everywhere Members for Member's patient records.
- Comply with requirements of the Epic Agreement relating to Care Everywhere and the attached Rules of the Road established by Epic for use of Care Everywhere (together, as may be amended or supplemented from time to time, the "Epic Requirements"), to the extent applicable to acts or omissions of OCHIN in providing Member access to Care Everywhere.
- Comply with the requirements of section 5(i) of the attached Rules of the Road relating to reporting of violations. OCHIN will provide audit reports of Care Everywhere violations as requested by Member.

Prior to agreeing to or voting on amendments, changes or supplements to the Rules of the Road established by Epic as specified in Section 7 of Rules of the Road, OCHIN shall consider such proposed amendments or changes at the OCHIN Board level and thereby seek to obtain input from OCHIN members regarding the appropriate response to Epic.

F. Member Responsibilities. Member will:

- Implement procedures, as reasonably requested by OCHIN, to facilitate audit of Member's personnel.
- Take reasonable steps to prevent misuse of Care Everywhere by Member's personnel.
- Comply with the Epic Requirements, to the extent applicable to acts or omissions of Member and its personnel as users of Care Everywhere.

G. Termination. OCHIN may terminate Member's access to and use of Care Everywhere upon termination of this agreement by OCHIN pursuant to Exhibit B or at any time if Care Everywhere is no longer available from Epic on the terms set forth in the Epic Agreement as of the date of this exhibit. If, however, Epic elects to impose fees on OCHIN for use or maintenance of Care

Everywhere and Member and OCHIN are unable to agree on an appropriate fee structure and amount, the termination of Care Everywhere will be pursuant to paragraph D above. Member will terminate its access to and use of Care Everywhere upon termination of this agreement pursuant to Exhibit B.

H. Disclaimer of Warranties. OCHIN makes only those representation and warranties regarding components of the System that Epic makes to OCHIN regarding those components. Therefore, **OCHIN provides Care Everywhere "AS IS" without any warranty, express or implied, and OCHIN hereby disclaims any and all such warranties including without limitation warranties of merchantability, accuracy, fitness for a particular purpose and title, and any implied warranty against interference with Member's enjoyment of the program property or against infringement.**

I. Indemnification.

1. Description of OCHIN's Obligations to Epic. Under the Epic Requirements, OCHIN, Care Everywhere Members, and Epic are expected to create an Ombudsman Committee, which, along with Epic will help oversee compliance with the Epic Requirements, including without limitation, validating users of Care Everywhere, recommending modifications to the Rules of the Road, determining violations of the Rules of the Road, and establishing appropriate remedies for such violations (such as limiting or removing a Care Everywhere customer's access to Care Everywhere) (collectively the "Oversight Activities"). The Ombudsman Committee may include representatives from Member's organization, OCHIN, Care Everywhere Members, and Epic. Epic would like to protect those customer representatives, their organizations, and Epic from liability for agreeing to help with the Oversight Activities. Therefore, to the extent permitted by the

law applicable to OCHIN, OCHIN has agreed to hold harmless, indemnify, and defend Ombudsman Committee Members (and to the extent Epic is providing any Oversight Activities, Epic), and each of their officers, employees, contractors, and agents (collectively the "Indemnitees") from and against any Claim brought by OCHIN, OCHIN's End Users or OCHIN's Patients asserted against the Indemnitees or any of them, arising out of, or in any way connected with the Oversight Activities including without limitation claims based on an Indemnitees' negligence. For purposes of this exhibit: (a) "Claim" means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation, reasonable attorneys' fees; (b) "OCHIN's End Users" means any individual or entity to whom OCHIN provides access to any Program Property (as defined in the Epic Agreement) if the Claim relates to any situation in which the individual or entity had or would have had access to the Program Property through OCHIN; and (c) "OCHIN's Patients" means any patient of OCHIN or OCHIN's End Users or any person making a claim as a result of financial or familial relationship with such patient, in each case if the Claim relates to any situation in which the patient was receiving or seeking medical care from OCHIN or OCHIN's End Users. Capitalized terms used in this paragraph without definition have the meanings given in the Epic Agreement.

2. Member's Obligations to OCHIN. In addition to any other indemnification obligations under this agreement, Member will hold harmless, indemnify, and defend OCHIN and its officers, employees, contractors, and agents from and against any Claim arising under or from OCHIN's obligations to Indemnitees as described above to the extent attributable to acts or omissions of Member.

Attachment I to Exhibit L

Epic Rules of the Road for Care Everywhere

Care Everywhere ("CE") is a tool that allows Epic customers to make patient data available to other Epic customers that also license CE ("CE Customers"). These Rules of the Road ("Rules") are meant to establish the framework for the exchange of patient information between CE Customers, including circumstances under which You may seek patient information from another CE Customer.

For purposes of these Rules, the CE Customer requesting patient information is the "Receiving Customer" and the CE Customer providing the patient information is the "Sending Customer".

1. You agree that patient information You obtain using CE will only be used for the treatment of patients. By making a request for a patient's information using CE, You warrant and represent to the Sending Customer that the patient information You are requesting will be used only for the treatment of that patient. You understand that You may not request patient information using CE for any other purpose, including without limitation, research, marketing, or fundraising purposes. For purposes of these Rules, "treatment" will have the meaning assigned to it under HIPAA (see 45 CFR 164.501), which is currently defined as follows: "Treatment means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination of management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another."
2. If a CE Customer requests a review of their patient records accessed by You using CE, You agree to fully cooperate with the review, including providing detailed information as to what information You accessed, who accessed it, and why it was accessed, and will provide the requested information within five (5) days of the request.
3. You agree to implement HIPAA compliant security and access measures with respect to providing access to CE functionality which will include, at a minimum:
 - a. training CE end-users regarding the appropriate (and inappropriate) use of CE
 - b. using individual logins and passwords for each user of the CE functionality; You will not create any shared or public logins or passwords used to access the CE functionality
 - c. using and monitoring the audit capabilities of CE
 - d. requiring that all patient information obtained using CE be treated as any of Your other clinical documentation/patient information
 - e. appointing one employee as Your Care Everywhere Coordinator who will act as Your liaison with other CE Customers and Epic regarding CE, and whose responsibilities will also include timely communication and deployment of information regarding CE within the liaison's organization.
4. You agree that You will not restrict any other CE Customer from obtaining any of the patient information available through the CE Item with the following exceptions:
 - (i) Information for a patient You have marked in the system as having opted out of the use of Care Everywhere to transfer Your records for such patient;
 - (ii) Information for a patient marked by You in the system as having a specific status that is available in Care Everywhere (e.g. VIP patients) to restrict the transfer of information for patients having such status; or
 - (iii) Encounter Summary reports for a patient if You have chosen not to make such information available for any patient via Care Everywhere.
5. CE creates a community of users, all with the same goal of improving patient care by making additional patient information available to other providers. It is critical that all CE Customers cooperate with each other regarding issues that may arise regarding use of CE. As such, it is not Epic's role to act as a policing authority to enforce these Rules. At the

request of a majority of the CE Customers, Epic and the CE Customers will work together to define and create a committee to oversee compliance by CE Customers with the Rules of the Road (the "Ombudsman Committee"). However, until such time as an Ombudsman Committee is created and implements a new procedure to enforce the Rules of the Road, if You believe that another CE Customer has violated these Rules and are unable to resolve the issue with such customer, then the following procedure will apply ("Review Procedure"):

- (i) You may file a petition with Epic that identifies the CE Customer allegedly in violation and includes a complete description of the alleged violation and any supporting documentation.
- (ii) All CE Customers named in the petition agree to cooperate with any investigation conducted concerning violations.
- (iii) For purposes of the use of CE only, Epic will determine, in its sole discretion, whether a violation occurred and the appropriate CE remedy for such violation, which may include, without limitation, permitting individual CE Customers to elect to discontinue exchanging information with the individual who violated the requirements (if possible) or with the CE Customer in violation or entirely removing the CE Customer in violation from the CE community (either permanently or for a specified period of time). You agree to accept Epic's decision and to permit Epic to modify any configurations in Your system to carry-out its decision. You agree not to sue Epic, its officers, employees, contractors, or agents with respect to Epic's action or inaction in the Review Procedures, including without limitation, Epic not removing a CE Customer from the CE community, or Epic removing You or another CE Customer from the CE community, or any harm to a patient because You or Your end users do not have access to the patient's information as a result of Epic's action or inaction.
- (iv) You will use disciplinary procedures with respect to inappropriate use of CE information in the same manner as You do for inappropriate use of Your own similar information.

- 6. You acknowledge and agree that any Epic customer using CE is a third party beneficiary of these Rules of the Road and shall have the right to enforce any violations of them in the same manner as if such Epic customer had a direct contract with You containing these Rules of the Road. Each CE Customer's rights with respect to a violation of the Rules of the Road are not limited by any remedies provided in the Rules of the Road. This provision may not be modified by the Ombudsman Committee.
- 7. These Rules of the Road are expected to be continually refined. Changes to the Rules of the Road may be proposed by Epic, or the Ombudsman Committee if one is created, from time to time and put to a vote of all the CE Customers. Epic, or the Ombudsman Committee, will inform the Care Everywhere Coordinator of each CE Customer of the results of the vote, and if Epic and a majority of the CE Customers approve a proposed rule (at an advisory committee, at UGM, or otherwise), then the Rules of the Road will be amended to include the proposed changes and will apply automatically to all CE Customers. Each Care Everywhere Coordinator will communicate the result and effect of the vote within the coordinator's organization. The updated Rules will be posted on Epic's user web site for use of CE and generally will be effective forty-five (45) days after the date of posting unless the change, in Epic's determination, is meant to address an issue of immediate concern.

Capitalized terms used in this attachment without definition have the meanings given in the Epic Agreement.

Exhibit M

Help Desk / Work Orders Responsibilities And Expectations

Unless otherwise defined, capitalized terms in this exhibit have the meanings given on the Cover Pages or the other exhibits.

Overall Process

OCHIN members are supported by their organizations' subject matter experts as a first level of assistance with OCHIN systems. Larger member organizations additionally have an application help desk as a second level of assistance. A third level of assistance is the OCHIN Help Desk, which monitors requests received through OCHIN's work order management system (called work orders) and maintains a centralized Help Desk phone during extended office hours.

Once a problem or request is entered in the work order management system, it is automatically assigned to the OCHIN technician responsible for the type of assistance needed. The OCHIN technician will assess the request and either manage it to conclusion—or, if reassignment is required, ensure an effective handoff for another technician's attention and management to completion. All activities documented in the work order are date/time stamped by the handling technician.

Scope of Use of Work Order Management System

A work order management system is used by member organizations to request information, solutions, and services from OCHIN. It is used by OCHIN staff to receive member requests, document status as the request is being worked, and communicate resolution. It is OCHIN's goal to manage and fulfill requests through this system in a way that ensures quality work and reasonable and responsive outcomes.

Work order requests that are determined to be development project requests will be closed out of the work order management system. An e-mail will be sent to the requestor indicating that the work order is being closed out of the system and will be handled as a development project. Development projects are subject to OCHIN's review, prioritization, and schedule process.

Member Responsibilities and Expectations

- Provide first level of support, and in some instances, second level help desk support to their organization.

- Use OCHIN's electronic work order process as the primary mode of communication for work order request and other support needs.
- During Member's business hours, only use OCHIN Help Desk phone for critical or high-level issues and/or unique support situations. The issue must still be entered into the work order management system.
- Use OCHIN's electronic work order process appropriately and follow all written work order management policies and procedures provided to Member.
- Assign the appropriate priority level to work order request(s) (see *Acknowledgement and Prioritization Expectations/Standards* section below)
- Ensure that work order requests are clear, concise, and include the 6 w's:
 - Who (user name, Epic ID, and role)
 - What (what happened and what were you expecting to happen?)
 - When (date/time)
 - Why (if known)
 - Where (clinic, workstation/printer ID, field, as appropriate; screen-print if needed for clarification or example)
 - Workaround (is there one, or is the problem causing a work stoppage?)
- Respond timely to OCHIN's reasonable request for additional information or actions (e.g. requested information, testing, clarification, etc). Failure to appropriately and timely respond to OCHIN's reasonable requests (e.g. additional information, testing, clarification, etc.) may cause due dates to be revised.

OCHIN Responsibilities and Expectations

- Provide 2nd level or 3rd level help desk/work order support via electronic work order management process and OCHIN Help Desk phone.
- Maintain a centralized Help Desk phone during extended office hours.

- If necessary and with Member's approval, modify the priority level assigned by Member for Member work orders to reflect the appropriate prioritization standard (as described below).
- Review all incoming work orders to ensure that critical and high priority work orders are handled within the below acknowledgement and initiation of action timeline expectations.
- Combine duplicate work orders into the original work order and close the second one with appropriate documentation.
- OCHIN/Member correspondence and communication regarding a work order will be documented in the work order management system.
- Any time that a work order is transferred from one OCHIN analyst to another, OCHIN will send the requestor an e-mail and document the reason for the transfer.
- After 10 business days of no response from Member for additional information, OCHIN will close a work order request. Within this 10 business day time period, OCHIN will contact Member by telephone or e-mail for second and third requests for information.

Acknowledgement and Prioritization Expectations/Standards

OCHIN will use reasonable efforts to provide support services in accordance with the prioritization of reported problems described below for those support functions provided directly by OCHIN personnel. The initial determination of priority shall be made solely by Member in its reasonable discretion. As specified in the OCHIN and Epic Agreement, certain support and maintenance services are provided by Epic rather than by OCHIN personnel. Epic's commitments to OCHIN regarding response times are provided below for reference, but are not guaranteed by OCHIN.

As part of the initiation of action phase, OCHIN will conduct an initial analysis of the issue/problem and determine a tentative resolution and/or workaround due date that will be shared with the member. ***Upon receipt of the due date and within 24 hours, Member will agree or disagree with the due date (failure to do so, will be an indication of agreement with the due date).*** If Member disagrees with the due date, the parties shall promptly escalate the issue to the Chief Operating Officer of OCHIN and the equivalent officer of Member's organization. ***The goal is to have OCHIN and Member mutually agree on reasonable due dates.***

Since some Member requests may require enhancements to the System, involve specialty builds or pre-scheduled imports, or otherwise require extensive consultation between the requestor (Member) and OCHIN or between Epic

and OCHIN, due dates can be revised following analysis or unforeseen problems. Whether it is the initial or revised, the goal is to have OCHIN and members mutually agree on due dates. Requestor's failure to timely respond to OCHIN's reasonable request (e.g. request for information, testing request, clarification request, etc.) may cause additional due date changes. All due date changes are documented in the work order management system for direct and immediate communication to Member.

Level 1 – Critical: Problem either stops normal processing and impacts one or more clinics, or threatens the quality of clinical data.

OCHIN – Reasonable efforts will be made to acknowledge the problem within 1 hour, initiate action immediately thereafter, and resolve the problem within 8 hours. If a Level 1 problem occurs, OCHIN personnel shall diligently and continuously work on resolving the problem (before, during and after normal business hours) and if the problem cannot be promptly resolved, OCHIN shall escalate its response and commit additional and more experienced personnel to resolving the problem.

Epic Commitment to OCHIN – After being notified of the issue/problem by OCHIN, acknowledgement of the problem within 1 hour and initiation of action immediately thereafter

Note: A critical problem should be phoned into OCHIN immediately, followed by entry into the work order management system. Phone: 1-971-533-6293 Mon-Fri 7am-6pm.

Examples:

- Epic Practice Management is down, not available to any Member.
- Connectivity is down and not available at one or more member clinics.
- Overall system performance is substantially impaired

Level 2 – High: Problem impacts a component of normal processing—making that portion of Epic unusable—at one or more clinics.

OCHIN – Reasonable efforts will be made to acknowledge the problem within 4 hours, initiate action within the same day, and resolution within 1 business day.

Epic Commitment to OCHIN – After being notified of the issue/problem by OCHIN, acknowledgement of the problem within 4 hours and initiation of action within the same day

Examples:

- Discovered Members could do self-pay posting across Member organizations
- Claims batch does not run

Level 3 – Normal: Problem is of routine nature and does not substantially impact the use of Epic at one or more clinics.

OCHIN – Reasonable efforts will be made to acknowledge the problem within 1 business day and initiate action within 5 business days.

Epic Commitment to OCHIN – After being notified of the issue/problem by OCHIN, acknowledgement of the problem within 1 business day

Examples:

- Routine adds/changes to system (e.g., new internal use code, fee schedule adds, address change, new chart station, new payor plan)
- Add new user/change user security
- Add provider to master file
- Inquiries about how to use the System or potential new uses (e.g., a new flag)
- Inactivate a user (may be escalated to high or critical as required)
- Requests for additional training
- A downed printer that does not stop daily processing (e.g., Provider View Schedule, Daily Arrival Report)
- Issues with reports

Level 4 – Low: Problem is of minor nature and does not substantially impact the use of the System by individual or departmental group of users.

OCHIN – Reasonable efforts will be made to acknowledge the problem within 1 business day and initiate action within 10 business days.

Epic Commitment to OCHIN – After being notified of the issue/problem by OCHIN, acknowledgement of the problem within 1 business day

Examples:

- Letters for follow-up appointments (new functionality)

- Remove provider from provider table

Exhibit N

Third-Party Contracts

Unless otherwise defined, capitalized terms used in this exhibit have the meanings given on the Cover Pages or the other exhibits.

CPU-to-CPU Interface Agreement with Quest Diagnostics Incorporated/LabCorp or Laboratory Services HUB Agreement with Quest Diagnostics Incorporated (relating to lab interface)

First Databank Standard License Agreement with First Databank, Inc. (relating to medication file)

Master Software License, Services and Support Agreement with Hyland Software, Inc., and related business associate agreement (relating to document management)

Prescriber Aggregator Master Agreement with SureScripts, LLC, and related Information Use and Disclosure Agreement (relating to pharmacy interface)

License Agreement by and between OCHIN, Inc., and Intelligent Medical Objects (relating to Personal Health Terminology product)

Services Agreement with Pentaho Corporation (relating to online reporting)

Software License and Services Agreement with 3M Company (relating to medical necessity dictionaries)

Any trading partner agreements included in Exhibit J

Section 22.1 of Exhibit B describes Member's obligations with respect to these third party contracts.

Exhibit O
Contract Project Manager

1. **Project Manager.** OCHIN will provide for Member the services of a contract Project Manager.
 - 1.1. **Additional Services.** This service is in addition to OCHIN's standard project management. The contract Project Manager will work as Member's advocate in cooperation with OCHIN's Project Manager.
2. **Reporting.** The contract Project Manager will report to Member's Project Executive for the duration of the assignment.
 - 2.1. **Cooperation.** In providing the services required by this Agreement, Project Manager shall cooperate with Member to maintain the integrity of the Member to achieve the Member's mission and operational goals. PROJECT MANAGER shall provide input to management as it relates to the SYSTEM. Project Manager shall comply with the Standards (and as they may be revised in the future), as they relate to Project Manager's business relationship with the Member and its affiliates, employees, agents, contractors and suppliers. Project Manager shall not make agreements with an outside party or agency without the prior approval of the Member's Information System's Manager, Director of Clinic Services or designee.
3. **Right of Refusal.** Member retains sole right of refusal of any candidate proposed by OCHIN.
 - 3.1. **Qualifications.** OCHIN will provide the resume, certifications, and licenses of a candidate, as appropriate, to show their qualification.
4. **Removal for Cause.** Member retains the right to remove and request replacement of Project Manager in the event the individual:
 - 4.1. Violates any applicable State and Federal laws, or Member policies, procedures or standards.
 - 4.2. Is the subject of an action, claim, proceeding or investigation that has resulted in or could result in criminal prosecution for a felony, or the revocation, termination, suspension, limitation or restriction of his or her license, certification or other authorization to provide services.
- 4.3. Member determines, in good faith, that the health, safety and welfare of Member staff may be jeopardized by the continuation of services.
5. **Replacement.** Member reserves the right to terminate and request a replacement Project Manager under this Agreement at any time, with 30 days advance notice, in writing to OCHIN, except as stated in the provisions above.
6. **Availability.** OCHIN shall ensure that Project Manager is available to provide services in accordance with a schedule agreed upon by Member and OCHIN.
7. **Fees.** Member will reimburse OCHIN for services provided. OCHIN will invoice Member on a monthly basis. Member will pay invoice within 30 days of receipt of invoice.
 - 7.1. **Living and Travel Costs.** Under no circumstances will Member reimburse OCHIN or the Project Manager for the costs associated with travel, per diem, housing and other additional expenses in excess of the Project Manager daily rate.
 - 7.2. **Salary and Benefits.** OCHIN shall employ, compensate and generally be responsible for all its personnel, and Member shall have no liability for payment of wages, payroll taxes or other expenses of employment. Project Manager shall not be entitled to any benefits provided to the employees of Member specifically including, without limitation, workers compensation, disability insurance, vacation or sick pay, medical insurance benefits, or retirement plan participation. Project Manager shall have no claim against Member for compensation, overtime, vacation pay, sick-leave, retirement benefits, Social Security, workers' compensation, disability or unemployment insurance benefits or employee benefits of any kind.

8. **Facilities.** Member shall provide space and equipment for the Project Manager to provide services. Project Manager shall use the Member's premises and equipment solely for the purposes applicable to the project. No part of the Member's premises shall be used at any time by Project Manager as an office for personal use or for other OCHIN business. Project Manager shall use the equipment in a proper and safe manner, and report to Member any malfunction or other problem with the equipment.