NOTICE OF CONTRACT AMENDMENT

TO: ANASAZI SOFTWARE, INC.
9831 S. 51ST STREET
SUITE C-117
PHOENIX, AZ 85044

DATE IssUED: 12/30/2014
CURRENT CONTRACT NO: 025-11
CONTRACT TITLE: DHS - ANASAZI SOFTWARE MAINTENANCE

AMENDMENT NO: 09

THIS IS A NOTICE OF AWARD OF CONTRACT AMENDMENT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The above referenced contract is amended as follows:

1. SEE AMENDMENT NO. 9 OF AGREEMENT NO. 25-11

ATTACHMENTS: AMENDMENT NO. 9 OF AGREEMENT NO. 25-11

All other terms and conditions of the Main Agreement, as amended shall remain in full force and effect.

VENDOR CONTACT: JENIFER PARKS
VENDOR PAYMENT TERMS: NET 30 DAYS

TELEPHONE NO.: 816-201-7225
EMAIL ADDRESS: JENIFER.PARKS@CERNER.COM

COUNTY CONTACT: COREY TRAVIS

TELEPHONE NO.: 703-228-1772
EMAIL ADDRESS: CTRAVIS@ARLINGTONVA.US

CONTRACT AUTHORIZATION

[Signature]
Richard D. Warren, Jr., CPPB
County Purchasing Agent

Date 12/30/14
ARLINGTON COUNTY, VIRGINIA
AGREEMENT NO. 025-11
AMENDMENT NUMBER 9

This Amendment Number 9 ("Amendment") is made on the date of execution of the Amendment by the County and amends Agreement Number 025-11 ("Agreement") made between Cerner Corporation, a Delaware corporation, as successor in interest to Anasazi Software, Inc. ("Contractor") and the County Board of Arlington County, Virginia ("County").

WHEREAS, on November 26, 2012, Anasazi Software, Inc. was acquired by Cerner Corporation, and the Parties wish to amend the Agreement to reflect the name change; and

WHEREAS the County and the Contractor desire to amend the services (to transition to Customer Support Services) and software licensing (to purchase Client Data System Version 5.0);

NOW THEREFORE, the Parties hereby amend the Agreement as follows:

1. The terms "Anasazi Software, Inc." or "Anasazi", wherever used in this Agreement, shall be replaced by the terms "Cerner Corporation" or "Cerner" respectively.

2. The following documents and exhibits shall be amended and restated or added as follows:

1) Delete the Software License Agreement and replace with the attached Software License Agreement.
2) Delete the Customer Support and Software Maintenance Agreement and replace with attached the Customer Support Agreement
3) Delete and replace Exhibit A - Glossary
4) Delete and replace Exhibit B - Scope of License; Maintained Products; Authorized Users
5) Delete and replace Exhibit C - Fees and Expenses
6) Add Exhibit D - Description of Support Service

Upon execution of this Amendment, County shall pay a one-time fee of $42,725 for the update of the Anasazi Client Data System to version 5.0.
WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

AUTHORIZED SIGNATURE: [Signature]

NAME AND TITLE: RICHARD D. WARREN, JR. PURCHASING AGENT

DATE: 12/30/14

CERNER CORPORATION.

AUTHORIZED SIGNATURE: [Signature]

NAME AND TITLE: Marc Naughton, EVP & CFO

DATE: 12/29/14
SOFTWARE LICENSE AGREEMENT

This is an Agreement between Cerner Corporation, as successor in interest to Anasazi Software, Inc. ("Cerner"), a Delaware corporation authorized to do business in the Commonwealth of Virginia and The County Board of Arlington County, Virginia, ("Customer"), County Government Agency. This Agreement defines the terms and conditions under which Cerner will continue to license its Software Products to Customer. This Agreement is a companion to a Customer Support and Software Maintenance Services Agreement between Cerner and Customer.

This agreement supersedes all prior oral and written representations or agreements between the parties as to its subject matter. The signatures below indicate that: (i) Cerner and Customer have read this Agreement and all referenced Agreements and Exhibits, (ii) that except as amended or superseded herein, the Customer Support Agreement and its Exhibits are incorporated into this Agreement by reference; (iii) that they agree to the terms and conditions of each document, (iv) that each intends to enter a binding agreement, (v) that good and sufficient consideration exists to create a binding agreement, and (vi) that entry into this agreement has been duly authorized by the governing body of each party.

This Agreement will become effective when executed by both parties and Cerner receives the Initial Payment of the Software License Fee described in Exhibit C as amended hereby.

CERNER CORPORATION

Signature: [Signature]
Name: Marc Naughton
Title: EVP & CFO
Date: 12/27/14
Contact and Notice Information:
Name: Melinda Wagner
Title: General Manager
Address: 1121 W. Warner, Suite 101
           Tempe, AZ 85284
Phone: (480) 598-8833

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

Signature: [Signature]
Name: P. D. Warden, Jr.
Title: Purchasing Agent
Date: 12/30/14
Contact and Notice Information:
Name: 
Title: 
Address: 
Phone: 

Amended and Renumbered License Agreement between Cerner Software, Inc. and Customer

Cover and Signature Page
SOFTWARE LICENSE AND CONVERSION SERVICES AGREEMENT

1. Applicability of Existing Agreements; Amendment and Restatement of Exhibits.

1.1 Customer Support and Software Services Agreement. The Customer Support and Software Services Agreement is hereby amended, restated and superseded by attached Customer Support Agreement. The terms and conditions of the Customer Support Agreement between Cerner and Customer, including Exhibits A, B, C and D, apply to and are incorporated into this Agreement and are amended and restated as indicated below.

1.2 Amendment of Exhibit A. Exhibit A – Glossary is hereby amended, restated and superseded by attached Exhibit A – Glossary, and, as so amended and restated, incorporated by reference into this Agreement and the Customer Support and Software Maintenance Agreement.

1.3 Amendment of Exhibit B. Exhibit B – Maintained Software Products is hereby amended, restated and superseded by attached Exhibit B – Scope of License: Maintained Software Products; Authorized Users, and, as so amended and restated, incorporated by reference into this Agreement and the Customer Support Agreement.

1.4 Amendment of Exhibit C. Exhibit C – Fees and Expenses is hereby amended and restated. As so amended and restated this Exhibit is incorporated by reference into this Agreement and the Customer Support Agreement.

1.5 Addition of Exhibit D. Exhibit D – Description of Support Service is hereby added to this Agreement.

1.6 Resolution of Inconsistencies. The terms of this Agreement and its Exhibits are to be applied to resolve any inconsistency between this Agreement and pre-existing agreements between the parties.

2. Grant of License.

2.1 Grant of License.

(a) Subject to the terms and conditions of this Agreement, Cerner hereby grants to Customer a non-exclusive, non-transferable license to install and use the Software Products and the Services indicated by check-mark on Exhibit B – Scope of License: Maintained Software Products; Authorized Users.

(b) The Software Products may be installed on Hosting Equipment owned and operated by Customer. With the written permission of Cerner, Customer may install the Software Products on Hosting Equipment that is owned or operated by a third party. Cerner will give that permission if the third party enters a written agreement with Cerner for the protection of Cerner's Intellectual Property rights. If Customer chooses Cerner's "ASP" services, the Software Products will be installed on Hosting Equipment maintained by Cerner or its designee, and accessed via a point-to-point connection or the Internet. Upon termination of an ASP arrangement, Customer may install the Software Products on Hosting Equipment owned or operated by Customer or a third party, as provided in this paragraph.

(c) Customer may designate individuals as Authorized Users of the Software Products and, if the Cerner Doctor's HomePage System has been licensed by Customer, to use the Doctor's HomePage Third Party Services to the extent permitted in Exhibit B – Scope of License: Maintained Software Products; Authorized Users.
This license permits Customer and Authorized Users to use the Software Products and, if the Cerner Doctor's HomePage System has been licensed by Customer, to use the Doctor's HomePage Third Party Services, for the purposes indicated on Exhibit B – Scope of License: Maintained Software Products; Authorized Users, and as permitted in this Agreement, and for no other purposes.

This license transfers to Customer neither title nor any proprietary or Intellectual Property rights to the Software Products or any Doctor's HomePage Third Party Services, except for the rights expressly granted herein. This Agreement does not grant a license to the Source Code for the Software Products. It does not grant Customer a security interest in the Software Products, or the rights to sell, trade, barrier, market or distribute the Software Products.

Customer may make a reasonable number of copies of the licensed Software Products for backup, test, and training purposes, and a reasonable number of copies of Documentation for use by Authorized Users. Those copies may not be used for purposes that are not permitted by this Agreement.

2.2 Change in Scope of License. The scope of this license may be changed by a supplemental written agreement between Customer and Cerner. This agreement may be made in any recorded form, including written correspondence (e-mail or on paper), a purchase order, or a written agreement to amend and restate Exhibit B – Scope of License in a manner that increases the number of Authorized Users, adds a new Software Product or New Version of a Software Product, or otherwise expands the scope of license.

2.3 Delivery of Software Products. Cerner will deliver the Software Products to Customer upon the latter of the release date or receipt of the Upgrade Software License Fee. The Software Products will be delivered on either magnetic media or by other appropriate means. The Documentation will be delivered on magnetic media to the Customer at the Customer's address set forth above or other appropriate means.

2.4 Right to New Versions. If Cerner creates a New Version of a Software Product within six months of the License Effective Date, it will provide that New Version to Customer at no additional charge.

2.5 Right to Use Doctor's HomePage Third Party Services. If Customer has licensed the Cerner Doctor's HomePage System, Cerner hereby grants Customer the non-exclusive, non-transferable right for the Doctor's HomePage Named Users to access and use the Doctor's HomePage Third Party Services. The Doctor's HomePage Third Party Services and the Cerner Software System are separate products provided by separate entities. Conditions for use of each Doctor's HomePage Third Party Service are set forth in this Agreement.

3. Cerner Responsibilities – Correction of Defects

This subject is addressed in the Customer Support and Software Maintenance Agreement.

4. Conversion Services; Hosting Equipment; Use of Software Products and Doctor's HomePage Third Party Services

4.1 Conversion Services. Cerner will provide Conversion Services to support Customer implementation of a Software Product as requested by Customer. Conversion Services are a Customer Support Service, and will be delivered in accordance with the Customer Support and Software Maintenance Agreement. Exhibit C – Fees and Expenses shall govern delivery of Conversion Services and Customer payment of fees for such services.
4.2 Configuration of Hosting Equipment: Necessity for Third-Party Technology. Customer acknowledges and agrees that:

(a) In order to be executed and to perform in a satisfactory manner, the Software Products must be installed on Hosting Equipment that provides sufficient network, communications and computer resources to support the anticipated number of Authorized Users. The Hosting Equipment must be properly configured, installed, managed, and maintained. Customer is solely responsible for ensuring that the Hosting Equipment meets these standards and for ensuring that its Hosting Equipment is installed according to the schedule mutually agreed by both parties.

(b) At the request of Customer, Cerner will provide Application Technical Support Services to assist Customer in evaluating its Hosting Equipment and installing the Software Products. This service will be a Conversion Service. If Customer installs and configures Hosting Equipment as recommended by Cerner, Cerner confirms that the recommended Hosting Equipment has been properly installed and configured, and Cerner installs the Software Products on the Hosting Equipment, then Cerner warrants that at the time of the installation the Software Products will operate with no material conflict and with adequate speed of performance on the Hosting Equipment. Cerner cannot otherwise warrant the performance of the Software Products on the Customer's Hosting Equipment.

(c) At the request of Customer, Cerner will provide Non-Application Technical Support Services to assist Customer in evaluating its existing equipment, identifying network, communications and computer resources required to properly operate the Software Products, designing its network, and, after Customer purchases recommended equipment, installing and configuring the equipment for Customer. This service will be a Conversion Service to Customer. If Cerner provides this service, it guarantees Customer that at the time of installation, the Hosting Equipment will be properly configured and installed, and will provide sufficient network, communications and computer resources to support the anticipated number of Authorized Users.

(d) If Cerner provides “ASP” services to Customer, it will provide access to appropriate Hosting Equipment, as specified in a separate agreement between the parties.

(e) Certain third-party technologies, described in the Proposal, are required for the Software Products to be executed. Cerner does not have the right to grant sublicenses to such third-party technology. Prior to use of the Software Products, Customer will obtain the necessary licenses from the vendors of such third-party technology.

(f) The Hosting Equipment and third party technologies required to properly execute the Software Products will change over time. Additional network, communications or computer resources may be required to enable Customer to install and use Enhancements, Promotions and New Versions of the Software Products. Cerner will give Customer ample notice of additional third party software products that may be required, and provide information to allow Customer to evaluate the impact of the Enhancement, Promotion or New Version on network performance and to plan for network upgrades.

4.3 Customer Responsibilities Related to Use of Software Products.

(a) Customer will ensure that only Authorized Users are permitted to access and use the Software Products and the Doctor’s HomePage Third Party Services, and that use of the Software Products is only for the purposes indicated on Exhibit B — Scope of License, and only as permitted by this Agreement.
Customer will properly train Authorized Users to use the Software Products and Hosting Equipment.

Customer will ensure that its Workforce and all Authorized Users abide by the provisions of part 6 of the Customer Support and Software Maintenance Agreement with regard to protection of Cerner’s Intellectual Property Rights and Confidential Information.

Customer and its Authorized Users are solely responsible for entry, accuracy and management of data entered into databases using the Software Products. Customer is responsible for establishing and implementing reasonable and appropriate policies and procedures to control access to confidential information about individuals and to safeguard the confidentiality, availability, and integrity of its data, including Protected Health Information, in a manner consistent with HIPAA and other applicable provisions of state and federal law.

Customer will implement reasonable and appropriate safeguards to prevent unauthorized persons from accessing its Hosting Equipment and the Software Products, to prevent introduction of malicious software onto the Hosting Equipment, and to detect, isolate, and remove malicious software from the Hosting Equipment.

Customer is responsible for establishing adequate procedures to backup its data to allow re-entry of data and resumption of operations in the event of a failure of Customer’s Hosting Equipment, the Software Products, or other software used to store Customer Data.

Customer is responsible for establishing adequate disaster recovery, emergency operation, and alternative procedures to enable the Customer to continue operating its business in the event of disaster, emergency, or a Defect or malfunction of the Software Products or Hosting Equipment that prevents Customer from using the Software Products.

4.4 Use of Pharmacy Health Information Exchange Service. The Pharmacy Health Information Exchange, a Doctor’s HomePage Third Party Service provided by SureScripts, Inc., may only be used for supported electronic prescribing messages. Only Authorized Users of the Doctor’s HomePage who are Licensed Prescribers may use the Pharmacy Health Information Exchange for the purpose of issuing orders for the dispensation of medications or controlled substances. The Pharmacy Health Information Exchange is not intended to serve as a replacement for (i) a written prescription where not approved as such by the appropriate Governmental authorities or where such written prescription is required for record keeping purposes, or (ii) applicable prescription documentation. Use of the Pharmacy Health Information Exchange is not a substitute for a health care provider's standard practice or professional judgment. Any decision with regard to the appropriateness of treatment, or the validity or reliability of information, is the sole responsibility of a patient’s health care provider. Customer shall ensure that its Authorized Users do not (i) use the Pharmacy Health Information Exchange in any manner which would allow the general public access thereto, or (ii) authorize any use of the Pharmacy Health Information Exchange for the benefit of any person or entity not an Authorized User.

4.5 Use of AddVantageRx Services provided by Cerner-Multum

(a) Customer acknowledges acceptance of the restrictions that follow and the disclaimers of warranties and limitations of liability described in this Agreement with regard to use of the AddVantageRx Service, a Doctor’s HomePage Third Party Service provided by Cerner-Multum, Inc. (“Multum”).

(b) Only Doctor’s HomePage Named Users may use the AddVantageRx Service.
Customer expressly acknowledges and agrees that neither Multum nor Cerner is responsible for the results of decisions resulting from the use of the AddVantageRx Service, including, but not limited to, (i) choosing to seek or not to seek professional medical care, or from choosing or not choosing specific treatment based on the Service, or (ii) decisions Customer or its Authorized Users may make as a licensed healthcare provider or healthcare practitioner. The information contained within the AddVantageRx Service is intended for use only as an informational tool. Customer assumes full responsibility for insuring the appropriateness of using and relying upon the information in view of all attendant circumstances, indications and contraindications.

Every effort has been made to ensure that the information provided in the AddVantageRx Service is accurate, up-to-date, and complete, but no guarantee is made to that effect. In addition, the drug information contained therein may be time sensitive.

The AddVantageRx Service does not endorse drugs, diagnose patients, or recommend therapy. The Service is an informational resource designed to assist licensed healthcare practitioners in caring for their patients and provide consumers with drug specific information. Healthcare practitioners should use their clinical discretion and professional judgment in using the information provided. The Service is not a substitute for the care provided by licensed healthcare practitioners and consumers are urged to consult with their healthcare practitioner in all instances. The absence of a warning for a given drug or drug combination in no way should be construed to indicate that the drug or drug combination is safe, effective or appropriate for any given patient.

Customer acknowledges that updates to the AddVantageRx Service are made at the sole discretion of Multum. Neither Multum nor Cerner make any representations or warranties whatsoever, express or implied, with respect to the compatibility of the AddVantageRx Service, or future releases thereof, with any computer hardware or software, nor do Multum or Cerner represent or warrant the continuity of the features or the facilities provided by or through the AddVantageRx Service as between various releases thereof.

Neither Multum nor Cerner assume any responsibility for any aspect of healthcare administered or not administered with the aid of information the AddVantageRx Service provides.

5. Fees.

5.1 Software License Fee. Customer agrees to pay Cerner any unpaid Software License Fees described in Exhibit C. Such fees shall be due and payable immediately upon execution of this Agreement.

5.2 Doctor's HomePage Third Party Services Fees. Customer agrees to pay Cerner fees for Doctor's HomePage Third Party in accordance with Exhibit C – Fees and Expenses.

6. Intellectual Property; Confidential Business Information.

This subject is addressed in Article 6 of the Customer Support Agreement, which is incorporated into this Agreement by reference.

7. Limited Warranty; Disclaimers; Limitation of Liability.

7.1 Limited Warranty - Software Products. Cerner makes the following representations and warranties with regard to the Software Products.

(a) The Software Products will, in all Material respects, have the functionality described in the Proposal to Customer and in the Documentation.
(b) Cerner has developed and owns the Software Products and has the right to grant the license granted herein.

(c) The Software Products do not infringe any U.S. or international copyright or trade secret, or, to the knowledge of Cerner, any patent right or other Intellectual Property right of any third party.

(d) The Software Products do not, at the time of delivery to Customer, contain any malicious software such as a virus, worm, Trojan horse detectable by currently available utilities nor do the Software Products contain any encoded or embedded serial number, time-out or any similar or dissimilar disabling device or characteristic, and that no such disabling device or characteristic will be contained in any future Software Products provided to Customer by Cerner.

(e) The Software Products will, in all material respects, operate properly in conjunction and concurrent with the software listed as required third party technologies in the Proposal. This warranty does not extend to the operation of the Software Products in conjunction with other software applications. It is understood that the third party technologies required to operate Enhancements or New Versions of the Software Products may change over time.

(f) Cerner’s warranties do not apply to: (i) any copy of the Software Products modified by any Person or Organization other than Cerner or an authorized representative of Cerner; (ii) use of the Software Products other than in accordance with the most current Documentation; (iii) failures caused by defects, problems, or failures in selection, installation, or configuration of computer networks and Hosting Equipment; (iv) failures caused by defects or problems with software applications other than the Software Products; (v) failures caused by conflicts with software applications not listed as required third party technologies in the Proposal; (vi) failures caused by malicious software; or (vii) failures caused by negligence of Customer or its designees or any Person or Organization except Cerner or an authorized representative of Cerner.

(g) Cerner makes no warranty: (i) that the functions performed by the Software Products will meet Customer’s requirements or achieve the results desired by Customer or will operate in the combinations that may be selected for use by Licensee; (ii) that the operation of the Software Products will be error free in all circumstances; (iii) that all defects in the Software Products that would not constitute a Material Breach will be corrected; nor (iv) that the operation of the Software Products will not be interrupted for a short period of time by reason of a defect therein or by reason of fault on the part of Cerner.

7.2 Disclaimers — Software Products

EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THERE ARE NO OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE PRODUCTS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR IMPLIED WARRANTIES OF FITNESS OR SUITABILITY FOR A PARTICULAR PURPOSE, (WHETHER OR NOT CERNER KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN TRADE, OR BY COURSE OF DEALING. IN ADDITION, CERNER EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OR ORGANIZATION OTHER THAN CUSTOMER WITH RESPECT TO THE SOFTWARE PRODUCTS OR ANY PART THEREOF AND ANY WARRANTY OR REPRESENTATION TO CUSTOMER THAT IS NOT INCLUDED IN THE PROPOSAL OR THIS AGREEMENT.
7.3 **Disclaimers – Doctor’s Homepage Third Party Services.**

(a) CUSTOMER ACKNOWLEDGES THAT THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES ARE PROVIDED ON AN "AS IS" BASIS, EXCEPT FOR WARRANTIES THAT MAY NOT BE DISCLAIMED AS A MATTER OF LAW, NEITHER THE SUPPLIERS OF THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES NOR CERNER MAKE ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES, INCLUDING BUT NOT LIMITED TO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OR NATURE OF THE CONTENT OF THE SERVICES, THAT THE SERVICES WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE, THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR BE FIT FOR A PARTICULAR PURPOSE AND WARRANTIES OF TITLE, NONINFRINGEMENT, OR MERCHANTABILITY. ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES ARE HEREBY DISCLAIMED.

IN ADDITION, WITHOUT LIMITING THE FOREGOING, THE AddVantageRx SERVICE HAS BEEN DESIGNED FOR USE IN THE UNITED STATES ONLY AND COVERS THE DRUG PRODUCTS USED IN PRACTICE IN THE UNITED STATES. CERNER-MULTUM PROVIDES NO CLINICAL INFORMATION OR CHECKS FOR DRUGS NOT AVAILABLE FOR SALE IN THE UNITED STATES AND CLINICAL PRACTICE PATTERNS OUTSIDE THE UNITED STATES MAY DIFFER SUBSTANTIALLY FROM INFORMATION SUPPLIED BY THE SERVICE. NEITHER MULTUM NOR CERNER WARRANTS THAT USES OUTSIDE THE UNITED STATES ARE APPROPRIATE.

(b) CUSTOMER ASSUMES ALL RISK FOR SELECTION AND USE OF THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES AND CONTENT PROVIDED THEREON. NEITHER CERNER NOR THE SUPPLIERS OF THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES SHALL BE RESPONSIBLE FOR ANY ERRORS, MISSTATEMENTS, INACCURACIES OR OMISSIONS REGARDING CONTENT DELIVERED THROUGH THE SERVICES OR ANY DELAYS IN OR INTERRUPTIONS OF SUCH DELIVERY.

CUSTOMER ACKNOWLEDGES THAT CERNER AND THE PROVIDERS OF THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES: (A) HAVE NO CONTROL OF OR RESPONSIBILITY FOR THE AUTHORIZED USER'S USE OF THE SERVICES OR CONTENT PROVIDED THEREON, (B) HAVE NO KNOWLEDGE OF THE SPECIFIC OR UNIQUE CIRCUMSTANCES UNDER WHICH THE AddVantageRx OR SURESCRIPTS SERVICES OR CONTENT PROVIDED THEREON MAY BE USED BY THE AUTHORIZED USER, (C) UNDERTAKE NO OBLIGATION TO SUPPLEMENT OR UPDATE CONTENT OF THE SERVICE, AND (D) HAVE NO LIABILITY TO ANY PERSON FOR ANY DATA OR INFORMATION INPUT ON THE SERVICE BY OTHER PERSONS.

(c) THE WARRANTIES SET FORTH IN THIS SECTION ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, AND CUSTOMER HEREBY WAIVES ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE WITH REGARD TO CERNER, MULTUM, AND SURESCRIPTS OR ANY OTHER PERSON OR ORGANIZATION THAT PROVIDES DOCTOR'S HOMEPAGE THIRD PARTY SERVICES.
Any warranties for Doctor's HomePage Third Party Services expressly provided herein do not apply if:

(i) Customer alters, mishandles or improperly uses, or (if applicable) stores or installs all, or any part, of the Doctor's HomePage Third Party Service,

(ii) An Authorized User uses, or (if applicable) stores or installs the Doctor's HomePage Third Party Service on a computer system which fails to meet the specifications provided by Cerner and the provider of the Doctor's HomePage Third Party Service, or

(iii) The breach of warranty arises out of or in connection with acts or omissions of persons other than Multum, SureScripts or Cerner.

7.4 Limitation of Liability.

IN NO EVENT WILL CERNER OR THE PROVIDERS OF THE DOCTOR'S HOMEPAGE THIRD PARTY SERVICES BE LIABLE TO THE CUSTOMER OR ANY OTHER PERSON FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR ANY CLAIMS BASED ON MEDICAL MALPRACTICE, OR PRODUCT LIABILITY, OF ANY KIND IN CONNECTION WITH THE USE OF OR INABILITY TO USE THE SOFTWARE PRODUCTS OR THE DELIVERY OF THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT OR ITS EXHIBITS OR ANY EQUIPMENT FURNISHED IN CONNECTION THERewith even if Cerner, Multum, SureScripts or another provider of Doctor's HomePage Third Party Services have been advised of the possibility of such damages. It is understood that the software products and the Doctor's HomePage Third Party Services will be used in the delivery of clinical services and administration of human service programs, and agreed that responsibility for all decisions relating to the provision of treatment, payment of benefits and allocation of resources are the responsibility of customer or the persons or organizations that use the software products or Doctor's HomePage Third Party Services, and not the responsibility of Cerner, Multum, SureScripts or other providers of Doctor's HomePage Third Party Services. The liability of Cerner, Multum, SureScripts, or other providers of Doctor's HomePage Third Party Services and Customer's sole remedies under this agreement for direct, indirect, exemplary, special, incidental and/or consequential damages of any kind, are limited to the repair or replacement of defective software products and the reprocessing of any data which is incorrect as a result of such defect, and, in the event of a final decision rendered in accordance with the dispute resolution procedures of Section 11.11 approving termination of this agreement because of a material breach by Cerner, refund of the unamortized portion of the license fee based on amortization over a five year term beginning on the effective date and, in the event of a failure to provide a Doctor's HomePage Third Party Service, refund of fees paid for that service for the preceding twelve (12) month period.
7.5 Allocation of Risk. Customer acknowledges that the fees charged by Cerner in this Agreement reflect the allocation of legal and business risks, including but not limited to the foregoing disclaimer and limitation of liability. A modification of the allocation of risks set forth in this Agreement would affect the fees charged by Cerner and, in consideration of such fees, Customer agrees to such allocations of risk.

8. Indemnification.

Indemnification: Intellectual Property. Cerner shall defend, at its own expense, any action, claim or demand (or portion thereof) brought against Customer that is based on a claim that the Software Products infringe upon the Intellectual Property rights of any third party. Cerner will indemnify and hold harmless Customer and Authorized Users against any loss, expense, damages and costs including reasonable attorneys' fees, penalties, and interest incurred in such actions to the extent attributable to such claims; provided, that Cerner is given prompt written notice of such claim, reasonable assistance from Customer, and sole authority to defend or settle such claim. Customer shall have the right to approve any settlement that does not fully release Customer from any present or future obligations to the third party or Cerner related to any claims asserted. In addition, and not in lieu of the foregoing indemnification obligations, if the Software Products become the subject of such a claim of infringement then Cerner may, at its option, as Customer's sole and exclusive remedy: (i) procure for Customer the right to use the Software Products free of any liability for infringement or violation; (ii) replace or modify the Software Products to make them non-infringing or non-violating; or (iii) grant to Customer a credit for the unused portion of the applicable portion of the License Fee paid based on amortization over a five year term and thereupon Customer shall return the Software Products to Cerner. Cerner will have no liability for any claim based on use or modification of the Software Products other than as specified in this Agreement.

9. Term and Termination.

9.1 Term. This License Agreement shall commence on the Effective Date, and shall continue in perpetuity unless terminated in accordance with the terms set forth below. As provided in the Customer Support and Software Maintenance Agreement, the Initial Term of that agreement commenced on the Support and Maintenance Effective Date.

9.2 Termination for Cause. Either party may terminate this Agreement upon a Material Breach of a provision of this Agreement by the other party, following the procedures described in this section.

(a) The party that is not in breach (“Non-breaching Party”) will give the other party (“the Breaching Party”) written notice describing the breach in sufficient detail to inform the other party of the provision(s) of the Agreement that have been breached and the manner in which the breach occurred.

(b) If the breach is a willful breach of part 6 of this Agreement, pertaining to Intellectual Property Rights, Confidential Company Information, and Trade Secrets, then the Non-Breaching Party shall have the option, at its sole discretion, to terminate the Agreement immediately, without giving the Breaching Party the opportunity to cure the breach. If the Agreement is not terminated immediately, the Breaching Party shall have ten (10) days to cure the breach.

(c) If the breach is for failure to pay fees and expenses when due, the Breaching Party shall have ten (10) days to cure the breach.
(d) If the breach is not one described in (b) or (c), above, the Breaching Party shall have forty-five (45) days to cure the breach.

(e) If the Breaching Party fails to cure a Material Breach described in (c) or (d) within the time allowed, the Non-Breaching party may immediately terminate the agreement. If the Breaching Party does not agree that a Material Breach has occurred or believes that the breach has been cured, it may file a claim in accordance with the dispute resolution procedures described at section 10.11 of this Agreement.

(f) Either party may terminate this Agreement immediately, without notice, and without the opportunity to cure, in the event that the other party voluntarily becomes the subject of bankruptcy, liquidation or insolvency proceedings; has any such proceeding filed without its consent and such proceeding is not dismissed or stayed within ninety (90) days; or makes an assignment for the benefit of creditors of all or substantially all of its assets.

9.3 Termination without Cause.

(a) After payment in full of the Software License Fee and any and all other fees that Customer is obligated to pay Cerner pursuant to this Agreement, Customer shall have the right to terminate this Agreement upon ninety (90) days written notice to Cerner. The parties may terminate this agreement by mutual written consent.

(b) Unless otherwise agreed in writing by Cerner and Customer, a party that terminates this Agreement without cause waives any claim it may have that the agreement was terminated because of a Material Breach by the other party. Such a claim may not be asserted as the basis of an action for damages or suit for equitable remedies, or as the basis for a right of offset or defense against a claim by the other party. This provision does not apply to a Material Breach that occurred after the date of the notice of termination, or any breach at any time of Part 6 of this Agreement, pertaining to Intellectual Property Rights, Confidential Company Information, and Trade Secrets.

9.4 Suspension in Event of Customer Delay. Cerner's obligations to Customer under this Agreement will be automatically and immediately suspended in the event that Customer is more than sixty (60) days delinquent in making payments to Cerner required by this Agreement.

9.5 Obligations upon Termination. Upon termination of this Agreement:

(a) Customer and its Authorized Users shall immediately discontinue use of the Software Products and disable all passwords.

(b) Customer will immediately delete any copies of the Software Products and Documentation from the Hosting Equipment, and permanently overwrite or degauss storage media or devices to make it impossible to recover any portion of the Software Products from the Hosting Equipment; destroy any electronic or printed copies of the Software Products and Documentation; return any Software Products or Documentation that has not been destroyed to Cerner; and certify to Cerner in writing that it has taken these actions.

(c) Each party will, if feasible, erase, destroy or return to the other party all of the other party's Confidential Information in its possession or control. Customer shall pay the actual costs incurred by Cerner in removing Customer Data from Cerner records.

(d) All amounts payable or accrued to Cerner under this Agreement shall become immediately due and payable.

10.1 Notices. All notices required or permitted to be made or given hereunder shall be in writing, delivered in person with receipt obtained or by certified or registered mail or by overnight delivery by an established national delivery service at the respective addresses set forth on the Cover and Signature Page of this Agreement. All notices shall be deemed effective upon delivery. Notices shall be addressed to the persons identified on the Cover and Signature Page of this Agreement, or to other persons identified in writing by either party.

10.2 Force Majeure. Neither the parties nor the providers of Doctor’s HomePage Third Party Services shall be liable for any failure or delay in the performance of its obligations due to fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorder, rebellions, or other similar cause beyond the reasonable control of the party affected, provided such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented, and provided further that the party hindered or delayed immediately notifies the other party describing the circumstances causing delay. Notwithstanding the foregoing, in the event that such condition prevents or delays performance of any party for a period in excess of sixty (60) days, the other party shall have the right to immediately terminate this Agreement upon written notice.

10.3 Entire Understanding: Amendments; Waivers; No Right of Offset.

(a) This Agreement constitutes the entire understanding of the parties and between Cerner and Customer with respect to its subject matter. It supersedes all prior or contemporaneous representations or written and oral agreements with respect to its subject matter. Neither party is relying on any representation, promise, or inducement made by or on behalf of the other party, nor on any course of dealings or custom and usage in the trade, except as expressly stated in the Proposal or in this Agreement.

(b) This Agreement shall not be modified, amended, or in any way altered except in writing, in a document signed by both parties.

(c) No waiver of any provision of this Agreement or the right of either party to enforce a provision of this Agreement will be effective unless in writing and signed by the party waiving compliance. No waiver of, breach of, or default under any provision of this Agreement will be deemed a waiver of any other provision, or of any subsequent breach or default of the same provision of this Agreement.

(d) The existence of any claim or cause of action by a party against the other party, whether predicated on this Agreement or otherwise, shall not constitute a defense to enforcement of this Agreement, or create a right of offset against payments due pursuant to this Agreement.

10.4 Applicable Law, Forum, Venue and Jurisdiction. This Agreement and the work performed hereunder shall be governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction, forum, and venue for any litigation with respect thereto shall be in the Circuit Court for Arlington County, Virginia, and in no other court. In performing its work pursuant to this Agreement, Cerner shall comply with applicable federal, state, and local laws, ordinances and regulations.

10.5 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect. Without limiting the generality of the preceding sentence, if any remedy set forth in this Agreement is determined to have failed of its essential purpose, then all other provisions of this Agreement, including the limitation of liability and exclusion of damages shall remain in full force and effect.
10.6 **Survival.** All provisions of this Agreement that pertain to protection of Intellectual Property rights, non-disclosure of Company Information, privacy of Protected Health Information, maintenance of the security of data, defense and indemnification, and responsibility for payment of fees incurred prior to termination, shall survive termination of this Agreement.

10.7 **Headings.** Headings used herein are provided for convenience of reference only and shall not constitute a part of this Agreement.

10.8 **Publicity.** Customer consents to publication of its name by Cerner as a user of the Software Products.

10.9 **No Unauthorized Use of Trademarks.** In order to preserve the value of each party's name and/or any trademarks, service marks, trade names, or trade dress adopted and/or used by that party from time to time, the other party shall not make any use of any of the same for any reason (e.g., in advertising, press releases, or other publicity) except solely as may be expressly authorized by this Agreement or otherwise authorized in writing.

10.10 **Independent Contractors.** The parties are independent contractors. Nothing in this Agreement is intended to create a partnership, joint venture, or agency relationship.

10.11 **Dispute Resolution.** All disputes arising under this Agreement, or its interpretation, whether involving law or fact, or extra work, or extra compensation or time, and all claims for breach of contract shall be submitted to the Project Officer for decision at the time of the occurrence or beginning of the work upon which the claim is based, whichever occurs first. Any such claim shall state the facts surrounding it in sufficient detail to identify it, together with its character and scope. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than sixty (60) days after final payment. The time limit for final written decision by the County Manager in the event of a contractual dispute, as that term is defined in the Arlington County Purchasing Resolution, is fifteen (15) days. Procedures for considering contractual claims, disputes, administrative appeals, and protests are contained in the Arlington County Purchasing Resolution, which is incorporated herein by this reference. A copy of the Arlington County Purchasing Resolution is available upon request from the Office of the Purchasing Agent. Cerner shall not cause a delay in the work pending any decision of the Project Officer, County Manager, County Board, or a court of law. This provision shall not operate as a waiver of Cerner's rights to appeal or otherwise seek relief in a court of competent jurisdiction after exhausting its administrative remedies.

10.12 **Injunctive Relief.** Each party acknowledges that any violation by that party of its covenants in Article 6 of the Customer Support Agreement would cause the other party to suffer great loss and immediate and irreparable injury would result in damage to the other party that is largely intangible but nonetheless real. The parties agree that such covenants are reasonably necessary to protect and preserve their interests. Without regard to the provisions of section 9.2 (opportunity to cure) or section 10.11 (dispute resolution procedures), each party shall be immediately entitled to a temporary restraining order and a permanent injunction to prevent a breach of any of such covenants or agreements. The party against whom such injunction is sought hereby waives any requirement that such party seeking the injunction submit proof of the economic value of any Company Information or post a bond or any other form of security.

10.13 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.
10.14 **Assignment; Successors.**

(a) Neither party may assign its rights under this Agreement, except to an Affiliate, or the purchaser of substantially all of its assets, or as permitted in writing by the other party. "Affiliate" shall mean any individual, corporation, partnership, association, or business that directly or indirectly controls or is controlled by, or is under common control with Cerner or Customer.

(b) No assignment of this Agreement may result in an expansion of the Scope of License granted to Customer. If Customer's successor or assignee has operating revenues or expenditures greater than those used to determine the Software License Fee and wishes to use the Software Products for programs, divisions and locations other than those originally supported by the Scope of License, the successor or assignee will be obligated to pay Cerner an additional Software License Fee based upon that increment in revenue or expenditures and Cerner's then-current usual and customary license fee schedule. Failure to pay any such incremental fee is a Material Breach of this Agreement.

(c) This Agreement will be binding upon the successors and permitted assigns of each party.

10.15 **Cerner Access to Customer Systems.** Customer will allow Cerner representatives to access Customer's Hosting Equipment, Software Products and to Customer Data, either on-site or remotely, as necessary to enable Cerner to fulfill its obligations to Customer under this Agreement or other agreements. Cerner representatives may require access to Protected Health Information maintained by or on behalf of Customer. Cerner will abide by the terms of its Business Associate Agreement with Customer related to protection of the confidentiality of Protected Health Information.

10.16 **Payment.** Payment will be made by the Customer to Cerner within thirty (30) days after receipt by the County Project Officer of an invoice detailing the Work provided by Cerner, and accepted by the Customer. The Project Officer will either approve the invoice or require corrections. The number of the Customer Purchase Order pursuant to which authority goods or services have been performed or delivered shall appear on all invoices.

10.17 **Customer Purchase Order Requirement.** Customer purchases are authorized only if a Customer Purchase Order is issued in advance of the transaction. A Purchase Order must indicate that the ordering agency has sufficient funds available to pay for the purchase. Such a Purchase Order is to be provided to Cerner by the ordering agency. The Customer will not be liable for payment for any purchases made by its employees without appropriate purchase authorization issued by the County Purchasing Agent. If Cerner provides goods or services without a signed Customer Purchase Order, it does so at its own risk and expense.

10.18 **Non-Appropriation.** All funds for payments by the Customer to Cerner pursuant to this Agreement are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia. In the event of non-appropriation of funds by the County Board of Arlington County, Virginia for the goods or services provided under this Agreement or substitutes for such goods or services which are as advanced or more advanced in their technology, the Customer will terminate the Agreement, without termination charge or other liability to the Customer, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this Agreement is spent, whichever event occurs first. If funds are not appropriated at any time for the continuation of this Agreement, Customer will provide prompt notice to Cerner and cancellation will be accepted by Cerner on thirty (30) days prior written notice, but failure to give such notice shall be of no effect and the Customer shall not be obligated under this Agreement beyond the date of termination specified in the Customer's written notice.
10.19 **Drug-Free Workplace to be Maintained by Cerner.** During the performance of this Agreement, Cerner agrees to: (i) provide a drug-free workplace for Cerner’s employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in Cerner’s workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Cerner that Cerner maintains a drug-free workplace; and (iv) use commercially reasonable efforts to include the provisions of the foregoing clauses in every subcontract or purchase order pursuant to this Agreement of over $10,000, so that the provisions will be binding upon each subcontractor or vendor providing services under this Agreement.

For the purposes of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific contract awarded to a contractor by Arlington County in accordance with the Arlington County Purchasing Resolution, the employees of which contractor are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

10.20 **Payment of Subcontractors.** Cerner is obligated to take one of the following actions within seven (7) days after receipt of amounts paid to Cerner by the Customer for work performed by any subcontractor under this Agreement:

(a) Pay the subcontractor for the proportionate share of the total payment received from the Customer attributable to the work performed by the subcontractor under this Agreement; or

(b) Notify the Customer and the subcontractor, in writing, of Cerner’s intention to withhold all or a part of the subcontractor’s payment with the reason for nonpayment.

Cerner is obligated to pay interest to the subcontractor on all amounts owed by Cerner to the subcontractor that remain unpaid after seven (7) days following receipt by Cerner of payment from the Customer for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

Cerner shall include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

Cerner’s obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the Customer. An Agreement modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

10.21 **Employment Discrimination by Cerner Prohibited.** During the performance of this Agreement, Cerner agrees as follows:

(a) Cerner will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law related to discrimination in employment except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Cerner. Cerner agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
(b) Cerner, in all solicitations or advertisements for employees placed by or on behalf of Cerner, will state that Cerner is an Equal Opportunity Employer.

(c) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

(d) Cerner will comply with the provisions of the Americans with Disabilities Act of 1990 which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in both publicly and privately provided services and activities.

(e) Cerner will include the provisions of the foregoing paragraphs in every subcontract or purchase order pursuant to this Agreement of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

10.22 Employment of Unauthorized Aliens Prohibited. In accordance with §2.2-4311:1 of the Code of Virginia, 1950, as amended, Cerner acknowledges that it does not, and shall not during the performance of this Agreement for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as that term is defined in the federal Immigration Reform and Control Act of 1986.

10.23 Arlington County Business Licenses. Cerner must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Agreement, Cerner must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

10.24 Insurance Requirements. Cerner shall provide to the County Purchasing Agent a Certificate of Insurance indicating that Cerner has in force the coverage types and minimum amounts below prior to the start of any Work under this Agreement and upon any Agreement extension.

Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as additional insureds on all policies, except Workers Compensation, Auto, and Professional Liability. A copy of the Additional Insured endorsement, or an “Accord” certificate with the additional insured endorsement box checked for all policies that include an additional insured endorsement, must be provided by Cerner to the County Purchasing Agent prior to the execution of this Agreement and any Agreement extension. Failure to provide such documentation shall result in cancellation of the award or of the Agreement.

Cerner agrees to maintain such insurance until the completion of this Agreement or as otherwise stated in the Agreement documents. All required insurance coverages must be acquired from insurers authorized to do business in the Commonwealth of Virginia, with a rating of “A-” or better and a financial size of “Class VII” or better in the latest edition of the A.M. Best Co. Insurance Guides, and acceptable to the Customer. The minimum insurance coverage types and amounts shall be:

(a) Workers Compensation - Virginia Statutory Workers Compensation (W/C) coverage including Virginia benefits and employers liability with limits of $100,000/100,000/500,000. The Customer will not accept W/C coverage issued by the Injured Worker’s Insurance Fund, Towson, MD.

(b) Commercial General Liability - $1,000,000 combined single limit coverage with $2,000,000 general aggregate covering all premises and operations and including Personal Injury, Completed Operations, Contractual Liability, Independent Contractors, and Products Liability. The general aggregate limit
shall apply to this Agreement. Evidence of Contractual Liability coverage shall be typed on the certificate.

(c) Business Automobile Liability - $1,000,000 Combined Single Limit (Owned, non-owned and hired).

(d) Cerner shall carry Errors and Omissions or Professional Liability insurance which will pay for injuries arising out of errors or omissions in the rendering, or failure to render services or perform Work under the Agreement, in the amount of $1,000,000.

(e) Additional Insured - Arlington County, and its officers, elected and appointed officials, employees, and agents shall be named as an additional insureds on all policies except Workers Compensation and Auto and Professional Liability; and evidence of the Additional Insured endorsement shall be typed on the certificate.

(f) Cancellation - If there is a material change or reduction in coverage Cerner shall notify the Purchasing Agent immediately upon Cerner’s notification from the insurer. It is Cerner’s responsibility to notify the Customer upon receipt of a notice indicating that the policy will not be renewed or will be materially changed. Any policy on which Cerner has received notification from an insurer that the policy has or will be cancelled or materially changed or reduced must be replaced with another policy consistent with the terms of this Agreement, and the Customer notified of the replacement, in such a manner that there is no lapse in coverage. Not having the required insurance throughout the Agreement Term is grounds for termination of the Agreement.

(g) Any insurance coverage that is placed as a “claims made” policy must remain valid and in force, or Cerner must obtain an extended reporting endorsement consistent with the terms of this Agreement, until the applicable statute of limitations has expired, such date as determined to begin running from the date of Cerner’s receipt of final payment.

(h) Contract Identification - The insurance certificate shall state this Agreement’s number and title.

(i) Certificate Holder - Arlington County, Office of the Purchasing Agent, 2100 Clarendon Blvd, Suite 500, Arlington, VA 22201

10.25 Project Officer. The performance of the Contractor is subject to the review and approval of the County Project Officer ("Project Officer") who shall be appointed by the Director of the Arlington County department or agency which seeks to obtain the Work pursuant to this Contract. However, it shall be the responsibility of the Contractor to manage the details of the execution and performance of its Work pursuant to the Contract Documents.

END OF SOFTWARE LICENSE AGREEMENT - EXHIBITS FOLLOW
CUSTOMER SUPPORT AGREEMENT

1. Definitions; Applicability of this Agreement.

1.1 This Customer Support Agreement ("Agreement") supersedes in its entirety the Customer Support and Software Maintenance Agreement between Cerner Corporation, as successor in interest to Amnisi Software, Inc. ("Cerner"), a Delaware corporation and Adlington County Department of Human Services ("Customer") and is effective as of November 1, 2014 (the "Agreement Effective Date").

1.2 Definitions. Capitalized terms used in this agreement are defined in Glossaries found in Exhibit A, which is attached hereto and incorporated herein by reference.

2. Support for Licensed Software

2.1 Support Services and Support Fees. In consideration of Customer paying the Customer Support Services Fee, Cerner will provide Customer Support Services. Customer agrees to provide a single, centralized support structure (e.g., help desk) for Customer Support Services requests to Cerner.

2.2 New Versions. Customer Support Services include providing New Versions of the Software Products. Unless Cerner is providing the applicable hosting services, Customer will, at its own expense, obtain any equipment and third party software required to run New Versions. If Customer requests assistance from Cerner to install New Versions, Customer agrees to pay Cerner's installation charges and associated expenses.

3. User Group

3.1 User Group. Customer will be a member of the User Group for as long as it is current on payment of Customer Support Services Fees. As described in section 1.3 of Exhibit C, an allocation of the total Support fees received from Client will be used to fund Enhancements to the Licensed Software requested by the User Group.

3.2 Availability of Enhancements. All Enhancements developed by Cerner for any User Group or customer will be provided to Customer for as long as it is current on payment of Customer Support Services Fees.

3.3 Development of Enhancements at Request of User Group.

(a) Cerner works closely with its User Group to identify priorities for development of Enhancements of its Software Products.

(b) The User Group, acting in accordance with its Bylaws, will identify Enhancements it would like Cerner to develop, and set priorities for developing Enhancements. The User Group will deliver its requests and priorities for Enhancements to Cerner.

(c) Cerner will evaluate each Enhancement request and estimate the time required and cost of developing the requested Enhancement. Cerner will discuss outstanding Enhancement requests and suggested priorities with the User Group to (i) clarify requests and User Group priorities, and (ii) inform the User Group about the estimated time and cost of development of requested Enhancements. Taking into consideration the resources available for development of User Group Enhancements and identified priorities, Cerner will then determine which of the Enhancements requested by the User Group will be developed and the timetable for development and release of the requested Enhancements.
(d) Cerner will provide periodic reports to the User Group about the status of development of Enhancements. The reports will include, among other things: (i) the actual monies received by Cerner for development of Enhancements requested by the User Group and (ii) updates on the status of development of Enhancements.

(e) Customer Support Services Fees reserved for development of User Group Enhancements will be used to compensate Cerner for its work evaluating Enhancement requests, designing Enhancements, estimating the time and cost of development, preparing a development plan, and creating and testing an Enhancement.

3.4 Delivery of Enhancements. Cerner will post Promotions containing Enhancements to its Software Products on its website or deliver Promotions through other means, and provide updates to the Documentation describing the functionality of the Enhancement and Documentation as to the operations required to apply the Promotion, to allow customers that have the right to the Enhancements to download and automatically install the Promotion on Hosting Equipment.

4 Term and Termination.

4.1 Term; Extension of Term.

(a) This Agreement shall commence on the Agreement Effective Date and be effective through December 31, 2018.

(b) All recurring services (such as Customer Support Services and Doctors HomePage Third Party Services) begin on the Effective Date, and continue for the term set forth in section 4.1(a). At the end of the applicable term, each service may renew for additional 12 month periods at the rate charged in the final period of the then-current term.

4.2 Termination for Cause. Either party may terminate this Agreement upon a Material Breach of a provision of this Agreement by the other party, following the procedures described in this section.

(a) The party that is not in breach (“Non-breaching Party”) will give the other party (“the Breaching Party”) written notice describing the breach in sufficient detail to inform the other party of the provision(s) of the Agreement that have been breached and the manner in which the breach occurred.

(b) (i) If the breach is a failure to pay fees or expenses when due, then the Breaching Party shall have ten (10) days to cure the breach.

(ii) In all other cases, the Breaching Party shall have forty-five (45) days to cure the breach.

(c) If the Breaching Party fails to cure a Material Breach within the time allowed, the Non-Breaching party may request that the Agreement be immediately terminated. If the Breaching party agrees, the Agreement will be terminated immediately. If the Breaching Party does not agree that a Material Breach has occurred or believes that the breach has been cured, the matter will be resolved in accordance with the dispute resolution procedures described at section 11.11 of the Software License and Conversion Services Agreement and this Agreement will remain in force until resolution of the dispute.

(d) Either party may terminate this Agreement immediately, without notice, and without the opportunity to cure, in the event that the other party voluntarily becomes the subject of bankruptcy, liquidation or insolvency proceedings; has any such proceeding filed without its consent and such proceeding is not dismissed or stayed within ninety (90) days; or makes an assignment for the benefit of creditors of all or substantially all of its assets.

4.3 Termination without Cause.
(a) Customer shall have the right to terminate this Agreement without cause by providing a thirty (30) day written notice delivered to Cerner.

(b) The parties may terminate this agreement by mutual written consent at any time.

(c) This Agreement will terminate immediately and automatically if the Software License and Conversion Services Agreement between the parties is terminated.

(d) Unless otherwise agreed in writing by Cerner and Customer, a party that terminates this Agreement without cause waives any claim it may have that the Agreement was terminated because of a Material Breach by the other party. Such a claim may not be asserted as the basis of an action for damages or suit for equitable remedies, or as the basis for a right of offset or defense against a claim by the other party. This provision does not apply to a Material Breach that occurred after the date of the notice of termination, or any breach at any time of Part 7 of the Software License and Conversion Services Agreement, pertaining to Intellectual Property Rights, Confidential Company Information, and Trade Secrets.

4.4 Suspension in event of Customer Delay.

(a) It is understood that Cerner incurs expenses in the development of Updates, Enhancements and New Versions of its Software Products, and in the delivery of Customer Support Services. Cerner depends upon timely receipt of payments from Customer to sustain its business.

(b) Cerner's obligations to Customer under this Agreement will be automatically and immediately suspended in the event that Customer is more than sixty (60) days delinquent in making payments to Cerner required by this Agreement.

(c) Customer will be considered current on payment of Customer Support Services Fees if, after being delinquent in payment of Cerner invoices, Customer pays overdue fees and expenses plus interest and premium fees as required by Exhibit C.

4.5 Obligations upon Termination.

(a) Upon termination of this Agreement, all amounts payable or accrued to Cerner under this Agreement shall become immediately due and payable.

(b) If this Agreement is terminated Cerner will refund to Customer the pro-rata portion of any prepaid fees for Customer Support Services allocable to the time period after the termination date, minus accrued fees for Services and expenses due Cerner.

5. <Intentionally Left Blank>

6. Intellectual Property; Confidential Business Information.

6.1 Intellectual Property Rights.

(a) The Software Products are protected by both United States copyright law and international copyright treaty provisions. Cerner retains sole and exclusive ownership of all right, title and interest in and to the Software Products and all Intellectual Property rights relating thereto.
IT IS EXPRESSLY UNDERSTOOD BY CUSTOMER THAT CERNER WILL RETAIN THE SOLE AND EXCLUSIVE OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS TO ANY CUSTOMIZED MODIFICATIONS OR ENHANCEMENTS OF THE SOFTWARE PRODUCTS OR ANY ORIGINAL SOFTWARE PRODUCTS CREATED BY CERNER FOR CUSTOMER. ANY SUCH WORK WILL NOT BE CONSIDERED "WORK FOR HIRE" WITHIN THE MEANING OF COPYRIGHT LAW, EVEN IF CUSTOMER PAYS CERNER TO DEVELOP THE ENHANCEMENT OR SOFTWARE PRODUCT.

(c) Except as authorized by this Agreement, Customer will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (1) sell, lease, license, sublicense, market, or distribute the Software Products anywhere in the world; (2) de-compile, disassemble, or reverse engineer the Software Products, in whole or in part; (3) write or develop any derivative work based upon the Software Products, Documentation or any Company Information; or (4) provide, disclose, divulge or make available to, or permit use of the Software Products by any third party, except as permitted by this Agreement or with Cerner's prior written consent.

6.2 Confidential Information; Trade Secrets.

(a) The parties hereby acknowledge that their personnel may gain access to information that the other party deems to be confidential and/or proprietary information and which has commercial value in its business and is not in the public domain. "Confidential Information" means any and all proprietary business information of the disclosing party that does not constitute a Trade Secret (as hereinafter defined), including any proprietary business information of which the receiving party becomes aware as a result of its access to and presence at the other party's facilities. "Trade Secrets" means information related to the business or services of the disclosing party or its affiliates which: (i) derives economic value, actual or potential, from not being generally known to or readily ascertifiable by other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts by the disclosing party or its affiliates that are reasonable under the circumstances to maintain its secrecy, including, without limitation, (a) marking any information reduced to tangible form clearly and conspicuously with a legend identifying its confidential or proprietary nature, (b) identifying any oral presentation or communication as confidential immediately before, during, or after such oral presentations or communications, or (c) otherwise treating such information as confidential. "Trade Secret" means, without limitation, any and all technical and non-technical data related to designs, programs, research, software file structures, flow charts, business rules embedded within Software Products, drawings, techniques, standards, Source Code and Object Code of the Software Products, the Documentation, inventions, finances, actual or potential customers and suppliers, research, development, marketing, and existing and future products and employees of the disclosing party and its affiliates. "Company Information" means, collectively, the Confidential Information and Trade Secrets. Company Information also includes information that has been disclosed to any party by a third party which such party is obligated to treat as confidential, and all software tools, methodologies, documentation, business plans, product plans, and all related technical materials and enhancements thereto.

(b) Obligations. Customer and Cerner will each use the same care to prevent disclosing to third parties the Company Information of the other as it employs to avoid disclosure, publication, or dissemination of its own information of the same nature, but in no event less than a reasonable standard of care. Furthermore, except as contemplated by this Agreement, neither party will: (i) make any use of the other party's Company Information; (ii) acquire any right in or assert any lien against the other party's Company Information; (iii) disclose any Company Information to a third party except as permitted by this Agreement or
with the written permission of the other party or (iv) refuse to promptly return, provide a copy of, or destroy the other party’s Company Information upon request of the other party. Customer will reimburse Cerner for the cost of destruction of information maintained on backup tapes.

(c) Exclusions. Notwithstanding the foregoing, this section shall not apply to any information that the receiving party can demonstrate: (i) was in the public domain at the time of disclosure to it; (ii) was published or otherwise became a part of the public domain, after disclosure to the receiving party, through no fault of its own; (iii) was in the possession of the receiving party at the time of disclosure to it from a third party who had a lawful right to such information and disclosed such information without a breach of duty owed to the disclosing party; or (iv) was independently developed by the receiving party without reference to the Company Information of the disclosing party. Further, either party may disclose the other party’s Company Information to the extent required by law or by order of a court or governmental agency. However, the recipient of such Company Information must give the disclosing party prompt notice.

(d) Report of Unauthorized Use or Disclosure of Company Information.

(i) Each party will immediately report to the other any use or disclosure of Company Information of the other that is not permitted by this Agreement or other written agreement of the parties.

(ii) Customer will not allow any Person other than an Authorized User or Cerner Staff access to the Software Products or to use Cerner Company Information until that Person has executed a confidentiality agreement with Cerner holding that Person to the same requirements as this part 6 ("Proprietary Rights and Non-Disclosure Agreement") and Customer has been notified by Cerner that this Agreement has been executed and that the Person has permission to access and use the Cerner Company Information to support Customer.

(iii) Customer understands that Cerner’s Proprietary Rights and Non-Disclosure Agreements prohibit any Person other than Cerner Staff and Authorized Users from retaining possession of Cerner Company Information. Customer will immediately notify Cerner if it becomes aware that any Person other than an Authorized User or Cerner Staff has or appears to have in their possession Cerner Company Information, or makes unsubstantiated claims that Cerner has granted permission to that Person to use Cerner Customer Information to support Customer.

(e) Period of Limitation. The covenants of confidentiality set forth herein: (i) will apply upon commencement of this Agreement to any Company Information disclosed to the receiving party, including Company Information disclosed during the course of negotiation of this Agreement, and (ii) will continue and must be maintained until termination of the Agreement, and in addition, with respect to Trade Secret, at any and all times after termination of the relationship between the parties hereto, during which such Trade Secrets retain their status as such under applicable law.

6.3 Third Party Vendors. It is understood that Customer may wish to create linkages between the Software Products and other software applications or databases. Customer acknowledges that the file structures and business rules of the Software Products and the Documentation are the Intellectual Property of Cerner and Company Information, within the meaning of section 6.2. Customer will not give third party vendors access to this Company Information without the written permission of Cerner. Cerner will give that permission if the third party vendor enters a written Proprietary Rights, Non-Disclosure, and Non-Compete agreement with Cerner.
This Agreement will become effective when executed by both parties.

CERNER CORPORATION.

Signature: [Signature]
Name: Marc Naughton
Title: EVP & CFO
Date: 12/29/14

Contact and Notice Information:
Name: Melinda Wagner
Title: General Manager
Address: 1121 W. Warner, Suite 101
          Tempe, AZ 85284
Phone: (480) 598-8833

Signature: [Signature]
Name: R. D. Warren
Title: Purchasing Agent
Date: 12/30/14

Contact and Notice Information:
Name: 
Title: 
Address: 
Phone: 

Cerner Customer Support Agreement
Exhibit A - Glossary

The following definitions apply to agreements between Cerner and Customer.

"Agreement Effective Date" shall mean November 1, 2014, the effective date of this Agreement.

"Anasazi Complete EHR" means the Software Products and Doctor's Home Page Third Party Services that in combination are certified by the Department of Health and Human Services to meet the criteria for a Complete EHR designed to be used in an ambulatory setting. The Client Data System, Assessment System, Treatment Planning System, Doctor’s Home Page, and Doctor's Home Page Third Party Services together create the Anasazi Complete EHR that has been certified as a Complete EHR -- Ambulatory for purposes of Stage 1 of the Meaningful Use Rule.

"Anniversary Date" means the date of the calendar year that falls one year after the Support Effective Date and each year thereafter, or such other date or dates as the parties may specify in writing.

"Application Technical Support Services" means technical support services that are directly related to the initial installation of the Software Products or to verifying that the Software Products function properly on the Hosting Equipment in a production environment (either at the time of initial installation or at any other time).

"Authorized Users" are members of Customer’s Workforce, or, if Customer has been licensed to operate as a Services Bureau, members of the Workforce of other Persons or Organizations (but only as permitted by the scope of license described in Exhibit B – Scope of License), to whom Customer has assigned passwords or otherwise permitted access to or use of the Software Products, and who have signed their agreement to terms and conditions of use of the Software Products that are consistent with this Agreement, including provisions for the protection of Cerner Intellectual Property Rights and Confidential Information.

"Billable Services" means Conversion Services, Non-Application Technical Support Services, Consulting Services, Training, and Enhancements.

"Cerner Staff" means all permanent or temporary employees of Cerner and all contractors or third-party service providers retained by Cerner, in whole or in part, for the purposes of performing the Services to Customer described in this Agreement.

"Certified Customer Staff" means an Authorized User directly employed by Customer that has passed one or more Cerner certification courses.

"Certified EHR Technology" shall have the meaning set forth at 45 CFR 170.102.

"Combined Operating Budget" means the total of all direct, indirect, and administrative costs of operation of programs, divisions, or services operated by Customer and by other Persons or Organizations permitted to access and use the Software Products within the Scope of License.

"Commerically Reasonable" means: (i) an action by Cerner in fulfilling its responsibilities to Customer that is reasonable, given the resources available to Cerner, the availability to Cerner of Cerner Staff who are qualified to provide Services requested by Customer in the timeframe requested by Customer, the work Cerner is already obligated to perform for other customers, and the nature of Customer’s request, and (ii) an adjustment to a fee that is reasonable, given inflation (as measured by the Consumer Price Index for All Urban Consumers (CPI-U)), the cost of recruiting, hiring, and paying qualified employees or contractors to perform Customer Support Services, maintain Cerner Software Products, and develop New Versions of Software Products, and the reasonable cost of operation of a software company of comparable size to Cerner.
“Complete EHR” shall have the meaning set forth at 45 CFR 170.102.

“Conversion Services” refers to a variety of services to be provided by Cerner to Customer to support installation of the Software Products and Customer’s conversion to use of the Software Products in a production environment. Conversion Services includes items such as planning the installation, identification of resources required to support implementation, project management, technical consultation and support, conversion of existing Customer Data from legacy software systems to the Software Products, design of custom forms and reports, development of customer requested Enhancements, Training and Implementation Services, and similar work. The specific package of services estimated to be delivered to Customer is described in the Proposal.

“Consulting Services” are professional Services provided by Cerner to help Customer identify and resolve business problems, or improve the operation of its programs and its business. This includes, but is not limited to consultation regarding billing, reimbursement, fiscal management, and revenue optimization, and consultation regarding business or administrative practices. Any such service will be so designated in a proposal, estimate or other response to a request for Services.

“Customer Data” is information created, received or used by Customer to operate its business and clinical operations. Customer Data includes, but is not limited to, Protected Health Information.

“Customer Support Services” refers to a range of services Cerner may deliver to Customer pursuant to this Agreement that support Customer in its use of the Cerner Software Products, operation of its information systems, and management of its business. Customer Support Services include Application Technical Support Services and User Support. Customer Support Services includes the services set forth on Exhibit E. In addition, notwithstanding Section 3.1(a) of the Software License and Conversion Services Agreement, Cerner will correct Defects in the Software Products as part of Customer Support Services so long as Customer pays Customer Support Services Fees.

“Customer Services Credit” means the positive difference, if any, between: (i) the cumulative total of Customer Support Services Fees invoiced to Customer through the Agreement Effective Date; and (ii) the cumulative total of the value of Customer Support Services received by Customer as of the Agreement Effective Date.

“Customer Support Services Fee” means a monthly fee paid to Cerner to enable Cerner to provide Customer Support Services.

“Defect” means a malfunction in a Software Product that causes erroneous data to be applied to the database, server hang, significantly decreased performance in processing of transactions or reporting, or that prevents a significant feature of the Software Product from performing substantially in accordance with the Documentation for the product or the Proposal. “Defect” does not include problems related to use of a Software Product that are not attributable to Cerner. Causes not attributable to Cerner include, but are not limited to:

- Accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; failure or fluctuation of electric power, air conditioning or humidity control; failure of or damage to rotation media, excessive heating, fire and smoke damage; operation of the Software Products on media or hardware, software or telecommunication interfaces not meeting or not maintained in accordance with the manufacturer’s specifications, or causes other than ordinary use;

- Damaged data or applications caused by a virus, worm, Trojan horse, or other malicious software that is not introduced by the Software Product;

Exhibit A - Glossary
• Failures caused by conflicts with software applications not listed as required third party technologies in the Proposal;

• Until specifically approved by Cerner, failures caused by defects in or conflicts with newer versions of required third party products;

• Improper configuration or installation of Hosting Equipment or Installation of Hosting Equipment that does not provide sufficient resources to enable the anticipated number of Authorized Users to access and use the Software Products in the manner described in Cerner’s Proposal to Customer;

• Improper installation by Customer or use of the Software Products that significantly deviates from any operating procedures established by Cerner in the applicable Documentation; and

• Modification, alteration or addition to or attempted modification, alteration or addition to the Software Products undertaken by Persons or Organizations other than Cerner or Cerner’s authorized representatives.

"Doctor's HomePage Concurrent Users" means the number of Doctor's HomePage Named Users permitted to simultaneously gain access to the Cerner Doctor's HomePage System.

"Doctor's HomePage Named Users" means Authorized Users for whom Customer requests permission to access and Cerner has enabled access to the Cerner Doctors HomePage System and the Doctor’s HomePage Third Party Services.

"Doctor’s HomePage Third Party Services" means the AddVantageRx Service provided by Cerner-Multum, the Pharmacy Health Information Exchange Service provided by SureScripts, Inc. and other informational services for the Cerner Doctor’s HomePage System delivered by third parties that Cerner may make available to Customer (in addition to or as substitutes for the AddVantageRx and/or Pharmacy Health Information Exchange Service).

"Documentation" means the user manuals, operator instructions, on-line manuals and help systems and other materials that explain the process of installation of the Software Products and the functions and use of the Software Products, and any revisions, Enhancements or modifications thereto, in printed or electronic form.

"Effective Date" is the latter of the date that both parties executed the Software License and Conversion Services Agreement and the date that Cerner receives the Software License Fee described on the Cover and Signature Page of that Agreement.

"Effective Expansion of the Scope of License" is an increase in the Combined Operating Budget of the business supported by use of the Software Products beyond that created by normal growth of Customer’s existing programs or any other increase in scope of use beyond Customer’s current license. Examples of events that might create an Effective Expansion of the Scope of License are merger with another entity, acquisition of another entity or its assets, establishment of a new facility, start up of a new program, expansion of existing programs into new catchment areas or markets and purchase or increase in Authorized Users of a Software Product.

"Enhancement" means a revision to a Software Product to improve the functionality of the software or address a specific functional requirement, including but not limited to the creation of customized reports, data fields, data entry screens, or routines for the processing and display of information by the Software Product.

"HITECH Act" refers to the Health Information Technology for Economic and Clinical Health Act, Title XII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. 111-5).

"Hosting Equipment" means the computer hardware, local and wide area networks, communications equipment, data lines, redundant power supplies, back-up systems, physical security devices, operating system software, data bases, data base drivers and other third party software applications required for installation of the Software Products, such as to enable Authorized Users access to the Software Products, and to ensure that the system performs in a satisfactory manner.

"Individually Identifiable Health Information" means information that identifies an individual, or which might be used to identify an individual (including the individual's name, address, names of relatives, employer, date of birth, telephone or fax number, e-mail address, social security number, patient identification number, certificate or license number, web URL, IP address, fingerprint and voice print, photographic image or other unique identifying number, characteristic or code); identifies the individual as a recipient of physical or mental health services or services for the treatment of alcohol or chemical dependency; or relates to the past, present or future physical or mental health or condition of an individual, or the past, present or future payment for the provision of health care services to an individual.

"Initial Term" means the period of time between the Support Effective Date and the first Anniversary Date.

"Intellectual Property" means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing: copyrights (including derivative works, as defined by the United States Copyright Act, thereof), trademarks, trade names, trade secrets, mask work rights, know-how, patents and any other intellectual and industrial property and proprietary rights, of every kind and nature throughout the universe and however designated, and including all registrations, applications, renewals and extensions thereof, under applicable law as it may currently exist or as it may in the future exist.

"Maintained Software Products" are those Software Products listed in Exhibit B – Scope of License, including Enhancements, Promotions and New Versions of those products delivered to Customer pursuant to this Agreement or another agreement between Customer and Cerner.

"Material Breach" or "Material" means a failure of either party to meet its obligations under this Agreement to such an extent that a reasonable Person would be more likely than not to decline to enter into this Agreement in view of the matter in question.

"Meaningful Use Rule" refers to the criteria and program participation requirements that eligible professionals (EPs), eligible hospitals and critical access hospitals (CAHs) participating in Medicare and Medicaid programs must meet in order to receive incentive payments for the adoption and meaningful use of Certified EHR Technology pursuant to the HITECH Act, as set forth at 42 CFR Part 495.

"Monthly Fees" means the total of the monthly Customer Support Services Fee and Doctor's HomePage Third Party Service Fee Customer has agreed to pay Cerner.

"New Version" means a major version of the Software Products which provides significant new functionality incorporates significant new technologies, creates compatibility with new technologies, or that
otherwise substantially expands the capability of the Software Products relative to the prior version of the Software Product. A New Version is indicated by means of a change of the Software Product version number to the left of the decimal point, e.g. 3.0 >> 4.0.

"Non-Application Technical Support Services" means technical support services required to enable Customer to install, operate, maintain and troubleshoot a computerized information system, part of which is the Hosting Equipment. The term includes, but is not limited to: design of local and wide area computer networks; selection, purchase, installation, maintenance, use, and repair of computer network hardware (such as routers, switches, and servers), workstations, printers, portables, electronic devices and media, communications systems, remote access systems, databases, database drivers, operating systems software, firewalls, intrusion detection systems, utilities, browsers and software other than the Software Products; security risk assessment and management; disaster recovery; and data backup and restoration.

"Non-prescribing Professional User" means a healthcare professional who is not authorized by law to issue orders for the dispensation of medications or controlled substances and is a Doctor’s HomePage Named User whose access excludes the capability of ordering drugs and writing prescriptions but has the ability to record certain other prescribing related information such as outside prescriptions.

"Object Code" or "Executable Code" means a series of one or more instructions executable after suitable processing by a computer or other programmable machine, without compilation or assembly.

"Person or Organization" means any natural person, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, proprietorship, trust, governmental authority, association or other entity, enterprise, authority or business organization.

"Prescribing Professional User" means a currently licensed physician, nurse practitioner, or other healthcare professional who is authorized by law to issue orders for the dispensation of medications or controlled substances and is a Doctor’s HomePage Named User.

"Promotion" means a version of a Software Product and may consist of a combination of corrections and Enhancements to a prior version of the Software Product. Promotions are indicated by means of a change of the Software Product version number to the right of the decimal point, e.g. 3.0 >> 3.1.

"Protected Health Information" means Individually Identifiable Health Information that is created or received by a Person or Organization that is a covered entity under HIPAA.

"Project Leader" means the person or persons assigned by Customer to work with the Project Manager to ensure efficient delivery of Services to Customer.

"Project Manager" means a member of the Cerner Staff assigned to oversee the provision of Services to Customer.

"Regular Hours" Regular Hours for services delivered at the Customer site are 8:00 a.m. through 5:00 p.m. in the Customer’s time zone. Regular Hours for all services are Monday through Friday, except for generally recognized national holidays.

"Scope of License" is the extent to which Customer may use the Cerner Software Products consistent with this Agreement and Exhibit B - Scope of License.

"Services" means all services delivered to Customer by Cerner pursuant to an Agreement.
“Services Bureau” means making the Software Products available to members of the Workforce of a Person or Organization other than Customer to support the clinical or business operations for the purpose of supporting the operation of that Person or Organization, or an organized system of services in which the Customer participates. Customer’s right to use the Software Products to support the operation of a Service Bureau is defined in the scope of license on Exhibit B – Scope of License. Fees to be paid to Cerner for use of the Software Products to support a Service Bureau are described in Exhibit C – Fees and Expenses.

“Software Product” or “Software Products” means the computer software program or programs licensed by Cerner to Customer specified in Exhibit B – Scope of License, in machine executable Object Code form and the Documentation. The term includes Enhancements, Promotions or New Versions of the Software Products licensed by Cerner to Customer.

“Source Code” means a series of instructions or statements in an English-like high level computer language such as DataFlex, PORTRAN, C, or PASCAL, or in a relatively low-level language such as the assembly language for a particular processor. Source Code is normally readable by humans trained in the particular computer language in question. It is transformed by compiler into machine readable Object Code (or Executable Code) for actual use on a computer.

“Support Services Request” means a documented request submitted by the Customer for Cerner to provide Customer Support Services.

“Support Effective Date” means the first day of the month that Customer “goes live” and begins using any of the Maintained Software Products in a production environment. The Customer Support Agreement is considered effective as of that date for each Maintained Software Product.

“Training” means instructional programs to familiarize Customer and Authorized Users with the functions and features of the Software Products and use of the products in a production environment.

“Training and Implementation Services” are Training and other services delivered by Cerner to assist Customer to begin to use the Cerner Software Products on the Hosting Equipment to support Customer in its business and clinical operations.

“User Group” means the Anasazi Software National Alliance (“ASNA”) an association of organizations that have licensed the Cerner Software Products. The Bylaws of ASNA govern its operations, and will be made available to Customer upon execution of this Agreement. The User Group recommends Enhancements to be developed by Cerner, and the priority for development of those Enhancements.

“User Support” means services to assist end users to gain access to, understand and use the Software Products, including (a) clarification of functions and features of a Software Product; (b) clarification of the Documentation; (c) guidance in the operation of the Software Product; and (d) error verification, analysis and correction, to the extent feasible by telephone.

“Workforce” means directors, officers, employees, volunteers, trainees, and other persons whose conduct in the performance of work is under the direct control of a Person or Organization, whether or not they are paid by that Person or Organization. Workforce does not include contractors who perform services that would otherwise be performed by Cerner, unless the contractor has signed an agreement with Cerner for the protection of Cerner’s Intellectual Property rights.
RESTATED EXHIBIT B
SCOPE OF LICENSE; MAINTAINED PRODUCTS; AUTHORIZED USERS

This Exhibit identifies the software applications and documentation to be licensed by Anasazi to Customer, the permitted uses of those Software Products, and the number of persons who may be designated as concurrent Authorized Users of the Software Products. It is part of the License and Conversion Services Agreement between Anasazi and Customer, which includes additional provisions pertaining to the scope of license and permitted uses of the Software Products. This Exhibit also identifies the Software Products for which Anasazi will provide Customer Support and Maintenance Services as provided in the Customer Support and Software Maintenance Agreement between the parties.

A. LICENSED AND MAINTAINED SOFTWARE PRODUCTS

The table below identifies by check-mark the software applications and accompanying documentation licensed by Anasazi to Customer for use as permitted in this Exhibit and the Software License and Conversion Services Agreement, and those for which Anasazi will provide Customer Support Services and Software Maintenance as provided in the Customer Support and Software Maintenance Agreement.

<table>
<thead>
<tr>
<th>Software Product</th>
<th>Version</th>
<th>Licensed</th>
<th>Maintained</th>
</tr>
</thead>
<tbody>
<tr>
<td>Anasazi Client Data System</td>
<td>5.0</td>
<td>✗</td>
<td>✗</td>
</tr>
<tr>
<td>Anasazi Assessment System</td>
<td>3.0</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>Anasazi Treatment Plan System</td>
<td>3.0</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>Anasazi Doctor’s Home Page System</td>
<td>2.0</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>Anasazi Scheduling System</td>
<td>2.0</td>
<td>✗</td>
<td></td>
</tr>
<tr>
<td>Anasazi Cost Accounting System</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anasazi Human Resources System</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Anasazi Fiscal System</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Anasazi Managed Care Organization (MCO) System</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
B. SCOPE OF LICENSE

The Software Products may be used for the purposes indicated by checkmark below and for no other purposes:

☑ Support of all programs operated directly by Customer, at all Customer locations;
☐ Support of the following divisions, locations, or programs operated by Customer, and no others:

☐ Customer operation of a Services Bureau for the following purposes, and no others:

C. AUTHORIZED USERS

1.

(a) The number of individuals who may be designated as Authorized Users for Software Products other than the Anasazi Doctor's HomePage System is:

☑ Unlimited for Software Products other than the Doctor's HomePage System.
☐ Up to persons may concurrently access Software Products other than the Anasazi Doctor's HomePage System.

(b) Records in this subsection signify that Customer has elected to license the Doctor's HomePage System on a concurrent user basis such that the number of Doctor's HomePage Named Users is unlimited and further denotes that the number of Doctor's HomePage Concurrent Users as:

Up to 16 Prescribing Professional Users may concurrently access the Doctor's HomePage System and the Doctor's HomePage Third Party Services.

Up to 28 combined Prescribing Professional Users and Non-Prescribing Professional Users may concurrently access the Doctor's HomePage System and the Doctor's HomePage Third Party Services such that unused licensing capacity for Prescribing Professional Users may be accessed by additional Non-prescribing Professional Users.

2. Only the following persons may be designated as Authorized Users:

☑ Members of Customer's Workforce;
EXHIBIT C - FEES AND EXPENSES

This Exhibit C describes terms for Customer payment of fees and reimbursement of expenses incurred by Cerner Corporation. It is incorporated by reference into agreements between Cerner and Customer. This version of Exhibit C supersedes all previous versions as of the Agreement Effective Date.

1. Fees

1.1 Software License Fee. The Software License Fee for Customer’s use of the Software Products within the Scope of License permitted on Exhibit B has been fully paid prior to the Agreement Effective Date or is not currently due.

1.2 Conversion Services Fees. Fees and expenses for Conversion Services will be billed monthly, after the service is provided.

1.3 Customer Support Services Fees. The total amount of the monthly support fees is $1,685.00. This fee is due and payable on the first day of each month of the term of the Customer Support Agreement. $697.50 of the total monthly support fees shall be allocated to User Group, as described in section 3.1 of the Customer Support Agreement.

1.4 Doctor’s HomePage Third Party Services Fees.

Customer has elected to license the Cerner Doctor’s HomePage System on a concurrent user basis;

(i) The monthly fee per licensed Doctor’s HomePage Concurrent User of the Doctor’s HomePage that are Prescribing Professional Users is $56.

(ii) The monthly fee per Doctor’s HomePage Concurrent User of the Doctor’s HomePage that are Non-prescribing Professional Users is $56.

2. Rate Schedule; Billing Practices

2.1 Rates and Rate Adjustments.

(a) Customer will be charged for Billable Services in accordance with the rate schedule described in subsection (c).

(b) Rates for Billable Services, delivered by Cerner Staff are based upon the Services provided and the skill level of the persons who normally provide each Service. The schedule below displays the “Regular Rates” charged by Cerner. These rates and the schedule may be adjusted from time to time, as described in Part 5 of this Exhibit C.

(c) The “Regular Rates” are as follows:

- Non-Application Technical Services: $275.00 per hour
- Cerner Executive Staff: $305.00 per hour
- Consulting Services: $220.00 per hour
- Project Manager: $195.00 per hour
- Senior Programmers: $170.00 per hour
- Systems Analysts: $170.00 per hour
Managers $220.00 per hour
Programmer Analysts $140.00 per hour
Network Specialists $140.00 per hour
Conversion Specialists $140.00 per hour

2.2 Billing Practices.

(a) All Billable Services delivered by Cerner are billed in increments of one-quarter hour.

(b) Billing for Billable Services delivered by Cerner Staff at the Customer's site will be for a minimum of eight hours for any part of a calendar day on site.

(c) Cerner will not bill Customer for travel time. Cerner will bill Customer for work performed by Cerner Staff for Customer while traveling.

(d) If Cerner provides Billable Services to Customer during a period of time when its obligation to provide those services is suspended due to a delinquency of greater than sixty (60) days in Customer payment of fees and expenses due Cerner for any reason, Customer will pay Cerner a twenty percent (20%) premium on Regular Rates for those Billable Services. This premium will apply even if Customer later pays the delinquent fees and expenses.

2.3 Development of Enhancements at Request of Customer.

(a) Cerner will use Commercially Reasonable efforts to develop Enhancements of Software Products requested by Customer as provided in Agreements between Cerner and Customer.

(b) Cerner will give Customer a quote associated with creating the Enhancement. If Customer approves additional work, Cerner will continue to evaluate Customer's request and, if requested by Customer, create a functional design document. If Customer approves development of the Enhancement, Customer shall execute a new agreement and Cerner's work to create the Enhancement will be charged to Customer based upon the terms of such agreement.

(c) Enhancements developed at the request of Customer will, once completed, be included in the next normal Promotion of the Software Products. If the Customer wishes to receive the Enhancement more rapidly, Cerner will prepare a special Promotion incorporating the Enhancement and charge for the time required as a Service.

3. Reimbursement of Expenses

3.1 Expenses. Customer will pay for travel expenses reasonably incurred by Cerner in the course of delivery of Services to Customer. Reimbursement will be in accordance with Cerner's travel policies as follows: (a) air travel, not to exceed the coach class rate to Customer's location or other location on Customer's behalf; (b) auto rentals, not to exceed one full-size rental auto for every 3 Cerner employees; (c) actual cost of lodging and miscellaneous expenses, such as parking, taxi fares, fuel, etc; and (d) a per diem rate for meals, as published and updated by the U.S. General Services Administration.

4. Billing and Payment Procedures

4.1 Invoice.
(a) Cerner will periodically send Customer invoices for Conversion Services Fees, Monthly Fees, Enhancements and Trainings, and any other agreed upon charges to Customer for fees or expenses that are due and payable.

(b) Customer will pay Cerner the undisputed portion of the balance due on all invoices within thirty (30) days of receipt of the invoice from Cerner.

4.2 Disputed Invoices.

(a) Except as provided in subsection (b), below, in the event that Customer questions any portion of a charge, fee or expense claimed by Cerner, it will pay the undisputed balance due.

(b) Customer will notify Cerner if it disputes any portion of an invoice for charges, fees or expenses associated with provision of Services. Notwithstanding any such dispute, Customer will pay the full monthly Customer Support Fee when those fees are due and payable.

(c) If the parties are unable to agree about the legitimacy of the disputed charge, fee or expense, the matter will be resolved pursuant to Section 10.11 of the Software License and Conversion Services Agreement.

4.3 Delinquent Payments.

Customer agrees to pay interest on undisputed unpaid amounts due at the rate of one and one half percent (1 1/2%) per month that a payment is overdue.

4.4 Prepayment Rights.

(a) Customer may prepay the total of all Monthly Fees for any twelve month period.

(b) If Customer prepays Monthly Fees as permitted in (a), it will receive a discount calculated by determining the Net Present Value of the prepaid funds using a discount rate equal to the lesser of the then current Prime Rate as published in the Wall Street Journal and six percent (6%).

(c) Prepayments are due on or before the Support Effective Date or the first day of the month of the twelve month period being prepaid.

(d) If Customer is more than ten (10) days late in submitting a prepaid fee, the discount described in (b) will only apply to that portion of the fee that is attributable to the months beginning after the date that Cerner receives the prepayment. Cerner will bill Customer and Customer will pay Cerner the difference between the discounted fees paid by Customer and the regular monthly fees for any month for which the discount does not apply.

(e) Prepaid fees will be applied towards payment of Customer's Monthly Fees as those fees become due from Customer, without regard to discounts granted Customer pursuant to this section. (For example, presuming that the applicable discount rate is five percent (5%), Monthly Fees are $1000, and that Customer makes a timely prepayment of $11,400 for a twelve month period ($12,000 - $600 discount), then on the first day of each month during the twelve month period, $1,000 will be credited towards payment of Customer’s Monthly Fees for that month.)

4.5 Customer Services Credit.

(a) As of the Agreement Effective Date, Customer has accrued a Customer Services Credit of $2,202.50.
(b) Customer may apply its Customer Services Credit to the payment of any Enhancements, Trainings or Consulting Services which have accrued through the Agreement Effective Date or which may be incurred in the future subject to the terms of 2.3 above and the limitation in 4.5 (c) below.

(c) On the fifth anniversary of the Agreement Effective Date, any remaining Customer Services Credit shall be reduced to zero.

(d) If the Customer Support Agreement terminates for any reason, Cerner shall retain any unused Customer Services Credit.

5. Fee Adjustments

5.1 Customer's Combined Operating Budget. Customer understands that Cerner fees are based on the Scope of License granted to Customer and the Combined Operating Budget of programs to be supported by use of the Cerner Software Products. Customer represents and warrants to Cerner that the Combined Operating Budget as of the Agreement Effective Date is $31,750,000.00. Cerner may at any time request that Customer provide an update of its Combined Operating Budget. Customer will provide that information to Cerner within thirty (30) days of receipt of Cerner's request.

5.2 Effective Expansion of Scope of License. In the event that there is an Effective Expansion of the Scope of License granted Customer, Customer will pay an additional License Fee and Customer Support Services Fee to Cerner based on usual and customary license and support fees charged by Cerner at the time of calculation and based on the difference in Customer's Combined Operating Budget before and after the Effective Expansion of Scope of License. All adjustments will be effective retroactive to the date that the Effective Expansion of the Scope of License occurred. Billing and payment for adjusted fees will be in accordance with Part 4 of this Exhibit C.

5.3 Rate and Fee Adjustments. The Agreement rates and fees shall remain firm throughout the Agreement Term, unless Cerner requests a price adjustment, and Customer approves such an adjustment, in accordance with the following procedure:

(a) Cerner may submit a written request for price adjustment to the County not less than sixty (60) days prior to December 31 of any given year of the contract ("Anniversary Date").

(b) Requests for adjustment(s) to rates and fees shall not exceed the percentage of escalation/de-escalation in the U.S. Department of Labor, Consumer Price index, All Items, Unadjusted, Urban Areas ("CPI-U") for the twelve (12) month period ending on August 31 of each year of the Contract.

Any adjustments to rates and fees approved by Customer as a result of the procedure set forth in 5.3(a) and (b), shall become effective the day after the current Anniversary Date and shall be binding on both parties for the remainder of the Agreement Term unless an adjustment is requested by Cerner and approved by Customer in a subsequent year, as set forth above.

If Cerner and Customer do not agree on the requested adjustment using the procedure set forth in A and B above by the thirtieth (30th) calendar day prior to the Anniversary Date, the County may in its sole discretion terminate the Contract per the terms of Customer Support Agreement section 4.3.

6. Taxes

6.1 Taxes. The fees to be paid by Customer are exclusive of any Federal, state, or local excise, sales, and use taxes and assessments relating to goods and services provided by Cerner. Cerner will
include and itemize all taxes owed on its invoices. Customer will promptly pay any such applicable taxes and assessments reflected on its invoices. Customer shall have no responsibility for taxes based on the net income of Cerner. Cerner will defend and indemnify Customer against and hold Customer harmless from any liability, penalty, fee, interest and expenses resulting from Cerner's failure to pay such collected amounts on behalf of Customer.

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1. This will be the final Customer Services Credit balance accrued from the prior Customer Support and Software Maintenance Agreement. This amount is subject to revision as of the Agreement Effective Date based on support usage prior to execution.
EXHIBIT D DESCRIPTION OF SUPPORT SERVICE

The following is a high level description of the benefits received through the payment of Customer Support Services Fees:

1) Immediate Response Center ("IRC")
   Cerner's support center that is staffed twenty-four hours a day and seven days a week for the purpose of addressing and resolving customer mission critical issues.

2) Immediate Answer Center ("IAC" or "Service Center")
   Cerner's support center that is available for non-mission critical problem determination, resolution, or identification of alternatives through consultative assistance on solution functionality.

3) Client Care Team
   Cerner's support center that is available for training, Cerner events, financial, and quote information.

4) IntelliNet (secured access mechanism)
   A data communications mechanism that facilitates problem resolution at the customer site (secure and efficient method for service and support).

5) New Versions
   Software updates that deliver increased functionality over time and allow software to remain current with various technologies.

6) Knowledge transfer during service events
   Education provided to Customer's personnel during problem resolution leading to greater customer self-sufficiency.

7) Service Escalation Process
   Defined process for any customer to escalate an issue (whenever the customer feels a service or support issue is not being addressed) to receive executive management focus.

8) Complete Service Record
   Complete customer service record identifying service issues, history, trends, and patterns.

9) On-Line Demographic Profile (Solution/technical attributes)
   Knowledge of customer technical environment, supporting an efficient and effective problem resolution process (assumes hardware and Sublicensed Software Maintenance through Cerner).

10) Catalog of Services
    On-line access via Cerner.com to Cerner's Catalog of Services referencing and describing all of Cerner's services.

11) Telephone, e-mail, internet
    For the convenience of Customer, Cerner offers multiple avenues of communication for support requests and for support services.

12) Cerner.com
    Internet access to solution documentation, communities of interest, announcements, on-line service request entry and the ability to review service activity.

13) Proactive Solution and Service Flashes
    Advance information concerning new solutions, upcoming corrections, patches, add-ons, etc.

14) Access To Cerner Direct
    Access to a direct channel for ordering technology with 24-hour turnaround with discounted or competitive pricing through Cerner.com or the Cerner Direct Order Desk.