

	INFORMATION TECHNOLOGY CONTRACT for Clinical Data Repository Services	HCA Contract Number: K5704 Contractor Contract Number:
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THIS CONTRACT is made by and between Washington State Health Care Authority, (HCA) and OneHealthPort, (OHP or Contractor).

CONTRACTOR NAME OneHealthPort, Inc.		CONTRACTOR DOING BUSINESS AS (DBA) OHP		
CONTRACTOR ADDRESS Street 2003 Western Ave, Suite 600		City Seattle	State WA	Zip Code 98121
CONTRACTOR CONTACT Rick Rubin	CONTRACTOR TELEPHONE (206) 624- 3128 ext. 111	CONTRACTOR E-MAIL ADDRESS rickr@onehealthport.com		
Is Contractor a Subrecipient under this Contract? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		CFDA NUMBER(S):	FFATA Form Required <input type="checkbox"/> YES <input type="checkbox"/> NO	

HCA PROGRAM Health Information Technology	HCA DIVISION/SECTION CQCT
HCA CONTACT NAME AND TITLE Marcia Drake Deputy of Data Acquisition & Management	HCA CONTACT ADDRESS Health Care Authority 626 8th Avenue SE PO Box 45528 Olympia, WA 98504-98501
HCA CONTACT TELEPHONE (360) 725-0777	HCA CONTACT E-MAIL ADDRESS marcia.drake@hca.wa.gov

CONTRACT START DATE 9/1/2022	CONTRACT END DATE 11/30/2024	TOTAL MAXIMUM CONTRACT AMOUNT \$945,000
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PURPOSE OF CONTRACT: Contractor will provide services required to coordinate, administer, manage, and operate the Clinical Data Repository which collects and aggregates clinical information submitted by providers for lives sponsored by HCA. Contractor will accomplish this by providing Lead Organization and Data Vendor Services.

The parties signing below warrant that they have read and understand this Contract, and have authority to execute this Contract. This Contract will be binding on HCA only upon signature by both parties.

CONTRACTOR SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED
HCA SIGNATURE	PRINTED NAME AND TITLE	DATE SIGNED

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Attachments

Attachment 1: COVID-19 Vaccination Certification

1 RECITALS

The Washington State Health Care Authority (HCA) posted a Notice of Intent to award a Sole Source Contract to OneHealthPort on the Washington Electronic Business Solution (WEBS) website from July 26, 2022 to August 10, 2022 and also posted the Notice of Sole Source Contract on the HCA website from July 26, 2022 to August 10, 2022.

HCA also filed the proposed Sole Source Contract and required documentation in the Sole Source Contract Database on July 26, 2022, which was ten (10) or more working days prior to the Contract start date. The Department of Enterprise Services (DES) reviewed and approved the filing on [date].

The State of Washington, acting by and through the Department of Social and Health Services and transferred to the Health Care Authority (HCA), requested participation in the Washington State Health Information Exchange (HIE) and signed the OHP HIE Participation Agreement (K865) with OneHealthPort on July 1, 2011. The Clinical Data Repository (CDR) was introduced as an extension of this work under the HIE CDR Sponsor Services Election Form (K865-0-3), effective January 29, 2015.

The HIE CDR Sponsor Services Election Form (K865-0-3) was terminated and replaced by the CDR Sponsor Services work order (K865-0-4), effective January 1, 2020. The CDR Sponsor Services work order (K865-0-4) has been modified by the following: Amendment 1, effective May 7, 2020, clarified data security requirements and obligations of the parties and subcontractors; Amendment 2, effective July 22, 2020, increased the compensation of the Work Order to cover stewardship of aged lives in the CDR; Amendment 3, effective October 30, 2020, corrected a section numbering error and revised deliverable dates; Amendment 4, effective March 25, 2021, and Amendment 5, effective May 31, 2021, revised deliverable due dates; and Amendment 6, effective December 20, 2021, Amendment 7, effective March 2, 2022, Amendment 8, effective May 4, 2022, extended the period of performance and increased compensation, Amendment 9, effective June 23, 2022, extended the period of performance and increased compensation, and Amendment 10, extended the period of performance..

HCA and Contractor now seek to define the HIE and CDR independently of one another, and the previous agreement (K865-0-4) and all related Amendments will terminate without the need for further notice to either party, and neither party has any outstanding claims for payment or performance. The previous agreement and its amendments will be terminated and replaced with this Contract as of its Effective Date.

NOW THEREFORE, HCA and OneHealthPort enter into this Contract, the terms and conditions of which will govern Contractor's providing to HCA the CDR Services.

2 DEFINITIONS

Acceptance or **Accept**: The materials, supplies, services, and/or equipment that have passed an appropriate inspection. Acceptance will occur when the Product is delivered and inspected by HCA.

Addendum or **Amendment**: An agreed, written, signed change to a legal document.

Authorized Representative: An individual designated by the Contractor to act on its behalf with the authority to legally bind the Contractor concerning the terms and conditions set forth in this Contract.

Business Days and Hours: Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by Washington State.

Change Order: A written form in response to a Change Request that modifies, deletes or adds to the Deliverables or Services, in whole or in part, and that is made in accordance with the Contract.

Change Request: A written form that proposes changes to modify, delete, or add to the Deliverables or Services, in whole or in part, made in accordance with the Contract. The definition of Change Request does not apply to any changes Contractor already is obligated to provide under the Contract, including without limitation changes to correct Deficiencies and changes to the Solution as part of the Operations and Maintenance Services identified in the contract.

Clinical Data Repository (CDR): A system designed to collect, index and make available to authorized Data Users clinical information from different electronic health record platforms and other data systems for specific or authorized uses.

Confidential Information: Information that may be exempt from disclosure to the public or other unauthorized persons under chapter 42.56 RCW or chapter 70.02 RCW or other state or federal statutes or regulations. Confidential Information includes, but is not limited to, any information identifiable to an individual that relates to a natural person's health, (see also Protected Health Information); finances, education, business, use or receipt of governmental services, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and any other identifying numbers, law enforcement records, HCA source code or object code, or HCA or State security information.

Contract: This signed agreement, which includes all schedules, exhibits and amendments for the procurement of items of tangible property, and services.

Contractor: Individual or company whose proposal has been accepted by the agency and is awarded a fully executed, written contract. The Contractor has full responsibility for the coordination and control of all aspects of the project, including support to be provided by any Subcontractor(s). The Contractor will be the sole point of contact with HCA relative to contract performance.

Data: All information recorded for purposes of this Contract including all models, diagrams, and dictionaries necessary to use said information. Data also includes all data converted pursuant to this Contract.

Data Quality: The quality of the CDR data, including but not limited to established standards for data completeness, uniqueness, timeliness, accuracy, validity, and consistency.

Data Requestor: An organization/entity or individual who submits an application for CDR data, following the processes outlined in this Contract.

Data Submitter or Data Supplier: (a) A clinical services provider who submits Continuity of Care Documents (CCDs) or other clinical information to the CDR; (b) a carrier or any other entity that provides member eligibility files to the CDR; and (c) any other organization that submits data to the CDR.

Data Use Agreement or DUA: The legally binding document signed by either the Contractor and the Data Requestor, or the Program Administrator and the Data Requestor, or the Program Administrator and a Washington state agency, that defines the terms and conditions under which access to and use of the CDR data is authorized, how the data will be secured and protected, and how the data will be destroyed at the end of the DUA term.

Data User or User: An authorized individual based on an approved data application that is granted access to and use of CDR data for defined purposes.

Data Vendor (DV): An entity contracted to perform data collection, processing, aggregation, extracts, analytics, and reporting. Refer to Schedule B: Statement of Work – CDR Data Vendor Services.

DDI: Design, Development, and Implementation of the Solution.

Deliverable: Any measurable, tangible, verifiable outcome, result, or item that shall be produced for HCA (either independently or in concert with HCA or third parties) during the course of Contractor's performance under this Contract, work produced under Change Orders, and designs, structures, and models developed in the course of rendering the Services and incorporated into such products. A Deliverable may be composed of one or more interrelated Work Products.

Delivery Date: The date by which a Deliverable must be delivered to the HCA.

Disaster Recovery: A catastrophic event that is caused by acts beyond the Contractor's reasonable control and that result in significant or potentially significant downtime or disruption of the production environment and requires the Contractor to invoke their disaster recovery plan.

Documentation: All operations, technical or user manuals and guides used in conjunction with the System, including manuals provided by licensors of Third-Party software. Additionally, Documentation refers to all materials required to support and convey information about the Services required by this Contract. It includes, but is not restricted to, written reports and analyses, diagrams, maps, logical and physical designs, system designs, computer programs, flow charts, disks, and/or other machine-readable storage media.

Effective Date: The first date the Contract is in full force and effect. It may be a specific date agreed to by the parties; or, if not so specified, the date of the last signature of a party to this Contract. The Effective Date is September 1, 2022.

Federal Financial Participation or FFP: The Federal government's share of expenditures for Deliverables or Services under this Contract.

HCA Contract Manager: The individual identified on the cover page of this Contract who will provide oversight of the Contractor's activities and monitor Deliverables completed and accepted under this Contract.

Health Care Authority (HCA): The Washington State Health Care Authority, any division, section, office, unit, or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

Health Insurance Portability and Accountability Act (HIPAA): The Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as amended by the American Recovery and Reinvestment Act of 2009 (ARRA), Sec. 13400 – 13424, H.R. 1 (2009) (HITECH Act), and its attendant regulations as promulgated by the U.S. Department of Health and Human Services (HHS), the Centers for Medicare and Medicaid Services (CMS), the HHS Office of the Inspector General (OIG), and the HHS Office for Civil Rights (OCR).

Help Desk: A service provided by the Contractor for the support of the Contractors Software.

Inspection: An examination of delivered material, supplies, services, software and/or equipment prior to Acceptance, aimed at forming a judgment as to whether such delivered items are what was ordered, were properly delivered and ready for Acceptance. Inspection may include a high-level examination or a more thorough detailed examination as is customary to the type of purchase, as set forth in the Solicitation document and/or as agreed between the parties. Inspection may be acknowledged by an authorized signature of the Agency. Inspection may include testing of the Software.

Interfaces: Integration mechanism for transmitting Data between Modules or components in the System and between the System and other systems.

Lead Organization (LO): An entity contracted to coordinate and manage the CDR. LO will be responsible for internal governance, management, funding, and operations of the CDR Program. Refer to Schedule A: Statement of Work – CDR Lead Organization Services.

Office of the Chief Information Officer (OCIO): The Washington State Office of Chief Information Officer. OCIO sets information technology (IT) policy and direction for the State of Washington.

Operational: The condition when the System is completely functional in accordance with Specifications and usable for its purposes in the daily operations of HCA, and all of the Data has been loaded into the System and is available for use by the HCA.

Price: Charges, costs, rates, and/or fees charged for the Products and Services under this Contract, which shall be paid in United States dollars.

Proprietary Information: Information owned by the Contractor to which the Contractor claims a protectable interest under law. It refers to any information which has commercial value and is either (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, know-how, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulae related to the current, future and proposed products and services of the Contractor, or (ii) non-technical information relating to Contractors' products, including without limitation pricing, margins, merchandising plans and strategies, finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data, sales and marketing plans, future business plans and any other information which is proprietary and confidential to Contractor.

Protected Health Information (PHI): Individually identifiable information that relates to the provision of health care to an individual; the past, present, or future physical or mental health or condition of an individual; or past, present, or future payment for provision of health care to an individual, as defined in 45 CFR 160.103. Individually identifiable information is information that identifies the individual or about which there is a reasonable basis to believe it can be used to identify the individual and includes demographic information. PHI is information transmitted, maintained, or stored in any form or medium. 45 CFR 164.501. PHI does not include education records covered by the Family Educational Rights and Privacy Act, as amended, 20 USC 1232g(a)(4)(b)(iv).

Requirements: HCA expectations for the System and all other goods and services delivered by the Contractor under the terms of this Contract.

Revised Code of Washington (RCW): All references in this Contract to RCW chapters or sections include any successor, amended, or replacement statute. Pertinent RCW chapters can be accessed at: <https://apps.leg.wa.gov/rcw/>.

Salting: The placement of deliberate errors and omissions in the Software or a database.

Scheduled Downtime: The total amount of time during which the System's core features and functions are unavailable for the majority of users due to planned System maintenance performed by the Contractor.

Service(s): All the Contractor activities necessary to satisfy this Contract.

Software: The software that is used to fulfill the Services in accordance with this Contract.

State: The State of Washington.

Statement of Work (SOW): A detailed description of the work activities the Contractor is required to perform under the terms and conditions of this Contract, including the deliverables and timeline, and is Schedule A and Schedule B hereto.

Subcontractor: One not in the employment of the Contractor and who is acting on behalf of the Contractor to perform business activities under this Contract which may include accessing, using or otherwise interacting with the CDR.

System: Refers to the CDR.

Third-Party: A person or entity (including, but not limited to any form of business organization, such as a corporation, partnership, limited liability corporation, or association) that is not a party to this Contract.

Unscheduled Downtime: The total amount of time in minutes during any time period during which the System's core features and functions are unavailable for HCA's access, other than Scheduled Downtime.

Update: Any and all updates, upgrades, patches, additions, modifications, releases, or other changes made by the Contractor with respect to the Software, and all changes to the Documentation.

Washington Administrative Code (WAC): All references to WAC chapters or sections will include any successor, amended, or replacement regulation. Pertinent WACs may be accessed at: <http://app.leg.wa.gov/wac/>.

Work Product: The documented results of Schedule A and Schedule B activities developed and reviewed per the requirements stated within this Contract and developed or prepared by the Contractor in carrying out the obligations and Services of this Contract. One or more Work Products collectively form a Deliverable. Work Product includes data and products produced, including but not limited to, discoveries, formulae, ideas, improvements, inventions, methods, models, processes, techniques, findings, conclusions, recommendations, reports, designs, plans, diagrams, drawings, Software, databases, documents, pamphlets, advertisements, books, magazines, surveys, studies, computer programs, films, tapes, and/or sound reproductions, to the extent provided by law.

3 PURPOSE

HCA is tasked with providing high-quality health care through innovative health policies and purchasing strategies. The CDR Program collects and aggregates clinical information submitted by Washington State clinical care providers. Data collected within the CDR includes Continuity of Care Documents (CCDs) submitted by provider organizations as well as client eligibility files submitted by health plans in the State of Washington. It was implemented to support clinical care coordination, improve population health, facilitate clinical policy research and analytics, and support healthcare transformation and health policy development.

The CDR Program improves healthcare quality performance transparency to:

- Assist patients, providers, and hospitals make informed choices about care;
- Enable providers, hospitals, and communities to improve by focusing on best practices and benchmarking their performance against that of others; and
- Enable purchasers to identify value, and build clinical quality performance expectations into their purchasing strategy; and
- Support public health organizations to better understand and manage the health of populations

The CDR Program requires LO and DV Services to support the CDR, specified in Schedule A and Schedule B, respectively. Notwithstanding the definition of separate responsibilities for the LO and the DV, the responsibilities of the LO include oversight and management of the DV. In this capacity, the LO is responsible for the completion of all deliverables required in this Contract.

4 CONTRACT TERM

4.1 Initial Term of Contract

The term of this Contract will commence on the Effective Date of September 1, 2022 and continue through November 30, 2024, subject to earlier termination as provided in Section 17.45, *Termination*. Any services performed beyond the fiscal or biennial year's end are contingent upon receipt of funding.

4.2 Extensions

The parties may extend the Contract up to five (5) additional calendar years at the current costs detailed herein by mutual written agreement. An extension is subject to approval by DES and CMS.

4.3 Risk of Contractor

Work performed without a Contract or Amendment signed by the authorized representatives of both parties will be at the sole risk of the Contractor. HCA will not pay any costs incurred before a Contract or any subsequent amendment(s) is fully executed.

5 DES FILING REQUIREMENT

The provisions of Chapter 39.26 RCW require HCA to file this sole source Contract and any amendments to this Contract with the Department of Enterprise Services (DES) for approval. No filed contract or amendment is effective, nor will work commence under it, until the tenth (10th) working day following the date of filing and subject to DES approval.

6 ORDER OF PRECEDENCE

Each of the Attachments listed below is hereby incorporated into this Contract. In the event of an inconsistency in this contract, the inconsistency shall be resolved by giving precedence in the following order:

- a. Applicable federal and State statutes and regulations;
- b. Exhibit B: Data Use Agreement;
- c. Exhibit C: Data Submission Agreement
- d. General Terms and Conditions within this Contract;
- e. Schedule A: Statement of Work – CDR Lead Organization Services;
- f. Schedule B: Statement of Work – CDR Data Vendor Services;
- g. Exhibit E: CDR Program Service Level Agreement;
- h. Exhibit A: MCO Invoicing Procedure;
- i. Exhibit D: Approved Subcontractor List; and
- j. Any other provision, term or material incorporated herein by reference or otherwise incorporated.

7 CONTRACT ADMINISTRATION

All authorized communication regarding this Contract shall occur between the Contractor's Authorized Representative or designee and the HCA Contract Manager or designee.

1. Contractor's Contract Manager will have prime responsibility and final authority for the services provided under this Contract and be the principal point of contact for the HCA Contract Manager for all business matters, performance matters, and administrative activities.
2. HCA's Contract Manager is responsible for monitoring the Contractor's performance and will be the contact person for all communications regarding contract performance and deliverables. The HCA Contract Manager has the authority to accept or reject the services provided and must approve Contractor's invoices prior to payment.
3. The contact information provided below may be changed by written notice of the change (email acceptable) to the other party.

Contractor's Authorized Representative		Health Care Authority Contract Manager Information	
Name:	Kerry Tye	Name:	Marcia Drake
Title:	Senior VP	Title:	Deputy of Data Acquisition and Data Management
Address:	OneHealthPort, Inc. 2003 Western Ave, Suite 600 Seattle, WA 98121	Address:	Health Care Authority 626 8th Avenue SE PO Box 45528 Olympia, WA 98504-98501
Phone:	(206) 624- 3128 extension 119	Phone:	(360) 725-0777
Email:	ktye@onehealthport.com	Email:	marcia.drake@hca.wa.gov

8 LEGAL NOTICES

Any notice or demand or other communication required or permitted to be given under this Contract or applicable law is effective only if it is in writing and signed by the applicable party, properly addressed, and delivered in person, via email, or by a recognized courier services, or deposited with the United States Postal Services as first-class mail, postage prepaid certificate mail, return receipt requested, to the parties at the addresses provided in this Section.

In case of notice to the Contractor:

Attention: Kerry Tye
OneHealthPort, Inc.
2003 Western Avenue, Suite 600
Seattle, WA 98121

In case of notice to HCA:

Attention: Contracts Administrator
Health Care Authority
Division of Legal Services
Post Office Box 42702
Olympia, WA 98504-2702
contracts@hca.wa.gov

9 FINANCIAL MATTERS

9.1 Maximum Amount

The maximum amounts payable under the terms of this Contract are set forth in Schedule A and Schedule B.

9.2 Charges for Services

The charges for Services are set forth in Schedule A and Schedule B. Subject to HCA's receipt of an accurate invoice, Contractor's performance of its obligations in accordance

with the terms in this Contract, and to HCA's Acceptance of Deliverable(s) and exercise of its rights and remedies, HCA will pay Contractor the charges for the Services that are described in this Contract within 30 days of receipt of such invoice for Services provided in the previous month. HCA will not pay any claims for payment for Services submitted more than twelve (12) months after the calendar month in which the Services were performed.

9.3 Invoice and Payment

9.3.1 Contractor must comply with the process to determine semi-annual billings to the Managed Care Organizations (MCOs) to support maintaining lives within the CDR, as set forth in Exhibit A: *MCO Invoicing Procedure*.

9.3.2 Contractor must submit accurate invoices to the following address for all amounts to be paid by HCA via e-mail to: HCAAdminAccountsPayable@HCA.wa.gov.

9.3.3 Invoices must describe and document to HCA's satisfaction a description of the work performed, the progress of the project, and fees. If expenses are invoiced, invoices must provide a detailed breakdown of each type. Any single expense in the amount of \$50.00 or more must be accompanied by a receipt to receive reimbursement. All invoices will be reviewed and must be approved by the Contract Manager or designee prior to payment.

9.3.4 The Contractor must submit properly itemized invoices to include the following information, as applicable:

- HCA Contract number **K5704**;
- Contractor name, address, phone number;
- Description of Services;
- An itemization of each Service as a Lead Organization or Data Vendor Service;
- An itemization of Onboarding and Technical Assistance Service;
- Date(s) of delivery, as applicable;
- Net invoice price for each item;
- Credits, if any;
- Applicable taxes;
- Total invoice price; and
- Payment terms and any available prompt payment discount.

9.3.5 HCA will return incorrect or incomplete invoices to the Contractor for correction and reissue. The Contract Number must appear on all invoices, bills of lading, packages, and correspondence relating to this Contract.

9.3.6 In order to receive payment for services or products provided to a state agency, the Contractor must register with the Statewide Payee Desk at <https://ofm.wa.gov/it-systems/statewide-vendorpayee-services/receiving-payment-state>. Payment will be considered timely if made by HCA within thirty (30) calendar days of receipt of

properly completed invoices. Payment will be directly deposited in the bank account or sent to the address the Contractor designated in its registration.

9.3.7 The Contractor warrants that the cost charged for services under the terms of this Contract are not in excess of those charged any other client for the same services performed by the same individuals.

9.3.8 Contractor agrees all the prices, terms, rates, warranties, and benefits granted by Contractor are comparable to or better than the terms, prices, warranties and benefits being offered by Contractor for substantially similar services to any present substantially similar customer meeting substantially similar contract terms and conditions, qualifications and requirements as HCA, except as otherwise required by applicable federal law. Except as otherwise herein provided, if Contractor shall, during the term of this Agreement, enter into arrangements as a whole with any other substantially similar customer providing greater benefits or more favorable terms than those provided herein for provision of same or substantially similar services with substantially similar contract terms and conditions, qualifications, and requirements as HCA, Contractor shall be obligated to provide the same to HCA. For avoidance of doubt, Contractor shall send notice to HCA within 15 Business Days of any price, term, rate, warranty and/or benefit offered to another customer and any change resulting from this section shall apply with the next amendment.

9.3.9 The Contractor shall not bill HCA for costs if the Contractor is being paid by another funding source for those same costs.

9.3.10 Upon expiration of the Contract, any claims for payment for costs due and payable under this Contract that are incurred prior to the expiration date must be submitted by the Contractor to HCA within sixty (60) calendar days after the Contract expiration date. HCA is under no obligation to pay any claims that are submitted sixty-one (61) or more calendar days after the Contract expiration date ("Belated Claims"). HCA will pay Belated Claims at its sole discretion, and any such potential payment is contingent upon the availability of funds.

10 CMS CERTIFICATION

Contractor must support necessary steps to maintain CMS Certification in the event that the CDR is modified, including as a result of changing CMS requirements under Section 17.26, *Legal and Regulatory Compliance*.

11 RIGHT OF INSPECTION

The Contractor must provide right of access to its facilities to HCA, or any of its officers, or to any other authorized agent or official of the State of Washington or the federal government, at all reasonable times and with prior notice, to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

12 RIGHTS OF STATE AND FEDERAL GOVERNMENTS

The parties acknowledge it is not their intent to develop or design software or related documentation under this Contract. However, in accordance with 45 CFR §95.617 and 42 CFR §495.360, HCA will have all ownership rights in software or modifications thereof and associated documentation designed, developed or installed with Federal financial participation under the respective subparts of 45 CFR §95.617 and 42 CFR §495.360. The

Contractor further agrees to adhere to and assist HCA with any access to systems and records as required by 45 CFR §95.615 and 42 CFR §495.346. In accordance with 42 CFR §495.348(i), HCA, the U.S. Comptroller General, or any of their duly authorized representatives, must have access to any books, documents, papers and records and staff of the Contractor that are directly pertinent to this Agreement for the purpose of making audits, examinations, excerpts and transcriptions.

13 CONFIDENTIAL DATA SECURITY

The federal government, including the Centers for Medicare and Medicaid Services (CMS), and the State of Washington all maintain security requirements regarding privacy, data access, and other areas. Contractor, including any and all Subcontractors, is required to comply with Attachment 1, Confidential Information Security Requirements, and the appropriate portions of the Washington OCIO Security Standard, 141.10 (<https://ocio.wa.gov/policies/141-securing-information-technology-assets/14110-securing-information-technology-assets>).

14 NON-DISCLOSURE

14.1 Covered Information

Contractor understands that HCA has or may disclose employee or Licensee information and other related information which to the extent previously, presently, or subsequently disclosed to Contractor is hereinafter referred to as Proprietary Information or Confidential Information, and collectively referred to as Covered Information.

14.2 Non – Disclosure

In consideration of the disclosure of Covered Information by HCA, Contractor hereby agrees: (1) to hold the Covered Information in strict confidence and to take all reasonable precautions to protect such Covered Information (including, without limitation, all precautions Contractor employs with respect to its own confidential materials), (2) not to disclose any such Covered Information or any other information derived therefrom to any third person, (3) not to make any use whatsoever at any time of such Covered Information except for the purposes set forth in HCA Contract K5704, and (4) not to copy or reverse engineer any such Covered Information. There will be no obligation of confidentiality with respect to any Covered Information that (a) is publicly available, other than through a breach of this Contract by Contractor; (b) is developed by Contractor independently of, or was known by Contractor prior to, any disclosures made by HCA to Contractor of such information; (c) is disclosed with written consent of HCA; (d) is disclosed by Contractor as may be required by law, regulation, or judicial or administrative process in accordance with applicable professional standards or rules pursuant to an order of a court of competent jurisdiction or administrative agency, a validly enforceable subpoena, or any other legal or administrative process; (e) is disclosed in response to governmental inquiries, or in accordance with applicable professional standards or rules pursuant to an order of a court of competent jurisdiction or administrative agency, a validly enforceable subpoena, or any other legal or administrative process; or (f) is disclosed by Contractor in connection with any judicial or other proceeding involving either Party relating to this Contract, provided that Contractor will, to the extent permitted by applicable law, advise HCA of the disclosure requirement and request confidential treatment for the Covered Information disclosed.

14.3 Non-Disclosure and Non-Use Obligations

Contractor will maintain in confidence and will not disclose, disseminate, or use any Covered Information belonging to HCA, whether or not in written form. Contractor

agrees that Contractor shall treat all Covered Information of HCA with at least the same degree of care as Contractor accords its own confidential information. Contractor further represents that Contractor exercises at least reasonable care to protect its own Covered Information. If Contractor is not an individual, Contractor agrees that Contractor shall disclose Confidential Information only to those of its employees who need to know such information and certifies that such employees have previously signed a copy of this Contract. Contractor will use any HCA issued computer, laptop, or cellular telephone in a secure fashion. Contractor will not allow unauthorized individuals to use their HCA issued property. Contractor will always lock or lockout any HCA issued property when leaving it unattended. In addition, passwords used to access HCA issued property will not be written down and stored in any unsecure fashion.

14.4 Reporting of Unauthorized Disclosure

Contractor shall report to HCA any use or disclosure of Covered Information not authorized by this Contract or in writing by HCA to be used or disclosed. Contractor shall make the report to HCA not more than one (1) business day after Contractor learns of the unauthorized use or disclosure. The Contractor's report shall include: (1) the nature of the unauthorized use or disclosure, (2) the Covered Information used or disclosed, (3) who made the unauthorized use or received the unauthorized disclosure, (4) what Contractor has done or shall do to mitigate any deleterious effect of the unauthorized disclosure, and (5) what corrective action the Contractor has taken or shall take to prevent similar unauthorized use or disclosure.

HCA reserves the right to monitor, audit, or investigate the use of Covered Information collected, used, or acquired by Contractor through this Contract. The monitoring, auditing, or investigating may include, but is not limited, salting databases.

14.5 Return or Destruction of Information

Immediately upon the written request of HCA at any time, Contractor will return to HCA all Covered Information and all documents or media containing any such Covered Information and any and all copies or extracts thereof; except that where such Covered Information is a form incapable of return or has been copied or transcribed into another document, it shall be destroyed or erased as appropriate. Contractor shall provide HCA and Affidavit of Destruction if the foregoing sentence applies with respect to copied or transcribed information.

14.6 Injunctive Relief and Indemnity

Contractor shall immediately report to HCA any and all unauthorized disclosures or uses of HCA's Confidential Information of which Contractor is aware or has knowledge. Contractor acknowledges that any publication or disclosure of HCA's Confidential Information to others may cause immediate and irreparable harm to HCA. If Contractor should publish or disclose such Confidential Information to others without authorization, HCA will immediately be entitled to injunctive relief or any other applicable remedies under law or equity, without requiring a cure period. Contractor shall indemnify, defend, and hold HCA harmless from all third party claims for direct damages, costs, liabilities and expenses (including without limitation reasonable attorneys' fees) to the extent directly caused by or directly arising from Contractor's breach of its obligations under this Agreement to protect HCA's Confidential Information. As a condition to the foregoing indemnity obligations, HCA will provide Contractor with prompt notice of any claim of which HCA is aware and for which indemnification will be sought hereunder and will cooperate in all reasonable respects with Contractor in connection with any such claim. HCA agrees to use its best efforts to encourage the Office of the Attorney

General of Washington to grant Contractor sole control of the defense and all related settlement negotiations. However, if principles of governmental or public law are involved, the State may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of Contractor without Contractor's written consent.

HCA will immediately report to Contractor any and all unauthorized disclosures or uses of Contractor's Proprietary Information of which HCA is aware or has knowledge. HCA acknowledges that any publication or disclosure of Contractor's Proprietary Information to others may cause immediate and irreparable harm to Contractor. If HCA should publish or disclose such Proprietary Information to others without authorization, Contractor will immediately be entitled to injunctive relief or any other remedies to which it is entitled under law or equity without requiring a cure period.

15 COMPLIANCE

The Contractor must be able to adapt to changes in technology, legislation, and business practices throughout the term of this Contract, including any extensions. Requirements listed herein may be subject to change due to requirements of the State Legislature.

The Contractor agrees that technology products and services delivered as part of this Contract shall comply with all HCA and OCIO technology standards, and finalized US Department of Health and Human Services (HHS) and Office of the National Coordination for Health Information Technology (ONC) interoperability rules and standards.

15.1 Annual Attestation

15.1.1 Contractor is required provide an annual attestation to HCA (e-mail is acceptable) of all Subcontractors that support data and/or data transmission. The attestation must include the following:

- a. A list of all Subcontractors that support data and/or data transmission;
- b. Contractor must conduct an annual verification of each Subcontractor that supports data and/or data transmission to attest to the Subcontractor's compliance with all HCA and OCIO technology standards (including OCIO 141.10) and finalized HHS and ONC rules and standards and/or executed necessary business associate agreements, data use agreements, data sharing agreements or other similar agreements. Contractor agrees to facilitate, cooperate and coordinate on any system audit and/or security standards verification of Subcontractor(s) as needed by HCA.
- c. Contractor's attestation and annual review that Contractor has reviewed data security requirements for all Subcontractors that support data and/or data transmission and that they meet or exceed HCA and OCIO technology standards and finalized HHS and ONC rules and standards.

15.1.2 Contractor must enter and maintain a contract with all Subcontractors that support data and/or data transmission that includes and addresses the following:

- a. Contract execution is conditioned upon HCA's prior review and approval of Subcontractor(s) that support HCA and/or CDR data and/or data transmission. Contractor must conduct a verification of the Subcontractor(s) that supports data and/or data transmission to attest to the Subcontractor's compliance with all HCA and OCIO technology standards (including OCIO 141.10) and finalized HHS and

ONC rules and standards and/or executed necessary business associate agreements, data use agreements, data sharing agreements or other similar agreements. Contractor agrees to facilitate, cooperate and coordinate on any system audit and/or security standards verification of Subcontractor(s) as needed by HCA;

- b. Subcontractor is required to meet or exceed the data security requirements of HCA and OCIO technology standards and finalized HHS and ONC rules and standards;
- c. Subcontractor must undergo an annual verification by Contractor to ensure that Subcontractor continues to meet or exceed the data security requirements of HCA and OCIO technology standards and finalized HHS and ONC rules and standards. Subcontractor may be required to participate in a system audit and/or security standards verification facilitated by Contractor and required by HCA.

16 TRANSITION OUT REQUIREMENTS

Ownership of data supplied to the Data Vendor by Data Suppliers pursuant to this Contract shall not pass to the Contractor, the Data Vendor, or any other Subcontractor.

HCA shall own all right, title and interest in the Services provided by this Contract. HCA, as the owner and oversight agency of the CDR Program, shall determine the Program's use, access, distribution, and other treatment of this asset based on Washington State statutes and regulations, and HCA policy.

Upon expiration or notice of termination, Contractor must provide any transition assistance Services necessary to enable HCA or its designee to effectively close out the Agreement and move the work to another vendor or to HCA to perform the work itself. The Contractor shall ensure business continuity of the CDR and that all data, databases, and derived data products created, collected, or manipulated are transitioned back to HCA or addressed as required by Exhibit B: Data Use Agreement or relevant state or federal law prior to the termination of the Contract. This shall include all archived backups.

On expiration or termination of the Contract, the Contractor shall provide or make available to HCA all Program Data with instructions and software necessary to decrypt the Data, if it is encrypted.

Upon the expiration or termination of this Contract for any reason, OHP must provide Transition Services for up to twelve (12) months if requested by HCA to allow for the expired or terminated portion of Services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such Services to HCA or its designees. Transition Services shall consist of providing all reasonable cooperation to HCA in order for HCA to transition its data to a successor system. The Transition Services will be provided at a fee not to exceed the monthly fee for services rendered, as agreed in the Fee Schedule as required in Schedule B: Statement of Work – CDR Data Vendor. Such transition assistance will be deemed by the parties to be governed by the terms and conditions of this Contract, except for those terms or conditions that do not reasonably apply to such transition assistance.

This fee for Transition Services will include payment for completed work and services accepted by HCA and the amount agreed upon by the Contractor and HCA for (i) completed work and services for which no separate price is stated; (ii) partially completed work and services; (iii) other property or services that are accepted by HCA; and (iv) the protection and preservation of property, unless the termination is for default, in which case HCA will determine the extent of the liability. Failure to agree with such determination will be a dispute within the meaning of the

Disputes section. HCA may withhold from any amounts due the Contractor such sum as HCA determines to be necessary to protect HCA against potential loss or liability.

After receipt of notice of termination, and except as otherwise directed by HCA, Contractor must:

- a. Stop work under the Contract on the date of, and to the extent specified in, the notice;
- b. Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Contract that is not terminated;
- c. Assign to HCA, in the manner, at the times, and to the extent directed by HCA, all the rights, title, and interest of the Contractor under the orders and subcontracts so terminated; in which case HCA has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and Subcontracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of HCA to the extent HCA may require, which approval or ratification will be final for all the purposes of this clause;
- e. Transfer title to and deliver as directed by HCA any property required to be furnished to HCA;
- f. Complete performance of any part of the work that was not terminated by HCA; and
- g. Take such action as may be necessary, or as HCA may direct, for the protection and preservation of the records related to this Contract that are in the possession of the Contractor and in which HCA has or may acquire an interest.

17 GENERAL TERMS AND CONDITIONS

17.1 Advance Payment Prohibited

No advance payment will be made for services furnished by Contractor pursuant to this Contract.

17.2 Amendments

This Contract may be amended by mutual agreement of the parties. Such amendments will not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

17.3 Antitrust Violations

The Contractor and HCA recognize that, in actual economic practice, overcharges resulting from antitrust violations are usually borne by HCA. Therefore, the Contractor hereby assigns to HCA any and all claims for such overcharges as to goods and services purchased in connection with this Contract, except as to overcharges not passed on to HCA resulting from antitrust violations commencing after the date of the bid, quotation, or other event establishing the Price under this Contract.

17.4 Assignment

17.4.1 The Contractor may not assign or transfer all or any portion of this Contract or any of its rights hereunder, or delegate any of its duties hereunder, except delegations as set forth in Section 17.42, *Subcontracting*, without the prior written consent of HCA; provided, however, that the Contractor may assign this Contract to (a) a parent, subsidiary, or affiliate of the Contractor, (b) in connection with a merger,

acquisition, reorganization or consolidation of the Contractor, or (c) in connection with the sale of all or substantially all of the Contractor's assets, with written notice of ninety (90) calendar days to HCA. Any permitted assignment will not operate to relieve Contractor of any of its duties and obligations hereunder, nor will such assignment affect any remedies available to HCA that may arise from any breach of the provisions of this Contract or warranties made herein, including but not limited to, rights of setoff. Any attempted assignment, transfer, or delegation in contravention of this Contract will be null and void.

17.4.2 HCA may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington, with written notice of thirty (30) calendar days to Contractor.

17.4.3 This Contract will inure to the benefit of and be binding on the parties hereto and their permitted successors and assigns.

17.5 Attorneys' Fees

In the event of litigation or other action brought to enforce the terms of this Contract, each party agrees to bear its own attorneys' fees and costs.

17.6 Benefit of Upgrades

If during the term of this Contract, the Contractor upgrades or modifies its commercial product(s) provided to additional clients for services delivered in a similar manner as called for under this Contract, HCA shall have the immediate benefit of the upgrades or modifications. The Contractor shall send notice for major releases to the HCA Contract Manager with the upgrades or modifications within five (5) days of said modification or upgrade.

17.7 Changes

17.7.1 Identifying Changes

In keeping with HCA's reliance on Contractor's knowledge, experience and expertise, and continuous improvement, Contractor shall timely notify HCA of technology advances and improved techniques and tools that could improve the System or Services. HCA and Contractor will pursue the Change Order process in this Section 17.7, *Changes*, to make any agreed-upon changes to the System or Services.

17.7.2 Issuance of Change Requests

HCA may, at any time by a written Change Request, request changes within the scope of the Agreement. Such changes may include, without limitation, revisions to Deliverables or Services.

17.7.3 Contractor's Firm Offer

Contractor shall provide a Firm Offer (FO) advising HCA of any Charges or Schedule impacts in response to a Change Request within twenty (20) Business Days. Contractor's FO must be on a fixed price basis, must itemize costs and must include any applicable sales taxes. HCA will respond to the Contractor's FO within twenty (20) Business Days of receipt. If HCA does not respond within twenty (20) Business Days, the Contractor may, at its discretion, request a resubmitted CR for re-evaluation.

17.7.4 Agreement on Change Order

17.7.4.1 When the parties reach agreement on a FO, authorized representatives of the parties will execute a Change Order and the terms of this Agreement will be modified accordingly. The parties will execute a formal Agreement amendment for any CO that increases or decreases the maximum amount. Contractor must incorporate all COs affecting the Services and Deliverables into applicable Documentation.

17.7.4.2 If Contractor performs work pursuant to a CO that contained information provided by HCA that was inaccurate or incomplete so that corrective action was subsequently required, then HCA shall issue a new CR to Contractor that identifies the additional work to be done to perform the corrective action, which will be handled in accordance with the terms of this Section.

17.7.5 Contractor Submission of Change Request

Contractor may also submit a CR to HCA to propose changes that should be made within the scope of the Agreement. Any such CR must include proposed Charges and Schedule impacts, including a breakdown of the number of Contractor's staff hours by level needed and an itemization of other costs to effect the requested changes. HCA will respond to such CRs from Contractor within twenty (20) days of receipt. If the parties reach agreement on the proposed changes, authorized representatives of the parties will execute a CO and the terms of this Agreement will be modified accordingly. If the parties are unable to reach agreement on a CR submitted by Contractor, HCA will be deemed to have rejected the requested CR.

17.7.6 Changes Initiated by Contractor

17.7.6.1 Contractor must provide HCA with written Notice and a description of all Contractor-initiated remedial or non-remedial changes to the System that affects the features, functionality, or design of the CDR, at least sixty (60) days in advance of such changes. The Notice must include any known impacts the changes might have to the CDR. If HCA determines the change will have an adverse impact, Contractor must not implement the change in the CDR.

17.7.6.2 In the event that a Contractor-initiated change must be implemented to ensure the security and integrity of CDR data, such as in the event of a security patch released to address an emerging threat or newly identified vulnerability, the Contractor must provide HCA with written notice within one (1) business day after such change is implemented. The notice must include what was changed, why the change was implemented, and why advance notice in accordance with 17.7.6.1 could not be provided.

17.7.6.3 In the event any change Contractor makes to the System has an adverse impact on HCA, Contractor shall, at no cost to HCA, promptly remove the change and/or correct the change that has had an adverse impact.

17.7.6.4 Contractor shall absorb all costs associated with Contractor initiated changes to the Services.

17.8 Change in Status

In the event of any substantive change in its legal status, organizational structure, or fiscal reporting responsibility, the Contractor will notify HCA of the change. The Contractor must provide notice as soon as practicable, but no later than thirty (30) calendar days after such a change takes effect.

17.9 Clean Air Act

During the performance of this Contract, if applicable, Contractor shall comply with the federal Clean Air Act. In the event of Contractor's conviction of any offense under section 113(c), this Contract may be rescinded, canceled, or terminated in whole or in part by HCA under the Termination for Default section, and Contractor may be declared ineligible for further contracts with HCA.

17.10 Clean Water Act

During the performance of this Contract, if applicable, Contractor shall comply with the federal Clean Water Act. In the event of Contractor's conviction of any offense under section 309(c), this Contract may be rescinded, canceled, or terminated in whole or in part by HCA under the Termination for Default section, and Contractor may be declared ineligible for further contracts with HCA.

17.11 Contractor's Proprietary Information

Contractor acknowledges that HCA is subject to chapter 42.56 RCW, the Public Records Act, and that this Contract will be a public record as defined in that chapter. Any specific information that is claimed by Contractor to be Proprietary Information must be clearly identified as such by Contractor. To the extent consistent with chapter 42.56 RCW, HCA will maintain the confidentiality of Contractor's information in its possession that is marked Proprietary. If a public disclosure request is made to view Contractor's Proprietary Information, HCA will notify Contractor of the request and of the date that such records will be released to the requester unless Contractor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, HCA will release the requested information on the date specified.

17.12 Covenant Against Contingent Fees

Contractor warrants that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established agents maintained by the Contractor for the purpose of securing business. HCA will have the right, in the event of breach of this clause by the Contractor, to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration or recover by other means the full amount of such commission, percentage, brokerage or contingent fee.

17.13 Data Mining

The Contractor shall not copy or transfer Data unless authorized by Exhibit B: Data Use Agreement or the applicable law. In such event, the Data shall be copied and/or transferred in accordance with Exhibit B: Data Use Agreement or the applicable law. Contractor shall not access any Data for any purpose other than fulfilling the Services. Contractor is prohibited from data mining, cross tabulating, monitoring HCA's Data usage and/or access, or performing any other data analytics other than those required within this Contract. At no time shall any Data or processes (e.g., workflow, applications, etc.), which either are 1) owned or used by HCA or 2) accessed, managed

or used by Contractor as part of CDR Program, be copied, disclosed, or retained by the Contractor or any party related to the Contractor. Contractors are allowed to perform industry standard back-ups of Data. Documentation of back-up must be provided to HCA upon request. Contractor must comply with any and all security requirements outlined in this Contract during the course of this transfer.

17.14 Debarment

By signing this Contract, Contractor certifies that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded in any Washington State or federal department or agency from participating in transactions (debarred). Contractor agrees to include the above requirement in any and all subcontracts into which it enters, and also agrees that it will not employ debarred individuals. Contractor must immediately notify HCA if, during the term of this Contract, Contractor becomes debarred. HCA may immediately terminate this Contract by providing Contractor written notice, if Contractor becomes debarred during the term hereof.

17.15 Disputes

The parties will use their best, good faith efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. Both parties will continue without delay to carry out their respective responsibilities under this Contract while attempting to resolve any dispute. When a genuine dispute arises between HCA and the Contractor regarding the terms of this Contract or the responsibilities imposed herein and it cannot be resolved between the parties' Contract Managers, either party may initiate the following dispute resolution process.

- a. The initiating party will reduce its description of the dispute to writing and deliver it to the responding party (email acceptable). The responding party will respond in writing within five (5) Business Days (email acceptable). If the initiating party is not satisfied with the response of the responding party, then the initiating party may request that the HCA Director review the dispute. Any such request from the initiating party must be submitted in writing to the HCA Director within five (5) Business Days after receiving the response of the responding party. The HCA Director will have sole discretion in determining the procedural manner in which he or she will review the dispute. The HCA Director will inform the parties in writing within five (5) Business Days of the procedural manner in which he or she will review the dispute, including a timeframe in which he or she will issue a written decision.
- b. A party's request for a dispute resolution must:
 - i. Be in writing;
 - ii. Include a written description of the dispute;
 - iii. State the relative positions of the parties and the remedy sought;
 - iv. State the Contract Number K5704 and the names and contact information for the parties.
- c. This dispute resolution process constitutes the sole administrative remedy available under this Contract. The parties agree that this resolution process will precede any action in a judicial or quasi-judicial tribunal.

17.16 Drug Free Workplace Statement

The Federal government implemented the Drug Free Workplace Act of 1988 in an attempt to address the problems of drug abuse on the job. It is a fact that employees

who use drugs have less productivity, a lower quality of work, and a higher absenteeism, and are more likely to misappropriate funds or services. From this perspective, the drug abuser may endanger other employees, the public at large, or themselves. Damage to property, whether owned by this entity or not, could result from drug abuse on the job. All these actions might undermine public confidence in the services this entity provides. Therefore, in order to remain a responsible source for government contracts, the Contractor certifies that the following guidelines have been adopted:

- a. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the work place.
- b. Violators may be terminated or requested to seek counseling from an approved rehabilitation service.
- c. Employees must notify their employer of any conviction of a criminal drug statute no later than five days after such conviction.
- d. Although alcohol is not a controlled substance, it is nonetheless a drug. Abuse of this drug will also not be tolerated in the workplace.

17.17 Entire Agreement

HCA and Contractor agree that the Contract is the complete and exclusive statement of the agreement between the parties relating to the subject matter of the Contract and supersedes all letters of intent or prior contracts, oral or written, between the parties relating to the subject matter of the Contract, except as provided in Section 17.47, *Warranties*.

17.18 Equal Employment Opportunity

If applicable, Contractor shall comply with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented by the Department of Labor Regulations (41 C.F.R. Part 60), which prohibits federal contractors and federally-assisted contractors and subcontractors who do over \$10,000 in Government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin, and which requires Government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. In the event of Contractor's noncompliance or refusal to comply with applicable rules listed in herein, this Contract may be rescinded, canceled, or terminated in whole or in part by HCA under the Termination for Default section, and Contractor may be declared ineligible for further contracts with HCA.

17.19 Force Majeure

A party will not be liable for any failure of or delay in the performance of this Contract for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, pandemic, war, strikes or labor disputes, embargoes, government orders or any other force majeure event.

17.20 Funding Withdrawn, Reduced, or Limited

If HCA determines in its sole discretion that the funds it relied upon to establish this Contract have been withdrawn, reduced, or limited, or if additional or modified conditions are placed on such funding after the effective date of this contract but prior to the normal completion of this Contract, then HCA, at its sole discretion, may:

- a. Terminate this Contract pursuant to Section 15.45.3, *Termination for Non-Allocation of Funds*;
- b. Renegotiate the Contract under the revised funding conditions; or
- c. Suspend Contractor's performance under the Contract upon five (5) Business Days' advance written notice to Contractor. HCA will use this option only when HCA determines that there is reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow Contractor's performance to be resumed prior to the normal completion date of this Contract.

17.21 Governing Law

This Contract is governed in all respects by the laws of the State of Washington, without reference to conflict of law principles. The jurisdiction for any action hereunder is exclusively in the Superior Court for the State of Washington, and the venue of any action hereunder is in the Superior Court for Thurston County, Washington. Nothing in this Contract will be construed as a waiver by HCA of the State's immunity under the 11th Amendment to the United States Constitution.

17.22 Indemnification

17.22.1 General Indemnification

Contractor shall, at its expense, indemnify, defend, and hold HCA harmless from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any claim or action, including without limitation for property damage, bodily injury or death, caused by or arising from the negligent acts or omissions or willful misconduct of Contractor. HCA shall promptly give Contractor notice of such claim. HCA agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations. However, if principles of governmental or public law are involved, the State may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of Contractor without Contractor's written consent.

Contractor assumes sole and full responsibility for its acts and the acts of its Staff. Contractor understands and agrees that HCA does not assume liability for the actions of the Subcontractors or Contractor's other agents. Contractor agrees that it has no right to indemnification or contribution from HCA for any judgments rendered against Contractor, its Subcontractors or agents.

17.22.2 Waiver of Statutory Immunity

CONTRACTOR INTENTIONALLY ACCEPTS THE TERMS OF THIS SECTION AND WAIVES ANY AND ALL STATUTORY IMMUNITY PROVIDED BY THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, RCW TITLE 51, WITH REGARD TO ALL RIGHTS OF THE INDEMNITIES STATED HEREIN. THE TERMS OF THIS SECTION, SPECIFICALLY INCLUDING THE PRECEDING WAIVER OF IMMUNITY, ARE DEEMED MUTUALLY NEGOTIATED AND HAVE BEEN EXPRESSLY AND SPECIFICALLY NEGOTIATED AND AGREED UPON BY THE PARTIES TO THE FULLEST EXTENT ALLOWED BY THE LAWS OF WASHINGTON APPLICABLE TO HCA.

17.22.3 Intellectual Property

Contractor shall, at its expense, defend, indemnify, and hold HCA harmless from and against any third party claim or action against HCA that is based on a claim that any Deliverable, or any part thereof, infringes a patent, copyright, utility model, industrial design, mask work, trademark, or other proprietary right or misappropriates a trade secret, and Contractor shall pay all losses, liabilities, damages, penalties, costs, fees (including reasonable attorneys' fees) and expenses caused by or arising from such claim. HCA shall promptly give Contractor notice of any such claim. HCA agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations. However, if principles of governmental or public law are involved, the State may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of Contractor without Contractor's written consent.

In case the Deliverables, or any one or part thereof, are held to constitute an infringement or misappropriation, or the exercise of HCA's rights thereto is enjoined or restricted, Contractor shall, at its own expense and in the following order of priorities: (i) procure for HCA the right to continue using the Deliverables; (ii) modify the Deliverables to comply with the Specifications and to not violate any intellectual property rights; or (iii) retrieve any or all Deliverables upon receipt of notice from HCA and refund the amount HCA paid for each Deliverable, as applicable.

Contractor will not be liable to the extent claims of misappropriation or infringement arise from: (i) Contractor's compliance with any designs, Specifications or written instructions of HCA and Contractor could not have avoided such claims using reasonable commercial measures after becoming aware of such potential infringement or misappropriation; or (ii) the combination, operation, or use of any Deliverable furnished to HCA with equipment, programs, or data not furnished or recommended by Contractor, if such infringement would have been avoided by the use of the Deliverable without such equipment, programs, or data; or (iii) alterations or modifications made by any party other than Contractor or Subcontractors.

17.22.4 OSHA/WISHA

Contractor represents and warrants that the Deliverables, when delivered to HCA, are designed and manufactured to meet then current federal and State safety and health regulations to the extent applicable to the Deliverable. Contractor agrees to indemnify, defend, and hold HCA harmless from any third party claims for direct damages assessed against HCA to the extent directly caused by Contractor's breach of this warranty. HCA agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations. However, if principles of governmental or public law are involved, the State may participate in the defense of any such action, but no costs or expenses shall be incurred for the account of Contractor without Contractor's written consent.

17.23 Independent Capacity of the Contractor

The parties intend that an independent contractor relationship will be created by this Contract. Contractor and its employees or agents performing under this Contract are not employees or agents of HCA. Contractor will not hold itself out as or claim to be an officer or employee of HCA or of the State of Washington by reason hereof, nor will Contractor make any claim of right, privilege or benefit that would accrue to such employee under law. Conduct and control of the work will be solely with Contractor.

17.24 Insurance

Contractor shall, during the term of this Contract, maintain the insurance described in this Section in full force and effect. Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in the State of Washington having a rating of A, Class VII or better, in the most recently published edition of Best's Reports. In the event of cancellation, non-renewal, revocation, or other termination of any insurance coverage required by this Contract, Contractor shall provide written notice of such to HCA within five Business Days of Contractor's receipt of such notice. Failure to buy and maintain the required insurance may, at HCA's sole option, result in this Contract's termination.

All insurance provided by Contractor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.

Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor's liability or responsibility.

Contractor shall furnish to HCA copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date and copies of renewal certificates of all required insurance within thirty (30) days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this Section. Failure to provide evidence of coverage may, at HCA's sole option, result in this Contract's termination.

By requiring insurance herein, HCA does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to HCA in this Contract.

For Professional Liability Errors and Omissions coverage, Crime Coverage, Cyber Liability Coverage, and Privacy Breach Coverage, Contractor shall continue such coverage for six (6) years beyond the expiration or termination of this Contract and provide HCA with certificates of insurance on an annual basis.

Contractor shall pay premiums on all insurance policies. Such insurance policies shall reference this Contract number and shall have a condition that they not be revoked by the insurer until 30 calendar days after notice of intended revocation thereof shall have been given to HCA by the insurer.

17.24.1 Minimum Acceptable Limits

The minimum acceptable limits shall be as indicated below, with no deductible for each of the following categories:

- i. Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$1 million per occurrence/\$2 million general aggregate;
- ii. Automobile Liability (hired, or non-owned) covering physical damage with a limit of \$50,000 per accident/\$2 million aggregate as part of Business Owners package.
- iii. Employers Liability insurance covering the risks of Contractor's employees' bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;
- iv. Professional Liability Errors and Omissions, with a deductible not to exceed \$25,000, conditioned upon this Section, and coverage of not less than \$1 million per occurrence or claim/\$2 million general aggregate;
- v. Crime Coverage with a \$25,000 limit for employee dishonestly, \$30,000 for Money and Securities, Forgery at \$25,000 and Computer Fraud at a \$250,000 limit.
- vi. Cyber-security insurance, with coverage of not less than \$1 million per claim/\$2 million general aggregate, that includes but is not limited to coverage for first-party costs and Third-Party claims from: (i) failure to protect data, including unauthorized disclosure, use or access, (ii) security failure or privacy breach, (iii) failure to disclose such breaches as required by law, regulation or contract, (iv) notifications, public relations, credit monitoring, postage, advertising, and other services to assist in managing and mitigating a cyber-incident, (v) interruptions of business operations, (vi) network security failure, (vii) cyber-extortion, (viii) cyber-terrorism, (ix) communications and media liability (e.g., infringement of copyright, title, slogan, trademark, trade name, trade dress, service mark or service name in the policyholder's covered material), (x) EFT, computer, and electronic transmissions fraud and theft, and (xi) other cyber-liability and cyber-crime expenses.
- vii. Privacy Breach Response Coverage. For the term of this Contract and six (6) years following its termination or expiration, Contractor must maintain insurance to cover costs incurred in connection with a security incident, privacy Breach, or potential compromise of Data, including:
 - i. Computer forensics assistance to assess the impact of a Data Breach, determine root cause, and help determine whether and the

extent to which notification must be provided to comply with Breach notification laws;

- ii. Notification and call center services for individuals affected by a security incident, or privacy Breach;
- iii. Breach resolution and mitigation services for individuals affected by a security incident or privacy Breach, including fraud prevention, credit monitoring, and identity theft assistance; and
- iv. Regulatory defense, fines, and penalties from any claim in the form of a regulatory proceeding resulting from a violation of any applicable privacy or security law(s) or regulation(s).

If any of the required policies provide coverage on a claims-made basis:

- a. The retroactive date must be shown and must be before the date of the Contract or of the beginning of Contract work.
- b. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the Contract Effective Date, the Contractor must purchase "extended reporting" coverage for a minimum of six (6) years after completion of Contract work.
- c. The State of Washington, including but not limited to HCA, must be named as additional insureds.

In the event of cancellation, non-renewal, revocation or other termination of any insurance coverage required by this Contract, Contractor must provide written notice of such to HCA within one (1) Business Day of Contractor's receipt of such notice.

By requiring insurance herein, HCA does not represent that coverage and limits will be adequate to protect Contractor. Such coverage and limits will not limit Contractor's liability under the indemnities and reimbursements granted to HCA in this Contract.

17.24.2 Industrial Insurance Coverage

Prior to performing work under this Contract, Contractor must provide or purchase industrial insurance coverage for the Contractor's employees, as may be required of an "employer" as defined in Title 51 RCW and must maintain full compliance with Title 51 RCW during the course of this Contract.

17.25 Intellectual Property

17.25.1 HCA Ownership

17.25.1.1 In accordance with 45 C.F.R. 95, Subpart F, HCA and Contractor agree that HCA shall be the exclusive owner of all right, title, and interest in the CDR and to the reports, databases, methodologies, and materials contained in the CDR that are created specifically for HCA or the CDR Program by Contractor and paid for by HCA and alternative funding sources as an output of the CDR Services or other performance by Contractor under this Agreement or any SOW (collectively, the "HCA Work Product").

- 17.25.1.2 Such HCA Work Product shall be deemed a work-made-for-hire under the Copyright Act; and that HCA shall have the exclusive right to protect the HCA Work Product by patent, copyright, or any other means. In the event that, by operation of law or otherwise, Contractor is deemed to be the owner of all or any portion of the Intellectual Property in the HCA Work Product, Contractor hereby assigns all such Intellectual Property Rights to HCA and agrees to cooperate with HCA in confirming HCA's sole and exclusive ownership of the HCA Work Product, without further consideration to Contractor.
- 17.25.1.3 Data submitted to the CDR, including any data within the HCA Work Product that contains PHI, is subject to Exhibit C: Data Submission Agreement. No PHI shall be provided within the HCA Work Product unless authorized.
- 17.25.1.4 For the avoidance of doubt, any development or configuration of Contractor Work Product used internally by Contractor to provide Services that results in HCA-specific versions of the Contractor Work Product, shall not be considered HCA Work Product.
- 17.25.1.5 HCA and Contractor acknowledge and agree that this Agreement is for CDR Services and this section does not apply to software for purposes of this Agreement. Any subsequent agreement to have Contractor create software specifically for HCA as an output of the CDR Services or other performance by Contractor under this Agreement or any SOW is subject to mutual agreement in writing. In the event HCA and Contractor execute such a future agreement, in accordance with 45 C.F.R. 95, Subpart F, this section will apply to the software created specifically for the CDR by Contractor and paid for by HCA and alternative funding sources as an output of the Services, or other performance by Contractor, of that Amendment.
- 17.25.1.6 In accordance with 45 C.F.R. 95.617, all appropriate State and federal agencies, including but not limited to CMS, will have a royalty free, nonexclusive, and irrevocable license to reproduce, publish, translate, or otherwise use, and to authorize others to use the HCA Work Product for State and federal government purposes.

17.25.2 Contractor Ownership

17.25.2.1 Notwithstanding the foregoing or anything else to the contrary, HCA and Contractor agree that Contractor shall be the exclusive owner of all right, title, and interest in all pre-existing software, programming, tools, documentation, materials, and other intellectual property, or materials developed independently from the CDR Services (collectively, the "Contractor Work Product").

17.25.2.2 Contractor Work Product shall not constitute a work-made-for-hire under the Copyright Act; and that Contractor shall have the exclusive right to protect the Contractor Work Product by patent, copyright, or any other means. In the event that, by operation of law or otherwise, HCA is deemed to be the owner of all or any portion of the Intellectual Property Rights in the Contractor Work Product,

HCA hereby assigns all such Intellectual Property Rights to Contractor and agrees to cooperate with Contractor in confirming Contractor's sole and exclusive ownership of the Contractor Work Product, without further consideration to HCA.

- 17.25.2.3 HCA and Contractor recognize OHP's Single Sign-On Security Service (OHP's SSO) as Contractor Work Product. Contractor agrees to provide OHP's SSO under the terms of this Contract. In the event of Termination or expiration, HCA and Contractor may negotiate continued use of OHP's SSO to support the CDR under the OHP Relying Party Agreement Terms and Conditions and Price Schedule (K712).

17.26 Legal and Regulatory Compliance

17.26.1 During the term of this Contract, the Contractor must comply with all local, state, and federal licensing, accreditation, and registration requirements/standards, necessary for the performance of this Contract and all other applicable federal, state, and local laws, rules, and regulations.

17.26.2 Failure to comply with any provisions of this Section may result in Contract termination.

17.27 Limitation of Authority

Only the HCA Authorized Representative has the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver or any clause or condition of this Contract is not effective or binding unless made in writing and signed by the HCA Authorized Representative.

17.28 Lobbying Activities

Contractor shall comply with all certification and disclosure requirements prescribed by Section 319, Public Law 101-121 (31 U.S.C. § 1352), 45 C.F.R. Part 93. No federal funds under this Contract may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, continuation, renewal, amendments other than federal appropriated funds.

17.29 Materials and Workmanship

The Contractor shall be required to furnish all materials, supplies, equipment and/or services necessary to perform Contractual requirements. Materials, supplies, and workmanship used in the construction of equipment for this Contract shall conform to all applicable federal, state, and local codes, regulations and requirements for such equipment, specifications contained herein, and the normal uses for which intended. Materials, supplies, and equipment shall be manufactured in accordance with the best commercial practices and standards for this type of materials, supplies, and equipment.

17.30 No Third-Party Beneficiaries

HCA and Contractor are the only parties to this contract. Nothing in this Contract gives or is intended to give any benefit of this Contract to any Third-Parties.

17.31 Nondiscrimination

During the performance of this Contract, the Contractor must comply with all federal and state nondiscrimination laws, regulations, and policies, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §12101 et seq., 28 CFR Part 35; and Title 49.60 RCW, Washington Law Against Discrimination. In the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under Section 15.45.1, *Termination for Default*, and Contractor may be declared ineligible for further contracts with HCA.

17.32 Overpayments to Contractor

In the event that HCA determines that it has made overpayments or erroneous payments to the Contractor, HCA will provide written notice to Contractor and Contractor will refund the full amount to HCA within thirty (30) calendar days of the notice. If Contractor fails to make timely refund, HCA may charge Contractor one percent (1%) per month on the amount due, until paid in full. If the Contractor disagrees with HCA's actions under this Section, then it may invoke the dispute resolution provisions of Section 17.15, *Disputes*.

17.33 Pay Equity

17.33.1 The Contractor represents and warrants that, as required by Washington state law (Engrossed Substitute Senate House Bill 5092 Section 952 (2021), during the term of this Contract, it agrees to equality among its workers by ensuring similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if (i) the individuals work for Contractor, (ii) the performance of the job requires comparable skill, effort, and responsibility, and (iii) the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed.

17.33.2 Contractor may allow differentials in compensation for its workers based in good faith on any of the following: (i) a seniority system; (ii) a merit system; (iii) a system that measures earnings by quantity or quality of production; (iv) bona fide job-related factor(s); or (v) a bona fide regional difference in compensation levels.

17.33.3 Bona fide job-related factor(s)" may include, but not be limited to, education, training, or experience, that is: (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) accounts for the entire differential.

17.33.4 A "bona fide regional difference in compensation level" must be (i) consistent with business necessity; (ii) not based on or derived from a gender-based differential; and (iii) account for the entire differential.

17.33.5 Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30)

Days of HCA's request for such evidence, HCA may suspend or terminate this Contract.

17.34 Publicity

17.34.1 The award of this Contract to Contractor is not in any way an endorsement of Contractor or Contractor's Services by HCA and must not be so construed by Contractor in any advertising or other publicity materials.

17.34.2 Contractor agrees to submit to HCA, all advertising, sales promotion, and other publicity materials relating to this Contract or any Service furnished by Contractor in which HCA's name is mentioned, language is used, or Internet links are provided from which the connection of HCA's name with Contractor's Services may, in HCA's judgment, be inferred or implied. Contractor further agrees not to publish or use such advertising, marketing, sales promotion materials, publicity or the like through print, voice, the Web, and other communication media in existence or hereinafter developed without the express written consent of HCA prior to such use.

17.35 Records and Documents Review

17.35.1 Contractor and its Subcontractors shall maintain books, records, documents, and other evidence relating to the CDR Program, including the Schedule(s) and the performance of the Services described herein. This shall include documentation that sufficiently and properly reflect all direct and indirect costs, and all funding and revenue for the CDR Program. Contractor and its Subcontractors shall retain all such records for six (6) years after the expiration or termination of this Schedule. Records involving matters in litigation related to this Schedule shall be kept for one (1) year following the termination of litigation, including all appeals if the litigation has not terminated within six (6) years from the date of expiration or termination of this Schedule.

17.35.2 All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the HCA, State and federal officials so authorized by law, rule, regulation or contract, when applicable. Contractor shall provide such books, records, reports, and other compilations of data pursuant to this Schedule for purposes that include but are not limited to: (a) monitoring Contractor's performance in accordance with state and federal law (e.g., 45 C.F.R. 95.615); (b) conducting performance evaluation activities of Contractor; and (c) conducting audits of Contractor. During the term of this Contract, access to these items will be provided at Contractor's offices in Seattle, Washington or electronically (if so available) upon request by HCA. During the six (6) year period after this Schedule term or one (1) year term following litigation, delivery of and access to these items will be at no cost to HCA. Contractor shall be responsible for any audit exceptions or costs incurred by Contractor or any of its Subcontractors and which are disallowed under applicable law or regulation.

17.35.3 Contractor shall incorporate in its subcontracts this section's records retention and review requirements.

17.35.4 It is agreed that books, records, documents, and other evidence of accounting procedures and practices related to Contractor's cost structure, including

overhead, general and administrative expenses, and profit factors will be excluded from review unless the cost or any other material issue under this Schedule is calculated or derived from these factors.

17.36 Remedies Non-Exclusive

The remedies provided in this Contract are not exclusive but are in addition to all other remedies available under law.

17.37 Restrictions

Other than the rights granted to HCA herein, no intellectual property rights to the Software are transferred to HCA under this Contract. HCA shall not disassemble, reverse compile, reverse engineer or otherwise translate the Software; provided however, that HCA shall have the right to disassemble, reverse compile, reverse engineer or otherwise translate the Software for purposes of creating interoperable computer programs.

17.38 Right of Inspection

The Contractor must provide right of access to its facilities to HCA, or any of its officers, or to any other authorized agent or official of the State of Washington or the federal government, at all reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

17.39 Risk of Loss; Transfer of Title

Risk of loss for conforming supplies, equipment and materials specified as deliverables to HCA as required shall remain with the Contractor until the supplies, equipment, materials and Deliverables are received and Accepted by HCA. Title to all Deliverables passes to HCA upon acceptance by HCA, subject to HCA's payment for the same in accordance with the terms of this Contract.

17.40 Severability

If any provision of this Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity will not affect the other provisions or applications of this Contract that can be given effect without the invalid provision, and to this end the provisions or application of this Contract are declared severable.

17.41 Site Security

While on HCA premises, Contractor, its agents, employees, or Subcontractors must conform in all respects with physical, fire or other security policies or regulations. Failure to comply with these regulations may be grounds for revoking or suspending security access to these facilities. HCA reserves the right and authority to immediately revoke security access to Contractor staff for any real or threatened breach of this provision. Upon reassignment or termination of any Contractor staff, Contractor agrees to promptly notify HCA.

17.42 Subcontracting

17.42.1 Neither Contractor, nor any Subcontractors, may enter into subcontracts for any of the work contemplated under this Contract without prior written approval of HCA. HCA has sole discretion to determine whether or not to approve any such subcontract. In no event will the existence of the subcontract operate to release or reduce the liability of Contractor to HCA for any breach in the performance of

Contractor's duties. HCA has approved the use of the Subcontractor(s) listed in Exhibit D: *Approved Subcontractor List* as of the Effective Date.

17.42.2 Contractor is responsible for ensuring that all terms, conditions, assurances, and certifications set forth in this Contract are included in any subcontracts.

17.42.3 If at any time, HCA determines in its sole judgment that any Subcontractor is incompetent or undesirable, HCA will notify Contractor, and Contractor must take immediate steps to terminate the Subcontractor's involvement in the work.

17.42.4 If at any time, Contractor identifies that any Subcontractor is incompetent, undesirable, or out of compliance with the terms and conditions of this Contract, Contractor must notify HCA immediately. This includes Contractor notifying HCA if a Subcontractor is out of compliance with HCA, OCIO, or finalized HHS and ONC standards or rules. Contractor must take immediate steps to address the Subcontractor's involvement in the work, and communicate the status and actions taken to HCA.

17.42.5 The rejection or approval by HCA of any Subcontractor or the termination of a Subcontractor will not relieve Contractor of any of its responsibilities under the Contract, nor be the basis for additional charges to HCA.

17.42.6 HCA has no contractual obligations to any Subcontractor or contractor under contract to the Contractor. Contractor is fully responsible for all contractual obligations, financial or otherwise, to its Subcontractors.

17.43 Survival

The terms and conditions contained in this Contract that, by their sense and context, are intended to survive the completion, cancellation, termination, or expiration of the Contract will survive. In addition, the terms of the sections titled Confidential Data Security, Contractor's Proprietary Information, Disputes, Intellectual Property, Non-Disclosure, Overpayments to Contractor, Publicity, Records and Documents Review, and Rights of State and Federal Governments will survive the termination of this Contract. The right of HCA to recover any overpayments will also survive the termination of this Contract.

17.44 Taxes

HCA will pay sales or use taxes, if any, imposed on the Services performed hereunder. Contractor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property. HCA, as an agency of Washington State government, is exempt from property tax. Contractor must complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

17.45 Termination

17.45.1 Termination for Default

In the event HCA determines that Contractor has failed to comply with the terms and conditions of this Contract, HCA has the right to suspend or terminate this Contract. HCA will notify Contractor in writing of the need to take corrective action. If corrective action is not taken within five (5) Business Days, or other

time period agreed to in writing by both parties, the Contract may be terminated. HCA reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Contractor from incurring additional obligations of funds during investigation of the alleged compliance breach and pending corrective action by Contractor or a decision by HCA to terminate the Contract.

In the event of termination for default, the Contractor will be liable for damages as authorized by law including, but not limited to, any cost difference between this Contract and the replacement or cover Contract and all administrative costs directly related to the replacement Contract, e.g., cost of the competitive bidding, mailing, advertising, and staff time.

The termination will be deemed a Termination for Convenience if it is determined that the Contractor: (i) was not in default, or (ii) its failure to perform was outside of its control, fault, or negligence.

17.45.2 Termination for Convenience

When, at HCA's sole discretion, it is in the best interest of the State, HCA may terminate this Contract in whole or in part by providing thirty (30) calendar days' written notice. If this Contract is so terminated, HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. No penalty will accrue to HCA in the event the termination option in this Section is exercised.

17.45.3 Termination for Non-Allocation of Funds

If HCA determines in its sole discretion that funds have not been allocated to continue this Contract in any future period, then HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA will notify the Contractor of such non-allocation at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this Section is exercised.

17.45.4 Termination for Withdrawal of Authority

If HCA determines in its sole discretion that its authority to perform any of its duties has been withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, then HCA may immediately terminate this Contract by providing written notice to the Contractor. The termination will be effective on the date specified in the termination notice. HCA will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination. HCA agrees to notify the Contractor of such withdrawal of authority at the earliest possible time. No penalty will accrue to HCA in the event the termination option in this Section is exercised.

17.45.5 Termination for Conflict of Interest

HCA may terminate this Contract by written notice to the Contractor if HCA determines, after due notice and examination, that there is a violation of the Ethics in Public Service Act, Chapter 42.52 RCW, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, HCA will be entitled to pursue the same

remedies against the Contractor as it could pursue in the event the Contractor had breached the contract.

17.46 Waiver

Waiver of any breach of any term or condition of this Contract will not be deemed a waiver of any prior or subsequent breach or default. No term or condition of this Contract will be held to be waived, modified, or deleted except by a written instrument signed by the parties. Only the HCA Authorized Representative has the authority to waive any term or condition of this Contract on behalf of HCA.

17.47 Warranties

17.47.1 The Contractor represents and warrants that it will perform all services pursuant to this Contract in a professional manner and with high quality and will immediately re-perform any services that are not in compliance with this representation and warranty at no cost to HCA.

17.47.2 The Contractor represents and warrants that it will comply with all applicable local, State, and federal licensing, accreditation and registration requirements and standards necessary in the performance of the Services.

17.47.3 Any written commitment by the Contractor within the scope of this Contract will be binding upon the Contractor. Failure of the Contractor to fulfill such a commitment may constitute breach and will render the Contractor liable for damages under the terms of this Contract. For purposes of this Section, a commitment by the Contractor includes: (i) Prices, discounts, and options committed to remain in force over a specified period of time; and (ii) any warranty or representation made by the Contractor to HCA or contained in any the Contractor publications, or descriptions of services in written or other communication medium, used to influence HCA to enter into this Contract.

Schedule A: Statement of Work – CDR Lead Organization Services

1. Purpose

The State of Washington's Clinical Data Repository (CDR) is supported by services provided by a Lead Organization (LO) and Data Vendor (DV). The LO must administer the CDR Program, including overseeing the DV. The DV must provide services to maintain and secure the CDR data. Both the LO and DV provide Core Services to support the operations and maintenance of the CDR, and Growth and Enhancement Services to support the long-term vision and sustainability of the CDR.

The completion of Services as provided in Schedule A and Schedule B are compensated at \$35,000 per month. The maximum compensation for the term of September 1, 2022 through November 30, 2024 is \$945,000.

2. Core Services: Operations and Maintenance

a. Overall Program Management

This includes day-to-day leadership and management of activities necessary to operate and grow the CDR Program in a manner consistent with HCA's expectations and goals as described in the Contract. This includes responding to inquiries by HCA in support of HCA's role as the CDR oversight agency and oversight and management of the activities of the Data Vendor, conducting an annual survey of stakeholders, and managing the review and reconciliation process.

Contractor is responsible for the following:

- Collecting data from Data Suppliers, including clinical care providers and health plans;
- Ensuring that the collected data meets established standards and compliance requirements for data quality and accuracy;
- Ensuring relevant policies and procedures are in place, including reviews and validation checks by Data Suppliers;
- Independently reviewing and reporting on the quality of the CDR Program data, including but not limited to established standards for data completeness, uniqueness, timeliness, accuracy, validity, and consistency;
- Developing, implementing, and monitoring improvement strategies based on performance, quality, usability, and satisfaction metrics generated through the data management reviews;
- Creating data products, including but not limited to custom reports, aggregated datasets, limited datasets, analytic environment with analytic datasets and analytic tools, etc. to support the CDR Program;
- Processing data requests and charge fees for data products to help support the CDR Program and develop fee schedules and processes to support, collect and manage payments in accordance with the provisions in this Contract;
- Identifying sources of revenue, funding or grants to support the CDR Program, including all necessary management for any sources anticipated such as completing grant applications;
- Increasing the revenue, funding, and grants supporting the CDR Program in collaboration with, and approval of HCA;
- Setting fee structures in collaboration with, and approval of HCA; and

- Managing all revenue, funding and grants received to support the CDR Program and making this data transparent. Contractor must be able to show a detailed breakdown of the total amounts generated from revenue, funding and grants received, as well as where that money is spent or used.

b. CDR Program Business Plan, Updated Annually

Contractor will create the CDR Program Business Plan annually, with a 3 to 5-year planning horizon, to consist of at least the following:

i. Technical Plan

Contractor is responsible for developing a technical plan addressing the planning horizon of the Business Plan for the CDR platform, and then updating the plan annually thereafter. The Technical Plan must be submitted to HCA for review and approval prior to making any changes to the existing platform. The Technical Plan must, at a minimum:

- Provide a comprehensive list of systems and subsystems supporting the existing CDR infrastructure;
- Identify any services expected to reach end-of-life, or expected to be otherwise removed or replaced during the period of the report;
- Identify system enhancements and upgrades anticipated during the period of the report;
- Identify opportunities for improvement in transporting or storing sensitive data, i.e., how to reduce the footprint of protected data; and otherwise enhance data security.
- Identify areas for improving technical controls over sensitive data.

ii. Financial Plan

Contractor is responsible for developing the financial plan addressing the planning horizon of the Business Plan and updating it annually for the CDR Program based on data product and other fee structures. The Financial Plan must be submitted to HCA for review and approval prior to making any changes to the current product list and schedule. The Financial Plan must:

- Include all moneys acquired to support the CDR Program, including but not limited to State budget allocations; Federal financial participation; federal and philanthropic grants; fees and revenue generated from data products, reports, and data files; any applicable subscription or membership fees, if the Contractor chooses to create such for the CDR Program; and licensing fees to access the CDR analytic environment;
- Include a detailed description of the total amounts generated from all funding sources including but not limited to general state fund, federal financial participation, grant funding, subscriptions, fees, and product sales;
- Describe amounts spent the prior year, and funding needs for the following year and for a 3- to 5-year horizon;
- Describe the strategy Contractor will use to bring in additional revenue to the CDR Program through product sales; Contractor may incorporate the Marketing Plan by reference; and
- Include an updated Fee-Based Product List and Fee Schedule for the following year.

iii. Marketing and Communication Plan

In collaboration with HCA, Contractor will develop a marketing and communication plan to promote the CDR Program, its products, and tools to existing and potential stakeholders and Data Users.

Contractor is responsible for effective stakeholder management and outreach to CDR Program stakeholders including Data Submitters, purchasers, providers, Data Users, WA legislators, WA State agencies, and others expressing interest in ongoing information about the program.

The plan will outline effective communication methodologies and forums to identify stakeholders and ensure they are provided up to date, useful information and, as appropriate, methods to provide input and feedback. HCA will have final review and approval authority of Contractor's Marketing and Communication Plan.

The Marketing and Communication Plan must promote the products and tools of the CDR Program and must be revised annually by Contractor as part of CDR Program Business Plan for the following year and must be based on Contractor's marketing and communication for the year.

Contractor's marketing strategy must be designed to attract additional Data Suppliers including employer-sponsored self-funded health plans and Taft-Hartley trust health plans that may voluntarily submit data to the CDR Program.

Contractor's communication strategy must include but need not be limited to creating a stakeholder directory; attending, leading, or coordinating meetings and other public and private forums to advance the CDR Program; stakeholder segmentation; and strategy and plan that aligns stakeholder needs to communication activities.

The Marketing and Communications Plan must include:

- Targeted content for different stakeholder segments;
- A release schedule;
- Methods of contact; and
- Objectives for increasing user engagement.

iv. Security and Privacy Plan

Contractor, in its role as LO as well as Data Vendor, must maintain compliance with applicable security and privacy standards for collecting data, maintaining data, and transferring data to approved Data Requestors while complying with all with all HCA and WA OCIO policies and standards. If any new or updated security reviews are requested, Contractor and Data Vendor must submit detailed descriptions to HCA and WA OCIO to ensure robust security measures are in place and fully participate in the review activities.

Contractor must develop a Security and Privacy Plan that includes:

- Demonstrating internal controls and affiliations with separate organizations as appropriate to ensure safe data collection, security of the data with state-of-the-art encryption methods, and data review for accuracy and quality assurance;
- Process for Data Suppliers to submit data in a secure manner;
- Data storage practices, using secure servers that are compliant with HIPAA Security Rule guidelines and OCIO Policy 141.10; and
- Process for maintaining state of the art security standards for securely transferring data to approved Data Requestors.

v. Training Plan

Contractor is responsible for creating an annual training plan to facilitate appropriate use and interpretation of data that Data Users can receive from the CDR Program. The Training Plan must include:

- Data Requester training;
- Data Supplier training;
- Data User training;
- Training for analytic environment Data Users;
- Methods of delivery; and
- Methods to obtain feedback from Data Users about training effectiveness and relevance.

c. CDR Data Governance Committee

HCA as the CDR Program owner and oversight agency retains all rights for final approval of requests to access CDR and the data contained within. Until the CDR Data Governance Committee is convened, and the relevant processes established, Contractor will bring all data release and Data User requests to HCA for decision.

Contractor is responsible for convening the CDR Data Governance Committee in collaboration with, and with the approval and participation of, HCA. The CDR Data Governance Committee consists of no more than 11 members, and shall include the following participants:

- HCA;
- DSHS/RDA;
- DSHS/ALTSA;
- DOH;
- Provider representatives – Data Submitters (at least 3); and
- Payer representatives – Data Submitters (at least 2)

The CDR Data Governance Committee will:

- Advise the Contractor and HCA on data release rules, policies, processes, and procedures;
- Review and approve the data release processes developed by the Contractor;
- Adopt criteria to guide evaluation of data requests;
- Review new requests for access to CDR data and provide recommendations; and
- Convene, at a minimum, every 2 months

Contractor will provide all logistical and administrative support for managing the Committee including scheduling and facilitating meetings. Contractor will collaborate with HCA on agenda development and meeting facilitation; provide HCA with the updated Committee meeting schedule; and maintain minutes that contain items such as Decisions, Risks, Issues, and Action Items.

d. Data Requests and Release

Contractor is responsible for responding to and fulfilling data product requests; and collecting payment for data products as well as services, such as data file linkages from the Data Requestors.

Contractor is responsible for all CDR Program standardized agreements, updating the data request and data release policies, processing requests through the Data Governance Committee, maintaining a log of data and access requests (both denied

and approved), and maintaining a log of DUA compliance monitoring and reporting activities.

Contractor is responsible for developing DUA Exhibit A: Approved CDR Data Application(s) and Exhibit C: Data Submission Agreement, in collaboration with HCA and the Data Governance Committee. Contractor and HCA recognize the need to evaluate the existing Health Information Exchange Participation Agreement to ensure the growing needs of the CDR Program are met.

HCA, as the Program Administrator, will sign DUAs when data is requested by a Washington State Agency, or by Contractor when requesting data as a Private Entity. Contractor will execute a DUA substantially similar to Exhibit B: Data Use Agreement, with Data Requestors for approved requests.

Contractor must maintain the confidentiality of the data it collects, including direct or indirect patient identifiers. Contractor is responsible for implementing and maintaining the appropriate processes and internal controls to ensure data are accessible only to authorized Data Users in compliance with all applicable laws.

Contractor, in collaboration with HCA and the Data Governance Committee, is responsible for developing policies and procedures to ensure the quality and security of data releases. The policies and procedures include user related processes, data request processes, input related processes, and data destruction procedures at the end of the project that required the data. This also includes collaborating with the Data Requestor's Internal Review Board for research use cases, which may include the Washington State Internal Review Board (WSIRB), developing a standard confidentiality agreement, data management plan, DUA and monitoring compliance to DUAs.

e. Compliance

i. Annual CDR Audit

Contractor will develop an annual audit plan that addresses compliance with terms and conditions of this Contract, as well as all applicable laws and regulations. The audit plan will address, at a minimum, the following topics:

- User access controls
- Use of Client Consent management
- Data access by Data Users
- Compliance with data security standards

Contractor will provide the audit plan to HCA for approval within the first 12 months of this contract and will implement the approved audit plan thereafter. Audit report will be included in the annual report provided by Contractor to HCA.

ii. Annual Federal/State Policy Review

The Contractor is also responsible for conducting reviews of, and recommending actions to align the CDR Program with changes to Federal and State law, including, but not limited to rules or policies from:

- The Centers for Medicare and Medicaid Services
- Office of the National Coordinator for Health Information Technology
- Office of the Chief Information Officer of Washington State

f. Stakeholder Engagement

This task includes marketing, communications, relationship management with HCA and other key stakeholders. Contractor will be responsible for all relationship and account management services with customers and other stakeholders of the CDR Program. This will include promotional efforts. Once a party has decided to become a Data User or Data Submitter, that party will be handed off to the Data Vendor for execution of the necessary agreements and the fulfillment of the services in question.

i. Data Submission by Data Suppliers

Contractor is responsible for defining the data submission process, submission guides, and standards for clinical providers to submit the CCDs, as well as for health plans and payers to submit the client eligibility files, to the CDR.

Contractor is responsible for collecting applicable data for the CDR, including in its role as the Data Vendor. This includes the process for data collection and validation, the identification, registration and relationship management with Data Submitters and potential Data Submitters and all related data submission processes. This also includes facilitating a Review and Reconciliation process with Data Suppliers, as outlined in Section 2(h), *Key Operations and Maintenance Activities and Deliverables*. Over time, Contractor will implement strategies aimed at increasing the number of covered lives represented in the CDR Program to increase the data available for researchers, purchasers, public policy experts, providers, hospitals, other stakeholders, and other authorized Data Users. This in turn will lead to increased revenue and improve the sustainability of the CDR Program. Strategies include, but are not limited to:

- Outreach and marketing to additional Data Suppliers;
- Developing and implementing processes to incorporate the additional Data Suppliers' data into the Program; and
- Partnering with HCA on potential changes to state law or regulations that may result in additional Data Submitters.

ii. Data Submitter and Data User Onboarding

Contractor is responsible for developing processes and procedures for onboarding to the CDR. Data Submitters and Data Users expected to be onboarded include, but are not limited to:

- Data Submitters connected to the Health Information Exchange;
- Data Submitters not connected to the Health Information Exchange;
- Data Users allowed access to the CDR, by role and level of access;
- Data Users allowed to access limited data sets within the CDR analytical environment; and
- Data Users allowed to access pre-rendered data files and reports created from CDR.

iii. User and Customer Outreach

Contractor will, as part of its Marketing and Communications Plan, conduct regular outreach to existing and potential CDR Data Users and customers. Contractor will conduct market research to inform the annual Business Plan and its design of data products and services to expand the CDR Data User and customer base.

iv. CDR User Group and Annual Survey

Starting year two of this Contract, Contractor will convene a user group of CDR Program Data Users. Contractor will also conduct an annual survey of CDR Program

stakeholders, including but not limited to Data Submitters, Data Users, HCA Program oversight staff, State agencies, purchasers, and providers. The survey purpose is to gain input and insight about current program operations and effectiveness; identify opportunities for improvement; and generate ideas about program growth and enhancement.

g. Reporting Requirements

Contractor is subject to reporting requirements by HCA, including data product reports, data submission reports, and other contractually required reports. All CDR Program reports will be made available to the public when required by State or Federal statutes or regulations.

Contractor will perform contractually required reporting including the following:

Report	Report Requirements	Due to HCA
Annual Data Products List	A list of data products it anticipates making available during the following state fiscal year.	<ul style="list-style-type: none"> Annually, due by March 31st each year starting in March 2023. This report will be consolidated with the Annual CDR Program Report.
*Quarterly Data Submission Status Report	This report should include all submissions, including a highlight of any submissions that are not in compliance with any associated audit findings.	<ul style="list-style-type: none"> Quarterly, due by the 15th day of the month following the quarter.
*Quarterly Requests for Data or Data Products Report	This report should include, at a minimum, request details, use case details, recipient details, final disposition, and revenue generated if any.	<ul style="list-style-type: none"> Quarterly, due by the 15th day of the month following the quarter.
*Quarterly Product Revenue from Data Products and Services Report	<p>This report should include all revenue received from, but not limited to the following:</p> <ul style="list-style-type: none"> Data requests revenue Data and analytic products revenue Analytic environment license fee revenue Any subscription or membership fees 	<ul style="list-style-type: none"> Quarterly, due by the 15th day of the month following the quarter.
*Quarterly Reporting of Other Funding	<p>This report should include all sources of revenue from any source other than product revenue and detailed in the Quarterly Product Revenue from Data Products and Services report. It must include all funding and Federal and Philanthropic grants (Contractor may be the applicant, or will provide support to the applicant).</p> <p>Reporting should include the status of the grant or funding (anticipated or received).</p>	<ul style="list-style-type: none"> Quarterly, due by the 15th day of the month following the quarter.
Annual CDR Program Report	This report includes the LO status report, but not limited to the following:	<ul style="list-style-type: none"> Annually, due by March 31st each year

Report	Report Requirements	Due to HCA
	<ul style="list-style-type: none"> • Data products and services • Data product fee schedule • Transparency of data products and associated fees to Data Requestors • Financial performance of the CDR Program, including any recommendations for improvements • Summary and detailed reporting on data quality, completeness, and accuracy in the CDR, by quarter • Summary of quarterly Data Quality assurance activities, detailing how the LO is maintaining accuracy and validity of Data Suppliers' data; accuracy of dates and services spans; consistency of record layout and counts; and identifying duplicate records • Lessons learned for Data Quality improvements and data submission process improvements • Data Quality improvement activities, including user-identified Data Quality issues, how they were resolved, and time to resolution • List of all Data Suppliers with their respective count of covered lives represented in the CDR, by quarter • List of any new Data Suppliers, including providers and payers • List of all revenue received from fees, data products, licenses, etc. • List of all data request inquiries • List of all approved/denied data product requests • List of Data User audit findings • Any grants or additional funding received to support the CDR Program • CDR usage analytics information • An analysis of market trends and best practices including Data Quality standardization, patient access and control over their data and developments in related federal guidelines • A summary of all marketing and outreach activities, including dates and locations • A summary of all user outreach and training activities, including dates and locations 	<p>starting in March 2023.</p>

* Contractor may combine the required quarterly reports into one quarterly report with clearly marked sections addressing the quarterly reporting requirements.

h. Key Operations and Maintenance Activities and Deliverables

The following are the Key LO Operations and Maintenance Activities, Deliverables, and Performance Standards of the CDR Program:

1. Data Submission Process	
Key Activities:	<ol style="list-style-type: none"> 1. Establish and maintain data submission processes and guides. 2. Ensure Data Supplier adherence to data submission guide and policies.
Key Deliverables:	<ol style="list-style-type: none"> 1. Required Reporting as indicated in the Statement of Work Section 2(g). 2. Propose metrics that measure and monitor Data Supplier adherence to data submission guide and policies to HCA by December 31, 2022.
Performance Standards:	To be incorporated upon agreement with HCA on data submission metrics.
2. Data Management Processes	
Key Activities:	<ol style="list-style-type: none"> 1. Assess and report on Data Quality. 2. Ensure relevant policies and protocols are in place, including reviews and validation checks by Data Suppliers. 3. Assess and report on data completeness, uniqueness, timeliness, accuracy, and consistency.
Key Deliverables:	<ol style="list-style-type: none"> 1. Required Reporting as indicated in the Statement of Work Section 2(g). 2. Propose metrics that measure and monitor Data Quality (including completeness, uniqueness, timeliness, accuracy, and consistency) to HCA by December 31, 2022.
Performance Standards:	To be incorporated upon agreement with HCA on Data Quality metrics.
3. Financial Plan and Ongoing Management	
Key Activities:	<ol style="list-style-type: none"> 1. Develop an annual financial plan for CDR Program. 2. Financial plan to include all moneys acquired to support the CDR, including but not limited to State funds; Federal funds, federal and philanthropic grants; fees for data products, reports, and data files; any applicable subscription or membership fees; and licensing fees to access the CDR analytic environment.
Key Deliverables:	<ol style="list-style-type: none"> 1. CDR Program Annual Business Plan as defined in Statement of Work Section 2(b). 2. Required Reporting as indicated in the Statement of Work Section 2(g).
Performance Standards:	<ol style="list-style-type: none"> 1. Identify additional funding, grant and revenue opportunities. This includes identifying any applicable federal and/or philanthropic grants. 2. Apply for at least two federal and/or philanthropic grants every year or as negotiated with HCA. Contractor must facilitate grant management functions to include completing applications, however Contractor may or may not be the primary applicant. 3. Increase revenue generated by data products and services by 5% year-over-year, starting State Fiscal Year (SFY) 2023 as a baseline.
4. Data Governance Committee: Convening and Facilitation	
Key Activities:	<ol style="list-style-type: none"> 1. Perform outreach to recruit committee members.

	<ol style="list-style-type: none"> 2. Convene Data Governance Committee with the approval and participation of HCA. 3. Provide all logistical and administrative support for managing meetings including scheduling and facilitating meetings. 4. Evaluate committee membership, accomplishments, and processes and provide recommendations to HCA to improve meeting efficiency and effectiveness.
Key Deliverables:	<ol style="list-style-type: none"> 1. Develop the CDR Data Application and the Data Submission Agreement in collaboration with HCA and the Data Governance Committee. Upon approval by HCA, incorporate the DUA Exhibit A: Approved CDR Application(s) and Exhibit C: Data Submission Agreement by June 30, 2023. 2. Meeting schedule, planning, set up and facilitation for advisory committees as described in Statement of Work Section 2(c). 3. Meeting summary following each meeting to include decisions, risks, action items and next steps.
5. Data Request and Release Processes	
Key Activities:	<ol style="list-style-type: none"> 1. Process applications through Data Governance Committee, ensuring the quality and security of approved data releases. 2. Maintain log of data applications, approved, and denied requests, and activities related to DUA compliance monitoring and reporting. 3. Maintain a log of activities related to DUA compliance monitoring and reporting. 4. Make information about CDR data and data request process available on the CDR Program website. 5. Submit DUAs requested by Washington State Agencies to HCA for review prior to execution/signature.
Key Deliverables:	<ol style="list-style-type: none"> 1. Develop the CDR Data Application in collaboration with, and with approval of, HCA and make it available on CDR Program website. 2. Required Reporting as indicated in the Statement of Work Section 2(g).
Performance Standards:	<ol style="list-style-type: none"> 1. CDR Data Application available for Data Users on CDR Program website by June 30, 2023. 2. Additional metrics to be incorporated upon HCA review of the first annual audit report.
6. Program Administration and Operations	
Key Activities:	<ol style="list-style-type: none"> 1. Contractor will be responsive to HCA and support HCA in conducting its State agency support and CDR Program oversight role. 2. Contractor will facilitate the annual Review and Reconciliation process to allow providers to verify and comment on the completeness, accuracy, and validity of their data in CDR. 3. Contractor will conduct an annual survey of stakeholders to gain input and insight into past Program performance and opportunities for improvement. 4. Contractor will improve the data request process, including but not limited to making it more visible.

	5. Review any proposed data submission guide changes with HCA and obtain approval prior to sending any change notification to Data Submitters.
Key Deliverables:	1. Data request process is easily accessible on CDR Program website and includes “self-serve” cost and processing time estimates.
	2. Include annual audit report as part of the annual status report; refer to Required Reporting as indicated in the Statement of Work Section 2(g).
	3. Include survey data and recommended actions to improve program performance in the annual status report; refer to Required Reporting as indicated in the Statement of Work Section 2(g).
Performance Standards:	1. Demonstrate improved Data Submitter and Data User experience using annual user survey data.
	2. To be incorporated upon HCA review of first annual audit report.

i. Deliverable Acceptance Process

Contractor must provide each draft deliverable to the HCA Contract Manager and allow at least five (5) business days for review and comment, highlighting any deficiencies that need to be addressed prior to acceptance by HCA.

Final deliverables will be provided to HCA along with an email that indicates the deliverable title and description. HCA will have up to five (5) business days to accept the final deliverable. Upon HCA’s acceptance, Contractor may add their deliverable to Contractor’s quarterly invoice as described within the Contract in Section 9.3, *Invoice and Payment*.

Should HCA not accept a final deliverable, HCA will provide a written explanation of the deliverable’s deficiencies within five (5) business days. HCA and Contractor will promptly meet to review and come to a mutually agreed-upon approach to move forward with the deliverable.

3. Program Growth and Value-Enhancement

HCA and Contractor agree to work together to develop a strategy to enhance the value of the CDR Program. HCA has oversight and control over the direction of the CDR Program and will make all decisions pertaining to program growth and value-enhancement in consultation with Contractor.

As set forth in this Contract, Contractor must provide HCA with updated Business Plan annually with a minimum three-year outlook. The plan includes which growth and value-enhancement services will be performed each year based on the anticipated fiscal outlook of the program. In the preparation of the Business Plan Contractor will collaborate with HCA, stakeholders, current and potential Data Submitters, current and potential customers, conduct market research, and develop appropriate surveillance measures to define customer needs, identify process improvements, and develop program growth and value-enhancement recommendations, which may include adding or changing Subcontractors. In preparing the Business Plan, Contractor will also determine costs for implementing suggested enhancements. Contractor will create a plan, and as approved by HCA, implement approved recommended enhancements.

a. Program Growth and Enhancement Funding

Contractor is responsible for generating revenue from non-state sources such as federal and philanthropic grants, fees from sale of data products and services, and if applicable membership/subscription fees to supplement the current level of general state funds. HCA agrees to act in good faith to support the receipt of additional revenue to the CDR Program. HCA and Contractor acknowledge the need for marketing, promotion, and enhancement efforts to bring in new revenue to the CDR Program. Contractor will collaborate with HCA to explore additional federal matching funds to support growth and enhancement of the CDR Program.

b. Growth of CDR Program

Contractor is responsible for developing a strategy to increase the number of Data Submitters, including non-Medicaid data from existing clinical providers; additional clinical providers including behavioral health and ambulatory services providers; non-Medicaid commercial plans, including employer-sponsored self-funded health plans, that are not required by HCA contracts to submit data to the CDR Program but may choose to do so voluntarily. In addition, Contractor is responsible for:

- Enabling the CDR to be a source for pre-defined quality of care analyses, including care gap analyses, in areas such as:
 - Chronic disease,
 - Acute care episodes,
 - Cancer care,
 - End-of-life care,
 - Primary care, and
 - Stratification by populations, age categories, or specific diseases
- Developing pre-defined datasets with specific designated purposes that could be used by researchers and policymakers; provide data dictionary for each dataset including transparency into the definitions, calculations, and logic used to create.
- Developing aggregated quality of care reports that can be made publicly available on CDR Program website for improved health system performance transparency.

c. Enhance User Functionality

Contractor is responsible for:

- Developing a secure analytic environment for Data Users to access CDR data. Make visualization tools, such as Tableau and statistical analysis tools, such as SAS, available in the analytic environment to enable Data Users' analyses without having to download data extracts.
- Publishing a Data User guide with specific 'how to' content for known use cases and all standard reports and data sets. The guide should identify limitations to the CDR data including what is and is not included and a roadmap for expected enhancements. The Data User guide should support a fast and efficient validation process for Data Users; including transparency and results of Contractor-performed checks and validations, and a how-to guide to perform checks.

d. Improve Submitter Experience

Contractor is responsible for:

- Assessing data submission process and make recommendations for improvements including validation and verification tools to support Data Submitters.

- Enhancing the CDR Program value proposition to Data Submitters by developing value-add offerings such as quality of care benchmarking analyses and reports for purchasers and payers to inform value-based-purchasing (VBP) efforts.

e. Grow Adoption

Contractor is responsible for:

- Growing usage of the CDR Program in line with specific metrics developed in collaboration with HCA.
- Enhancing and broadening marketing efforts and available product offerings to appeal to Data Users such as large employers with self-funded plans, clinically integrated health systems, hospitals, and health care providers.

f. Key Program Growth and Value-Enhancement Activities and Deliverables

The following are the Key Program Growth and Value-Enhancement Activities, Deliverables, and Performance Standards of the CDR Program:

1. Program Growth	
Key Activities:	1. Increased number of Data Submitters to the CDR.
	2. Non-Medicaid data submitted by existing Data Submitters.
	3. Pre-defined datasets with specific designated purposes that could be used by researchers and policymakers. To be created with stakeholder input.
	4. Aggregated quality of care reports that can be made publicly available on CDR Program website. To be created with stakeholder input.
Key Deliverables:	1. Include plans to increase number of Data Submitters, and to acquire non-Medicaid data from existing Data Submitters, as part of the CDR Program Business Plan indicated in Statement of Work Section 2(b) and update annually.
	2. Include detailed reporting on new Data Submitters, and non-Medicaid data from existing Data Submitters, as part of the annual report indicated in Statement of Work Section 2(g).
Performance Standards:	1. To be incorporated upon agreement with HCA on program growth metrics.
2. Enhanced User Functionality	
Key Activities:	1. Secure analytic environment for Data Users to access CDR data.
	2. CDR Data User guide.
Key Deliverables:	1. CDR Data User guide available to all Data Users of CDR analytic environment.
	2. Analytic environment for Data Users as indicated in Statement of Work Section 3(c).
Performance Standards:	1. To be incorporated upon agreement with HCA on user experience metrics.

3. Improved Submitter Experience	
Key Activities:	1. Data validation and verification processes to support Data Submitters.
	2. Quality of care benchmarking analyses and reports for purchasers and payers. To be created with stakeholder input.
Key Deliverables:	1. Data validation and verification functionality for Data Submitters.
	2. Benchmarking analyses and reports for purchasers and payers.
Performance Standards:	1. To be incorporated upon agreement with HCA on Data Submitter experience metrics.
4. Growth in Adoption	
Key Activities:	1. Communications and promotions campaign for all user types/customers.
	2. Enhanced product offerings to appeal to Data Users such as large employers with self-funded plans, clinically integrated health systems, hospitals, and health care providers.
Key Deliverables:	1. Increased number of Data Users of CDR, and associated increase in CDR Program revenue.
	2. Include all communications and promotions campaign information as part of the Required Reporting in Statement of Work Section 2(g).
	3. Include details on current product offerings, as well as associated program revenue, as part of the Required Reporting in Statement of Work Section 2(g).
	4. Include details on planned product offerings, as well as associated anticipated program revenue, as part of the CDR Program Business Plan indicated in Statement of Work Section 2(b) and update annually.
Performance Standards:	1. To be incorporated upon agreement with HCA on CDR adoption metrics.

Schedule B: Statement of Work – CDR Data Vendor Services

1. Purpose

The State of Washington's Clinical Data Repository (CDR) is supported by services provided by a Lead Organization (LO) and Data Vendor (DV). The LO must administer the CDR Program, including overseeing the DV. The DV must provide services to maintain and secure the CDR data. Both the LO and DV provide Core Services to support the operations and maintenance of the CDR, and Growth and Enhancement Services to support the long-term vision and sustainability of the CDR.

The completion of Services as provided in Schedule A and Schedule B are compensated at \$35,000 per month. The maximum compensation for the term of September 1, 2022 through November 30, 2024 is \$945,000.

2. Core Services: Operations and Maintenance

a. Data Submission

Contractor is responsible for the following:

- Collecting data from Data Suppliers, including clinical care providers and health plans;
- Ensuring that the collected data meets established standards and compliance requirements for data quality and accuracy;
- Establishing standards for data completeness, uniqueness, timeliness, accuracy, validity, and consistency;
- Creating and supporting an automated testing platform that supports Data Submitters in validating data submissions and correcting errors prior to submitting production data to the CDR;
- Creating automated reports for Data Submitters to review results of data submissions, including success and failure counts, trends, and alerts for aberrant reporting patterns (i.e. significant reduction in monthly submitted records);
- Identifying opportunities for involvement in Data Users or Data Submitters to validate and confirm data submissions;
- Assessing data submission processes for potential improvements; and
- Designing and implementing an automated review and reconciliation process which ensures data integrity and completeness at all points within the data platform

b. Data Management

Contractor is responsible for the following:

- Creating an automated data ingestion process for Data Submitters which have completed onboarding activities and are approved for submitting data to the production CDR;
- Creating validation processes that ensure data submitted meet conformance and compliance with applicable technical standards;
- Creating automated error reports for data submissions;
- Creating processes to ensure data standardization for clinical data submitted by providers, including measuring the completeness of data submitted and creating comparative reports to support Data Submitters in identifying gaps and opportunities for improvement of data submissions;
- Developing processes for normalization of data submitted to the CDR, supporting accurate and consistent data within the CDR and the analytical platform;

- Developing data dictionaries and materials to support Data Users in using standardized and normalized data in the analytical platform;
- Designing and implementing data quality activities to increase the utility and usability of CDR information. These activities should include, at a minimum:
 - Automated review of quality and completeness of data submitted;
 - Cleaning and standardization of submitted files;
 - Providing feedback reports to Data Submitters for opportunities to improve data quality; and
 - Providing technical assistance to providers on how to improve data quality;
- Implementing appropriate sensitivity controls on CDR data that allows for segmenting information in the CDR until consent has been verified. These controls must allow the LO and HCA the ability to define data that can be held within the CDR, but will be inaccessible by Data Users as a released dataset or within the analytical environment until authorization to access such data has been verified through a secondary authorization mechanism such as a consent management solution or an attestation. Sensitive data must be able to be defined by, at a minimum:
 - Standardized code sets (SNOMED, LOINC, ICD10, etc.)
 - Actors - Depending on which scenario below would be in effect, the combination of actors would determine which rules would be enforced as described in the Governance section.
 - A. Party attempting to access the data
 - B. Current health care provider/coverage for the data
 - C. Party that submitted the data
 - Scenarios - each of the scenarios below provides a unique context for governance based on the actors involved.
 - A. HIPAA TPO
 - B. Research
 - C. Public Health
 - Governance (Federal and Washington State) - the governance described below is enforced contextually based on the actors and scenarios described above.
 - A. Restricted/Executive groups within an organization
 - B. Behavioral Health Data
 - C. Substance Abuse Data
 - D. Reproductive Health Data
 - E. Sexually Transmitted Infections (STI) Data

c. User Support

Contractor is responsible for the following:

- A. Service Level Agreement (SLA). The Contractor will commit to a Service Level Agreement substantially similar to the SLA described in Exhibit E: CDR Program Service Level Agreement. The Contractor and HCA agree to develop the specifics of the SLA after the execution of the agreement.
- B. Contractor will implement a support ticket system for intake of new report and data product requests.
- C. Creating a training plan for data products and analytical environments, including;
 - Role determination and access to secure data;

- Allowable use and disclosure of information;
 - Capability of submitting data products for review prior to extraction;
- D. Contractor will implement services to provide technical assistance to Data Users of the analytical environment, including;
- Securely connecting to the analytical environment;
 - Access to a data dictionary within the secure environment; and
- E. Creating a process for addressing data quality issues identified by Data Users. At a minimum, contractor will;
- Create a method for Data Users to submit data quality issues;
 - Create a known data quality issue log;
 - Create reports to Data Submitters on quality issues;
 - Create a process for resolving quality issues;
 - Inform Data Users when identified quality issues are resolved.
- F. Implementing a secure analytic environment that allows for secure, role-based access to normalized data sets based on clinical documents within the CDR. This environment must be designed to support multiple analytical tools such as SAS, available in the analytic environment to enable Data Users' analyses without having to download data extracts; Deploying infrastructure in the CDR and the analytical environment which allows for attributing patient populations. Attribution capability must include, at a minimum;
- Ability to attribute a patient with multiple providers, such as primary care, behavioral health, et cetera
 - Ability to attribute to one or multiple payers, such as HCA, a Managed Care Organization, and a Behavioral Health Administrative Services Organization
 - Ability to apply attribution with start and end dates;
 - Ability to leverage attribution for reports and dynamic data products;
 - Ability for Data Users of the analytical environment to query or filter based on these attributions, as appropriate;

d. Administrative Support

Contractor is responsible for the following:

- A. Implementing data quality improvement practices, including an analysis of market trends and best practices regarding Data Quality standardization for clinical data;
- B. Implementing secure role-based access controls which allow for Data Users to access the minimum necessary amount of information to meet their roles. Contractor must develop a process to design and implement new roles based on identified use cases. Access to information should be dynamically allowed based on roles in combination with sensitive data and electronic consent management, limiting access to information as necessary. Examples of roles which should be supported include:
- Emergency personnel who need access to all information (“break the glass”);
 - Standard access to medical information without access to specially protected data;
 - Coordinators who need access to care team members and dates of recent visits, but not details;
 - Medication management and compliance roles;

C. Supporting the LO in the annual audit which monitors and reports on data submission access, including at a minimum;

- Successful and unsuccessful data submissions by Data Submitter;
- Records accessed by organizations and types of Data Users;
- Data quality activities performed;
- User support and training provided;
- System uptime, including planned and unplanned outages;

e. Required Reporting

Contractor in its role as the DV will support the LO reporting requirements as outlined in Schedule A Section 2(g).

f. Key Operations and Maintenance Activities and Deliverables

The following are the Key DV Operations and Maintenance Activities, Deliverables, and Performance Standards of the CDR Program:

1. Data Management	
Key Activities:	1. Data ingestion, validation, and data quality assurance.
	2. Data standardization, normalization, and data dictionary(ies).
	3. Data segmentation based on sensitivity controls.
Key Deliverables:	1. Reports, metrics, and data ingestion processes for the full data lifecycle.
	2. Data dictionaries available to authorized Data Users.
	3. Aggregated reports that can be made publicly available on CDR Program website to support understanding of available volume and completeness of data.
Performance Standards:	1. To be incorporated upon agreement with HCA on CDR adoption metrics.
2. Data Submission	
Key Activities:	1. Data validation and verification tools for Data Submitters.
	2. Technical assistance to Data Submitters.
	3. Data Submitter reports including submission success and failure rates, trends, and automated alerts.
Key Deliverables:	1. Implementing tools that measure data quality, consistency, and accuracy, supporting continual improvement of data submissions.
	2. Implementing a support ticketing system to track and respond to identified issues.
Performance Standards:	1. Include metrics such as technical assistance requests received, response time, and results in the Required Reporting in Schedule A Section 2(g).
	2. Include metrics including improvement of data submission and error rates over time in the Required Reporting in Schedule A Section 2(g).
3. User Support	

Key Activities:	1. Provide accessible systems and services to utilize service and data delivery.
	2. Data quality issue resolution and technical assistance.
	3. Data User training and support.
	4. Attribution.
Key Deliverables:	1. Implementing a support ticketing system to track and respond to identified issues.
	2. Performance analyses and reports for services and to support LO reporting requirements as indicated in the Required Reporting in Schedule A Section 2(g).
	3. Facilitating Data User training and knowledge enhancement through multiple methods.
Performance Standards:	1. To be incorporated upon agreement with HCA on CDR response and uptime metrics.
4. Administrative Support	
Key Activities:	1. Annual audit.
	2. Availability, uptime, and outages.
	3. Role-based Data User access controls.
	4. Management and configuration of sensitive data.
	5. Data quality improvement activities.
Key Deliverables:	1. Support lead organization in the required auditing activities.
	2. Facilitating improvement in sensitive data management with Data Users and Data Submitters.
	3. Incorporating client consent to share sensitive data using electronic consent management tool.
Performance Standards:	1. Data quality metrics which show improvement over time, including Data Submitters participating in quality improvement activities.
	2. System availability and uptime metrics to be incorporated upon agreement with HCA.

Exhibit A: MCO Invoicing Procedure

Clinical Data Repository: MCO Invoicing Procedure

Authors: Dylan Oxford, HCA
Linh Nguyen, HCA

Approvers: Jerry Britcher, HCA
Charissa Fotinos, HCA

Reviewers: Linda Reeder, OTB
Kerry Tye, OHP

Purpose:

This procedure defines the process to determine semi-annual billings to be sent to the MCO to support maintaining lives within the Clinical Data Repository.

Background:

The Health Care Authority (HCA) has decided to retain the integrated health record for a client for two years after the loss of eligibility. This mimics the clinical best practice of maintaining a client's care record on-site at the provider location for two years after the client's last visit. The MCO will subscribe to the state HIE, OneHealthPort (OHP), and will pay the annual fee for all enrolled lives and all historical data retained for the above two-year retention period. This calculation will be based on the overall subscription cost, and proportioned based on the percentage of current enrollees for each MCO.

Procedure:

The process is defined as follows:

1. OneHealthPort will provide current life counts within the CDR
2. HCA will determine the proportion of lives each Managed Care Organization (MCO) is responsible for. This proportion will be determined twice a year, on February 14th and June 14th. The proportion is developed as follows:
 - a. The data source for the calculation is HCA's Client by Month file on the Operational Data Store
 - b. The Client by Month file is updated the first weekend of every month
 - c. Following the updates for January and May, HCA will pull a count of all clients actively enrolled with each MCO for the following managed care programs:
 - i. Apple Health Managed Care
 - ii. Apple Health Blind and Disabled
 - iii. Apple Health Foster Care
 - iv. Apple Health Integrated Managed Care
 - v. Apple Health Healthy Options
 - vi. Apple Health for Kids

- d. HCA will calculate a percentage for each MCO, the numerator of which will be the number of lives covered by the individual MCO across all programs listed above, and the denominator of which will be the number of lives covered by all MCOs across all programs listed above.
- 3. HCA will apply the percentage to the current life counts provided by OneHealthPort, and provide an preliminary invoice amount to OneHealthPort
- 4. OneHealthPort will review the preliminary invoice amounts provided by HCA, and develop invoices.
- 5. OneHealthPort will submit invoices to MCOs
- 6. MCOs will receive invoices, and submit payment to OneHealthPort in full by the due date
- 7. OneHealthPort will report any MCO which is delinquent 30 days or more past the due date to HCA's Assistant Director of Healthcare Services
 - a. In the event of non-payment to OHP by an MCO, HCA can withhold the amount due by the next available scheduled monthly Apple Health premium payment to the MCO. After approval by the HCA Health Services Assistant Director, this money will be used to make the payment due to OHP via AFRS.
 - b. If an MCO pays OHP after HCA has initiated payment to OHP in the case of a delinquency, OHP is to send a refund check or EFT to:
 - Health Care Authority
 - Attn: Accounting
 - PO Box 42691
 - Olympia, WA 98504-2691

Approvals: The following are the required approvers of this procedure, along with their selected dispositions. Approvers must select one of the following three dispositions after reviewing the item:

- A. I fully approve and have no further questions or comments.
- B. I conditionally approve, contingent on the following corrections.
- C. I disapprove of this procedure for the following reasons identified.



 Jerry Britcher, Chief Information Officer, Health Care Authority

A

 Disposition

4/15/2018

 Date

Comments:



 Charissa Fotinos, Deputy Chief Medical Officer, Health Care Authority

A

 Disposition

4/19/18

 Date

Comments:

Exhibit B: Data Use Agreement

This "Data Use Agreement" ("DUA"), is effective as of the last date of signature of all entities ("Effective Date") is by and between the One Health Port (OHP), in the capacity of the Washington Clinical Data Repository ("CDR") Lead Organization (hereinafter, "the LO"), and the data recipient [[Click here to enter text](#)] (hereinafter, the "Recipient") hereunder. This DUA defines the terms and conditions under which access to and use of the CDR data is authorized.

This DUA addresses the conditions under which the LO will disclose and the Recipient may obtain, use, reuse, and disclose the CDR data file(s) or data output specified in this DUA and/or any derivative file(s) (collectively, the "Data" or "CDR Data"). This DUA pertains to all Data Release Application(s) (hereinafter, "Data Application") under which the LO releases CDR Data to the Recipient. Each Data Application approved by the LO will be noted and attached hereto as DUA Exhibit A, B, C, and so on.

This DUA applies to data disclosed between the Effective Date and "Completion Date" [Click here to enter a date](#), unless the DUA is terminated earlier (DUA Exhibit E) or extended (DUA Exhibit F) by mutual written agreement of the parties.

Section 1. Attachments and Exhibits

The parties mutually agree that the following specified Attachments and Exhibits are part of this DUA:

- DUA Attachment 1: Data Use Agreement Amendment(s) (if Applicable)
- DUA Attachment 2: List of Approved Data Elements
- DUA Attachment 3: List of Authorized Data Users
- DUA Exhibit A: Approved CDR Data Application(s)
- DUA Exhibit B: Approved Data Management Plan (if Applicable)
- DUA Exhibit C: Recipient Attestation of CDR Policies
- DUA Exhibit D: Recipient Confidentiality Agreement(s)
- DUA Exhibit E: Certificate of Project Completion and Data Destruction
- DUA Exhibit F: Certificate of Continued Need and Compliance
- DUA Exhibit G: CDR Data Access Fee Schedule
- DUA Exhibit H: Recipient Data Output
- DUA Exhibit I: Analytic Environment User Authentication Agreement
- DUA Exhibit J: Analytic Environment Data Downloads
- DUA Other: [Click here to enter text](#).

Covered Project(s). This DUA governs data release for the following project(s) entitled:

[Click here to enter text.](#)

Identified in the Data Application(s) approved by the LO and incorporated into this DUA as DUA Exhibit A.

The Recipient represents that the facts and statements made in each Data Application, Data Management Plan, and other documents submitted to the LO in support of each Data Application are complete and accurate. The Recipient affirms that the requested Data under each Data Application is the minimum necessary to complete the Project set forth in that Data Application.

Requested Data Elements. This DUA governs access to the CDR Data specified in DUA Attachment 2.

Authorized Data Users. An “Authorized Data User” refers to the Recipient, Recipient employees, and Additional Organization (any Recipient contractors or agents or other third party) employees who are entrusted to access and use the Data and whose signed Confidentiality Agreement is on file with the LO. Authorized Data Users are listed in DUA Attachment 3 of this DUA. Recipient shall ensure that all Authorized Data Users execute a Confidentiality Agreement prior to accessing CDR Data. These executed Confidentiality Agreements (DUA Exhibit D) are incorporated in this DUA.

Recipient shall ensure that all Authorized Data Users comply with the same restrictions and conditions that apply to the Recipient under this DUA and agree to follow the data privacy, security, and protection requirements, prior to being granted access to the Data. The Recipient will notify the LO when an individual leaves or joins the Project. The Recipient must obtain written approval from the LO to add an Authorized Data User prior to granting such individual access to the Data. New Authorized Data Users must sign a Confidentiality Agreement (DUA Exhibit D), a copy of which must be delivered to the LO in advance of accessing the Data.

Section 2. Permitted Data Uses and Purposes

The Recipient agrees that:

1. The Data are confidential information and the Recipient will maintain Data confidentiality.
2. The Data will be used only for the purpose described in DUA Exhibit H. Recipient must request an amendment to this Agreement for any use that is a material deviation from these Data uses.
3. The Recipient may not use or reuse, disclose, market, release, show, sell, rent, lease, loan or otherwise grant access to the Data or its derivatives except as expressly permitted by the DUA, or as the LO may authorize in writing or as otherwise required by law, in which case Recipient shall promptly notify the LO.
4. Use of the Data, or any derivative thereof, for a project, other than the one described in this DUA and the Data Application, must be approved by the LO through a separate application process.
5. If Recipient is obtaining the Data for research, Recipient’s use and disclosure will be compliant with both this DUA and the research protocol approved by the Washington State Institutional Review Board (WSIRB).

No Identification or contact of Individuals. Absent express written authorization from the LO, the Recipient shall not attempt to link records included in the CDR Data to any other information. An

approved Data Application that includes the linkage of specific elements or files constitutes express written authorization from the LO to link files as described in that Data Application only. The Recipient shall not use the CDR Data to attempt to deduce an individual's identity or contact individuals (patients, providers, payers, etc.) unless that use case is expressly approved as part of the Data Application.

The Recipient shall not disclose to anyone who is not listed as Authorized Data User on this DUA any direct findings, listings, or information derived from the Data, with or without direct identifiers.

Section 3. Data Analysis and Display

Cell Suppression Guideline. The Recipient agrees that any use of CDR Data in the creation of any Data output (manuscript, table, chart, study, report, etc.) that is shared with anyone who is not an Authorized Data User shall adhere to the following minimum thresholds. No cell size less than 11 may be displayed (such as, but not limited to admittances, discharges, patients, services). Also, no use of percentages or other mathematical formulae may be used if they result in the disclosure of a cell value less than 11. Data output and analytics must use complementary cell suppression techniques to ensure that cells with fewer than 11 observations cannot be used to identify an individual person by manipulating Data output (e.g., in adjacent rows, columns or other manipulations). Information that could be used alone or in combination with other information to identify an individual shall not be published in any form.

Data Output. The Recipient warrants that it has provided a list of all intended Data output (e.g. data, reports, manuscripts, or other Project products) that it plans to derive from the CDR Data, and that this list is now attached as DUA Exhibit H. Additionally, Recipient agrees to obtain pre-approval from the LO prior to the disclosure of designated Data output as listed in DUA Exhibit H to anyone other than Authorized Data Users. These cases include but are not limited to: use of direct identifiers, data reseller/derivative products and uses that involves linking CDR Data to any other information. The LO will complete its Data output pre-approval within four weeks of receipt to confirm that:

1. The Recipient organization is compliant with minimum cell size and complementary cell suppression rules;
2. The Data output has incorporated appropriate protections to prevent inferential identification of individuals (patients, providers, payers, etc.), other than the approved use case(s);
3. The Data output is consistent with the Project description contained in the Recipient's Data Application; and
4. All applicable federal and state law requirements have been followed.

Section 4. Data Privacy and Security Obligations

Compliance. With respect to the Data, the Recipient shall comply with the data security and privacy requirements per the Washington State Office of the Chief Information Officer (OCIO) IT Security Standards 141.10 and, as applicable, the privacy and security standards set forth in the federal Privacy Act and the Health Insurance Portability and Accountability Act (HIPAA) as a condition of this DUA. The Recipient shall permit disclosure and use of the Data only as permitted by law and by this DUA. The Recipient shall secure and protect the confidentiality of Data in a manner consistent with the above-mentioned data security and privacy requirements.

Access and verification to confirm DUA compliance. The Recipient shall grant reasonable access to its facilities, personnel, and the CDR Data, and to any Additional Organization and personnel where the CDR Data is held, to authorized representatives of the LO and HCA for the purpose of confirming compliance with the terms of this DUA. The LO may audit compliance with DUAs and Confidentiality Agreements as needed. The Recipient must comply and assist, if requested, in any audit of these agreements. The Recipient shall respond in writing within ten business days to any request by the LO or HCA to verify Recipient's compliance with the terms of this DUA, as well as compliance of any Additional Organization to whom the Recipient disclosed CDR Data.

Safeguards. The Recipient shall establish appropriate administrative, technical, and physical safeguards to protect the confidentiality of and prevent unauthorized use of or access to the Data. The Recipient acknowledges that the use of unsecured communications, including the Internet, to transmit individually identifiable, or deducible, information derived from the CDR Data is prohibited.

Section 5. Ownership, Treatment of Subpoenas and Unauthorized Uses, Disclosures or Security Incidents

Ownership. HCA is the agency for the State of Washington charged with the maintenance, preservation, security, and protection of the Data in the CDR. The Recipient does not obtain any right, title, or interest in or to the Data. The Recipient shall cite the CDR as the source of the Data in any studies, reports, or products in which the Data are used.

Treatment of Unauthorized Uses or Disclosures of Data. In the event that the LO determines or has a reasonable belief that the Recipient has made or may have made a use, reuse, or disclosure of the CDR Data that is not authorized by this DUA, or another written authorization from the LO, the LO may, at its sole discretion, require the Recipient to perform one or more of the following, or such other actions as the LO deems appropriate:

1. Investigate and report, within 5 business days, to the LO the Recipient's determinations regarding any alleged or actual unauthorized use, reuse, or disclosure;
2. Promptly resolve any issues or problems identified by the investigation;
3. Submit a corrective action plan with steps designed to prevent any future unauthorized uses, reuses, or disclosures in the time frame specified by the LO; and
4. Destroy the CDR Data and any copies thereof consistent with the terms of this DUA.

As a result of the LO's determination or reasonable belief that unauthorized uses, reuses or disclosures have taken place, the LO may in its sole discretion refuse to release further CDR data to the Recipient and terminate this DUA.

Data Breach. Reporting of Unauthorized Uses or Disclosures of Data. The Recipient shall report loss of the Data or access by or disclosure to any unauthorized persons and unauthorized use or reuse of the data to the LO immediately upon discovery of such loss or knowledge of such loss or unauthorized access or disclosure or use or reuse and shall cooperate fully in any LO incident response process. The Recipient shall bear the sole cost and liability for any privacy and security breaches related to the Data while the Data are entrusted to the Recipient or the Data are otherwise the responsibility of the Recipient. Furthermore, if the LO in consultation with HCA determines that the risk of harm requires notification to affected individuals of the data breach and/or other remedies, the Recipient shall be solely liable to carry out these remedies at its sole

cost and expense. Recipient's cost and liability obligation, including but not limited to such costs as described in the Antitrust Compliance and Indemnification section below, shall survive the termination or expiration of this DUA.

Breach of Agreement. In addition to other penalties or regulatory actions that may be taken, including denial of future data requests, breach of this DUA or a Confidentiality Agreement (DUA Exhibit D) may result in immediate termination of this DUA. If an individual breaches the Confidentiality Agreement, the LO must review the circumstances and determine if this DUA should be terminated or only the Confidentiality Agreement with the individual who caused the breach should be terminated. If the LO terminates only a Confidentiality Agreement, Recipient shall not provide further access to the Data to such individual(s) and the individual(s) must destroy all CDR Data in his or her possession and provide an attestation of the destruction (Certificate of Project Completion and Data Destruction form) to the LO within ten business days. When this DUA is terminated, the Recipient must destroy all CDR Data in its, his or her possession, and the possession of its employees and Additional Organizations, and provide an attestation of the destruction (Certificate of Project Completion and Data Destruction form) to the LO within ten business days. Failure to destroy the Data or provide attestation of the destruction may result in other penalties or regulatory actions.

Breach of Agreement – HCA's Right to Terminate the Agreement. If it is found that this DUA or a Confidentiality Agreement has been breached, HCA may immediately terminate this DUA.

Antitrust Compliance and Indemnification. Recipient agrees to treat CDR Data confidentially, as specified in this DUA, and not to use, or enable any other parties to use, the CDR Data for anticompetitive or other unlawful purposes, including but not limited to price-fixing, market or customer allocation, service or Data output restriction, price stabilization, or any other agreement or coordination among parties that in any way restricts or limits competition.

Recipient also agrees to indemnify, defend and hold the LO and HCA harmless for any claims, losses, liabilities, damages, judgments, fees, expenses, awards, penalties (including civil monetary penalties), and costs (including reasonable attorneys' and court fees and expenses) arising from or relating in any way to the CDR Data, or that in any way involve use of the CDR Data, breach of this DUA by the Recipient, its employees, or Additional Organizations or any breach or alleged breach of CDR Data arising from the Recipient's, its employees, or Additional Organizations breach, or failure to perform, pursuant to this DUA. Such indemnification shall include, but not be limited to, payment by Recipient of any fines, penalties, or damages of any sort, including but not limited to compensatory, treble, punitive, or any other damages, fines, or penalties assessed against the LO for any antitrust violation arising from or relating in any way or any part to the CDR Data or use of the CDR Data, as well any and all of the LO's related legal fees, costs, and/or other expenses incurred in or arising from the matter. Recipient's indemnification obligation shall survive the termination or expiration of this DUA.

The Recipient further agrees that it shall not attempt to identify parties that have been de-identified in the Data output, "reverse engineer," decompile, or in any other way attempt to discern the identities of the specific parties paying fee schedule allowed amounts contained in the CDR Data, nor shall the Recipient try to translate, convert, adopt, alter, modify, enhance, add to, delete, or tamper with any CDR Data or in any other way attempt to calculate or determine specific parties' fee schedule allowed amounts from the CDR Data.

Data Retention and Destruction. Except set forth herein, the Data released under a Data Application may be retained by the Recipient until the Completion Date. The Recipient shall notify

the LO within 10 business days of Project Completion. Upon Project Completion, the Recipient shall promptly destroy the Data received under the Data Application, including all copies thereof and all analytic datasets derived from the original Data. The Recipient shall promptly, but no later than 10 business days after Project Completion, send the written Certificate of Project Completion and Data Destruction Form to the LO, using the form attached hereto as DUA Exhibit E. The Recipient acknowledges its affirmative obligation to destroy the Data upon Project Completion, and that such obligation is not contingent upon action by the LO.

Section 6. Term and Termination of Agreement

Term and Termination. This Agreement shall become effective upon the Execution Date cited in the preamble and shall remain in effect through the Completion Date (“Initial Term”). Not later than 60 days prior to the expiration of the Initial Term, or any Renewal Term, the parties, per mutual consent, will either execute a renewal to this Agreement (DUA Exhibit F) or execute the Certificate of Project Completion and Data Destruction (DUA Exhibit E).

This DUA shall remain in full force and effect at all times while Recipient or Additional Organizations maintains any Data. This DUA will terminate upon the LO’s receipt of the Certificate of Project Completion and Data Destruction Form for all Data in Recipient possession. All provisions of the DUA which reasonably should survive, or by its terms would survive termination will do so.

Amendment. The terms of this DUA can be changed only by written amendment to this DUA or by the parties adopting a new DUA. The parties agree further that instructions or interpretations issued to the Recipient concerning this DUA, or the Data specified herein, shall not be valid unless issued in writing by the LO. Should any state or federal law or regulation now existing or enacted after the Effective Date of this DUA be amended or interpreted by judicial decision or a regulatory body in such a manner that renders any provision of this DUA in violation of such law or regulation or adversely affects the LO or Recipients’ abilities to perform their obligations under this DUA, the LO or Recipient agree to negotiate in good faith to amend this DUA so as to comply with such law or regulation and to preserve the viability of this DUA. If, after negotiating in good faith, the LO or Recipient are unable to reach agreement as to any necessary amendments, either the LO or Recipient may terminate this DUA without penalty.

Violations and Penalties. A violation of this DUA may result in penalties and remedies allowed by law. The LO shall notify state and federal law enforcement officials, as applicable, of any data breaches in connection with any violation of this DUA. It is the sole responsibility of the Recipient to ensure compliance with all other local, state, and federal laws and regulations. Recipient’s obligation under this Section shall survive the termination or expiration of this DUA.

No Representations or Warranties. Neither HCA nor the LO makes any representation or warranty to any person or entity with respect to CDR Data, the software, or any other information provided by HCA, the LO or their respective agents with respect to any of the foregoing. HCA and the LO hereby disclaim all implied warranties with respect to CDR Data, including warranties of merchantability and fitness for a particular purpose. Further, neither HCA nor the LO make any warranty, guarantee or representation regarding the use, or any intended, expected, or actual output of the use, of CDR Data, the software, or any other information provided by HCA or the LO in terms of correctness, accuracy, reliability, or otherwise. HCA and the LO specifically disclaim all express warranties not stated herein and all implied warranties, including the implied warranties of merchantability and fitness for a particular purpose. No HCA or LO agent or employee is authorized to make any expansion, modification, or addition to the limitation and exclusion of warranties in this agreement.

The LO uses available technology to match patient identities with their health information. Because patient information is maintained in multiple places, not all of which are accessible to the LO, and because not all patient information is kept in a standard fashion or is regularly updated, it is possible that false matches may occur or that there may be errors or omissions in the information. The LO does not and cannot independently verify or review the information transmitted for accuracy or completeness.

Section 7. Authority

A person with authority to bind the requesting organization must sign the DUA; or in the case of an individual with no organizational affiliation the individual requesting Data must sign the DUA. Each signatory agrees by signing below that it has authority to sign this DUA on behalf of the party the signatory represents. Each entity agrees to be bound by the terms and conditions of this DUA. The Recipient is responsible for the observance of all conditions of use and for establishment and maintenance of security arrangements as specified in this DUA to prevent unauthorized use.

DRAFT

IN WITNESS WHEREOF, the parties by their duly authorized representatives have executed this DUA as of the Effective Date.

The Lead Organization (LO): One Health Port

Print name of LO representative: Print Name		
Title of LO representative: Print Title		
Organization name: One Health Port		
Street Address: 2003 Western Ave, Suite 600		
City: Seattle	State: WA	ZIP Code: 98121
Office Telephone (Include Area Code): Phone		
Signature of LO representative:		
Signature date:		

Washington State Health Care Authority (NOTE: Only Signed for Data Requests from Federal, State and Local Government Agencies)

Print name of HCA representative: Rachelle Amerine		
Title of HCA representative: Contracts Administrator		
Organization name: Washington State Health Care Authority		
Street Address: 626 8 th Ave. SE		
City: Olympia	State: WA	ZIP Code: 98504-5502
Office Telephone (Include Area Code): 360-725-1698		
Signature of HCA representative:		
Signature date:		

RECIPIENT

Print name of authorized signatory: Click here to enter text.		
Title of representative: Click here to enter text.		
Organization name: Click here to enter text.		
Street Address: Click here to enter text.		
City: Click here to enter text.	State: Click here to enter text.	ZIP Code: Click here to enter text.
Office Telephone (Include Area Code): Click here to enter text.		
E-Mail Address (if applicable): Click here to enter text.		
Signature of representative:		
Signature date:		

DUA EXHIBIT A: APPROVED CDR DATA APPLICATION(S)

[Contractor Deliverable]

DRAFT

DUA EXHIBIT D: CONFIDENTIALITY AGREEMENT

The Washington Clinical Data Repository (CDR) Data Recipient [Enter name of Recipient [Click here to enter text.](#)] Recipient employees, and all other individuals who will have access to or responsibility for the released Data (Authorized Data Users), including individuals from Additional Organizations, shall execute this CDR Confidentiality Agreement.

I, _____, Authorized Data User, hereby acknowledge that, pursuant to the Data Use Agreement (“Agreement”) between Recipient, the Washington State Health Care Authority and the Lead Organization, I could acquire or have access to confidential information including, but not limited to, individually identifiable patient information, proprietary financial information, allowed cost information, direct patient identifiers, indirect patient identifiers, unique identifiers, or any combination thereof.

I will comply with all of the terms of the Agreement regarding my access, use, and disclosure of any Data. I will at all times maintain the confidentiality of this data. I will not access, use or disclose the Data for any purpose not approved in the Agreement. I will not, either directly or indirectly, disclose or otherwise make the Data available to any unauthorized person, including affiliated entities. I will not attempt to identify parties that have been de-identified in the Data output, “reverse engineer,” decompile, or in any other way attempt to discern the identities of the specific parties contained in the CDR Data. I will not translate, convert, adopt, alter, modify, enhance, add to, delete, or tamper with any CDR Data.

I understand that any violations of this Agreement, and other laws protecting data privacy and security, may subject me to criminal or civil liability. I understand the penalties associated with the inappropriate disclosures or uses of direct patient identifiers, indirect patient identifiers, or protected health information under applicable federal and state laws. I further understand that the CDR Lead Organization shall notify state and federal law enforcement officials, as applicable, of any Data breaches in connection with any violation of this Agreement.

Signature:	
Title	Click here to enter text.
	<input type="checkbox"/> Recipient organization <input type="checkbox"/> Additional organization
Organization name:	Click here to enter text.
Address	Click here to enter text.
Telephone number	Click here to enter text.
Email address	Click here to enter text.
Date	Click here to enter text.

DUA EXHIBIT E: CERTIFICATE OF PROJECT COMPLETION & DATA DESTRUCTION

At Project Completion, as defined in the Data Use Agreement, CDR Data, including all copies and all analytic datasets derived from the original Data, must be destroyed so that it cannot be recovered from the electronic storage media. The Data destruction and notification to Lead Organization of the Data destruction, must occur within 10 business days of Completion Date.

Acceptable Data destruction methods include the use of file wiping software implementing at a minimum DoD.5200.28-STD (7) disk wiping, and the degaussing of backup tapes. Electronic storage media such as floppy disks, CDs, and DVDs used to store Data must be made unusable by physical destruction. All Data destruction is in compliance with the requirements:

1. Recommendations set forth in NIST Special Publication 800-88 Guidelines for Media Sanitization.

This Exhibit E does not apply to the Data output that is disclosed in Exhibit H.

The undersigned hereby certifies that the Project entitled [Click here to enter text.](#)
 approved under the Data Application dated [Click here to enter text.](#)
 and subject to the Data Use Agreement dated [Click here to enter text.](#)
 is complete as of this date [Click here to enter text.](#)

The undersigned further certifies as follows (**check the appropriate section**):

- I/we certify that I/we have destroyed all Data received from the CDR in connection with this Data Application and Project, in all media that was used during the Project. This includes, but is not limited to, Data maintained on hard drives and other storage media and all analytic Data sets derived from the original Data.
- I/we certify that I/we will continue to hold Data pending a request (DUA Exhibit F: Certificate of Continued Need and Compliance) for an extended retention date.

Project completion date	
Form due date*	
Signature:	
Title	Click here to enter text.
	<input type="checkbox"/> Recipient organization <input type="checkbox"/> Additional organization
Organization name:	Click here to enter text.
Address	Click here to enter text.
Telephone number	Click here to enter text.
Email address	Click here to enter text.
Date	Click here to enter text.

*within 10 days of project completion date

DUA EXHIBIT F: CERTIFICATE OF CONTINUED NEED AND COMPLIANCE

The Recipient has been approved for the Project entitled [Click here to enter text.](#) to receive the following additional time period(s) or versions of Data:

Time period(s) or Version(s) of Data Requested	Click here to enter text.
--	---

All use of Data shall be governed by Data Use Agreement, dated [Click here to enter text.](#), by and between the Washington State Health Care Authority, the Lead Organization and Recipient. Recipient wishes to receive the additional time period(s) or release versions of the Data and the Lead Organization is willing to provide such Data under the terms of the Agreement.

The Recipient hereby certifies:

- The Recipient is in full compliance with the Data Use Agreement;
- The time period(s) or release version of Data, identified above, is necessary to complete the Project;
- No changes have been made to the Project.

The undersigned further acknowledges:

- Time period(s) or release versions of Data will be provided as available. The Data format and data elements may differ from those Data provided to Recipient for previous time period(s) or versions of Data;
- The Recipient must remit any applicable Data fees prior to receipt of the Data.

This Certificate is effective as of the date below.

Effective date:	
Signature of authorized signatory:	
Printed name:	Click here to enter text.
Title:	Click here to enter text.
Organization name:	<input type="checkbox"/> Recipient organization <input type="checkbox"/> Additional organization
Date:	Click here to enter a date.

DUA Exhibit H: Recipient Data Output

List the data output to be disclosed to anyone other than Authorized Data Users. Such data output includes disclosure in any medium or format including machine readable data, print, or software application presentation/displays.

Data Output Type (e.g., report, visualization, data, software, etc.)	Description of Data Output	Level of Data Aggregation	End-User Audience(s)
Example: Annual performance review & Evaluation Reports for CDC	Hypertension surveillance: monitor the extent of the burden of hypertension and its financial impact among different populations	For hypertension population cohorts, report per person utilization by summary service categories (e.g., office visits, labs, medications, etc.) Provider identifiable (N)	Agency staff, Governor's office, state agency, CDC
Example: PDF report; web-based visualization	Medicaid quality of care and utilization analytics to support planning with partnering provider organizations	For population cohorts (e.g., age group, health condition, area) provider-specific quality of care and utilization metrics by service categories (e.g., inpatient ED) Provider-identifiable (Y)	Partner organizations, General Public

RECIPIENT DATA OUTPUT REQUIRING PRE-RELEASE REVIEW

Complete the table below, for Data output to be derived from any of the following: i) person direct identifiers; ii) sensitive health information; iii) CDR Data that is linked to any other information or iv) a commercial product redistribution purpose (Attachment A: Data Use Application).

The Recipient is required to provide the Lead Organization with a copy of all Data outputs, which require pre-release review, at least two weeks prior to distribution to anyone other than the Authorized Data Users. If the CDR Program determines that Data output violates the CDR DUA the Recipient will be notified and must modify the Data Output prior to its release.

Data Output Type (e.g., report, visualization, data, software, etc.)	Description of Data Output	Type of WA-APCD Pre-release Information (e.g. direct identifier, proprietary financial information, etc.)

Exhibit C: Data Submission Agreement

[Contractor Deliverable]

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Exhibit D: Approved Subcontractor List

HCA has approved the following Subcontractors and roles in support of the CDR Services:

<i>Subcontractor</i>	<i>Subcontractor's Role/Function</i>	<i>Supports Data/Data Transmission (Yes/No)</i>
Axway	Application programming interface (API) management solution	Yes
Diameter	Data analysis/cleansing	Yes
Insight Global	Staffing	No
InterComponentWare (ICW)		Yes
Provoke Consulting	Azure cloud-based services	Yes
Robert Half	Staffing	No

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Exhibit E: CDR Program Service Level Agreement

Service Level Commitments

1 Support Levels

The service level commitments apply exclusively for the maintenance and operation of the CDR, including the access and services supporting clinical data and clinical documents.

1.1 General Monitoring

Contractor monitors all production systems for availability and performance issues 24/7. Depending on the required availability of a service, Contractor will respond within minutes or hours of an incident depending on its severity, or the next business day if service availability is maintained during regular business hours.

1.2 Support Requests

The CDR is supported by a support ticket system and tickets are responded to no later than the next business day.

1.3 Availability

Availability of customer-facing services will be measured outside of scheduled downtime as follows:

1.3.1 APIs.

Customer-facing APIs used for the ingestion of clinical documents or for the querying of clinical data will be measured 24/7 outside of scheduled downtime. Availability will be calculated based on the percentage of requests that were successfully responded to without an internal server error against the total number of requests received through the APIs. Contractor will maintain a service level of 99% based on that calculation.

1.3.2 Clinical Portal.

Customer-facing components of the clinical portal used for the querying and display of claims and clinical data will be measured outside of scheduled downtime during regular business hours of 8:00 AM to 6:00 PM, Monday through Friday. Availability will be calculated based on the percentage of web responses successfully served back to the customer against the total number of requests received. If the usage patterns of the CDR change to warrant support outside of business hours, Contractor will adapt uptime and incident response accordingly to ensure that customers have a quality experience with the service. Contractor will maintain a service level of 99% based on that calculation.

1.3.3 Analytical Environment

Customer-facing components of the analytical enclave used for querying data and access to static reports will be measured 24/7 outside of scheduled downtime. Availability will be calculated based on the percentage of requests that were successfully responded to without an internal server error against the total number of requests received from the analytical environment. Contractor will maintain a service level of 99% based on that calculation.

1.3.4 **Alternate Path.**

CDR Services will be considered available if an alternate data path can be utilized which supports access and use of the CDR Services without disrupting external system interfaces or userfacing system and portal access.

1.4 **Outages**

1.4.1 An Outage will be deemed to have occurred only if the inability to access and fully utilize the CDR Service is due to problems with the infrastructure, network connectivity, or other components for which the Contractor (and/or any Subcontractors performing work on behalf of the Contractor) is responsible for maintaining.

1.4.2 **Downtime.**

Outages will not include Scheduled Downtime.
Unscheduled Downtime will be included in the computation of Outages.

1.4.3 **Due Diligence.**

Outages will not include downtime resulting from denial of service attacks, virus attacks, or hacking attempts, when such attempts could not have been prevented or avoided by the exercise of due diligence by the Contractor and/or any Subcontractors performing work on behalf of the Contractor).

1.5 **Response Time**

Contractor and HCA recognize that exact response time requirements for customer-facing services in the CDR are largely dependent upon the size of clinical documents being submitted or retrieved by clients.

Contractor is responsible for maintaining a reasonable response time threshold for documents of moderate size. However, because Contractor cannot control, nor know in advance, the size of all customer submissions/requests, Contractor does not guarantee response times against a single standard Service Level Agreement for all customer submissions/requests.

Contractor will ensure static reports available through the analytical environment reporting portal are readily accessible and links maintained at a regular cadence. For reports which are refreshed or generated based on a user interaction, an estimated response time for the generation of the report will be provided for the user.

Contractor will monitor queries performed within the analytical environment for performance and implement policies which ensure reasonable query response times and appropriate termination of queries which cause system performance degradation.

1.6 **Service Level Credit Remedies**

The Service Level Credits described below apply exclusively to HCA sponsored clinical data and clinical documents.

1.6.1 **Service Level Credits (“SLC”) for Outages**

HCA will be entitled to the following performance credits if Contractor’s performance does not achieve the following levels measured with respect to each calendar month:

1.6.1.1 **1% to 5% Outage**

SLC equal to 2.5% of Contractor's Monthly Management Fee in effect at the time, for the month in question.

1.6.1.2 **+5% up to 10% Outage**

SLC equal to 5% of Contractor's Monthly Management Fee in effect at the time, for the month in question

1.6.1.3 **+10% up to 25% Outage**

SLC equal to 10% of Contractor's Monthly Management Fee in effect at the time, for the month in question

1.6.1.4 **+25% Outage**

SLC equal to 20% of Contractor's Monthly Management Fee, in effect at the time, for the month in question.

1.6.2 **New Services**

If in the course of tasks executed under this Statement of Work Contractor develops new service offerings that have availability requirements that differ in material ways from the Availability Requirements listed in (iii) above, Contractor commits to working with HCA to develop mutually acceptable availability requirements that will be added to this Service Level Commitment section.

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Attachment 1: COVID-19 Vaccination Certification

**Contractor Certification
Proclamation 21-14 - COVID-19 Vaccination Certification**

To reduce the spread of COVID-19, Washington state Governor Jay Inslee, pursuant to emergency powers authorized in [RCW 43.06.220](#), issued [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021) and as may be amended thereafter. The Proclamation requires contractors who have goods, services, or public works contracts with a Washington state agency to ensure that their personnel (including subcontractors) who perform contract activities on-site comply with the COVID-19 vaccination requirements, unless exempted as prescribed by the Proclamation.

I hereby certify, on behalf of the firm identified below, as follows (check one):

COVID-19 CONTRACTOR VACCINATION PROCLAMATION COMPLIANCE. Contractor:

1. Has reviewed and understands Contractor’s obligations as set forth in [Proclamation 21-14 – COVID-19 Vaccination Requirement](#) (dated August 9, 2021), as amended by [Proclamation 21-14.1 – COVID-19 Vaccination Requirement](#) (dated August 20, 2021); and
2. Contractor personnel (including subcontractors) who are subject to the vaccination requirement in the above-referenced Proclamation will provide Agency proof of full vaccination against COVID-19 or appropriate exemption for which a reasonable accommodation has been provided.

OR

CONTRACTOR IS NOT ABLE TO PERFORM IN COMPLIANCE WITH THE VACCINATION PROCLAMATION. Contractor is not able to perform the contract obligations in compliance with the above- referenced Proclamation.

I hereby certify, under penalty of perjury under the laws of the State of Washington, that the certifications herein are true and correct and that I am authorized to make these certifications on behalf of the firm listed herein.

Firm Name: _____
Name of Contractor– Print full legal entity name of firm

By: _____
Signature of authorized person

Title: _____
Title of person signing certificate

Date: _____