



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: September 2, 2020

Department: Information Technology Agenda Planning Date: 8/27/20 Time required: 10 min

Audio/Visual aids

Contact: Scott Emry Phone: 503-584-7782

Department Head Signature: [Signature]

TITLE

Consider approval of entering in to a contract with EnSoftek, Inc. relating to Subscription and Support services for an Electronic Health Records (EHR) Management System Software-as-a-Service for the Marion County Health and Human Services Department.

Issue, Description & Background

Marion County Health and Human Services Department (HHS) has been using a technology-limited health records management system for over fifteen years. The current hybrid system consisting of an off-the-shelf application combined with internally developed software has outlived its useful life and lacks critical functionality for generating Quality of Care metrics. Marion County Information Technology issued a Request for Proposal for a new EHR system August 7, 2019. The County received nine (9) proposals, of which four (4) were deemed non-responsive. The remaining five (5) proposals were evaluated by a cross-department committee and the proposal from EnSoftek, Inc. was deemed most advantageous to the County. The County has negotiated a fair and equitable contract with EnSoftek, Inc. and now desires to enter into a minimum five (5) year commitment to implement and transition into the new cloud based Software-as-a-Service system.

Financial Impacts:

The financial impact of moving forward is \$3,778,160 over the five (5) year initial term of the agreement.

Impacts to Department & External Agencies

If approved, Health and Human Services will work with EnSoftek, Inc. to implement and transition to the new system over an approximately fourteen (14) month period. EnSoftek's "DrCloudEHR" is a state-of-the-art enterprise EHR platform guided by a corporate medical advisory board experienced in family practice, mental health/substance abuse, long term care, radiology, cardiology, US Department of Defense (DoD) healthcare delivery, and health Information Technology (IT) systems. It is designed to be flexible for current and future needs and support the dynamic healthcare environment. DrCloudEHR specifically addresses the integrated care needs of Health and Human Services organizations including residential, outpatient, youth, adult, community-based, crisis, forensic, mental health, substance abuse, developmental disabilities, long term care facilities, veteran homes and primary care while continuously providing the highest level of health care delivery possible.

Options for Consideration:

- 1) Approve entering into a contract with EnSoftek, Inc. for DrCloudEHR
2) Deny approval of contracting with EnSoftek, Inc. for DrCloudERH

Recommendation:

Approve entering in to a contract with Ensoftek, Inc. for an EHR system replacement for the Marion County Health and Human Services Department.



MARION COUNTY BOARD OF COMMISSIONERS

## Board Session Agenda Review Form

List of attachments:

Contract No. IT-3389-20

Presenter:

Scott Emry, Information Technology Director  
Ryan Matthews, Health and Human Services Director

*Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)*

Copies to:

Scott Emry (semry@co.marion.or.us)  
Ryan Matthews, rmatthews@co.marion.or.us  
Craig Johnsen, cjohnsen@co.marion.or.us  
Cynthia Klein, cklein@co.marion.or.us



# Contract Review Sheet

Contract #: IT-3389-20

Person Sending: Craig Johnsen Department: Information Technology

Contact Phone #: 503-260-9392 Date Sent: August 20, 2020

Contract  Amendment#       Lease  IGA  MOU  Grant (attach approved grant award transmittal form)

Title: Electronic Health Records Management System SaaS

Contractor's Name: EnSoftek, Inc.

Term - Date From: September 1, 2020 Expires: August 31, 2025

Contract Total: \$3,778,160.00 Amendment Amount:                      New Contract Total:                     

Source Selection Method: RFP (attach transmittal) # C25102-HE-531-19

### Additional Considerations (check all that apply)

- Board Order#
- Incoming Funds
- Independent Contractor (LECS) approval date:
- Insurance Waiver (attach)
- CIP#                      (required for all goods /software greater than \$5,000)
- Feasibility Determination (attach approved form)
- Federal Funds (attach sub-recipient / contractor analysis)
- Reinstatement (attach written justification)
- Retroactive (attach written justification)

### Description of Services or Grant Award:

**Provide an electronic health records management system, implementation services and support services for a five year period.**

#### FOR FINANCE USE

Date Finance Received:                      BOC Planning Date:                      Date Legal Received:                     

Comments:                     

### REQUIRED APPROVALS:

                     Finance - Contracts                      Date                     

                     Risk Manager                      Date                     

                     Legal Counsel                      Date                     

                     Chief Administrative Officer                      Date                     

Date                     

To be filed

Added to master list

Returned to                      Department for                      signatures

MARION COUNTY  
CONTRACT FOR PROCUREMENT, LICENSING, AND MAINTENANCE  
OF AN  
ELECTRONIC HEALTH RECORDS MANAGEMENT SYSTEM

CONTRACT NO: IT-3389-20

[RFP NO: HE-531-19]

This Contract is made this \_\_\_\_ day of \_\_\_\_\_, 2020 (the "Effective Date"), by and between Marion County, a political subdivision of the State of Oregon ("County"), and EnSoftek, Inc., an Oregon Corporation, hereinafter called Contractor. This Contract may refer to the County and Contractor individually as a "Party" or jointly as the "Parties."

The Initial Term of this Contract shall be from date of final execution through August 31, 2025, with the County's option to extend for five (5) additional years for a maximum total term of ten (10) years.

The total not-to-exceed price under this Contract shall be \$3,778,160.00 for the Initial Term.

Recitals:

Whereas, Marion County issued a request for proposals, RFP HE-531-19, for the provision and installation of an Electronic Health Records Management System; and

Whereas, on October 8, 2019, Contractor submitted its response to the request for proposals in which it indicated that it was willing to provide services to Marion County; and

Whereas, the County and the Contractor desire to enter into this Contract to set forth their understanding relating to the installation and implementation of the Application.

NOW, THEREFORE, it is agreed as follows:

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## 1. DEFINITIONS

Defined terms within this Contract will be designated with the first letter of the word in capital letter, as it appears below. If the word appears without capital letters, the definition will have its normal ordinary course of business definition. These definitions apply to the entire Contract including all Exhibits and Appendices, subsequent Amendments and Change Orders unless modified in an Amendment:

“Acceptance” means that the County has issued a Certificate of Acceptance for a Deliverable, Product, or Service.

“Acceptance Criteria” means all items stated in the Acceptance Test Plan that are drawn from all specifications, functionality, and performance requirements as set forth in the RFP (as such specifications, and requirements and Statement of Work may be changed from time to time by mutual agreement in writing), Contractor’s proposal and Contractor’s representations and warranties.

“Acceptance Date” means the date on which the County issues a Certificate of Acceptance for the System or a Deliverable.

“Acceptance Test” means the evaluation and testing method, procedures, or both, that are used to determine whether or not the System or a Product or a Deliverable requiring Acceptance Testing operates in accordance with the Acceptance Criteria. Acceptance Testing may occur in one or more phases, depending on the delivery and implementation schedule, integration of contingent products, scalability, performance tuning or other measurable features or milestones.

“Acceptance Test Plan” means the written compilation of Unit and System Acceptance Tests, Methodologies, Test Data and Acceptance Criteria which will be utilized in conducting tests of Equipment, Software, Deliverables and the System.

“Affiliates” means with respect to a named individual or entity, any individual, association, partnership, corporation or other entity controlling, controlled by, or under common control with the named individual or entity. The term “control” means the power to direct or cause the direction of the management and policies of an individual or entity, whether through the ownership of voting securities, by contract, agreement or otherwise.

“Agreement” means the Contract between Contractor and County, as amended and supplemented from time to time.

“Amendment” means a written document required to be signed by both Parties when in any way altering the Master Terms and Conditions, Term or Cost Provisions of the Contract or changing, adding to, or substantially altering a Statement of Work.

“Applicable Laws” All laws, ordinances, rules, regulations, orders, interpretations, requirements, standards, codes, resolutions, licenses, permits, judgments, decrees, injunctions, writs and orders of any court, arbitrator, or governmental (federal, national, state, municipal, local or other, having jurisdiction over a Party and the location where a particular element of the service is performed or where any part of the application is situated) agency, body, instrumentality or authority that are applicable to any or all of the Parties, the services or the Terms of the Contract, including all environmental and hazardous materials laws which are applicable to performing the services.

“Business Day” means a calendar day of twenty-four hours, excluding weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Calendar Day” means a calendar day of twenty-four hours, including weekdays, weekends and holidays, beginning at midnight and ending at midnight twenty-four hours later.

“Certificate of Acceptance” means a written instrument by which the County notifies Contractor either that in its sole discretion the Acceptance Criteria for a specific deliverable have been met or waived, in whole or in part.

“Certificate of Final System Acceptance” means a written instrument by which the County notifies Contractor that all of the Acceptance Criteria have been met for the system, all of its components, and for all products and deliverables requiring Acceptance Testing.

“Change Order” means a written change to the scope of work. Change Orders are incorporated into this Contract by reference.

“Confidential Information” means any information that is disclosed in written, graphic, verbal, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential or its equivalent; or if the information is in verbal form, it is identified as confidential or proprietary at the time of disclosure and is confirmed in writing within thirty (30) days of the disclosure.

Confidential information does not include any information that: is or becomes publicly known through no wrongful or negligent act of the receiving party; is already known to the receiving party without restriction when it is disclosed; is, or subsequently becomes, rightfully and without breach of this Contract or any other agreement between the Parties or of any applicable protective or similar order, in the receiving party’s possession without any obligation restricting disclosure; is independently developed by the receiving party without breach of this Contract; or is explicitly approved for release by written authorization of the disclosing party. All usage of the term “Confidential Information” in this Contract shall be deemed to include the qualifications set forth in Section 2.33.

“Configuration” means a) revisions or modifications to software to enhance features and functionality but which do not include changes to the source code, and/or b) selection of functional options from choices provided within the software.

“Contingent Products” means a product or service which the County intends to use in conjunction with some other product or service and from which the County would not derive the essential purpose of the bargain if acquiring one without the other.

“Contract” means the Master Terms and Conditions and all the documents referenced in Paragraph 2.1.

“Contract Price” means the not-to-exceed price agreed upon by the Parties for the system as set forth in Exhibit A, subject to the provisions herein and as such price may be modified from time to time by Amendment.

“County Confidential Information” means any information, in any form or media, including verbal discussions, whether or not marked or identified by the County, which is reasonably described by one or more of the following categories of information: (1) personally information as described in ORS 646A.602(11); (2) business plans, negotiations, or strategies; (3) unannounced pending or future products, services, designs, projects or internal public relations information; (4) trade secrets, as such term is defined by ORS 192.345(2); (5) information that would permit unlawful disruption or interference with property, individuals, or information systems as identified in ORS 192.345(22)&(23) (6) attorney/client privileged communications, (7) exempt per federal laws (including but not limited to copyright, HIPAA), (8) information relating to or embodied by designs, plans, configurations, specifications, programs, or systems developed for the benefit of the County including without limitation, data and information systems, any software code and related materials licensed or provided to the County by third parties; processes; applications; codes, modifications and enhancements thereto; and any work products produced for the County; and (9) any record or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon Law.



“Coverage Hours” means those hours specified in this Contract during which period Contractor shall provide maintenance.

“Customization” means (a) any modification to the products, (b) any new component or accessory, or (c) in the case of software, new or modified code, whether any of the above have been prepared, created, or developed (1) by Contractor at the County’s request, (2) by Contractor at the County’s request as a work for hire, or (3) by the County, in conjunction with or as authorized by, Contractor.

“Data Configuration Acceptance Test” means the test that demonstrates the system operates as specified in the Contract after system configuration has been completed for the County. This test includes but is not limited to creating user profiles, setting up system security, building workflows, creating fees, loading validation tables, implementing approval processes and converting historical data.

“Data Conversion” means the process of collection, clean-up and migration of all required data and related documents from the County’s existing Health Records Management system and other sources identified by the County to the new System in accordance with the accepted Data Conversion Plan.

“Defect” - a program error that will cause Contractor Software to crash, failure of program to meet the specifications of the Master Contract and Exhibits in a material respect, or materially impairs the function of the program, or program algorithms or logic that produce incorrect results. Defects pertain to the intended operation of Contractor Developed Software as delivered to County, but do not pertain to subsequent errors brought about by Infrastructure changes made by County or any other Third-Party. Defects do not include changing user preferences, report or screen aesthetics, presentation standards, or validity of converted data. Defects do not pertain to problems arising from Third-Party Software interfaced to Contractor Developed Software unless the Third-Party Software is supplied by the Contractor, or to problems arising from Contractor Developed Software Configurations not developed by Contractor.

“Deliverable” means the goods, services, documents or tangible work products described in the Statement of Work to be provided to the County by Contractor under this Contract.

“Delivery of Products” means product has been received at the location specified in this Contract. Delivery of products is distinguished from final acceptance following delivery of the system.

“Documentation” means user manuals, training manuals and other written materials in any form that describe the features or functions of the products and system, including but not limited to published specifications, marketing materials, technical manuals, and operating instructions provided by Contractor to the County, or readily available to the public, or as required to be produced by Contractor subject to the terms of this Contract.

“Equipment” means any hardware, machinery, device, tool, computer, computer component, computer system, including add-ons, or peripherals of tangible form together with the necessary supplies for upkeep and maintenance, and other apparatus necessary for the successful implementation of the System and acceptable completion of the project as specified in this Contract.

“Failure” means an error which results in the complete inability of the system or a product, or any component of the system or a product, to operate in accordance with the applicable specifications and documentation or to meet relevant acceptance criteria during Acceptance Testing.

“Final System Acceptance” means that the system including all system components, equipment, software, connections, and interfaces, and Third Party Software : (a) has met all of the acceptance criteria for functionality and performance when fully integrated with County systems and networks, for the system and any products requiring Acceptance Testing, that the system has successfully completed the Reliability Acceptance Test and the County has provided a Certificate of Final System Acceptance to Contractor; and (b) all products perform in

accordance with specifications throughout Acceptance Testing and the Reliability Test without error when integrated as functional components of the system and with County-specific data.

“Final System Acceptance Date” means the date on which the County issues a Certificate of Final System Acceptance for the system.

“Functional Acceptance Test” means the test that demonstrates the correct operation of the system's functions as specified within the contract including all of the interfaces, fees, workflows, system security, and data conversion components.

“Highly Available Architecture” means a system design (architecture) that ensures a high level of operational continuity and performance to the metrics specified in the Contract.

“Hosting” means the provision of the servers and other equipment, connectivity, and technologies and services infrastructure needed for the provision of web-based software or software accessible to users through the Internet.

“Infrastructure” means the physical components used to operate the system and to connect users to the system, including but not limited to equipment, software, network, firewalls, routers, etc. Infrastructure serves as the foundation upon which the system and the project capabilities are built.

“Installation Acceptance Test” means verifying the installation and configuration of all system equipment at its final/permanent location along with verifying basic functionality of all components.

“Interface” means a point of interaction between system components or the device or code which enables such interaction; applicable to both equipment and software.

“Key Personnel” means specific individual identified by Contractor in its proposal to fill key positions.

“Key Position” means the Contractor’s Project Manager, Business Analyst, Technical Lead and Architect, and the Project Manager or Lead person for any subcontractor, or the equivalent positions regardless of titles in Contractor’s proposal.

“Maintenance” means services, other than repairs during the maintenance period, provided by Contractor to the County designed to keep the system operating in optimum condition and at a minimum level to comply with the contract specifications.

“Maintenance Fee” means the fee paid by the County for maintenance.

“Maintenance Period” means the time period when Contractor provides maintenance to the County, which begins upon expiration of the Warranty Period.

“Maintenance Request” means a request by the County to Contractor for maintenance.

“Manufacturer’s Warranty” means a written statement to the County from a third party or from the Contractor on behalf of the third party that one or more components of the system or its products or services will meet the required specifications, functionality and performance level, and Contractor will provide repairs as needed during the Manufacturer’s Warranty Period, independent of Contractor’s maintenance obligations as specified in section 2 of this Contract.

“Manufacturer’s Warranty Period” means the time period during which a Manufacturer’s Warranty is valid and enforceable by the County.

“Master Terms and Conditions” means this document, the body of text from the preamble through the signature page.

“Material Breach” means any breach of this Contract that (a) causes or may cause substantial harm to the non-breaching party; or (b) substantially deprives the non-breaching party of the benefit it reasonably expected under this Contract.

“Named System User” means any user for which the County provides and maintains active Log-in credentials (authorized by the County) to use the System.

“Open Source Software” means any computer program for which the license provides the rights to run the program, view and change the source code, distribute exact copies, distribute modified copies and frees parties from any obligation to pay license fees or royalties.

“Operating System Software” means any computer program product that is installed on, and is a component integral to the function of, the equipment.

“Party” or “Parties” means the County and Contractor individually as a “Party” or jointly as the “Parties.”

“Priced Options” means features and functionality that are available, offered, and priced in the contract, but which the County may or may not purchase at the time the contract is executed. The County may purchase Priced Options at any time during the contract term. The quoted price of Priced Options shall remain effective for one year following Final System Acceptance, and may be adjusted per the Contract for subsequent years.

“Product(s)” means supplies, equipment, documentation and software, as well as updates, upgrades, customization and training.

“Production Environment” means the instance of the System which purpose is daily use for conducting the County’s business.

“Project” means the overall collection of activities required for delivery and support of the system including, without limitation, design, development, integration, testing, support and maintenance, any of which Contractor may be providing in whole or in part.

“Proposal” means Contractor’s response to the County’s RFP referenced on page one of this Contract.

“Reliability Acceptance Test” means operating and monitoring the complete system in a live production mode for a period of ninety (90) consecutive calendar days beginning immediately upon go-live date to verify the system meets the performance and response requirements of the contract while providing the functions and capabilities of the specifications, as specified in Attachment 6 of Contractor’s response to the County’s RFP.

“Repair” means to fix, patch, reprogram or replace the system or any equipment or software component thereof so as to eliminate errors or failure.

“Resolution Time” means the elapsed time between when a help desk ticket is logged until the time it is closed and accepted by the County.

“Response Time” means the elapsed time between the time a help desk ticket is submitted to the Contractor’s Help Desk and the Contractor’s staff contacts the ticket submitter at the County.

“Services” means both ordinary and professional services as required to be performed by Contractor under this contract for the County. Services include, but are not limited to, software maintenance, consulting, training, installation, analysis, programming, needs assessment, or technology review.

“Software” means the object code version of any proprietary or licensed computer programs, firmware, applications or operating system software which are components of the system and are licensed by Contractor to County pursuant to this Contract, including, without limitation, any custom software or customization, application software, base software, diagnostic software, updates, upgrades and any related documentation. Software may include Third Party Software and/or Open Source Software delivered by Contractor if required to operate and maintain the system.

“Software Enhancement or Customization” means a modification of Contractor’s software source code to increase its capabilities.

“Source Code” means a complete copy, expressed in high-level (i.e., human readable; not machine language or object code) computer language, of the software which, when assembled or compiled, becomes the executable object code of the software. Source Code shall include all material including but not limited to design documentation, software documentation, reference manuals and documentation, libraries for the software, and interface software (patch or whole programs), in any form (printed, electronic, or magnetic) and any other information necessary for a reasonably skilled programmer or analyst to understand, maintain, and modify the software.

“Specifications” means the capabilities, functionality and performance requirements, for the system and its components as provided in the change orders, the acceptance criteria, the statement of work, product documentation, Contractor’s proposal, and proposal clarifications.

“Statement of Work” (SOW) means a detailed description of the tasks and deliverables required to successfully implement and deliver the system, and the product(s), and/or service(s) to be provided to the County by Contractor under this Contract.

“Subcontractor” means any person or business entity employed to perform all or part of an obligation of this Contract under the control of the Contractor.

“Subscription-Services” Means the Web Services, Third-Party Programs and any other web-based software services provided under this Agreement or any Change Order.

“System” means collectively all equipment, products and software, labor, and training to be provided by Contractor to County under this Contract.

“System Response Time” (SRT) means the time between the depression of the last keystroke or activation of a pointing device that initiates a system transaction and the initial appearance of the system response resulting from the completed transaction (e.g., first page, pop-up window, etc.). Response Time is measured at the initial completion of the resulting transaction, not when the transaction begins or during system processing of the transaction as may be reflected by one or more system status messages.

“Test Environment” means an instance of the system which purpose is used for testing and evaluating the system or components of the system separately from the Production Environment.

“Thin Client” (sometimes also called a lean or slim client) is a computer or a computer program which depends heavily on some other computer (its server) to fulfill its traditional computational roles. This stands in contrast to the traditional fat client, a computer designed to take on these roles by itself.

“Third Party Software” means software other than Contractor-Owned software provided to County by Contractor under this Contract and that Contractor is authorized to license to the County subject to the original manufacturer’s standard provisions, or recommended by Contractor as a component of the system for the County to purchase from someone other than Contractor.

“Training Environment” means an instance of the system whose purpose is used for training end users on the system or components of the system in an environment separate from the Production Environment.

“Throughput Test/Projected Load Acceptance Test” means the test which demonstrates over a specified time period that system response times meet the performance specifications of the Contract, even when a maximum load is placed upon the system and during peak system load periods.

“Update” means a change, modification, or enhancement to the equipment or software and related documentation, which improves its performance or efficiency, but does not alter its core functionality.

“Upgrade” means a newer, better version, change, modification, or enhancement to the equipment or software (including Third Party Software), and related documentation, which Contractor makes available from time to time, which incorporates major new features or increases the core functionality of the software and may be considered a new version. Software upgrades may include error correction, bug fixes, additions to, or patches to the software.

“Use” means the County’s right to install, integrate, configure, implement, test, access, benefit from, maintain and operate the system, or any system components; any Contractor-provided software tools to customize the system; documentation listed in the Contract; training materials County may acquire to provide internal training on the system to County users; any software enhancements produced by or in collaboration with Contractor to develop the system to County’s unique business processes and/or programming environment for purposes of installing, operating, configuring or using the system.

“User” means any person employed by or working on behalf of the County, the County’s Offices, Departments and Divisions, Officers, Directors, and any person or entity authorized by the County to provide it with services requiring use of the system, and to use the County’s resources in whole or in part, in the course of assisting the County.

“Authorized System User” means any user that has passed the authentication process of the system and is thereby authorized to use the system’s functions and components based on the permissions established by that user’s credentials (User ID and password, etc.).

“Warranty Period” means one (12) months from the final system acceptance.

“Web” means the World Wide Web, abbreviated as WWW and commonly known as the Web.

“Web-based” means a software application that is accessed on the Internet via a web browser.

“Web Services” means DrCloudEHR™ online Electronic Medical Records (EMR) service as may be more particularly described on the applicable Order, and any updates or upgrades to Contractor Web Services that may be generally released by Contractor to all customers from time to time.

## **2. GENERAL PROVISIONS**

### **2.1 Order of Precedence.**

In the event there is a conflict between the terms and conditions of one portion of this Contract with another portion of this Contract, the terms of the Master Terms and Conditions will take precedence over the other terms of the Contract except where a clear statement of precedence other than that set forth in this section is included in the document. In this Contract, the order of precedence shall be:

- a. Amendments/Change Orders to this Master Contract
- b. Marion County Contract No. IT-3389-20 (the "Master Contract"), including Exhibit A, Acceptance Testing
- c. Exhibit B: Statement of Work
- d. Exhibit C: Master Hosted Web Services Agreement, including Schedules
- e. Exhibit F: Contractor's Response to County RFP #HE-531-19
- f. Exhibit D: County RFP #HE-531-19 (including any addenda issued)

### **2.2 Point of Contact.**

Contractor shall be the sole point of contact for the County with regard to the Contract.

### **2.3 Capacity to Contract.**

Contractor warrants it has the legal authority and capacity to enter into and perform this Contract.

### **2.4 Compliance with Law/Venue.**

2.4.1 Authority to Conduct Business: Contractor warrants it is duly authorized to operate and do business in all places where it shall be required to do business under the Contract; that it has obtained or shall obtain all necessary licenses and permits required in connection with the Contract and that it shall fully comply with all laws, codes, ordinances, orders, decrees, labor standards and regulations of its domicile and wherever performance occurs during the term of this Contract. Contractor warrants it is lawfully organized and constituted under all federal, state and local laws, ordinances and other authorities of its domicile and is otherwise in full compliance with all legal requirements of its domicile.

2.4.2 Oregon State Venue/Choice of Law: This Contract shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Contract shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County according to law.

2.4.3 Compliance with Applicable Law: Contractor warrants it has complied and shall comply with all applicable law, codes, ordinances, orders, decrees, labor standards and regulations of its domicile and wherever performance occurs in connection with the execution, delivery and performance of this Contract.

2.4.4 Conflict of Interest: Contractor warrants it has no present interest and shall not acquire any interest that would conflict in any manner with its duties and obligations under the Contract.

2.4.5 Rule of Construction/Contract Elements/Headings: This Contract has been drafted by the County in the general format as a convenience to the Parties only but has been equally negotiated by both parties and the contract shall not, by reason of authorship, be construed against the County. Section headings are for ease of reference and convenience only and shall not affect or enter into the interpretation of any portion of the Contract.

### **2.5 Term.**

Unless terminated earlier under the provisions herein, this Contract shall remain in effect during the Initial Term as well as any option years exercised at the County's discretion. Initial term cannot exceed

five (5) years. County has the option to renew the contract for successive terms, up to five years each, as long as it desires to continue to use the services. County shall notify Contractor in writing at least 90 days prior to the expiration of the current term that it intends to renew the Contract.

## **2.6 Changes to Contract.**

2.6.1 Amendment of the Contract: Any changes to the provisions of this Contract shall be in the form of an Amendment. No provision of this Contract may be amended unless such Amendment is approved as to form by the County and executed in writing by authorized representatives of the Parties. If the requirements for amendment of this Contract as described in this section are not satisfied in full, then such amendments automatically will be deemed null, void, invalid, non-binding, and of no legal force or effect.

2.6.2 Change Orders to a Statement of Work: The County reserves the right to make changes, at any time to a Statement of Work in the form of a Change Order. Contractor agrees to timely alter the delivery of products or services accordingly. If such changes materially increase or decrease Contractor's obligations, the Parties shall also execute an Amendment to the Contract as needed and/or adjust the fee and/or time schedule accordingly. If the amount of such adjustment cannot be calculated as a function of hours or tasks, the Parties shall negotiate in good faith a modified schedule and/or price.

## **2.7 Personnel.**

2.7.1 Key Positions: The County has designated Key Positions under this Contract. The job titles and persons set forth herein include the equivalent positions which may have different position titles in Contractor's proposal. The named individuals set forth in Contractor's proposal to fill these Key Positions are Key Personnel.

2.7.2 County Requested Substitution of Key Personnel: The County reserves the right to request a change in Contractor's Key Project personnel for cause at any time.

2.7.3 Substitution of Key Personnel: Any substitutions or a replacement of Key Personnel by the Contractor, requires the written approval of the County, such approval not to be unreasonably withheld. For any proposed substitute Key Personnel, Contractor shall provide the following information to the County: a detailed explanation of the circumstances necessitating the proposed substitution, a complete resume for the proposed substitute, and any additional information requested by the County. Proposed substitutes should have qualifications comparable to or better than those of the person(s) being replaced. The County reserves the right to interview and approve proposed substitutes. The County will notify Contractor within five (5) business days after receipt of all required information of the acceptability of proposed substitute Key Personnel. No change in Contract prices may occur as a result of substitution or replacement of Key Personnel.

2.7.4 Security Requirements for Personnel: In the event of any substitution or replacement of Key Personnel Contractor shall provide to the County the information and authorization required to conduct an extensive personal history and background investigation (which at a minimum, includes full names, date of birth, and references) of any substitute or replacement personnel that will have access to confidential information and criminal justice information systems (e.g., ACCESS, NCIC, local records, etc.).

2.7.5 County Personnel: The County has identified County employees within this Contract with certain responsibilities and designated authority. The job titles and persons set forth herein include the equivalent positions which may have different position titles. The County has discretion to delegate the responsibilities and authority to another employee or different employee as the County's designee for purposes of fulfilling its obligations under this Contract. Any change in County Personnel that causes delays in the project timeline shall be cause for the project timeline adjustments of equal time to be documented in an approved change order.

**2.8 Delivery.**

Contractor shall deliver the system to the County’s designated location at the time indicated in this Contract or on any Statement of Work or Change Order. Acceptance shall not relieve Contractor from its responsibility under any representation or warranty. If the County makes a payment for a product prior to Final Acceptance, the payment does not grant a waiver of any representation or warranty by Contractor. In the case of the system, delivery of products shall not be deemed to be complete until the system is available for commencement of the Acceptance Test.

**2.9 Delivery Schedule.**

Contractor shall work collaboratively with the County to meet all required schedules and deadlines for delivery of product(s) and or services in accordance with the agreed upon final implementation date as set forth in this Contract or an individual Statement of Work or Change Order. Contractor shall not be responsible for delays in schedules or deadlines caused by the County’s inability to meet required timeframes.

**2.10 Written Notifications.**

All written notifications and written amendments shall be sent to the following:

To Contractor:

Adam Feldman, Sr. V.P.

Business Development

EnSoftek, Inc.

735 SW 158th Ave, Suite 140

Beaverton, OR 97006

afeldman@drcloudehr.com

To County:

Procurement & Contracts Manager

555 Court Street NE, Suite 5232

P.O. Box 14500

Salem, Oregon 97309

Fax No. 503-588-5237

**2.11 Reserved.**

**2.12 Payment.**

Unless subject to successful completion of an Acceptance Test or other payment milestone specified in any Statement of Work or Change Order, payment for the system and/or any product, deliverable or service shall be in accordance with the payment schedule listed in Attachment C, “Investment Overview” of Exhibit C, “Master Web Hosted Services Agreement”. Payment shall be issued by the County net thirty (30) days from receipt and acceptance of a proper invoice from Contractor. Contractor invoices must contain Contractor’s name and address; invoice number; date of invoice; Contract number and date; description of products and/or services; quantity, unit price, (where appropriate), and total amount; County required reporting, if any, and the title and phone number of the responsible official to whom payment is to be sent. The County may stipulate how line items are entered on an invoice to ensure compatibility with the County’s accounting and financial systems and to facilitate payment to Contractor.

**2.13 Payment of Taxes/Contractor Shall Withhold.**

2.13.1 Unless otherwise specified, responsibility for all taxes, assessment, and any other charges imposed by law upon employers shall be the sole responsibility of the Contractor. Failure of the Contractor or the County to comply with the provisions of this contract and all applicable federal, state, and local statutes and rules shall be cause for termination of this contract as specified in sections concerning recovery of funds and termination.



2.13.2 Contractor must, throughout the duration of this Contract and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, “tax laws” includes all the provisions described in subsection 2.13.3(i) through (iv) of this Contract.

i. Any violation of subsection 2 of this section shall constitute a material breach of this Contract. Further, any violation of Contractor’s warranty, in subsection 2.17 of this Contract, that Contractor has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state also shall constitute a material breach of this Contract. Any violation shall entitle the County to terminate this Contract, to pursue and recover any and all damages that arise from the breach and the termination of this Contract, and to pursue any or all of the remedies available under this Contract, at law, or in equity, including but not limited to:

- a. Termination of this Contract, in whole or in part;
- b. Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to State’s setoff right, without penalty; and
- c. Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. The County shall be entitled to recover any and all damages suffered as the result of Contractor's breach of this Contract, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing a replacement electronic health records system.

2.13.3 Contractor (to the best of Contractor’s knowledge, after due inquiry), for a period of no fewer than six calendar years preceding the date of closing of proposals for this Contract, faithfully has complied with:

- i. All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
- ii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor’s property, operations, receipts, or income, or to Contractor’s performance of or compensation for any work performed by Contractor;
- iii. Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
- iv. Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

#### **2.14 Independent Contractor.**

The Contractor is a separate and independently established business, retains sole and absolute discretion over the manner and means of carrying out the Contractor’s activities and responsibilities for the purpose of implementing the provisions of this contract, and maintains the appropriate license/certifications, if required under Oregon Law. This contract shall not be construed as creating an agency, partnership, joint venture, employment relationship or any other relationship between the parties other than that of independent parties. The Contractor is acting as an “independent contractor” and is not an employee of County, and accepts full responsibility for taxes or other obligations associated with payment for services under this contract. As an “independent contractor”, Contractor will not receive any benefits normally accruing to County employees unless required by applicable law. Furthermore, Contractor is free to contract with other parties for the duration of the contract.

#### **2.15 Assignment.**

Neither Party is authorized to assign, transfer, subcontract, or delegate all or any part of this Contract, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld, except that (a) either Party may assign to any corporate affiliate pursuant to any merger, consolidation or other reorganization, without the other Party’s consent but upon written notice to the other Party, (b) in the event that the County’s business needs change or the County enters into an agreement with a provider for outsourcing

services, Contractor agrees that the County shall have the right to assign this Contract to a successor of all, substantially all, or specified area(s) of the County's business, including an outsourcing provider, provided such outsourcing provider operates the software licensed hereunder expressly and solely for the County's benefit, upon written notice to the other Party, and (c) Contractor may not, without the other Party's consent but upon prior written notice to the other Party, assign its right to payment under this Contract or grant a security interest in such payment to any third party without requiring that the third party be liable for the obligations of Contractor under this Contract.

#### **2.16 Delegation of Obligations/Subcontractors.**

Contractor shall not subcontract any work, assign any rights (including, without limitation, in connection with the sale of all or substantially all of Contractor's assets, stock, or the line(s) of business applicable to this Contract), or delegate any obligations under this Contract, cancel or change any previously approved subcontract without the County's prior written consent, such consent not to be unreasonably withheld. Contractor shall be fully responsible for the acts and omissions of its Subcontractors at all levels, and of their agents and employees. Contractor shall ensure that all applicable provisions of this Contract (including those relating to Insurance, Indemnification, and Confidentiality) are included in all of its subcontracts. The County reserves the right to review any agreements between Contractor and its Subcontractors for Products and/or Services authorized under this Contract.

#### **2.17 Warranties.**

Contractor warrants, for the benefit of the County only, that at the time of Final Acceptance of the products, the products will operate in material conformity with the functional specifications set forth in the applicable related documentation supplied in writing by Contractor as defined in this Contract. As County's exclusive remedy for any defect in the Contractor's Software Modules, Contractor shall, during the twelve (12) month period following the commencement of the warranty period ("Warranty Period"), provide reasonable efforts to correct and cure such nonconformity or defect of the Licensed Software as provided for in the software support agreement, provided County notifies Contractor in writing of such failure(s). Said warranties extend only for the twelve (12) month period following the commencement of the warranty period. The services covered by First Year Support (and subsequent years support) shall be defined in Contractor's Software Support Agreement(s), which shall be executed hereafter. Contractor shall not be liable to County for any loss of profits; any incidental, special, exemplary, or consequential damages; or any demands or claims of other parties for any amount exceeding the total of payments made to Contractor under this Contract, whether or not Contractor is aware of or has been advised of any such claims or demands. Contractor warrants as follows:

2.17.1 Disclosure and Assignment of Manufacturer's Warranties: In all cases where products or equipment or services are covered by a Manufacturer's Warranty, Contractor will provide the County with all Manufacturer's Warranties pertaining to all services or products provided by Contractor. Contractor will assign to the County any Manufacturer's Warranty applicable to any respective product, equipment or service. Notwithstanding the foregoing, Contractor shall be held responsible by the County for correction to or replacement of the system or any of its components during the period of Warranty and Maintenance.

2.17.2 Industry Standards: The system and all components of the system are compliant with all other generally accepted industry standards.

2.17.3 Reserved.

2.17.4 Reserved.

2.17.5 Warranty and Representations: Contractor warrants and represents the following:

2.17.5.1 Performance to Specifications: The system, including all components and upgrades supplied by Contractor shall operate in accordance with acceptance criteria, or specifications (which may be updated from time to time), and all documentation during the Warranty Period.

2.17.5.2 All Necessary Materials: The County has all necessary materials and that no other equipment, software, interfaces, applications or other products and/or services are required to be used in conjunction with the system for the system to operate in accordance with the acceptance criteria and documentation. Contractor is accountable for all software, including third party, that makes for an operational system.

2.17.5.3 System Compatible: The system is compatible with the County's existing data files and systems as applicable and identified in the Contractor's RFP response(s) for the purpose of data migration and import, and shall run in accordance with the documentation.

2.17.5.4 No Material Defects or Viruses/Illicit Code: The system (a) is free of any defect in material of the media in which it is delivered; and (b) is free of any virus, Trojan horse, spyware, malware, or other program code designed to erase, disable or otherwise harm or interfere with the County's equipment, data or other programs that Contractor or any Subcontractor to Contractor knew or should have known was contained in the software or other code or program unless (a) specifically identified in advance to the County, and (b) is for the protection of PHI/PII.

2.17.5.5 Illicit Code: Contractor's software and third party software shall not (a) contain any hidden files that Contractor or any Subcontractor to Contractor knew or should have known were contained in the software or programming; (b) replicate, transmit, or activate itself without the control of an authorized person operating computing equipment on which it resides, unless requested or authorized by the County's Contract Manager; (c) Alter, damage or erase any data or computer programs without the control of an authorized person operating the computing equipment on which it resides; or (d) contain any key, node lock, time-out or other function, whether implemented by electronic, mechanical or other means, which restricts or may restrict use or access to any programs or data developed under this contract, based on residency on a specific hardware configuration, frequency of duration of use or other limiting criteria. Any of the foregoing shall constitute "illicit code".

2.17.6 Documentation Explains Use: Contractor warrants that the documentation shall explain the operation of the system in terms understandable by County users of reasonable technical competence.

2.17.7 No Third Party Conflict or Infringement: Contractor warrants the execution, delivery, and performance of this Contract shall not contravene the terms of any contracts with third parties or any third-party rights in any patent, trademark, copyright, trade secret, or similar right; and, as of the date of this Contract, there are no actual or threatened legal actions with respect to the matters in this provision.

2.17.8 Commencing of the Warranty Period: Where contingent products are ordered and no acceptance test is required, the Warranty Period shall not commence until acceptance by the County of all required or all contingent products. The County may, at its election, postpone services in support of products so as to coincide with delivery and acceptance of all contingent products. The County shall not incur any additional fees whatsoever for reordered or replacement contingent products.

## **2.18 Contract.**

This Contract, together with all Exhibits, Attachments and those documents, which by their reference have been incorporated herein, constitutes the entire Contract between the County and the Contractor and supersedes all proposals, oral and written agreements, between the County and the Contractor on this subject.

## **2.19 Flow-down Clauses.**

Contractor shall include the following clauses, or substantially similar language, in its subcontracts under this Contract.

Section 2.7, Personnel  
Section 2.11, County Reporting Requirements  
Section 2.21, Indemnification

Section 2.24, Insurance and Bonding  
Section 2.33, Confidentiality

**2.20 No Third Party to Benefit.**

County and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this contract gives or provides any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name in this Contract and expressly described as intended beneficiaries of this Contract.

**2.21 Indemnification and Insurance.**

2.21.1 Indemnification: Contractor shall defend, save, indemnify, and hold harmless the County, its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract. Contractor shall have control of the defense and settlement of any claim that is subject to this section. However, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of either County or any department of County, nor purport to act as legal representative of either County or any of its departments, without first receiving from County Legal Counsel authority to act as legal counsel for the County, nor shall Contractor settle any claim on behalf of County without the approval of County Legal Counsel. County may, at its election and expense, assume its own defense and settlement.

2.21.2 Insurance Requirement: Contractor shall obtain the insurance required under section 2.24 prior to performing under this Contract and shall maintain the required insurance throughout the duration of this Contract and all warranty periods.

2.21.3 Self Insurance: County, pursuant to applicable provisions of ORS 30.260 to 30.300, maintains a self-insurance program that provides property damage and personal injury coverage.

**2.22 Limitation of Liability.**

Except for infringement indemnity under Section 2.17.7, personal injury or death, neither the County nor Contractor, its partners, principals, or employees shall be liable for more than the total value of this Contract for any actions, damages, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the products and/or services provided hereunder.

In no event shall the County or Contractor, its partners, principals, or employees be liable for indirect, incidental, consequential, special, punitive, or exemplary damages, costs, expenses or losses. The provisions of this paragraph shall apply regardless of the form of action, whether in contract, statute, tort (including without limitation negligence) or otherwise.

To the extent a claim is eligible for coverage under any policy of insurance required by this contract, such claim or claims shall not be subject to the limitations of liability above. Under this circumstance the limit of liability shall be the insurance policy limits.

**2.23 Force Majeure.**

2.23.1 In the event that either Party is unable to perform any of its obligations under this Contract (or in the event of loss of use) due to natural disaster, (hereinafter referred to as a "Force Majeure Event"), the Party who has been so affected immediately shall give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, this Contract and/or any affected Statement of Work or Change Order shall immediately be amended or modified by the Parties to reflect any mutually agreed changes to project

schedule(s) or delivery dates.

2.23.2 If the period of nonperformance exceeds Thirty (30) Calendar Days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract or any Statement of Work or Change Order.

2.23.3 If delay in delivery due to a Force Majeure Event does not exceed thirty (30) Calendar Days, such delays in delivery shall automatically extend the delivery date for a period equal to the duration of such events; any Warranty Period affected by a Force Majeure Event shall likewise be extended for a period equal to the duration of such event so long as it does not exceed thirty (30) Calendar Days.

2.23.4 If delay in delivery due to Force Majeure Event is longer than thirty (30) Calendar Days, the County shall have the right to terminate this Contract, or a Change Order, upon written notice to Contractor, in accordance with this Section.

2.23.5 If this Contract involves the acquisition of equipment or software that contains personally identifiable information and/or processes credit card transactions, a security breach of Contractor's system shall not be considered a Force Majeure Event.

## **2.24 Insurance and Bonding.**

2.24.1 Required Insurance: Contractor shall obtain at Contractor's expense the insurance specified in this section prior to performing under this Contract and shall maintain it in full force and at its own expense throughout the duration of this Contract and all warranty periods. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in Oregon and that are acceptable to County:

2.24.2 Required Coverage is as follows:

2.24.4.1 Commercial General Liability: The Contractor shall obtain, and keep in force during the entire term of this Contract, liability insurance against any and all claims for damages to person or property which may arise out of operations under this Contract, whether such operations be by the Contractor, a sub-contractor, or anyone directly or indirectly employed by either the Contractor or a sub-contractor, covering bodily injury, death and property damage in a form and with coverages that are satisfactory to the County. This insurance shall include personal injury liability, products and completed operations. Coverage shall be written on an occurrence basis. Contractor shall provide proof of insurance of not less than the following amounts as determined by the County:

### **Bodily Injury/Death:**

- \$1,000,000 Per occurrence limit for any single claimant; and
- \$2,000,000 Per occurrence limit for multiple claimants

2.24.4.2 Workers' Compensation: All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

2.24.4.3 Technology Errors and Omissions; Information Security & Privacy Liability: Contractor shall maintain liability insurance covering acts, errors or omissions arising out of the performance or failure to perform professional services related to the services under this Contract. The coverage shall be placed with an insurer with an AM Best Rating of A or better and shall include the following coverage:

Technology Products and Services E&O - Information Security & Privacy Liability for Service Provided to Others.

Such insurance shall cover any and all errors, omissions and/or negligent acts in the delivery of products, services and software under this Contract. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as data breaches, unauthorized access/use, ID theft, invasion of privacy, damage/loss/theft of data, degradation, downtime, etc.) and infringement of intellectual property, such as copyrights, trademarks, service marks and trade dress.

\$2,000,000 Per occurrence limit for any single claimant; and

\$2,000,000 Per occurrence limit for multiple claimants

Such insurance shall remain in effect for not less than three (3) years following the date of termination or expiration of this Contract. Evidence of coverage must be sent to the County for three years following termination or expiration of this Contract.

2.24.4.4 Insurance Requirements for Subcontractors: Should Contractor subcontract any part of the Contract, Contractor will require those Subcontractors or affiliates if not covered under Contractor's insurance, to obtain and keep in force for the duration of the Contract, insurance equal to the minimum values indicated above.

2.24.4.5 Performance Bond: In lieu of a performance bond, the County will withhold 10% of the total contract amount (excluding license costs) until all phases of the project have successfully completed Reliability Acceptance Testing and the County has issued a Certificate of Acceptance.

2.24.2 Insurance Certificate: Contractor shall provide to County Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) must specify all entities and individuals who are endorsed on the policy as Additional Insured (or Loss Payees). Said certificate must be provided on a standard "ACORD" or comparable form, must include as additional insured Marion County, with respect to this Contract, must provide that coverage shall not be canceled or modified without 30 days prior written notice to the County, and must state that all policies are written with an "occurrence" trigger. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

2.24.3 Additional Insureds: The Commercial General Liability insurance required under this Contract shall include Marion County, its officers, employees and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The County shall be named as an additional insured with respect to all such policies by endorsement CG 20 10 11 85 which must be attached to the certificate and copies of all policies shall be furnished to the County upon execution of this Contract by both the County and the Contractor.

## **2.25 Ownership and Use of Documents.**

All documents, or other material submitted to the County by Contractor shall become the sole and exclusive property of the County. All material prepared by Contractor under this Contract may be subject to Oregon's Public Records Laws subject to request from Contractor for exclusion or redaction of proprietary information in accordance with applicable laws.

**2.26 Proprietary Rights.**

Except customizations, all trademarks, service marks, patents, copyrights, trade secrets, and other proprietary rights in or related to the products or services are and will remain the exclusive property of Contractor or its designees. County shall not decompile, disassemble or otherwise reverse engineer the software.

**2.27 Return of Parties' Property.**

When the Contract or any Task/Change Order placed pursuant to the Contract is terminated or expires, each Party shall return to the other all papers, materials, and properties of the other Party then in its possession. The County will retain one (1) copy of the documentation for the express purposes of public record archiving. As long as County subscribes to Contractor Web Services, terms of this Contract shall survive.

**2.28 Reserved.**

**2.29 Reserved.**

**2.30 Notice of Change in Ownership or Financial Condition.**

Contractor must maintain a financial condition commensurate with the requirements of the Contract. If during the Contract, Contractor experiences a change in its financial condition which may adversely affect its ability to perform, or experiences a change in ownership or control, Contractor shall immediately notify the County in writing. Failure to notify the County of such a change in financial condition or change in ownership or control is a material breach of the Contract.

**2.31 Audits and Access to Records.**

2.31.1 Contractor shall permit authorized representatives of the County, State of Oregon, or the applicable audit agencies of the U.S. Government to review the records of the Contractor as they relate to the contract services in order to satisfy audit or program evaluation purposes deemed necessary by the County and permitted by law.

2.31.2 Contractor agrees to establish and maintain financial records, which indicate the number of hours of work provided, and other appropriate records pertinent to this contract shall be retained for a minimum of three (3) years after the end of the contract period. If there are unresolved audit questions at the end of the three-year period, the records must be maintained until the questions are resolved.

**2.32 Overpayment.**

If an audit discloses that payments to Contractor were in excess of the amount to which Contractor was entitled, then Contractor shall repay the amount of the excess to the County. Under no circumstances will the payment of previous invoices constitute an acceptance of the charges associated with those invoices. If any audit shows performance of Services is not efficient in accordance with the U.S. Government Accountability Office's Government Auditing Standards, or that the services are not effective in accordance with these Government Auditing Standards, the County may pursue remedies as provided under Section 2.35, Termination, and Section 2.40, Remedies.

### **2.33 Confidentiality.**

2.33.1 Maintenance of Confidentiality: Contractor shall treat as confidential any County Confidential Information that has been made known or available to Contractor or that Contractor has received, learned, heard or observed; or to which Contractor has had access. Contractor shall use County confidential information exclusively for the County's benefit and in furtherance of the products and/or services provided by Contractor. Except as may be expressly authorized in writing by the County, in no event shall Contractor publish, use, discuss or cause or permit to be disclosed to any other person such County Confidential Information. Contractor shall (a) limit disclosure of the County confidential information to those directors, officers, employees and agents of Contractor who need to know the County confidential information in connection with the County project, (b) exercise reasonable care with respect to the County Confidential Information, at least to the same degree of care as Contractor employs with respect to protecting its own proprietary and confidential information, and (c) return immediately to the County, upon its request, all materials containing County confidential information, in whatever form, that are in Contractor's possession or custody or under its control. Contractor is expressly restricted from and shall not use County confidential information or the intellectual property of the County without the County's prior written consent

2.33.2 Scope: This Contract shall apply to all County confidential information previously received, learned, observed, known by or made available to Contractor. This Contract shall not apply to County confidential information which (a) is or later becomes part of the public domain without breach of this Contract and through no wrongful act of Contractor; (b) Contractor lawfully receives from a third party; (c) was developed independently by and was reduced to writing by Contractor prior to the earlier of the date of this Contract or the date of any access or exposure to any County confidential information, or (d) is required to be disclosed under operation of law. Contractor's confidentiality obligations under this Contract shall survive termination.

2.33.3 Equitable Remedies: Contractor acknowledges that unauthorized disclosure of County Confidential Information or misuse of a County computer system or network will result in irreparable harm to the County. In the event of a breach or threatened breach of this Contract, the County may obtain equitable relief prohibiting the breach, in addition to any other appropriate legal or equitable relief.

2.33.4 Contractor's Confidential Information: During the term of the Contract, Contractor may disclose to the County, certain Contractor Confidential Information pertaining to Contractor's business. Contractor shall be required to mark CONFIDENTIAL with a restrictive legend or similar marking. If CONFIDENTIAL is not clearly marked or the Contractor's Confidential Information cannot be marked with a restrictive legend or similar marking or is disclosed either orally or by visual presentation, Contractor shall identify the Confidential Information at the time of disclosure or within a reasonable time thereafter. The County shall not be deemed to have breached this Section if (a) Contractor's Confidential Information later becomes part of the public domain through no act or omission of the County; (b) is required to be disclosed under operation of law; (c) the County lawfully receives Confidential Information from a third party with no breach of any duty of confidentiality; or (d) was developed independently by and was reduced to writing by the County prior to the earlier of the date of this Contract or the date of any access or exposure to any Contractor Confidential Information.

2.33.5 Public Records Request: Contractor acknowledges that Marion County is subject to the Oregon Public Records Law and Federal law. Third persons may claim that the confidential information Contractor submitted to the County hereunder may be, by virtue of its possession by the County, a public record and subject to disclosure pursuant to the Oregon Public Records Law. Subject to the following conditions, the County agrees not to disclose any information Contractor submits to the County that includes a written request for confidentiality and as described above, specifically identifies the information to be treated as confidential. The County's commitments to maintain certain information confidential under this Contract are all subject to the constraints of Oregon and Federal laws. Within the limits and discretion allowed by those laws, the County will maintain the confidentiality of information.

2.33.6 County's Obligation to Notify Contractor: If the County receives a public records request for information that Contractor has marked CONFIDENTIAL and submitted in confidence, the County shall notify Contractor of the request. The County is required to respond to public records requests pursuant to the timelines contained in



ORS 192.329. Contractor shall be responsible for providing County with any objection disclosure of the requested records and shall provide the County with Contractor's basis for the objection. Contractor shall be responsible for its attorney fees and costs in any action related to the public records request and shall save and hold harmless the County from any penalties, attorney's fees or costs under Oregon Public Records Laws (ORS 192.311 through 192.431) for withholding or delaying public disclosure of such information caused by Contractor's claim that such information is its confidential information that is exempt from disclosure.

2.33.7 Discovery of Documents: In the event a party to litigation seeks discovery of information submitted by Contractor in confidence, the County will notify Contractor of the request. The County shall allow Contractor to participate in the response at its own expense. The County will comply with any effective order issued by the court having jurisdiction over the matter.

#### **2.34 Dispute Resolution.**

Contractor shall cooperate with the County to assure that all claims and controversies which arise during Contractor's performance of Services under this Contract and which might affect the quality of such Services will be resolved as expeditiously as possible in accordance with the following resolution procedure:

2.34.1 Any dispute between the County and Contractor arising prior to completion of Contractor's services or the earlier termination of the Contract shall be resolved, if possible by the Contract Manager or their designee on behalf of the County and on behalf of Contractor.

2.34.2 If the Contract Officer or the Contract Officer's designee and Contractor are unable to resolve any dispute within ten (10) business days after notice of such dispute is given by either Party to the other, the matter shall be submitted to the Board of Commissioners on behalf of the County and to the President on behalf of Contractor for resolution, if possible.

2.34.3 This Contract shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Contract shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County according to law.

2.34.4 Should an equitable solution not result from the foregoing, the County and Contractor shall be free to pursue other remedies allowed under this Contract.

2.34.5 Unless ordered by the County to suspend all or any portion of Contractor's services, Contractor shall proceed with the performance of such services or delivery of products without any interruption or delay during the pendency of any of the foregoing dispute resolution procedures and shall comply with any mutually agreed upon change orders that the County may issue regarding the acceleration of all or any portion of the products or services. During the pendency of any of the foregoing dispute resolution procedures, the County shall continue to make all payments that are not in dispute, in accordance with the provisions of the Contract.

#### **2.35 Termination.**

The following conditions apply to termination of this Contract. The County, on sixty (60) written notice to Contractor, may terminate this Contract for any reason deemed appropriate in its sole discretion.

2.35.1 The County and Contractor, by mutual written agreement, may terminate this Contract at any time.

2.35.2 Either the County or the Contractor may terminate this Contract in the event of a Material Breach of the Contract by the other. Prior to such termination, however, the Party seeking the termination shall give to the other Party written notice to cure the Material Breach and of the Party's intent to terminate. If the Party has not entirely

cured the Material Breach within thirty (30) Days of the notice, then the Party giving the notice may terminate the Contract at any time thereafter by giving a written notice of termination. In the event of default under this Contract, the non-defaulting Party shall have the option (upon the expiration without cure of any applicable cure period) to: (a) terminate in whole or in part this Contract or any related Statement of Work or Change Order, (b) seek remedies pursuant to this Contract (c) seek any other remedies in the Contract, in law, or at equity, to the extent not otherwise limited by the terms of this Contract, or (d) any combination thereof.

2.35.3 **County Termination for Cause:** The County may terminate this Contract for the following reasons, which constitute cause for purposes of this Section:

2.35.3.1 **Bankruptcy:** The County may terminate this Contract if Contractor:

- (a) becomes insolvent, makes a general assignment for the benefit of creditors;
- (b) suffers or permits the appointment of a receiver for its business or assets;
- (c) becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, and such proceeding has not been dismissed within a sixty (60) day period; or (d) has wound up or liquidated, voluntarily or otherwise.

2.35.3.2 **Maintenance Default:** The County may terminate this Contract if Contractor fails to provide Warranty or Maintenance services as defined in this contract or Contractor has not cured its failure to provide Maintenance as provided and paid for in this Contract.

2.35.3.3 **System or Product or Software Performance Default:** The County may terminate this Contract for Material Breach if the system or product exhibits errors causing serious disruption of use and/or repeated periods of downtime, over a continuous period of ten (10) days or more. Refer to Section 8.11 Severity Level, Escalation, and Response Time for details.

2.35.3.4 **Software Code:** Inclusion of illicit code as set forth in Section 2.17.5, Warranty and Representations, shall be considered a Material Breach of the Contract and no notice or cure period will apply. In addition to any other remedy available to it under this Contract with respect to any such material breach, the County reserves the right to pursue any civil and/or criminal penalties available to it against a Contractor, including without limitation the Deceptive Trade Practices & Consumer Protection Act, the Computer Crimes Law, Computer Fraud and Abuse Act, and any other remedy at law or equity.

2.35.3.5 **Void Assignment:** In the event that Contractor assigns its obligations to provide products and/or services under this Contract to any third party in a manner other than as set forth in Section 2.15, Assignment, the County shall have the option to seek specific performance, terminate this Contract or any Statement of Work or Change Order for products and/or services, and promptly receive a pro rata refund for fees paid for such Products and/or Services.

2.35.4 **Termination Force Majeure:** County may terminate this Contract due to a Force Majeure event as set forth in Section 2.23, Force Majeure.

2.35.6 **Contractor Termination for County Breach:** In the event of Material Breach of this Contract by the County, then Contractor's remedy shall be limited to termination of the Contract and receipt of equitable payment for services rendered.

## **2.36 Succession.**

This Contract will be binding on the legal successors or representatives of Contractor and County. It will also be binding on any party that receives licensing and distribution rights to Products provided from Contractor. Any right granted to either party under this Contract may not be assigned by that party or the successor to that party, without the prior written approval of the other party, which will not be unreasonably withheld.

### **2.37 Rights and Obligations.**

If either Contractor or County terminates this Contract, Contractor will retain all fees for products or services delivered to County up to the date of termination.

2.37.1 Any termination by Contractor as provided in this Contract will not in any way operate to deny any right or remedy of Contractor, either at law or in equity, or to relieve County of any obligation to pay the sums due under this Contract or of any other obligation accrued prior to the effective date of termination.

2.37.2 Any termination by County as provided in this Contract will not in any way operate to deny any right or remedy of County, either at law or in equity, or to relieve Contractor of any obligation to pay the sums due under this Contract, or of any other obligation accrued prior to the effective date of termination.

2.37.3 Contractor Products are subject to the export control laws of the United States and other countries. County may not export or re-export Contractor software without the appropriate United States and foreign government licenses. County must comply with all applicable export control laws and will defend, indemnify and hold Contractor harmless from any claims arising from County's violation of such export control laws.

2.37.4 Termination Force Majeure: County may terminate this Contract due to a Force Majeure event as set forth in Section 2.23, Force Majeure.

2.37.5 County Termination for Contractor Breach: In the event of termination by the County due to a Material Breach by Contractor, then the County may complete the Project itself, by agreement with another contractor, or by a combination thereof. In the event of any Material Breach by Contractor, which Breach shall not have been cured as agreed to between the County and the Contractor, the County shall have the ability to pursue the County's rights at law.

2.37.6 Contractor Obligations upon Termination: Upon any termination of this Contract:

2.37.6.1 Contractor will make available to the County a file or files containing all the County's Data in a commercially reasonable format acceptable to the County, within 30 calendar days of termination;

2.37.6.2 Upon the County's request, Contractor must delete and destroy all the County's Data in a manner consistent with U.S. Department of Defense destruction procedures; and

2.37.6.3 Contractor shall not transfer any of the County's Data to third parties.

### **2.38 Civil Rights, Rehabilitation Act, Americans With Disabilities Act And Title Vi Of The Civil Rights Act.**

Contractor agrees to comply with the Civil Rights Act of 1964, and 1991, Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, and Title VI as implemented by 45 CFR 80 and 84 which states in part, No qualified person shall on the basis of disability, race, color, or national origin be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which received or benefits from federal financial assistance.

### **2.39 Waiver.**

No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach of this Contract.

### **2.40 Remedies**

The remedies provided in this Contract are cumulative, and may be exercised concurrently or separately. The exercise of any one remedy shall not constitute an election of one remedy to the exclusion of any other.

2.40.1 **Software Failure:** In the event of Software failure as set out in the General Provisions above, the County shall have the right to one or more of the following non-exclusive remedies: (a) Contractor provide engineering/technical support on site at the County's location, if necessary for resolving the problem causing the breach. The County has the option to assign one or more of its full time employees to assist Contractor's engineer/technician(s) in repairing the problem. Contractor retains copyright and all ownership rights to the source code and any changes made during this period if such repair involves software. The County agrees to maintain confidentiality of the source code and all residual know-how and knowledge that may be transferred to County employees as a result of this effort; however, at the County's sole discretion; or (b) the County may terminate this Contract in its entirety or solely as to the affected Change Order and exercise the remedies included in this Contract, in the County's sole discretion.

2.40.2 **Maintenance Remedies.**

In addition to any other remedies provided for in this Contract or at law or in equity, the County shall have the right to obtain one or more of the following non-exclusive remedies in the event of any material breach involving maintenance under this Contract by Contractor: (a) suspension of contested payment obligations accruing during the period for which Contractor is in material breach; (b) termination of this Contract in

its entirety as set forth in Section 2.35 Termination of any affected maintenance request, in the County's sole discretion; and (c) a refund of all fees for maintenance paid by the County to Contractor for the period beginning from the date of the material breach to the end of the term.

**2.41 Severability.**

Any section of this Contract which is held or declared void, invalid, illegal or otherwise not fully enforceable shall not affect any other provision of this Contract and the remainder of this Contract shall continue to be binding and of full force and effect. This Contract shall be binding upon and inure to the benefit of the County and its successors and assigns.

**2.42 Rolling Estoppel.**

Unless otherwise notified by Contractor, it shall be understood that the County shall have met all its obligations under the Contract. The County will be conclusively deemed to have fulfilled its obligations, unless it receives a deficiency report from Contractor by the fifteenth (15th) day of the month following the month of the alleged deficiency and Contractor identifies the specific deficiency in the County's fulfillment of its obligations in that report. Deficiencies must be described in terms of how they have affected a specific performance requirement of Contractor.

2.42.1 Contractor is estopped from claiming that a situation has arisen that might otherwise justify changes in project timetable, the standards of performance under the contract or the contract price, if Contractor knew of that problem and failed to include it in the applicable report.

2.42.2 In the event Contractor identifies a situation that is impairing Contractor's ability to perform for any reason, Contractor's deficiency report should contain Contractor's suggested solutions to the situation. These suggestions should be in sufficient detail so that the County's project manager can make a prompt decision as to the best method of dealing with the problem and continuing the project in an unimpeded fashion.

2.42.3 If the problem is one that allows Contractor (within the terms of the Contract) to ask for changes in the project timetable, the standards of performance, the project price or all of these elements, the report should comply with the Change Order or Amendment procedure.

#### **2.43 Survival.**

All obligations relating to confidentiality; indemnification; publicity; representations and warranties; proprietary rights; perpetual licenses, including licensing obligations as stated in this Contract; limitation of liability; and obligations to make payments of amounts that become due under this Contract shall survive the termination or expiration of this Contract and shall, to the extent applicable, remain binding and in full force and effect. Nothing in this Contract shall alter, modify, or supersede the content and survival of such provisions, except as otherwise expressly agreed to in writing by the County and the Contractor.

#### **2.44 Liability.**

Contractor agrees to perform the services as included in this Contract in a professional manner and as otherwise set forth in this Agreement. Contractor warrants that custom and standard public safety application software provided to County will perform as specified by the Contract. If Contractor is unable to cause software to perform as agreed, County shall be limited in its damages to a refund of the money paid for these services. County expressly agrees that Contractor shall not be liable to the County for any loss, liability, damage, cost or expense of County resulting from, or attributable to, performance of the services. Except as provided herein, Contractor neither makes nor intends any express or implied warranties of any description including merchantability and/or fitness with respect to the services or any product thereof. Contractor disclaims all other warranties, either expressed or implied and representations with respect to the Software, except as stated in this Contract. In no event shall Contractor or its vendors, suppliers or licensors be liable to County or any third party for any indirect, incidental, special or exemplary or consequential damages, including without limitation, loss of profits or benefits, arising out of this agreement and even if advised of the possibility of such damages. In no event shall Contractor or its vendors, suppliers or licensors liability, whether in contract, tort or otherwise, exceed the amount of monies received by Contractor from County in connection with this agreement. The parties acknowledge that absent such limitation, Contractor would not be able to provide the equipment and services or license the licensed software to County. The cumulative liability of Contractor to the County for all claims arising in connection with this agreement shall not exceed the total fees and charges paid to Contractor by the County within the 12 months prior to any claim made by the County.

#### **2.45 User Conferences.**

Contractor shall waive the registration fees for five (5) years for the Contractor's User Conference for three (3) County employees.

### **3. COUNTY FACILITY ACCESS**

#### **3.1 Access to County Facilities.**

Contractor agrees that Contractor's physical or remote access to the County facilities shall be subject to the security interests and controls necessary to protect public property, and the County shall not be liable for any delays necessary in granting Contractor access to any portion of the facilities or systems. The County and Contractor agree that direct access to the facilities or remote access are required for the completion of Contractor's responsibilities under this Contract. County's denial of access to county facilities or remote access required by Contractor to provide contracted services shall be included in any time computation related to the delivery of support or maintenance services. Contractor diagnostics and provision of support services cannot commence until access is provided. Contractor shall not be liable for any delays related to the provision of warranty, support or maintenance services to the county as a result of inhibited access to county facilities or personnel.

### **3.2 Protection of Persons and Property.**

3.2.1 Property: Contractor agrees to take reasonable steps to protect the County's property from injury or loss arising in connection with Contractor's performance of this Contract.

3.2.2 OSHA/OSEA: The Contractor certifies that it is in compliance with the conditions of the Federal Occupational Safety and Health Act of 1970 (OSHA), the Oregon Safe Employment Act of 1973 (OSEA), and the standards and regulations issued thereunder and certifies that all items furnished or purchased under this Contract will conform to and comply with said standards and regulations. The Contractor further agrees to indemnify and hold harmless the County from all damages assessed against the County as a result of the Contractor's failure to comply with the acts and the standards issued thereunder and for the failure of the items furnished under this Contract to so comply.

3.2.3 Persons: Contractor and the County shall each take reasonable precautions for the safety and health of employees and shall each comply with all applicable provisions of applicable laws to prevent accidents, injury or illness to persons on, about or adjacent to any premises where work is being performed.

3.2.4 Cleaning Up: Contractor shall ensure that project work sites are maintained in a clean and orderly fashion. Immediately after completion of the work, Contractor shall clean up and remove all refuse and unused materials resulting from the work. Upon Contractor's failure to do so within twenty-four (24) hours after having been notified in writing by the County, the work may be done by others at the direction of the County and the cost thereof charged to Contractor and deducted from any payments due.

3.2.5 Reserved.

3.2.6 Security and Access Restrictions: Access to County facilities will be restricted to personnel who have received a security clearance from the County. Access may also be restricted with respect to the time and day. Restricted access shall not result in additional charges to the County for overtime or schedule delays.

3.2.7 However, the County shall provide to Contractor and its agents access to its facilities, information and equipment as is reasonably necessary for Contractor to perform its obligations under this Contract. Any County property furnished to Contractor shall be used only for the performance of this Contract.

3.2.8 Storage of Materials: It shall be Contractor's responsibility for storage of any materials and the County will not be responsible for loss of or damage to materials, tools, appliances, or work arising from acts of theft, vandalism, malicious mischief or other causes unless such loss or damage results from negligence of the County.

3.2.9 Risk of Loss: The Contractor shall bear the risk of loss or damage to the purchased hardware during the period of transportation and storage until acceptance.

3.2.10 Loss or Damage: Contractor shall be responsible for any loss or damage to County property which results from Contractor's acts or omissions or from the failure on the part of Contractor to maintain and administer in accordance with sound management practices that property. Contractor will ensure that the property will be returned to the County in like condition to that in which it was furnished to Contractor, reasonable wear and tear excepted.

Upon the loss of, destruction of, or damage to any of the County property, Contractor shall notify the County Project Manager thereof and shall take all reasonable steps to protect that property from further damage.

## **4. PUBLIC CONTRACTING**

### **4.1 Public Contracts.**

County's performance under this Contract is conditioned upon Contractor's compliance with the obligations intended for contractors under ORS 279B.220, 279B.225 (if applicable to this Contract), 279B.230 and 279B.235 (if applicable to this Contract), which are incorporated by reference herein.

## **5. TRAVELS**

### **5.1 Reimbursement.**

Contractor travel expenses related to the performance of this Contract by Contractor personnel have been included as part of the implementation services and are fully included within this Contract for the services provided within the Statement of Work. Contractor will not bill County for travel expenses, including air travel, rental car transportation, lodging, meals, and incidental expenses.

## **6. WEB SERVICES SPECIFIC PROVISIONS**

### **6.1 Application.**

In addition to the general provisions provided in Section 2, these provisions shall apply to all software, including updates, upgrades, software enhancements, customizations or software preloaded into equipment. These provisions shall not cover any Third Party Software supplied by Contractor except where specifically addressed. Should any ambiguities or conflicts arise between this Section 7 and Section 2 General Provisions, this Section 7 shall prevail over Section 2 in matters of software, upgrades, enhancements, customizations, and repairs.

**6.2 Grant of Access to Subscription Services:** In accordance with the terms and conditions of this Agreement and subject to the payment by County of the Fees and the applicable Qualified Service Organization/Business Associate Agreement, and the Master Web Services Hosting Agreement, Contractor shall provide the nonexclusive, non-transferrable right to use and operate the Web Services to the County and its Affiliates during the term of this Master Contract and the attached Master Hosted Web Services Agreement. This Agreement allows the County to:

- a) Use the Software either directly or indirectly or through commands, data or instructions from or to a computer not part of County's internal network, for Internet or Web-hosting services only by an authorized user.
- b) Reproduce documentation, online help, and screen capture images solely for internal use as reference material and training literature.
- c) County shall not decompile, disassemble or otherwise reverse engineer any of the Subscription Services or use any similar means to discover the source code or trade secrets contained therein.
- d) This Agreement does not transfer to County title to the Subscription Services or Proprietary Information, or any intellectual property contained therein. County may not rent, lease, sublicense or grant external access to the Subscription Services for any purpose.
- e) County may not release proprietary Software information such as Software database schemas or Software technical specifications, credentials for System access, or other identified proprietary information.

### **6.3 Cap on Cost of Web Services.**

The contractor shall not increase the cost of their web services included in this contract for the first 5 years of this agreement unless otherwise identified in the Pricing.

### **6.4 Reserved**

**6.5 Reserved.**

**6.6 Ownership.**

Contractor shall retain all ownership rights, including trademarks, patents, copyrights, and other forms of intellectual property, in pre-existing or independently developed Software.

**6.7 Substitution of Software at No Charge.**

In the event that Contractor ceases to provide support for any standard software within five years of final acceptance of that software, Contractor shall substitute functionally similar new software, which shall conform in all aspects to the acceptance criteria and shall in no way degrade performance or functionality of the system, at no additional cost to the County.

**6.8 Infringement Indemnity.**

Contractor shall, at its own expense, hold harmless, indemnify, and defend the County, its directors, officers, employees, agents and affiliates from and against any and all claims, demands, damages, liabilities, losses, and expenses (including reasonable attorney fees, whether or not at trial and/or on appeal), arising out of or in connection with any actual or alleged violation or infringement by the software of any proprietary right of any person whosoever, including any copyright, patent, trade name, trademark, or misappropriation of the trade secrets of any third party. The County agrees to notify Contractor of the claim and gives Contractor sole control of the defense of the claim and negotiations for its settlement or compromise. No settlement that prevents the County's continuing use of the software shall be made without the County's prior written consent. If any third party claim causes the County's use of the software to be endangered, restricted or disrupted, Contractor shall (a) cause the software to be replaced, at no additional charge, with a compatible functionally equivalent and non-infringing product; (b) cause the software to be modified to avoid the infringement; (c) obtain a license for the County to continue using the software and pay any additional fee required for such license; or (d) if, after Contractor uses all due diligence or standard of care none of the foregoing alternatives is possible, Contractor will terminate the license and refund to the County license fees actually paid by the County and any direct damages documented by County for the affected software and documentation.

**6.9 Security.**

Contractor shall provide immediate notification to the County Risk Manager and the County IT Director of any online security breach that affects County systems. Contractor shall provide notification to the County's Information Security Office ([infosec@co.marion.or.us](mailto:infosec@co.marion.or.us)) of any incident relating to System integrity such as a computer virus.

6.9.1 Contractor shall comply with the County's Security Policies. Updates to such policy will be provided to Contractor in a commercially reasonable timeframe in advance of their effective date so that Contractor can make necessary adjustments. Any fees reasonably incurred by Contractor to meet such updated Security Policies will be the responsibility of County.

6.9.2 Contractors providing or having access to data containing County Confidential Information or personally identifiable information must maintain and demonstrate compliance with the following:

Specifically Contractors must develop, implement and maintain reasonable safeguards to protect the security, confidentiality, and integrity of personal information, including disposal of the data. Contractors must also provide immediate notification to the County of a data security breach (as defined) and in cooperation with the County, provide notice to affected consumers. 6.9.3 Additionally, any Contractor who provides or has access to software which holds processes and/or interacts with credit/debit card or cardholder information must also be



compliant with the Payment Card Industry-Data Security Standard (PCI-DSS). The most current standards are maintained at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org).

### 6.9.3 Breach of Security Reporting and Remediation

In the event of a Breach of Security that applies to Protected County Information, Contractor shall immediately report the Breach of Security to the County Project Manager, Information Security Manager ([infosec@co.marion.or.us](mailto:infosec@co.marion.or.us)) and Risk Manager and cooperate closely with the County in the investigation, reporting, remediation and resolution of the Breach of Security. Contractor shall comply with the breach reporting obligations of the Oregon ID Theft Act and all applicable federal or state privacy or data protection statutes, rules, or regulations governing the County and the Services; provided, however, that prior to giving notice under the Oregon ID Theft Act or any other applicable reporting requirement, Contractor shall first notify the County's Information Security Manager and Risk Manager under this Contract, and in any event, Contractor's notice to the County shall occur within 24 hours of Contractor's discovery of the breach. The County must approve the form of any notices sent by the Contractor to affected individuals or to the public.

Contractor will also promptly report to the County Information Security Manager (but in no event more than twenty-four (24) hours after the occurrence) any Breach of Security or unauthorized access to Contractor's systems that Contractor detects or becomes aware of, whether or not such breach rises to a reportable level under the Oregon ID Theft Act or any other applicable reporting requirement, and whether or not the breach resulted in the loss of Protected County Information. Reportable incidents under this subsection include, without limitation, instances in which an individual accesses Contractor's systems in excess of the individual's user rights, or uses the systems inappropriately.

Reports under this subsection (6.9.3) must be made by telephone and subsequently via e-mail and any other delivery requirement for giving notices under the Contract. The report shall include the approximate date and time of the occurrence and a summary of the relevant facts, including a description of measures being taken to address the occurrence.

Contractor will use diligent efforts to remedy any Breach of Security that applies to Protected County Information or other breach of security or unauthorized access in a timely manner, and will deliver to the County a root cause assessment and future incident mitigation plan with regard to any such breaches or unauthorized access.

6.9.4 No Retention. Contractor will not gather, store, log, archive, use or otherwise retain any Protected County Information for any period longer than necessary for Contractor to fulfill its obligations under this Contract. As soon as Contractor no longer needs to retain Protected County Information in order to perform its duties under this Contract, Contractor will promptly return or destroy or erase all originals and copies of such Protected County Information in accordance with the County's Destruction Standard below.

### 6.9.5 Destruction Standards

When required pursuant to this Section, Contractor must destroy or erase Protected County Information in compliance with industry best practices (e.g., DoD 5220.22-M), but in no event less than the level of care set forth in the guidelines for media sanitization in NIST Special Publication 800-88, Rev. 1, unless otherwise approved in writing by the County.

### 6.9.6 Certification of Return or Destruction

On the County's written request, Contractor will provide a notarized written statement to the County certifying that all Protected County Information, files, records, documents, materials, and other items which contain any Protected County Information, and all other County assets in Contractor's possession or control have been delivered to the County or destroyed, as requested by the County.

6.9.7 Additionally, any Contractor who provides or has access to software which holds processes and/or interacts with credit/debit card or cardholder information must also be compliant with the Payment Card Industry-Data Security Standard (PCI-DSS). The most current standards are maintained at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org).

## **7. SUPPORT SPECIFIC PROVISIONS**

### **7.1 Support Specific Provisions.**

In addition to the General Provisions provided in Section 2, these provisions shall apply to all support services and repairs to the system, including any software and product(s). Should any ambiguities or conflicts arise between this section and Section 2 General Provisions, this section shall prevail over Section 2 in matters of support and repair.

### **7.2 Term.**

Contractor's obligations in connection with support shall be for the life of the contract, commencing on the date of expiration of the Warranty Period. The County shall have the option to renew support services for 12 month periods as long as this Contract is in effect, at the price for annual support services set forth in this Contract. Support services costs are specified for the first ten (10) years within this contract.

### **7.3 Services Included.**

During the Warranty Period and any period of support, Contractor shall provide solutions, changes and corrections to the system as required to keep the system conforming in all material respects to the acceptance criteria and all applicable documentation and to correct reported problems that are replicated and diagnosed by the County as defects or errors in the system. Provision of support services is based entirely on remote access to the County's systems on an as needed basis by Contractor's technical staff. County acknowledges that restriction of access to county system will significantly impact the Contractors ability to provide warranty, support services to the County as part of this agreement. Services provided by Contractor cover all Contractor application software and shall include the following:

7.3.1 Preventative: Support shall include preventative services and tools for the system such as, without limitation, (a) the development, release and assistance in installation of updates and upgrades which are designed to prevent operational errors, bugs, viruses, and the like; and (b) the monitoring, queue management, evaluation, or any other similar diagnostic applications or tools, and assistance in the installation and operation of same.

7.3.2 Repair: Contractor shall repair all errors that have been identified by Contractor or by the County in support requests, by (a) if software, providing patches on portable media, by download or e-mail; or (b), Contractor shall replace defective software that cannot be repaired. In the event that neither replacement nor repair can be made, the remedies, as stated within this Contract, at the County's sole discretion shall apply. A work-around or patch which temporarily eliminates the symptoms of the particular error or failure reported, but impairs the efficiency of the County's operations, shall be deemed an "interim repair" not a repair. An interim repair cannot last longer than fourteen (14) calendar days, unless otherwise mutually agreed in writing by the parties.

Contractor levels of support shall be from 8:00 a.m. to 5:00 p.m. Pacific Time Monday through Friday, exclusive of Contractor Holidays.

7.3.3 Telephone Helpline/Staffing: During the coverage hours Contractor shall maintain a direct support telephone support number staffed by first level Contractor technical support personnel. Contractor shall staff the hotline with competent technical consultants who shall be familiar with the system software. Telephone support and all communication shall be delivered in understandable English.

7.3.4 Contractor's Service Desk: The Contractor's Service Desk is the preferred support medium and preferred contact point with Contractor. This includes unlimited use of self-training programs, submission and review of problem reports and the Contractor knowledge base and other facilities. This also includes remote desktop communications with Contractor support personnel.

7.3.5 Data Backup: Data backup and integrity is the responsibility of the Contractor.

7.3.6 System Integrity: Virus protection, system intrusions, security breaches, and malware protection are the responsibility of the Contractor.

7.3.7 Exclusions:

7.3.7.1 Contractor assumes no responsibility for third party software including operating systems, communications circuits, electronic mail systems, overall network performance, user profiles, and other network management functions.

7.3.7.2 Services do not cover computer hardware or other computer or network components whether or not they were provided by Contractor.

7.3.7.3 Services do include diagnostic services and coordination with hardware support vendors, and other involved third parties. All charges by third parties for system software licenses, cabling, hardware components, etc. are the responsibility of the County.

7.3.7.4 Requested system enhancements, including new report requests, are considered for inclusion in Contractor products. However, no guarantee of implementation is made and no timeframes are provided for any requested enhancements. Enhancements and product content and feature sets are at the sole discretion of Contractor. Custom feature requests are not included in standard support plans.

#### **7.4 Response.**

Contractor's support specialists shall respond to a maintenance request from County within the times specified in this Contract. Such response times shall be measured from the time a County contact submits a request for support.

#### **7.5 New Releases/Upgrades.**

On a timely basis Contractor will provide County with such updates as are distributed without charge to other similar Customers which reflect modifications and incremental improvements made to the DrCloudEHR solution by Contractor

#### **7.6 Training.**

Contractor will provide recommendations to the County to identify the staff and the role they will play to adapt Contractor's training session(s) best suited to their needs. Contractor will apply multiple strategies to ensure staff receives the training they need, but the underlying principles will still be the same: Tailored classroom sessions, easy to understand documentation, and multiple knowledge transfer sessions. Contractor training strategy is to ensure designated users are able to use DrCloudEHR with ease and understand the necessary tools and resources they have access to (answer staff questions or refresh their knowledge).

Train-the-User: This training is generally for the majority of the staff and involves ensuring that selected staffs are able to perform their duties successfully. This will be accomplished utilizing instructor-led and self-directed learning approach. Contractor is to ensure that designated users are able to use DrCloudEHR without requiring much assistance during and post training outside of the initial implementation period and possibly when features are added or updated.

Train-the-Trainer: These sessions are a deeper dive into the system. County will identify "Super Users," staff very adept at their designated clinical function having strong technology and inter-personal skills. These types of users are generally leaders of their respective

Refer to Exhibit B, Statement of Work, Page 11, "Training Plan".

**7.7 Reserved.**

**7.8 Reserved.**

**7.9 Other Standard Services.**

Contractor shall, at no additional cost to the County, provide other standard services which Contractor offers to its customers generally.

**7.10 Mandated Changes to Federal, State and Local Laws.**

Contractor shall provide the necessary resources to accommodate system updates to meet mandated changes to Federal, State and Local laws. The County is responsible to formally notify Contractor of any pending changes to local, state or federal laws that would affect the operations and functioning of the system a minimum of 120~~180~~ days prior to the implementation of the change. Unless otherwise agreed to by both Parties in a formal Change Request, these system updates shall be completed 30 days prior to the effective date of the mandate to allow for adequate testing by the County.

**7.11 Suspension.**

If Contractor is materially hampered in fully performing hereunder for any reason outside of Contractor's reasonable control including without limitation any Force Majeure Event (all of which events are herein called "Disability") Customer may suspend use of the Web Services and its obligations to make subscription fee payments to Contractor during the period of such Disability.

## **8. EXECUTION**

**CERTIFICATIONS AND SIGNATURE. THIS CONTRACT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF Contractor.** The undersigned certifies under penalty of perjury both individually and on behalf of Contractor is a duly authorized representative of Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract, including all Schedules, Exhibits and Attachments, and to execute this Contract on behalf of Contractor.

**MARION COUNTY SIGNATURE**

**BOARD OF COMMISSIONERS:**

\_\_\_\_\_  
Chair Date

\_\_\_\_\_  
Commissioner Date

\_\_\_\_\_  
Commissioner Date

Authorized Signature: \_\_\_\_\_  
Health & Human Services Department Date  
Director or designee

Authorized Signature: \_\_\_\_\_  
Chief Administrative Officer Date

Reviewed by Signature: \_\_\_\_\_  
Marion County Legal Counsel Date

Reviewed by Signature: \_\_\_\_\_  
IT Department Director or designee

Reviewed by Signature: \_\_\_\_\_  
Marion County Contracts & Procurement Date

**ENSOFTEK, INC. SIGNATURE**

Authorized Signature: \_\_\_\_\_  
Date

Title: \_\_\_\_\_

**9. LIST OF EXHIBITS**

Exhibit A: Acceptance Testing

Exhibit B: Statement of Work

Exhibit C: Master Hosted Web Services Agreement and Schedules

Exhibit D: County RFP # C25102-HE531-19 (including any addenda issued)

Exhibit E: Contractor Response to RFP#C25102-HE531-19 (including any subsequent follow-up responses)

## Exhibit A

### ACCEPTANCE TESTING

#### 1. Right to Perform Acceptance Testing.

Prior to Accepting the System, the County shall have the right to perform Acceptance Testing. Acceptance Testing shall be completed at County-designated facilities using the System software and County Infrastructure and data (if County-Hosted) or the Infrastructure/data located at the Contractor's designated Contractor-hosted site.

#### 2. Obligations of Contractor in Acceptance Testing.

Contractor shall cooperate with the County in the development of Acceptance Criteria and the Acceptance Test Plan that shall codify and set forth the location, date, and other specifications of the Acceptance Tests. Specifically, Contractor shall provide the following Services and material:

2.1 Sufficient training for County personnel to create and maintain Acceptance Test Scripts with the assistance of the Contractor and,

2.2 Qualified Contractor staff to assist County personnel to complete the required Acceptance Testing, and

2.3 Non-System equipment, software and system documentation required to complete Acceptance Testing.

#### 3. Acceptance Criteria and Acceptance Test Plan.

The County and Contractor agree to establish the Acceptance Criteria in writing in an Acceptance Test Plan for the purpose of conducting Acceptance Testing. Acceptance Criteria and the detailed Acceptance Test Plan shall be finalized and agreed by Contractor and the County, and shall be incorporated into the Statement of Work and thereby into this Contract.

The Acceptance Test Plan shall include the following types of Acceptance Tests, each of which shall be considered successfully completed when the County issues a Certificate of Acceptance for all the specific Products or Deliverables tested:

3.1 System Configuration Acceptance Testing shall demonstrate that the System operates as specified in the System Configuration Acceptance Test Plan developed and accepted by the Contractor and County project managers as part of the project planning after Configuration specific to the County (e.g., custom fields, fee schedules, validation tables, Contractor customization, workflow processes implemented, interfaces, mobile components, citizen portal, etc.) have been configured or developed as appropriate. System functions must perform as specified in the Contract; components integrated, and the System customized and configured as required for the System Configuration Testing to be considered successfully completed.

3.2 Data Conversion Acceptance Testing shall demonstrate that the System operates as specified in the Data Conversion Acceptance Test Plan developed and accepted by the Contractor and County project managers as part of the project planning phase, after data (e.g., historical data, documents, system tables, fees, etc.) have been converted to the new system. System functions must perform as specified in the Contract after County selected information in the existing electronic health records management system has been successfully converted into the System for the Data Conversion Acceptance Testing to be considered successfully completed.

3.3 User Acceptance Testing shall demonstrate the correct operation of the System's functions as specified in the User Acceptance Test Plan developed and accepted by the Contractor and County project managers as part of the project planning, including all of the Interfaces, System configurations, data conversion, mobile components, citizen portal, security, fees, and workflows, etc. System functions must perform as specified in the Contract for the Functional Acceptance Testing to be considered successfully completed.

3.4 Failover and Throughput/Projected Load Acceptance Testing shall include placing a load on the installed System comparable to the maximum anticipated System load and demonstrating over a specified time period that the System Response Times users would experience are compliant with the requirements in the Contract. System Response Times must meet the metrics in the Specifications during the peak System loads experienced during the Throughput/Projected Load Acceptance Testing and the Failover Testing must be successful for this test to be considered successfully completed.

3.5 Reliability Acceptance Testing includes operating and monitoring each module, and then the complete System in a live production mode for a period of ninety (90) consecutive Calendar Days during which each module, and ultimately, the System performs without any major failures Software, and/or System functions and capabilities for the Reliability Testing to be considered successfully completed. As modules become ready for testing, that module's Reliability Acceptance Testing period may commence. Once all modules have been made ready for testing, or upon System's first productive user ("go-live"), the System Reliability Acceptance Testing period will commence.. Major Failures are defined as System failures that result in a Level 1 or Level 2 Severity System Error as defined in Section 7.11 of this Contract. The County's use of the System during the Reliability Testing period(s) shall not be interpreted as Acceptance of the System by the County. The System repair and Maintenance procedures in effect during the Reliability Testing must be the same repair and Maintenance procedures that will be in effect during normal System operation after Final System Acceptance. Failures that are not attributable to the System as provided by the Contractor are not charged against the Acceptance Testing period. If such Failures occur, the Acceptance Test for the affected modules may be suspended until the problems are corrected if the County deems such failure as creating cause to halt testing.

3.6 After the condition that caused a Major Failure is remedied, the Reliability Testing period will be extended by the length of time required from Contractor to correct the Major Failure. If the Major Failure takes longer than one (1) business day, the Reliability Testing Period will be restarted from the beginning and the System must operate for another forty-five (45) successive Calendar Days without any major failures for the Reliability Testing to be considered successfully completed.

3.7 The County will issue Final System Acceptance only after the successful completion of all of these individual Acceptance Tests and the Reliability Acceptance Test. Until receipt of Final System Acceptance from County, Contractor reserves complete and exclusive access rights to the system to provide any repair, replacement or remedy as deemed necessary by the Contractor, or as required to bring the system into compliance with the Final Acceptance Test criteria. Contractor may, at its sole discretion, perform any action necessary to remedy the system or portion of system causing failure. Final System Acceptance will not be unreasonably withheld.

#### **4. Procedure and Timetable.**

Unless otherwise specified in the Statement of Work, the following procedures will be used for Acceptance Testing and are applicable to Acceptance Tests for single Deliverables or Products, components of the System, and the Reliability Acceptance Test:

4.1 The County shall commence Acceptance Testing no later than seven (7) Calendar Days after receipt of a Deliverable;



4.2 Contractor shall provide, at no additional cost, reasonable and appropriate support, assistance, and consultation regarding the System to facilitate Acceptance Testing as provided in the Statement of Work;

4.3 Unless mutually agreed in writing by the County and the Contractor, Acceptance Testing for a specific Deliverable shall not exceed thirty (30) Calendar Days or other period as specified in the Acceptance Test Plan for a specific Deliverable or Acceptance Test. The County will make all reasonable efforts to complete the Acceptance Test within the time period specified. If errors are found in the software that result in receiving a fix from the Contractor, the clock will begin again giving the County seven (7) Calendar days from receipt of the fix to perform testing. If the Acceptance Test is successful the County shall issue a Certificate of Acceptance, in a form mutually agreed upon.

#### **5. Failure of Acceptance Test.**

The County will notify Contractor if a Deliverable or a portion of a Deliverable or the System fails to pass an Acceptance Test and will specify in reasonable detail the identified Failures and possible reasons for Failure. After County's notification, Contractor shall correct the Deliverable, or the affected portion, within five (5) business days, or other period as mutually agreed upon in writing, and notify the County that the correction has been completed. After Contractor's correction notification, the County shall perform a second Acceptance Test. If the Deliverable, or portion of the Deliverable, fails to pass the second Acceptance Test, the County shall notify Contractor in writing, and the Contractor shall have a subsequent correction period of five (5) business days or a period as mutually agreed upon in writing to correct the Deliverable. If the Deliverable, or portion of the Deliverable, fails to pass the third Acceptance Test, the County shall notify the Contractor in writing, and the County may, in its sole discretion: (a) terminate the Contract or Statement of Work or Change Order with no further liability; (b) request Contractor to replace the Deliverable or defective portion of the Deliverable at no additional cost to the County, (c) request Contractor make further corrections to prepare for retesting again; (d) accept the Deliverable at a reduced cost to be negotiated between the County and the Contractor; or (e) issue an Acceptance Certificate entitled "Acceptance with Exception(s)."

5.1 If the County issues "Acceptance with Exception(s)", the County will list the exception(s) and the date of Contractor's correction, if required. If Corrections are not required, County agrees to commence further Acceptance Testing of the Deliverable or affected portion(s) identified as Accepted with Exceptions. If the Deliverable passes the Acceptance Tests, the County will issue a Certificate of Acceptance. If the Corrections are required for a deliverable, Acceptance certificate will be held until Contractor delivers such correction(s).

5.2 If a Deliverable fails a second Acceptance Test (or in the event of a single Acceptance Test) in no event shall there be an increase to the original price agreed to by the County and the Contractor for the System.

#### **6. Revocation of Acceptance.**

6.1 The County shall have the right to revoke "Acceptance with Exception(s)" if the County granted an "Acceptance with Exception(s)" based on Contractor's commitment to correct the Error within a reasonable period of time, but the defect has not been so corrected.

6.2 The County shall also have the right to revoke Acceptance if the County accepted the System or the Deliverable without discovery of the defect, and the Acceptance was reasonably induced by Contractor's assurances or by the difficulty of discovery of the defect before Acceptance. Revocation is effective only if it occurs within a reasonable time after the County discovers or should have discovered the reasons for revocation, but in any event, prior to Final Acceptance. .

**7. No Waiver.**

Acceptance shall not relieve Contractor from its responsibility under any Warranty. Payment for Products, Services, or the System does not constitute Acceptance nor does it constitute a waiver of any Warranty applicable to the County.

**8. Order of Precedence.**

If any statement or intention described in this Exhibit A “Acceptance Testing”, conflicts with the statements or intentions described in Exhibit B, “Statement of Work, Acceptance Testing Plan”, the language in Exhibit B shall take precedence.

**EXHIBIT B**  
**MARION COUNTY**  
**ELECTRONIC HEALTH RECORD MANAGEMENT SYSTEM**  
**STATEMENT OF WORK**  
**Version 2.0 – 8/05/2020**  
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# STATEMENT OF WORK

Marion County

## Purpose

The purpose of this document is to define the services and deliverables being provided by EnSoftek, Inc. (hereafter “EnSoftek”) to Marion County (hereinafter called the “County”), located in Salem, Oregon. The activities associated with the implementation of the system have been identified through a set of tasks itemized within this statement of work.

The following Statement of Work (SOW) defines the principal activities and responsibilities of all parties for the implementation of an integrated Electronic Health Record Management System (hereafter “EHR” or “DrCloudEHR”) to support the County Health and Human Services operations and records management. Unless otherwise indicated from the context in which it is used, the word “system” will be used herein to refer to the compilation of the foregoing subsystems, interfaces and ancillary systems.

## Definitions

“User” means any person employed by or working on behalf of the County, the County’s Offices, Departments and Divisions, Officers, Directors, and any person or entity authorized by the County to provide it with services requiring use of the system, and to use the County’s resources in whole or in part, in the course of assisting the County.

“EHR Administrator” means a person who is responsible for the configuration and use of the business application and coordination with vendor regarding updates, repairs, developments, and releases. The role addresses user training needs, account setups, assigning user role-based access, password resets, producing business reports, and workflow configuration.

“Super Users” means a business subject matter expert that possesses special system access for assisting Users in the day-to-day use of a business application.

## Responsibilities of Both Parties

Each Party shall be responsible for the following:

- a. Providing Personal Protection Equipment (PPE) for its own project personnel providing project implementation and professional services while on site (“visit”) at either the County or EnSoftek facilities. Visiting personnel shall be made aware of such requirements at least 24 hours in advance of such visits. PPE is defined by Oregon State or County of service location statute.
- b. Providing all endpoint (laptop) computing devices for their own personnel while such personnel are on site at the other Party’s Facilities.
- c. Providing Internet connectivity for the other Parties Project staff while they are providing on site services at the other Party’s Facilities.

d. Further, EnSoftek shall provide project management software access to "Process Street" for key County project team members for use during the implementation period defined in the SoW.

## Deliverables Overview

The Project Task Section of this document lists and defines the project deliverables that EnSoftek will provide.

- **Project Organization.**

EnSoftek will designate an experienced project manager that will be assigned for the duration of the project. This person provides a direct point of contact for the County. Coordinate and conduct the Project Kickoff Meeting. Develop and maintain the joint Project Plan including the Responsibility Matrix. Provide frequent Status Reports as agreed upon by both parties.

- **Customer Organization Meeting**

EnSoftek and County project teams meet to further define the project, review the deliverables, County hardware requirements, and establish an implementation schedule and procedures.

- **Project Plan**

The DrCloudEHR Project Plan shall describe tasks by: Objective, Description, Deliverables, Responsibilities of both Parties, Dependencies on other tasks, Completion Criteria, and Estimated Duration for all project components defined within the Statement of Work. The Project Plan shall describe the elements and define associated deliverables and resources. EnSoftek Project Manager will create initial project plan and will write and submit a detailed baseline Project Plan to the County for approval. Once approved, any changes to the baseline project plan will require approved change control procedures. The Project Plan will include components as defined further in the following project plan elements as listed here:

- a) Implementation Plan
- b) Acceptance Testing Plan
- c) Training Plan
- d) Interface Specifications and Plan
- e) Data Conversion Plan
- f) Go-Live Plan
- g) Post Go-Live/ Support Plan

The EnSoftek Project Manager shall coordinate with the County assigned Project Manager to provide a weekly update to the Project Plan to maintain and manage the master project schedule including the development of schedules, determination and assignment of tasks, and schedule adjustments to be made available for online viewing by both parties.

- a) County and EnSoftek develop and accept a functional Project Plan. The Project Plan will include a project synopsis, project organization and staffing, overview of deliverables, implementation schedule, training plan, data conversion plan, and cut-over and live operation plans.
- b) The Project Plan is jointly developed by the EnSoftek Project Manager and County Project Manager, and mutually approved.
- c) County and EnSoftek will ensure that the Project Plan addresses all best practices elements, including but not limited to:
  - i. Project Integration Management

- ii. Project Scope Management
  - iii. Project Schedule Management
  - iv. Project Quality Management
  - v. Project Resource Management
  - vi. Project Communications Management
  - vii. Project Risk Management
  - viii. Project Procurement Management
  - ix. Project Stakeholder Management
  
- d) It is estimated that the full implementation will require approximately fourteen (14) months from date of order. Due to the scope, the implementation may be phased to accommodate individual County schedules and EnSoftek resources.
  
- **System Preparation**
  - a) EnSoftek Development Staff will configure the EnSoftek system on the EnSoftek provided operating system and hardware to the agreed deliverables and complete any required configuration tasks as specified in the project plan.
  - b) EnSoftek deploys contracted interfaces in accordance with the Interface Specifications and plan.
  - c) Complete an initial test data conversion.
  
- **Access and Configuration**
  - a) EnSoftek will grant access to the system and required interfaces.
  - b) EnSoftek will train the designated County Project Team members, EHR Administrators, and Super Users in the EHR system, theory and use.
  - c) EnSoftek and County staff will configure the initial data tables, workflow, and processes in coordination with County SME's and Super Users.
  - d) Perform Data Conversion Testing. Validate and test data conversion for completeness and accuracy in accordance with the agreed upon data conversion plan.
  - e) System documentation, including user manuals, application notes, and machine-readable manuals with rights to reproduce within the agencies.
  
- **Customer Validation and Testing**
  - a) Perform Functional Acceptance Testing as defined in Acceptance Testing Plan. EHR system configured, accessible and operational at the County, for an agreed upon period as defined within the contract, providing an environment for the County to define internal operation policies and validate the system for operational use.
  - b) County will develop any in-house required procedures or policies for operation of the new system.
  - c) Complete Configuration Acceptance test with County, live operation transition is scheduled.
  
- **Live Operation**
  - a) County EHR Super Users are trained on the use of the system and training documents are provided with sufficient level of detail that County can proceed with training all Users by role within the system.
  - b) Final data conversion is completed, and the system converts to live operation upon the Go/No-Go review completion.
  - c) EnSoftek and County project managers complete the acceptance testing and signoffs.
  - d) EnSoftek provides stabilization support and go-live assistance.

- **Data Conversion**
- **Interfaces**  
Interfaces to Third Party Systems as Itemized within the interface task elements presented in this SOW.
- **Training Services**
  - a) Training as agreed in the Implementation Plan, within the training hours purchased by the County;
  - b) Technical Administrator,
  - c) End User Administrator,
  - d) End User
- **System Documentation**
  - a) Specified System documentation. EnSoftek will provide system documentation in electronic format only.
  - b) EHR Users Guide
  - c) EHR Training Guide
  - d) EHR Reporting Guide
  - e) EHR Supporting specialty manuals (as developed)

## Change Control Procedures

Change Requests can be initiated by either party. Using the Change Order Form in Attachment A, the Receiving Party will review any change requests, conduct an impact analysis, propose alternative approaches, if any, and advise the Initiating Party of the findings with all associated additional fees and schedule impacts within fifteen (15) business days of the Receiving Party's receipt of any such Change Order Form. Changes shall be made as amendments to the Statement of Work and shall set out the nature of the change, the new fee and schedule, and any other agreed upon services. Amendments shall only be effective when signed by the County and EnSoftek.

A Change Order Form is provided with this Statement of Work, as agreed to by both parties, for use as required. Once received and reviewed, the receiver will decide as to how to proceed with the request:

- a) If the change can be implemented with no substantial change to the scope of the project, the change can be approved at no charge and forwarded to the Project Manager for implementation.
- b) If the change is outside the original design and scope of the project, the change can be approved with an additional charge (if approved)
- c) Save the change as a future release request (specified date or unspecified date,
- d) Disapprove the change as there is no implementation path supported by the software.

Either EnSoftek or County may request changes to this Statement of Work at any time. Because such changes could significantly affect the cost, schedule, or other critical aspects of the work being performed, both County and EnSoftek must approve each change request in writing prior to implementation. The following change control procedure will be used except as superseded by mutual agreement or other binding procedures:

- a) A "Change Request" (CR) prepared in a form and format acceptable to both County and EnSoftek will be the vehicle for communicating change.
- b) A "Change Request" must describe the requested change, the rationale for the change, and any anticipated effect or risk the change will have on the contract and/or the work performed under the contract.

- c) County and/or EnSoftek should complete all reviews and officially approve or reject an issued "Change Request" within fifteen (15) business days of receipt.
- d) Resolution of open issues concerning the definition, submission, acceptance, rejection, or implementation of all Change Requests will occur via resolution process mutually selected by and agreeable to County and EnSoftek.

## Project Organization and Management

### Project Management

**Objective:** EnSoftek and County assign project managers for the duration of this project.

#### 1. Task Description:

Both County and EnSoftek will designate a project manager who will direct the efforts and serve as primary point of contact for the project.

#### 2. Responsibilities:

EnSoftek will designate a Project Manager who will direct EnSoftek's efforts and serve as the primary point of contact for the County. The responsibilities of the EnSoftek Project Manager include:

- a) Maintain project communications with the County's Project Manager.
- b) Manage the efforts of EnSoftek staff and coordinate EnSoftek activities with the County's project team members.
- c) Resolve deviations from the Project Schedule.
- d) Monitor the project to ensure that support resources are available as scheduled and as identified in the project plan.
- e) Coordinate and oversee the configuration of all EnSoftek application software.
- f) Review and administer County approved change control procedures through the County's Project Manager, commonly referenced as a "Change Request" (CR), issued by the EnSoftek Project Manager.
- g) Conduct weekly status meetings via teleconference or email with the County's Project Manager and MCHHS, to discuss project status and prepare status reports as necessary.
- h) Provide timely responses to issues related to project progress raised by the County's Project Manager.
- i) Working with the County Project Manager, develop and maintain a Project Task List to identify project tasks and deadlines.

County will designate a Project Manager who will direct the County's efforts and serve as the primary point of contact for the County. The responsibilities of the County Project Manager include:

- a) Maintain project communications with EnSoftek's Project Manager.
- b) Identify the efforts required of County staff to meet the County's task requirements and milestones in the Statement of Work and Project Schedule.
- c) Review the preliminary Project Schedule with EnSoftek's Project Manager and assist EnSoftek in developing a detailed Project Schedule defining the detailed tasks and a schedule of EnSoftek and County responsibilities.
- d) Measure and evaluate progress against the Project Schedule.
- e) Monitor the project to ensure that County support resources are available as scheduled.



- f) Attend status meetings with EnSoftek's Project Manager.
- g) Provide timely responses to issues related to project progress raised by EnSoftek's Project Manager.
- h) Liaison and coordinate with other County agencies, other governmental agencies and the County's contractors.
- i) Review and administer change control procedures, hardware and software certification, and all related project tasks required to maintain the implementation schedule.
- j) Approve payments in a timely manner based on the terms defined within the contract. See Exhibit C.
- k) Ensure that all appropriate County personnel attend and actively participate in all project activities.
- l) Assign one or more personnel who will work with EnSoftek staff as needed for the duration of the project, including at least one system administrator, one database administrator and a business executive representative that can make policy decisions.
- m) Work with EnSoftek personnel in designing and approving a project task list as mentioned in the EnSoftek Project Manager Responsibilities.
- n) Provide contact names and telephone numbers for the appropriate agencies.

### 3. Dependencies:

Assignment of Project Managers.

### 4. Completion Criteria:

This task is considered complete when the County and EnSoftek assign their designated Project Managers.

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## Project Definition and EHR Functional Orientation

1. **Objective:** Establish base DrCloud EHR system setup in default configuration and Conduct an EHR Review Workshop session and provide County with a current feature list of EnSoftek EHR functionality (Refer Section 2.1 of EnSoftek RFP Response).
2. **Description:** EnSoftek project staff will meet with County assigned project team members and Super (Power) Users to provide a project overview to discuss project expectations, and to review intended outcomes as related to the EHR. The purpose of this task is to review the functional capabilities of the system software and contracted services to ensure that County personnel understand the conceptual details of the systems and understand the systems operational parameters. EnSoftek will discuss the intended use of each provided operational module with County personnel, define extended system parameters and other information that will be required to allow EnSoftek to configure the system for installation at the customer site. Review the County operational procedures and identify any County-specific requirements to meet general system level State Reporting requirements and other identified system operational requirements. Review data conversion approach.

This workshop provides an overview of the various EHR code tables and the requirements for gathering the data to build these files. The workshop also provides worksheets and review data import options to populate standardized tables. The session provides an overview of options available to County for performing County specific system tailoring and determining operational system parameters as well as identifying areas where clinical practices or procedures may need to be amended to work with the system.

3. **Deliverables:** System Overview describing each module, system parameters and other configuration information.
4. **Responsibilities:**
  - a. EnSoftek will:
    - i. Conduct a review with County of EnSoftek EHR functionality based on current EnSoftek EHR Design Specifications.

- ii. Obtain, with County's assistance, state standards and requirements applicable State level Reporting.
- b. County will:
  - i. Assign appropriate County personnel to attend the functional review session; at a minimum, identify Super Users for each initial role specified in the system.
  - ii. County's EHR subject matter expert will attend the functional review session.
  - iii. Aid EnSoftek in obtaining the state standards and requirements.
  - iv. Participate in the review of the EnSoftek EHR functionality and develop a strong understanding of the current functionality to later assist with development of proposed Design Specifications.
  - v. Collect and provide all system table and validation data values, unless specified otherwise by mutual agreement.
- 5. **Dependencies:** Project Kickoff, County Super Users must be confirmed, and completion of statement of work
- 6. **Completion Criteria:** This task is considered complete when EnSoftek has setup the base DrCloudEHR system and conducted the EHR Review Workshop session and provided County with a review of EnSoftek EHR functionality and current state reporting interfaces.

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## Project GAP Analysis and Existing Practices Review

1. **Objective:** Review existing high-level County processes, current system utilization, and RFP requirements with EnSoftek Response to assist EnSoftek installation team in understanding general operational practices and developing the Gap Analysis Document for review and signoff. Review the functional capabilities of the existing system software with specific focus on identifying configuration recommendations and anticipated workflow changes to be implemented as part of DrCloudEHR.
2. **Description:** The session(s) are intended to review the current processes related to the Electronic Health Records Management System (EHR) and develop a high-level, internal overview document summarizing the County's current workflow steps.

The County will work with EnSoftek to develop a process flow document that will include a generalized description of the process. Additionally, EnSoftek will advise the County to develop Use Cases to define steps of the existing processes in specific program areas with an appropriate level of detail to assist with system configuration and be the baseline for User Acceptance Testing (UAT) to verify functionality and usability. The process flow document is not considered a specific project deliverable; however, the County will share the documents with EnSoftek. The process flow document will be used as an internal configuration scoping assessment for EnSoftek configuration recommendations and identification of identified system functional gaps. Identified functional gaps will be summarized and reviewed with the County project team as part of the configuration workshops.

3. **Deliverable:** Gap Analysis Document
4. **Responsibilities:**
  - a. EnSoftek will:
    - i. Assign appropriate staff to attend process review session(s).
    - ii. Review the operational and business requirements of the County for the programs/departments identified in the RFP.
    - iii. Attend group discussions, meetings, review documents, gather the information necessary to develop a gap analysis report to be reviewed and priorities for development of items (whether part of go live or not), that are not currently part of the DrCloudEHR solution, established.
  - b. County will:

- i. Assign appropriate County personnel to attend the process review session.
- ii. County's EHR administrator will attend the functional review session.
- iii. Provide a suitable workstation in a comfortable environment capable of operating all existing application software.
- iv. Allow the installation of or provide a screen capture capability on the County provided workstation.
- v. Provide system documentation and printouts of the existing system application outputs.
- vi. Participate in the review of the existing EHR functionality descriptions to verify accuracy of the information presented to EnSoftek by the County staff.

**5. Dependencies:** Resource availability to demonstrate the existing system use

#### **6. Completion Criteria:**

This task is considered complete when EnSoftek has completed the EHR Process Review session and identified enhancements discovered as part of the workshop as a part of the Gap Analysis Document.

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## **Project Organization Meeting**

**1. Objective:** Hold Project Organization meeting with designated EnSoftek and County staff.

**2. Description:** Project Planning and Organization tasks include the establishment of the EnSoftek and County project managers, project team and the provision of a Project Kickoff/Organization Meeting. This activity also identifies and communicates specific project tasks to be undertaken by EnSoftek and County. Timeframes will be established for the development of related project management deliverables under this Statement of Work, including the Project Plan.

The initial project organization meeting is a facilitated work session designed to establish project organization and reporting and to set initial parameters on the overall project implementation. A key objective of this meeting is to provide implementation assistance to County personnel and answer outstanding questions and concerns related to the project.

The objectives of this task are:

1. To introduce all project participants and review roles of key participants;
2. Review contractual requirements and overall scope of the project;
3. Answer key customer questions and address concerns related to the project;
4. Establish a clear chain of communication, authority and reporting procedure;
5. Review resource and scheduling requirements;
6. Review and collect interface data;
7. Review the implementation procedures and establish a general timeline for the project to include any known administrative delays that may affect project implementation;
8. Finalize Hardware Requirements to support the RMS and JMS system;
9. Acquire information sufficient to begin the development of the following project plans;
  - a. Implementation Plan
  - b. Responsibility Matrix (RACI)
  - c. Training Plan
  - d. Acceptance Test Plan
  - e. Interface Plan
  - f. Conversion Plan
  - g. Production Cut-Over Plan

## h. Go-Live and Stabilization Plan

### 3. Dependencies:

Executed and accepted contract.

### 4. Completion Criteria:

This task is considered complete when the on-site Project Kickoff Session has been held with EnSoftek and County representatives in attendance.

## Project Schedule

### Project Schedule Tasks

1. **Objective:** Establish and deliver the Project Schedule as a working document.
2. **Description:** The Project Schedule will be finalized and mutually agreed upon between the parties.
3. **Deliverables:** Baseline Project Schedule, Change Requests, Project Schedule Updates
4. **Responsibilities :**
  - a. EnSoftek will:
    - i. Review with the County personnel assigned and estimated durations of the implementation tasks, priorities, inter-dependencies, risks, and other requirements needed to establish the Project Schedule in formats accepted and maintained by both parties.
    - ii. Prepare the Project Schedule document and deliver the first version of the implementation and training plan to the County.
    - iii. Review the Project Schedule with County personnel and make changes and/or corrections that are mutually agreed upon.
    - iv. Assume accountability for all EnSoftek supplied tasks within the Project Schedule.
  - b. County will:
    - i. Analyze with EnSoftek project personnel the identified requirements and make such implementation decisions as are reasonably required to finalize the Project Schedule.
    - ii. Work with EnSoftek staff to finalize the Project Schedule.
    - iii. Notify EnSoftek of any known or anticipated events that may impact the schedule and work with EnSoftek to revise the implementation plan to accommodate these events.
5. **Dependencies:** Completion of the project organization meeting and review of the County implementation requirements.
6. **Completion Criteria:** This task is considered complete upon the approval of the preliminary project schedule as mutually agreed between EnSoftek and County.

## Project Plan

### Project Plan

**Objective:** EnSoftek Project Manager will develop a Project Plan and deliver to the County for approval.

**Description:** The EnSoftek Project Plan shall describe tasks, estimated duration, task dependencies and estimated completion dates for tasks defined within the Statement of Work. The EnSoftek Project Plan shall describe the elements and define associated deliverables and resources. Adjustments to the project plan will be on-going. The EnSoftek Project Manager will write and submit a detailed Project Plan to the County for approval. The Project Plan will include the following:

1. A project synopsis with key objectives and goals of the new systems.
2. A reiteration of the project organization and staffing.
3. An abbreviated list of contract deliverables as outlined in this SOW.
4. An initial implementation schedule showing key milestones and installation sequences.
5. A training plan that will lay out the training requirements in hours, schedule, training facilities, and responsibilities. The actual scheduling of personnel will be done at a date closer to the Training and Live Operations phase.
6. A data conversion plan.
7. A cut-over plan for go-live operations.

**Responsibilities:**

- a. EnSoftek Will:
  - i. The EnSoftek Project Manager will write the Project Plan and deliver to the County Project Manager for review and approval.
- b. County Will:
  - i. The County Project Manager along with the County EHR Core Team will review and approve the Project Plan.

**Dependencies:** Completion of Project Plan by EnSoftek Project Manager.

**Completion Criteria:**

This task is complete upon acceptance of the initial project plan by the County project manager and EHR Core Team.

## Training Plan

### Training Plan Tasks

EnSoftek’s training philosophy starts with understanding the County staff experience, expectations, and point of view of how the solution best integrates into current processes and protocols. EnSoftek will work closely with the County to identify the staff and the role they will play to adapt our training session(s) best suited to their needs. EnSoftek will support the County to apply multiple strategies to ensure staff receives the training they need.

### Super User Training “Train the Trainer” (PS #38)

1. **Objective:** Ensure designated Super Users are able to use DrCloudEHR and comprehensively train all users with various roles in the system.
2. **Description:** EnSoftek will support the county to ensure users can operate all necessary components of DrCloudEHR with ease and understand the necessary tools and resources they have access to (answer staff questions or refresh their knowledge) as defined in the Implementation Plan.
3. **Deliverables:** Tailored training sessions, easy to understand documentation, and multiple knowledge transfer sessions. Training Materials as defined in Training Plan
4. **Responsibilities:**

- a. EnSoftek Will:
    - i. Work with the County to identify the staff and the role they will play to adapt our training session(s) best suited to the needs of the County
    - ii. Provide training to trainers as identified in this statement of work and associated Implementation Plan, where specified, and agreed to by the county
  - b. County Will:
    - i. Identify staff to be trained as trainers for each role within the system
    - ii. Ensure identified Super Users are able to attend all training sessions as agreed to
    - iii. Review and accept training materials and user documentation provided, and provide any feedback and requirements.
    - iv. Provide any necessary training facilities/ platforms and related equipment.
5. **Dependencies:** Requires system to be setup to review during the training.
6. **Completion Criteria:** Training session is provided.

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## EHR User Training

1. **Objective:** Provide support for County Super Users as they deliver training to County Users training in accordance with Training Plan.
2. **Description:** County designated Super Users will provide training to EHR users throughout the county utilizing “Train the trainer” services from EnSoftek as described and agreed to by both parties in the Training Plan.
3. **Deliverables:** Training Documentation, User Manuals, Training Plan Updates, In-training Incident Support
4. **Responsibilities:**
  - a. EnSoftek will:
    - i. Ensure that all users to be trained in a given session have appropriate access, data, and support to be trained by Marion County Staff.
    - ii. Provide access to Online User Manuals, Videos, and Webinars
    - iii. Ensure Ensoftek Staff availability during certain trainings to handle system level questions that may be beyond the knowledge of the training staff conducting the training.
  - b. County will:
    - i. Identify staff to be trained as users for each role and module within the sEnsure identified Super Users are able to attend all training sessions as agreed to
    - ii. Develop, manage, and execute training plan for all County users in DrCloudEHR.
    - iii. Review and accept training materials and user documentation provided, and provide any feedback and requirements.
    - iv. Provide any necessary training facilities/ platforms and related equipment.
    - v. Provide standard training sessions for County EHR Administrator and User personnel on the operations of the EHR system as specified in the implementation plan.

5. **Dependencies:** User Access, Materials and Use Cases developed, appropriate training data transferred/ entered
6. **Completion Criteria:** This task will be completed once on-site training classes for both County staff and County-selected end-users have been conducted as specified on the training plan.

## Acceptance Testing Plan

### Acceptance Testing Plan Tasks

1. **Objective:** Define, plan, and execute all required acceptance tests to verify system functionality and capability to successfully implement DrCloudEHR.
2. **Description:** User Acceptance Testing will occur through the course of DrCloudEHR Implementation. User Acceptance Testing requirements, if required, are defined as part of the completion criteria for each specific component of the implementation to which they pertain. EnSoftek Project Manager will work with the County project team, develop an "Acceptance Test Plan" to provide a general procedure for user acceptance testing and consolidate testing requirements defined for components of the implementation defined within this Statement of Work. The EnSoftek Project Manager will assist the County in the development of the system acceptance criteria for each task/ project component with specified acceptance criteria in the Implementation Plan and develop the Acceptance Test Plan that will detail the procedures to be utilized for the acceptance tests.
3. **Deliverables:** Acceptance Testing Plan Document, Approved Change Order Forms, Project Plan Updates
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. The EnSoftek Project Manager will develop the referenced plans for County Project Manager and MCHHS's review and approval. Coordinate all EnSoftek resources as required in the development of the related plans.
    - ii. Provide Access, data, and other requirements specified in the Acceptance Test Plan to allow for test case execution
  - b. County Will:
    - i. The County Project Manager and MCHHS will review and approve the Acceptance Test Plan.
    - ii. Specify functional and business requirements for the processes and functions being tested.
    - iii. Develop testing scenarios
    - iv. Assign Users for appropriate roles and insure that they are available to conduct testing procedures in a timely manner.
5. **Dependencies:** System modules, functions, interfaces, etc. are established prior to testing, clearly defined business requirements for system functionality.
6. **Completion Criteria:** This task is considered complete upon mutual acceptance of the written Acceptance Test Plan by EnSoftek and County project manager(s).

## Interface Specification and Plan

1. **Objective:** Specify required interfaces for DrCloudEHR, investigate feasibility for system interfacing, plan and schedule interface development, and implement required interfaces for the County.
2. **Description:** All system interfaces will be developed and deployed in accordance with the Interface Specifications (Attachment B) and Interface Plan as accepted by the County. All interfaces are subject to dependencies and are partially reliant on factors beyond the control of EnSoftek. As such, the deliverable items related to all interfaces are directly

dependent on the availability of external resources (connections to foreign systems, data, and other external components). The Interface Specifications document enumerates which interfaces the county desires and specifies where availability is subject to dependencies beyond the control of both parties and defines the obligation to investigate such dependencies. EnSoftek interface will be installed; however, EnSoftek has no control over other vendors and their timeline/ability to bring their side of the interface operational. Delays related to the required dependencies are not the responsibility of EnSoftek and may result in delays to certain deliverables as they relate to such interface functionality. All interfaces with other products will be completed as quickly as possible, however without the cooperation of the third-party software vendors, implementation could be delayed. This would not be the responsibility of EnSoftek and outside the scope of the SOW.

In the event current vendors change between execution of the contract to implementation phase, a Change Order Form will be required for the new interface to be added to the Interface Specifications. Where possible, EnSoftek will attempt to use existing interfaces for new requirements. In the event that a new interface needs to be developed/ established, EnSoftek reserves the right to require additional costs, to be defined and incorporated through change control procedures as agreed to by both parties.

3. **Deliverables:** Interface Specification and Plan Documents, Accepted Change Orders, Interface Specifications (Attachment B) updates, Interface Plan updates, Project Plan updates, System Interfaces with verified functionality
  
4. **Responsibilities:**
  - a. EnSoftek will:
    - i. Where defined in Interface Specifications, investigate the feasibility of system interfacing and provide such findings to the County.
    - ii. Develop interface development specification detailing interface for County Acceptance in accordance with Interface Specifications baseline defined in Attachment B.
    - iii. Develop software service/application that functions in accordance with the Interface Development Specification.
    - iv. Certify to the County that the interface is ready for integration testing.
    - v. Assist the County in testing the vendor interface.
    - vi. Review any discrepancies that are identified by the County.
    - vii. Provide software or documentation corrections as needed to correct the discrepancies prior to EnSoftek Final Certification.
    - viii. Certify EnSoftek delivered interface for production operation
  - b. County will:
    - i. Provide, on request, currently existing information, record layouts and documents necessary to establish interfaces with all local and remote systems and facilities at least ninety (90) days prior to interface installation.
    - ii. Review and accept the EnSoftek provided interface programming specification in accordance with contract specifications.
    - iii. Assume responsibility for any modifications or additions to any existing or non-EnSoftek supplied systems required to enable them to support the interfaces, as defined in the Functional System Description, Change List, and interface control documents.
    - iv. Provide and install all communications lines and equipment according to the contract documents.
    - v. Provide all required liaison support with the vendors/agencies and EnSoftek project management required to support the interfaces.



- vi. Ensure that necessary certifications, approvals and other related issues will be completed by the County at least ninety (90) calendar days prior to scheduled interface work.
  - vii. Ensure that the necessary technical support is made available for configuration, testing and demonstration of the interfaces.
  - viii. Conduct test procedures and verify all inter-system communications between installed EnSoftek systems and non-EnSoftek systems to ensure conformance with the approved standard document and interface control documents.
  - ix. Identify in writing each discrepancy between subsystem functionality and the provided EnSoftek interface documentation and interface control documents.
  - x. Work with EnSoftek to identify the type of correction needed to ensure that each subsystem conforms to the EnSoftek standard documents and interface control documents.
5. **Dependencies:** System modules, functions, interfaces, etc. are established prior to testing, clearly defined business requirements for system functionality.
6. **Completion Criteria:** This task is considered complete upon mutual acceptance of the written Acceptance Test Plan by EnSoftek and County project managers.

## Implementation Plan

EnSoftek's approach to the implementation plan includes training authorized MCHHS staff to be self-reliant in carrying out various functions in DrCloudEHR. With that in mind, EnSoftek staff will ensure the appropriate training and assistance is provided so the County staff can take the lead role to successfully input required data in the system with EnSoftek's guidance.

### Facilities Added (PS #25)

1. **Objective:** Define facilities and their use in DrCloudEHR. Instruct in the role and purpose of the facility and how to add facilities
2. **Description:** Defining facilities is the first step in configuring the DrCloudEHR environment. Setting up clinic and facilities should be based on careful consideration of future reporting needs, organizational structure. See Attachment C for details on Programs and locations baseline. Clarification needs to be established about how facilities operate in DrCloudEHR and the setup should be informed by this information. This precedes the ability to schedule appointments within the system and assigning staff to specific facilities. The County will provide facility information to EnSoftek for all programs. EnSoftek will review and training will be provided to County on how to set these up. An overview of how Facilities are utilized for billing will be provided by EnSoftek to The County.
3. **Deliverables:** Review the role of facilities in the system. Provide assistance with decision making about how to arrange, define, and configure facilities in the system. Define facilities to setup in DrCloudEHR and assist with setup of those facilities.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Provide an overview of the interface for creating facilities.
    - ii. Provide information about how facilities work in DrCloudEHR.
    - iii. Provide feedback on risks of configuring facilities in certain ways.
    - iv. Provide training and demonstrate the usage of this function to appropriate County personnel
  - b. County Will:
    - i. Attend training and take the knowledge and set up facilities.

- ii. Provide sufficient decision making around the setup of facilities considering information about how facilities work in DrCloudEHR.
  - iii. Define which clinics/programs and then what services each provides.
  - iv. Confirm the list of facilities to be created
  - v. Create facility records in DrCloudEHR
5. **Dependencies:** Requires setup of system environment according to base specifications.
  6. **Completion Criteria:** Authorized County staff is able to create facility records in DrCloudEHR.

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### Implementation Team Users Added (PS #26)

1. **Objective:** Identify Implementation Team users for getting set up for access to the DrCloudEHR system.
2. **Description:** This task is simply to identify the implementation team members and add them to users who can access the system.
3. **Deliverables:** Implementation team members are added as users in DrCloudEHR.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface for Implementation Team Users in the set up as well as providing a document that includes ALL data that can be captured in the DrCloudEHR user master files.
    - ii. Provide a tool for use in capturing any additionally desired user information from their staff (beyond the Basic data already provided to the DrCloudEHR team).
  - b. County Will:
    - i. Set up their Implementation Team Users: Front office, clinicians, clinic admin, physicians (also include NPs, PAs) and billing administration users (this includes any user that will need permission to access billing areas in DrCloudEHR)
5. **Dependencies:** Depending on how it is set up, it is meant for users to have restricted access to other patients in other facilities that the user is not associated with.
6. **Completion Criteria:** Implementation team members are able to access the system in the process of configuration.

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### Demographics Layout Requirements/ Changes (PS #27)

1. **Objective:** Define Requirements and changes for the layout of the demographics
2. **Description:** Setting up demographics page based on user preference of layout and demographics information that will need to be gathered by all programs.
3. **Deliverables:** Demographics fields customized and configured by DrCloudEHR staff according to the requirements and specifications of County, Facilitated Configuration discussions, Configuration documentation, approved change orders
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure the interface and provide guidance to make decisions around the needs of specific demographics fields.
  - b. County Will:

- i. Have appropriate staff attend the session to review demographics layout.
  - ii. Provide list of demographics fields (and options for filling in those fields) which are to be added (or removed) from the system.
5. **Dependencies:** Requires setup of system environment according to County specifications.
6. **Completion Criteria:** Demographics fields are added, and organized, according to demographics data that needs to be collected by all county programs.

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### Service Codes and Standard Fees (PS #28)

1. **Objective:** Establish Service Codes and Standard Fees for billing within the system
2. **Description:** Service codes are primarily used for billing and tracking of services rendered. Each code must be assigned a Code Type and Code. The need for REV codes should also be established and configured (if applicable).
3. **Deliverables:** Instructions to use interface to add service codes, descriptions, modifiers, and charges for billing for services. Determination if REV codes will be needed. If REV Codes needed, review with staff how to add REV codes to system and configure for inpatient billing.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface for the services code and standard fees.
    - ii. Provide training and guidance to show how to execute setting up service codes and standard fees.
  - b. County Will:
    - iii. Gather up the service codes and code types.
    - iv. Provide service descriptions as well as standard fees they charge for those services.
    - v. Provide modifiers and any related revenue codes as well.
    - vi. Enter and modify service codes as needed.
5. **Dependencies:** Based on the set up of Code type and assigned Codes, service codes currently being used and modifiers (where applicable) as well as revenue codes assigned.
6. **Completion Criteria:** Authorized County staff is able to add service codes and charges in DrCloudEHR. This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Calendar (Encounter) Categories (PS #29)

1. **Objective:** Set up of Calendar (Encounter) categories
2. **Description:** Staff will have the ability to set up the categories listing and to edit as necessary
3. **Deliverables:** Provide information on the purpose and use of categories in the system. Provide guidance around decisions related to categories and assist with setup.
4. **Responsibilities:**
  - a. EnSoftek Will:

- i. Configure interface of functionality and will provide training and guidance to set up categories in DrCloudEHR
  - b. County Will:
    - ii. Compile list of categories/encounters.
    - iii. Ensure all appropriate staff attend the training.
    - iv. Add and edit categories as required.
- 5. **Dependencies:** Requires successful setup of facilities and entry of service codes.
- 6. **Completion Criteria:** Authorized County staff is able to create calendar categories in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Configure User Permission Sets (ACLs) (PS #30)

- 1. **Objective:** Configure and set up User Permission Sets.
- 2. **Description:** ACLs (Access Control Logs) are permissions set up in DrCloudEHR that each user can assign set(s) of access permissions. There are default ACL groups already set up. This will provide training to users to make changes in the groups the user is associated with in DrCloudEHR. These settings should only be edited under the direction of you DrCloudEHR Implementation manager as changing these settings on your own can cause loss of access to vital areas of the EHR.
- 3. **Deliverables:** Provide ACL definitions and training on the role of ACLs in user profile and access.
- 4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface of User Permission Sets as well as provide training and direction only when to do so will not cause loss of access to vital areas of the EHR
  - b. County Will:
    - i. Compile a list of ACL user types (user roles/access) to set up in DrCloudEHR and to ensure the appropriate staff attend the training.
- 5. **Dependencies:** Requires user roles to be defined.
- 6. **Completion Criteria:** ACLs have been setup according to County requirements and user roles/permissions are available to attach to users.

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### Add Insurance Companies (PS #31)

- 1. **Objective:** Add insurance companies into DrCloudEHR for the purpose of billing.
- 2. **Description:** Add insurance company/payer information to the DrCloudEHR system for billing and claims.
- 3. **Deliverables:** Review setup of payers in the system. Establish payers information within the system.
- 4. **Responsibilities:**
  - a. EnSoftek Will:

- i. Configure interface and provide training and documented instructions for adding insurance companies into DrCloudEHR.
  - b. County Will:
    - i. Provide a list of payers to use in the system.
    - ii. Establish required payers in the system.
- 5. **Dependencies:** Requires system to be setup. Billing through clearinghouse requires payer ID's to be gathered and entered into payer information in the system.
- 6. **Completion Criteria:** Authorized County staff is able to add insurance companies in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Set Up Contract Manager (PS #32)

- 1. **Objective:** Setting up Contract Manager within DrCloudEHR
- 2. **Description:** The Contract Manager feature is designed to serve as a contract repository in which DrCloudEHR client organizations may record and manage contracts with multiple payers for single or multiple locations. Creating contracts allow providers to define payer specific allowable payment amounts for services (including specific code and modifier combinations), as defined in that provider's contract/fee schedule. While having this information available within the DrCloudEHR system is a very valuable reference tool, there are also more useful applications and benefits of using Contract Manager (payment posting, claims follow up, accounts receivable management, etc.). When posting insurance payments, whether manually or electronically (ERA processing), billing staff have the real time capability to see and flag items that were not paid according to your contract. This allows for more immediate claims follow up, knowledge of potential payer fee changes, and overall better Accounts Receivable Management. DrCloudEHR also provides reports that allow you to analyze claims payments that may be incorrect, based on allowable amounts defined using Contract Manager.
- 3. **Deliverables:** Functional access to enabled feature. Contracts with different Payers entered into system with required information.
- 4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface and provide guidance and knowledge on setting up billing contracts in the DrCloudEHR
  - b. County Will:
    - i. Provide contracts for insurance companies and will set them up with our guidance and training
- 5. **Dependencies:** Payers must be entered. Services must be entered. Contracts for services must be in place.
- 6. **Completion Criteria:** Authorized County staff is able to create contract charge entries in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Billing Rules (PS #34)

- 1. **Objective:** Setting up billing rules in DrCloudEHR

2. **Description:** Billing Rules provide the ability to change the service code and/or billing modifier when billing for a service. These changes may be required based on any number of factors. We support changing service code(s) and/or modifier(s) in some situations. Billing codes are applied when the encounter is closed by the clinician or the billing user can batch close encounters to apply the billing rules (changes to service codes/modifiers)
3. **Deliverables:** Provide instruction on the purpose and role of billing rules in DrCloudEHR. Provide training and assistance with defining and setting up billing rules. Interface configured with required Billing Rules.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface of billing rules within DrCloudEHR
    - ii. Provide training and guidance on setting up billing rules.
  - b. County Will:
    - i. Provide the types of billing rules they need to create.
    - ii. Ensure all required staff attend the training and review of setting up billing rules and how they apply
5. **Dependencies:** Billing rules requires services to be entered. Requires information about when service codes, modifiers, bill type should change.
6. **Completion Criteria:** Authorized County staff is able to create billing rules in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Golden Thread Rules (PS #35)

1. **Objective:** Establish Golden Thread Rules within the system
2. **Description:** Golden thread rules should be setup to enforce agency business rules around form completion or other compliance rules. Golden thread rules consist of triggers which can be forms, event, or data driven. They also can be setup to alert users in specified areas of the system in certain ways to call out breaches in compliance requirements.
3. **Deliverables:** Instruction for use of Golden Thread Rules. Assistance to define and setup of golden thread rules and compliance alerts.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Provide overview of purpose and functionality of Golden Thread Rules to a group of stakeholders defined by the county.
    - ii. Configure interface and provide training on setting up, maintaining, and using Golden Thread Rules.
    - iii. Review parameters and set up features for any rules that may be needed.
  - b. County Will:
    - i. Create a file that defines specific rules required or desired.
    - ii. Discuss with the DrCloudEHR implementation team how the Golden Thread Rules you would like to create may be used to manage the requirements.

- iii. Setup the rules desired.
- 5. **Dependencies:** Golden Thread rules require that specific compliance rules be defined. Facilities must be added. Form based rules require forms to be built and published. ACL specific notifications require ACL groups to be setup and attached to users.
- 6. **Completion Criteria:** Authorized County staff is able to create Golden Thread Rules in DrCloudEHR. This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Review Global Settings (PS #36)

1. **Objective:** Establish the County's ability to set up Global Settings in DrCloudEHR
2. **Description:** Global settings is where you can enable or deactivate modules or interfaces depending on settings. Stores global configuration settings in DrCloudEHR
3. **Deliverables:** Reviewed and approved Global Settings, Approved Change Orders, Submitted (Jira) requests to EnSoftek
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface of Global Settings.
    - ii. Provide training and guidance on Global Settings and describing how enabling or deactivating a Global Setting results in working with the different modules.
    - iii. EnSoftek implementation team, or EnSoftek support team members, are the only ones that will be authorized to make changes to global settings.
  - b. County Will:
    - i. Determine which interfaces to use within DrCloudEHR.
    - ii. Ensure the necessary staff are at the training to learn to manage Global Settings.
5. **Dependencies:** Requires system to be setup. Also requires knowledge of how global settings can affect system behaviors.
6. **Completion Criteria:** Global settings have been reviewed and any settings necessary for the County system to perform as required will be enabled or disabled.

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### Form/ Workflow Requirements (PS #39)

1. **Objective:** Define Form/Workflow requirements
2. **Description:** Setting forms within DrCloudEHR and tying them to specific workflows. Forms workflow allows the user to set the sequence of the encounter forms forming as a custom defined set. This also can be set to allow designated forms to be automatically attached to encounters when they are created.
3. **Deliverables:** Instruct on the role of workflows in the system and show how to set them up. Assist in developing workflows and consulting on internal grouping of forms.
4. **Responsibilities:**

- a. EnSoftek Will:
    - i. Configure interface for Form/Workflow Requirements within DrCloudEHR.
    - ii. Provide training and guidance to specified Super users on purpose and setup of workflows.
  - b. County Will:
    - i. Provide list of workflows (forms groupings based on clinic flow) that need to be setup.
    - ii. Setup workflows as required.
5. Dependencies: Workflows can only be created after all forms are chosen, built, and published.
  6. **Completion Criteria:** County has provided form/workflow requirements to EnSoftek. Forms have been developed and accepted by authorized County staff.

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### Change Admin Password (PS #40)

1. **Objective:** Changing the Admin Password in DrCloudEHR
2. **Description:** This is an internal task item for DrCloudEHR. Once sufficient information has been entered into the DrCloudEHR instance created for the County to where the breach of such information would represent a security risk, the internal use DrCloudEHR administrator password is to be changed to our rotating secure password.
3. **Deliverables:** EnSoftek will secure the administrator login using its security protocols. Our monthly change of passwords and ensuring it is followed for the County and how it is protected, etc.
4. **Responsibilities:**
  - a. County Will: Notify EnSoftek of any potential breaches in security related to the administrator account.
  - b. EnSoftek Will: Secure the internal administrator account according to established security protocols.
5. **Dependencies:** Requires system to be setup and a need to the system to be secured.
6. **Completion Criteria:** Administrator account is secured by password change and only available for use by EnSoftek authorized staff.

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### Settings Requirements (Day in the Life, PS #41)

1. **Objective:** Understand needs of program members to meet documentation requirements.
2. **Description:** This task is designed to offer a preview of work that will be needed to be performed in system setup and make sure that configured facilities, categories, forms, and workflows all work together as intended and will meet the needs of all users in all desired programs.
3. **Deliverables:** Provide review of day in the life (use case) scenarios with County staff. Provide assistance with configuration to make sure it will meet the needs of county staff to successfully capture required documentation.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface and provide training and guidance in how to utilize settings.
    - ii. Confirm that system will work according to needs of clinical staff to capture required documentation.
  - b. County Will:
    - i. Provide access to staff from all different programs to participate in day in the life review of options to be configured.



- ii. Work with EnSoftek to refine scenarios (use cases).
5. **Dependencies:** None. However, demonstrations of workflows in DrCloudEHR require that facilities be entered, user roles have been defined, forms created (or chosen), and published, categories defined, and workflows created.
  6. **Completion Criteria:** County will have provided an overview of their workflows and documentation requirements.

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### Discuss Form Development Baseline (PS #42)

1. **Objective:** Form Development Baseline discussion
2. **Description:** This task item involves reviewing forms needs to outline work required for forms development.
3. **Deliverables:** Provide review of forms needed to be created by the county for use in DrCloudEHR. Assistance in determining how the forms should be built. Generate a Form List.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Show form options using the existing forms library
    - ii. Train County on how to create consent forms
    - iii. Facilitate discussion and selection of the types of forms the County would like to implement.
    - iv. Provide estimates for development time and potential for added cost when creating custom forms that we have not already created.
    - v. Train County and provide documentation on how to use the custom form builder to create their own forms.
    - vi. Review the form builder tool.
    - vii. Provide information about specific form types and when each type should be used
  - b. County Will:
    - i. Provide EnSoftek form templates and access to staff that have knowledge of how forms are utilized to meet documentation requirements.
    - ii. Identify staff to be trained on custom form development processes and tools
5. **Dependencies:** Form creation may require facilities to be added. Documentation requirements must be defined.
6. **Completion Criteria:** Forms needed are agreed upon and plan is established for reviewing and/or building forms to meet County documentation requirements.

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### Map Customer Forms to Existing DrCloudEHR Forms (PS #44)

1. **Objective:** Map customer forms to existing DrCloudEHR forms
2. **Description:** This task involves a review of existing County forms and assistance with identifying possible alternative forms that may already exist in DrCloudEHR to use for documentation.
3. **Deliverables:** Review of existing forms and proposal for alternatives based on availability in the system.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Review forms, assist with consolidation of similar forms, and recommend potentially acceptable alternate forms that may already exist in the DrCloudEHR library of forms.

- b. County Will:
  - i. Provide required forms for review by EnSoftek.
- 5. **Dependencies:** Current forms in use must be identified. Requires forms to be provided for review.
- 6. **Completion Criteria:** Forms have been reviewed, EnSoftek has recommended acceptable alternative forms that may already exist in forms library.

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### Discuss Forms and Workflows (PS #45)

- 1. **Objective:** Discuss forms and workflows. Understand relationship and setup for forms and workflows.
- 2. **Description:** Forms workflows should be defined and configured according to information gathered in previous sessions/steps.
- 3. **Deliverables:** Assistance for learning the role of workflows and the relationship to forms and encounter categories. Review of how the workflows work, benefit, and relationship to encounters. Identify the specific workflow of each program.
- 4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface and provide training and guidance on Forms Workflows and Forms.
  - b. County Will:
    - i. Compile list of forms and to which workflows they would pertain to and should be set up.
    - ii. Ensure essential staff attend the training provided by EnSoftek.
- 5. **Dependencies:** Requires forms to be identified.
- 6. **Completion Criteria:** The relationship between forms and workflows will be reviewed and County will understand how workflows group forms for meeting documentation requirements.

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### Create Workflows (PS #46)

- 1. **Objective:** Create Workflows within DrCloudEHR
- 2. **Description:** Forms workflows need to be setup to identify how forms should be grouped for use in the system.
- 3. **Deliverables:** Assistance to identify the workflows to be created for system in order to meet documentation requirements for all programs.
- 4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface of creating workflows within DrCloudEHR.
    - ii. Provide training and guidance to users on how to create, edit, and maintain workflows.
  - b. County Will:
    - i. Provide list of workflows to be set up.
    - ii. Ensure that the appropriate staff attend training for this module.
    - iii. Set up workflows within the system.
- 5. **Dependencies:** Workflows must be identified.

- 6. Completion Criteria:** Authorized County staff is able to create workflows in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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## Enable Forms (PS #47)

- 1. Objective:** Enable Forms within DrCloudEHR
- 2. Description:** For those forms that are acceptable alternates, which have been built by (or for) other customer sites, enable those forms for use in the County instance of DrCloudEHR.
- 3. Deliverables:** Enabled Forms, based on review of existing forms recommended
- 4. Responsibilities:**
  - a. EnSoftek Will:**
    - Enable the existing forms identified for use in County instance of DrCloudEHR.
    - Provide assistance to the County in the developing and enabling of outstanding required custom forms.
  - b. County Will:**
    - Provide confirmation of identified alternate forms they would like to use.
    - Develop any required forms without existing alternative
- 5. Dependencies:** Requires that potential alternate forms be identified and recommended for use by DrCloudEHR staff.
- 6. Completion Criteria:** Existing, identified, forms will be enabled for use in County instance of DrCloudEHR.

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## Add Forms to Workflows (PS #48)

- 1. Objective:** Add forms to Workflows in DrCloudEHR
- 2. Description:** Forms that are in DrCloudEHR will have the ability to be added to workflows.
- 3. Deliverables:** Assistance and training on adding forms built, or enabled, to workflows that are determined and created by the county staff.
- 4. Responsibilities:**
  - a. EnSoftek Will:**
    - Configure interface to add forms to workflows
    - Provide training and guidance on how to utilize this module.
  - b. Add forms to defined workflows County Will:**
    - Determine which forms they want attached to workflows. Ensure appropriate staff are at the training. Attach forms to desired workflows.
- 5. Dependencies:** Requires workflows to be setup and forms enabled, selected/built, and published.
- 6. Completion Criteria:** Forms have been successfully added to the workflows created. Functionality has been tested and accepted by Users defined by county. This task/ project component is subject to User Acceptance Testing

procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Configure Form Settings (PS #49)

1. **Objective:** Configure Forms Settings
2. **Description:** Discuss and configure settings is where form completion criteria is set up and forms can be previewed. Running histories are set and the supervisor signature is set for forms requiring a clinician's work to be approved by a supervisor.
3. **Deliverables:** The forms settings area is introduced and configured.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface and provide training and guidance to essential users on how to configure forms settings within DrCloudEHR
  - b. County Will:
    - i. Provide appropriate staff to be introduced to forms settings area. Configure forms settings as desired.
5. **Dependencies:** Requires forms to be enabled, built, and published. Requires user roles to be configured.
6. **Completion Criteria:** Authorized County Staff is able to update/add form completion criteria, form running history fields, and supervisor signature is able to be updated for supervisory review of forms (where applicable). This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### All Users Added (PS #50)

1. **Objective:** All Users Added set up within DrCloudEHR
2. **Description:** This task involves setting up users and restricting their access to only what they need for their role. User Roles Utilized to set specific permissions within the DrCloudEHR system.
3. **Deliverables:** Users setup and configuration is introduced and users are successfully added to the system.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Will train authorized users on how to set the users up in the system.
  - b. County Will:
    - i. Set up their staff with user role defined access.
    - ii. Set up usernames and passwords for all staff utilizing DrCloudEHR.
5. **Dependencies:** Requires ACLs (user access log, permissions) to be established. A default set of user roles is setup with site setup. Any deviations or additional user roles would need to be defined prior to successfully setting up all users in the system.
6. **Completion Criteria:** Authorized County staff is able to create new users in DrCloudEHR.

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## Individual Appointment Schedule Features (PS #51)

1. **Objective:** Individual Appointment schedule features
2. **Description:** Create and edit individual appointment/schedule features. The check in process and how it relates to the creation of an encounter and how the encounter categories are used as the category for individual appointments. Repeat appointments may also be set up.
3. **Deliverables:** Train County staff on using the individual appointments. Discuss configuration options around appointments and review relevant setup items.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure and interface the scheduling features to allow for individual appointment scheduling.
    - ii. Provide training and guidance to users of this feature.
  - b. County Will:
    - iii. Provide appropriate staff to be introduced to individual appointment scheduling features and confirm individual appointments scheduling will work as needed.
5. **Dependencies:** Appointment scheduling requires facilities to be entered, categories to be setup, users entered. Forms workflow is an optional dependency for this feature.
6. **Completion Criteria:** Authorized County staff is able to create individual appointments in DrCloudEHR. This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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## Group Appointments Configuration (PS #52)

1. **Objective:** Set up and Configure Group Appointments
  2. **Description:** This training session will show how to enable group sessions and how to ensure they are accessible in the schedule and how to access them. Adding participants to a group session and how the flow of data from group appointments is set up and working. Can automatically add newly admitted clients to ongoing group appointments.
  3. **Deliverables:** Assistance to setup and configure group session appointment templates. Review of group session management capabilities, check in process, and how group appointments are connected to encounters for completion of group documentation.
- Responsibilities:**
- a. EnSofttek Will:
    - i. Set up interface and provide training on the group appointments configuration
  - b. County Will:
    - i. Compile a list of group appointments that they offer and provide to EnSofttek for review and input.
    - ii. Ensure the essential staff attend training for group session management.
    - iii. Create group appointment categories as needed.
4. **Dependencies:** Facilitating group appointments require that facilities be entered, categories to be setup, users entered. Forms workflow is an optional dependency for this feature.

5. **Completion Criteria:** Authorized County staff is able to create group appointments in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Patient Flow Configuration Review (PS #54)

1. **Objective:** Set up and make configurations for the Patient Flow
2. **Description:** Discuss flows of tasks in user processes to make sure all items are configured appropriately. Admitting clients to programs/facilities, viewing client list in the counselor dashboard, how supervisors can view counselor dashboard, workflows of forms and the purpose of having that form open when an encounter with related workflow is created.
3. **Deliverables:** Provide training and assistance to operate client admissions, discharges, and assigning a provider and management of counselor dashboard view.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure interface and provide training and overview on the patient flow from admit to discharge.
  - b. County Will:
    - ii. Provide appropriate staff to be trained to conduct admits, discharges, caseload view.
5. **Dependencies:** Requires facilities to be entered, user roles defined.
6. **Completion Criteria:** Authorized County Staff will be able to successfully admit clients, discharge clients, and view caseload using the counselor dashboard. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Import Patient Data (PS #54)

1. **Objective:** Import existing patient data from previous EHR (if applicable)
2. **Description:** The limitations around data import should be discussed and reviewed.
3. **Deliverables:** Provide data import templates to the County staff. Provide instruction around data import capabilities. When data import templates are received from County staff, import the data into County instance of DrCloudEHR.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Work with County to develop Data Conversion Plan.
    - ii. Provide instructions on methods of data import and limitations to users specified by the County.
    - iii. Import the data into County instance of DrCloudEHR
  - b. County Will:
    - i. Identify data that should be imported from previous EHR.
    - ii. Provide resources to plan and execute successful export of data from old system.

- iii. Provide exported data to EnSoftek in acceptable formats for data import into County instance of DrCloudEHR.
- 5. **Dependencies:** Assumes there is a prior electronic health record with valuable client data to be imported to DrCloudEHR.
- 6. **Completion Criteria:** Plan for import of existing patient data will be planned and successfully executed according to mutually approved specifications.

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## **MOTS and other Outcome Reporting Configurations (PS #55)**

1. **Objective:** Connection to MOTS for state required data reporting
2. **Description:** DrCloudEHR has a 2<sup>nd</sup> generation MOTS reporting integration capability. This interface allows for automatic MOTS record generation, editing of the MOTS record, submitting the records to MOTS manually or automatically, and reporting capabilities for managing successful and failed submissions to MOTS.
3. **Deliverables:** Provide training and configuration of MOTS reporting module in DrCloudEHR.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Provide instruction on setup and functionality of MOTS reporting features.
    - ii. Configure MOTS specific connection credentials.
  - b. County Will:
    - i. Provide MOTS specific facility IDs.
    - ii. Specify programs that are subject to MOTS reporting requirements.
    - iii. Identify staff to participate in configuration and collaboration with MOTS representatives to be responsible for MOTS reporting at the applicable County programs.
5. **Dependencies:** MOTS reporting needs to be a requirement. MOTS facility IDs must be known. MOTS connection credentials need to be obtained. Representatives from state managed MOTS provide connection credentials and give guidance and feedback on submitted MOTS records to help troubleshoot submission issues and unexplained failures.
6. **Completion Criteria:** Authorized County staff is able to create and submit MOTS records through DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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## **Laboratory Interfaces (PS #55)**

1. **Objective:** View lab results matched to client in DrCloudEHR.
2. **Description:** Using the existing lab interface or additional interfaces as defined and determined to be feasible within Interface Specifications (Attachment B) and Interface Plan, users will be able to view and sign off on lab results which come into DrCloudEHR electronically from the lab provider.
3. **Deliverables:** Provide setup and configuration and training of lab interface with approved lab provider.
4. **Responsibilities:**
  - a. EnSoftek Will:

- i. Provide staff to work with lab provider to configure and test the interface.
      - ii. Provide training to designated County Super Users on the use of the lab interface
    - b. County Will:
      - i. Initiate request for interface with desired lab provider.
      - ii. Provide necessary items for lab company to approve interface with DrCloudEHR. Inform DrCloudEHR of any updates from lab provider or any interface requirements.
5. **Dependencies:** Lab provider and lab results available to view
6. **Completion Criteria:** Lab interface will be enabled, configured and available for use by County staff. This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### ePrescribing (Dr. First, PS #66)

1. **Objective:** Allow prescriptions to be sent electronically to pharmacy from DrCloudEHR (*Optional*)
2. **Description:** Interface through DrFirst enables users to add medications and or prescriptions (for authorized and identified prescribers)
3. **Deliverables:** Enabled and accessible DrFirst interface to add/edit medications for clients and allow prescribers to send prescriptions to pharmacies electronically Setup users to be able to utilize DrFirst interface as needed.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure the interface. Add users to DrFirst and provide training for its use.
  - b. County Will:
    - i. Provide list of providers that will need access to medication detail for clients as well as prescribers that should be setup. Also need to
    - ii. Identify those prescribers who will need to be able to prescribe controlled substances.
    - iii. Ensure staff is available to be trained on DrFirst interface.
    - iv. Assign administrator that will be responsible for managing controlled substance providers at the County (if applicable)
5. **Dependencies:** Requires users to be identified who will need access to DrFirst. Requires those users to be created in DrCloudEHR.
6. **Completion Criteria:** Authorized County staff is able to send prescriptions to pharmacy using DrCloudEHR. This task/project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### ETAR/ EMAR Configuration (PS #69)

1. **Objective:** Allow medication administration to be tracked



2. **Description:** DrCloudEHR has a built-in module for tracking administration of medications.
3. **Deliverables:** Enabled and accessible EMAR module in DrCloudEHR, which is configured for use by the County.
4. **Responsibilities:**
  - a. EnSofttek Will: Configure the module and provide training to assigned users.
  - b. County Will: Ensure staff who need to use the EMAR is present for training on the use of the module.
5. **Dependencies:** Requires medications to be entered for clients. Facilities and users to be entered.
6. **Completion Criteria:** Authorized County staff is able to create, and complete, EMAR records in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Open Edge Payment Processing, POS Configuration (PS #72)

1. **Objective:** Allow for credit card payments to be collected from directly in DrCloudEHR
2. **Description:** Integration with merchant payment processor OpenEdge is available to use in DrCloudEHR. The use of this interface requires an agreement to be in place between County and OpenEdge.
3. **Deliverables:** Enabled and accessible OpenEdge interface. Configured interface for county use, Super user training to support interface.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure the interface.
    - ii. Provide training on the use of the payment gateway interface.
  - b. County Will:
    - i. Provide information for connecting County OpenEdge account to DrCloudEHR.
    - ii. Ensure staff are available for training.
5. **Dependencies:** Requires OpenEdge account to be setup and active.
6. **Completion Criteria:** Authorized County staff is able to capture credit card payment information in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Methasoft Integration (PS #82)

1. **Objective:** Interface with Methasoft medication management/administration software.
2. **Description:** Methasoft is a specific software for tracking and reporting methadone dispensing that allows for some data to be connected with DrCloudEHR.
3. **Deliverables:** Enable Methasoft interface for individual dosage reporting to DrCloudEHR
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure the module and provide training to assigned users.

- b. County Will:
  - i. Ensure staff who need to use the Methasoft interface is present for training on the use of the module.

5. **Dependencies:** Methasoft dispensing software.

6. **Completion Criteria:** Authorized County Staff is able to upload files to DrCloudEHR from Methasoft. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Telehealth Configuration (PS #73)

1. **Objective:** Allow users to be able to setup telehealth appointments, send meeting invites, and initiate telehealth sessions all from within DrCloudEHR.

2. **Description:** Telehealth sessions can be enabled in DrCloudEHR to permit users specifically signed up as telehealth providers to be able to create telehealth appointments, send meeting invites, and start telehealth sessions from inside of DrCloudEHR.

3. **Deliverables:** Provide identified Telehealth user setup; enroll, configure, and provide training materials and guidance for County to train telehealth enabled users.

4. **Responsibilities:**

a. EnSoftek Will:

- i. Configure Telehealth enabled users.
- ii. Provide training materials and guidance for County to train telehealth enabled users.

b. County Will:

- i. Provide list of users to enroll in Telehealth through DrCloudEHR.
- ii. Ensure assigned telehealth users have sufficient training to be able to use the Telehealth features.
- iii. Provide training to Telehealth enabled users

5. **Dependencies:** Requires facilities, categories, and users to be entered. Also requires billing staff to make sure billing settings for Telehealth services are correct.

6. **Completion Criteria:** Authorized County staff have verified capability to create, provide, and bill for telehealth appointments in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### West Messaging Configuration, Patient Messaging (PS #68)

1. **Objective:** Set up of patient reminders service.

2. **Description:** West is a service that allows DrCloudEHR users to send text messages, emails, phone calls or voicemails to clients to remind them of upcoming appointments for an additional monthly cost

3. **Deliverables:** Enable the interface for sending desired reminders to the messaging service vendor and provide appropriate access to reminders reports. Provide training on use of the reminder service.

**4. Responsibilities:**

- a. EnSoftek Will: Configure interface and provide an accounting of cost. Training and guidance on setting up and functionality if chosen.
- b. County Will: Create and maintain an active account with the reminder messages vendor. Provide connection credentials to EnSoftek. Provide staff to make sure reminder messages are going out as desired.

**5. Dependencies:** Once confirmation is received that account has been set up, EnSoftek will enable global settings based on account information received.

**6. Completion Criteria:** Authorized County staff is able to enter patient appointments where reminders are sent to client as designated in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Interfax Configuration (PS #71)

**1. Objective:** Set up Interfax Configuration (Faxing capabilities within DrCloudEHR)

**2. Description:** InterFax is an additional service that allows DrCloudEHR users to send and receive faxes inside of the DrCloudEHR interface. Sent and received faxes can be connected to the patient documents area to keep track of fax correspondence regarding patients.

**3. Deliverables:** Provide configuration of fax service module for use in DrCloudEHR.

**4. Responsibilities:**

- a. EnSoftek Will:
  - i. Configure interface and set up the InterFax service in DrCloudEHR and then enable Interfax Integration. Training and guidance provided on how to use the Interfax correspondence.
- b. County Will:
  - i. Provide account credentials to DrCloudEHR to set up and connect the fax service.

**5. Dependencies:** County must notify EnSoftek of their intent to use this feature; County must create and maintain active InterFax account.

**7. Completion Criteria:** Authorized County staff is able to send and receive faxes in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Patient Portal Requirements/ Configuration (PS #70)

**1. Objective:** Establish requirements for configuration of patient portal and share knowledge for effective patient portal development, operation, and administration.

**2. Description:** DrCloudEHR includes a patient portal that allows users to give access to designated areas or forms in DrCloudEHR to patients where they can edit their contact information, see information collected on the patient (which providers opt to share) or fill out forms for review in DrCloudEHR.

The areas of the patient portal available for display and editing by patients (set globally) are as follows:

- a) Selected areas of patient demographics (where allowed, as determined during setup)
- b) Insurance information

- c) Consent Forms
- d) Visit Forms
- e) Appointments - either openly requesting appointments or finding available appointments as designated by provider
- f) Secure messaging with providers
- g) Uploaded documents, historical reports of secure messages sent or received regarding the patient, labs, etc.
- h) Patient payment entry

**3. Deliverables:**

- a. Accessible patient portal
- b. Patient Portal Support Training and Materials for County Staff to provide to individuals in service to access Patient Portal

**4. Responsibilities:**

- a. EnSoftek Will:
  - i. Enable the portal in the global settings and determine which sections of the portal should be turned on or off.
  - ii. If forms are enabled, setting the forms that should be visible in the portal.
  - iii. Discussion of the workflow around filling out forms and resetting forms after completion.
  - iv. Going over how to turn on the portal for each patient and generating (or resetting) their login credentials.
  - v. Going over how patients can gain access to the portal and login process.
- b. County Will:
  - i. Provide Input and templates for sections, forms, and workflows to be made available through the Patient Portal to EnSoftek
  - ii. Identify Staff to receive and capture patient access administration and training

- 5. Dependencies:** Test patient must be entered into DrCloudEHR, enable portal access and generate username and password.

**Completion Criteria:** Authorized County staff is able to generate patient portal login and login to the portal using a test client. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Billing and Service Ticket Handling Workflows (PS #57)

1. **Objective:** Review billing flow and make sure users understand billing process in DrCloudEHR
2. **Description:** This task is intended to review all items necessary to be entered for clients to be able to successfully generate and submit claims to payers.
3. **Deliverables:** Provide training and assistance around required setup of billing for services in DrCloudEHR. Configure billing settings as necessary.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Review billing requirements and settings to assist in the billing setup.
    - ii. Train billing staff on use of billing specific settings which can affect claims. Configure the system as necessary.

- b. County Will:
  - i. Provide access to billing staff to review billing settings for successfully submitting claims to payers.
- 5. **Dependencies:** Requires facilities, service codes, charges, categories, forms, and test patients (or real patients), clearinghouse setup to be completed.
- 6. **Completion Criteria:** Authorized County staff is able to generate claims and review them for accuracy. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### **Billing Settings (Clearinghouse SFTP, confirm codes/categories, global set to client preferences) (PS #68)**

1. **Objective:** Set up billing settings
2. **Description:** Based on billing settings review, clearinghouse will need to be connected to DrCloudEHR to successfully submit claims. This task includes obtaining clearinghouse connection settings and configuring DrCloudEHR to connect to clearinghouse chosen by County.
3. **Deliverables:** Provide configuration services and assistance with setup of clearinghouse connection settings in DrCloudEHR and provide training to make sure county staff know how payers that are to be billed through each clearinghouse are identified and configured in the payer settings.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface for the billing settings and to provide training and guidance on how to set these up and manage them.
  - b. County Will:
    - i. Identify clearinghouse(s) and provide sufficient information to EnSoftek to assess cost and schedule impacts, if clearinghouse selected is one other than those referenced in RFP response
    - ii. Set up business agreement with DrCloudEHR supported Clearinghouse and Provide connection settings to EnSoftek (provided by clearinghouse)
5. **Dependencies:** Requires contract with desired clearinghouse to be in place. Requires payers to be identified.
6. **Completion Criteria:** Verified claims successfully submitted to clearinghouse. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### **Insurance Company Specific NPIs (PS #69)**

7. **Objective:** Adding Insurance Company Specific NPIs into DrCloudEHR
8. **Description:** If there are providers who are not credentialed with payers, those providers may be setup to have their supervising/credentialed provider NPI number go on those claims.
9. **Deliverables:** Provide training around the ability of the system to insert credentialed NPIs on claims for non-credentialed providers.
10. **Responsibilities:**
  - a. EnSoftek Will:

- i. Configure interface for Insurance Company NPIs.
- ii. Provide training and guidance on how to add NPIs into Insurance settings.
- b. County Will:
  - i. Provide NPI numbers for providers that are not credentials with Insurance Companies that require it with their claims.
  - ii. Ensure the correct staff attend training on this module.

**11. Dependencies:** Requires users to be setup with NPIs, payers entered.

**12. Completion Criteria:** Authorized County staff is able enter insurance company specific NPIs. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

### Create Billing Rules (PS #60)

1. **Objective:** Create Billing Rules (as applicable)
2. **Description:** Billing rules can be created in DrCloudEHR for billing. This enables changing service codes, modifiers, fees, Place of Service, claim type, billable status, or units type based on payer, payer type, certifications of providers, etc. Billing Rules are applied to Services when encounters are closed.
3. **Deliverables:** Provide training on purpose of billing rules and assist with setup of billing rules needed by the County to make changes to service codes or modifiers to go on claims.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure interface for billing rules to be created based on billing rules and requirements.
    - ii. Provide training and guidance to set these up within DrCloudEHR
  - b. County Will:
    - i. Gather basic service codes, certifications, levels of education for users, identify appropriate billing rules, select services to which billing rules should apply.
5. **Dependencies:** Requires service codes to be entered, categories created, users entered, and payer specific billing requirements to be identified.
6. **Completion Criteria:** Authorized County staff is able to create billing rules in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

### Electronic Remittance Advice Configuration (PS #71)

1. **Objective:** Configure and set up ERAs
2. **Description:** This allows the clearinghouse to send their ERAs back to the clinic for automatic upload to the EHR software; this data can then be automatically imported into the EHR to track how payments were applied.
3. **Deliverables:** Provide training on, and configuration of, incoming payment remittances from the clearinghouse so that payment are automatically applied to patient ledger and matched with claims sent out.
4. **Responsibilities:**

- a. EnSoftek Will:
    - i. Configure integration of ERA automatic downloads within DrCloudEHR.
    - ii. Provide training and guidance to set up ERA configuration and utilize it for billing reconciliation.
  - b. County Will:
    - i. Enroll with payers to receive ERA's electronically (where available).
    - ii. Provide notice of which payers will make ERAs available for download.
5. **Dependencies:** Requires EDI connections with payers or clearinghouse, requires claims to be submitted so that ERA files can be downloaded.
6. **Completion Criteria:** Authorized County staff is able to upload ERA file in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Set Up Claims Rules (PS #72)

1. **Objective:** Set Up Claims Rules within DrCloudEHR
2. **Description:** The Claim Rules feature was designed so that all payer and/or facility specific claims formatting requirements could be met, without having to ever open and/or edit the claim within Claims Manager. When properly defined, a claim rule allows your DrCloudEHR system to populate the required value into a designated field on the claim form specified for an encounter. The benefit to establishing Claim Rules is so that your DrCloudEHR system can automatically and accurately populate specified fields on a claim form, based on unique payer requirements.
3. **Deliverables:** Provide MCHHS staff training and guidance on the use of claim rules and assist with setup of necessary claim rules.
4. **Responsibilities:**
  - a. EnSoftek Will:
    - i. Configure interface to set up Claims Rules.
    - ii. Provide training and guidance on the utilization and setting up the Claims Rules.
  - b. County Will:
    - i. Determine if this feature is needed and to ensure all required staff that work within the billing claims is at the training on this feature.
5. **Dependencies:** Requires an understanding of what payers want to see on claims to pay them. The claim rules make sure none of the fields containing data go missing on the claim form. Requires facilities, payers to be setup.
6. **Completion Criteria:** Authorized County staff is able to enter and edit claim rules in DrCloudEHR. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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### Troubleshoot Claims Submissions, make sure 999, 276/277s claims statuses are working (PS #73)

1. **Objective:** Making sure claims are acceptable for moving through clearinghouse to the payers

2. **Description:** Knowledge of claim status (as they move through the clearinghouse and to the payer is an important part of the billing and claims process. This task reviews this process and makes sure that claims statuses are getting updated in DrCloudEHR.
3. **Deliverables:** Configured and operational claims status update processes with verification from payers/clearinghouse where available.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Configure the interface to receive the claim status updates and make sure they are working in the system.
    - ii. Provide training on their use to specified Super Users.
  - b. County Will:
    - i. Enroll in any necessary enhancements with payers or clearinghouse if status of claims is desired to show up in DrCloudEHR.
    - ii. Provide any necessary EDI connection credentials for 999, 276/277s provided by clearinghouse to DrCloudEHR.
    - iii. Identify Super Users to be trained on troubleshooting claims submissions
5. **Dependencies:** Requires connections with payers/clearinghouse to provide these claims status updates. May require separate enrollment(s).
6. **Completion Criteria:** Claims statuses will successfully be updated in Claims manager. Verified success, demonstrated status updates. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.

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## Finalize Build Out/ Configuration (PS #74)

1. **Objective:** Review completed work and confirm it works according to specifications.
2. **Description:** Review of any outstanding items to make sure scope of work is completed.
3. **Deliverables:** Final review of tasks in scope of work to make sure all items are complete.
4. **Responsibilities:**
  - a. EnSofttek Will:
    - i. Provide necessary implementation resources to finish configuration of system to County's complete satisfaction
  - b. County Will:
    - i. Assign staff to review and provide feedback on any items that may be outstanding from SOW.
5. **Dependencies:** All systems go.
6. **Completion Criteria:** SOW has been reviewed and DrCloudEHR configuration is deemed to be complete. This task/ project component is subject to User Acceptance Testing procedures prior to satisfaction of completion criteria. Please refer to Acceptance Testing Plan for details. Functionality must be tested and accepted by authorized County users.



## Data Conversion Plan

### EHR Data Conversion Tasks

1. **Objective:** Convert the existing EHR data into the new EnSoftek system.

2. **Description:**

Provide data conversion services to existing textual data and update the newly installed EHR system with the historic information contained within the County's existing EHR system.

**NOTES:** EnSoftek will utilize an industry standard data migration methodology, documented in a data conversion plan as accepted by the County. The EnSoftek conversion process will give the County the opportunity to check the validation for completeness and accuracy before committing to take the system live.

The Data Conversion Plan will contain specific details on data conversion. This enumerates the data to be converted, the conversion and validation steps, a go-live procedure, and any special field mappings that may be required by the County. Special emphasis is placed on identifying and mitigating any data differences that exist between the new EHR and legacy EHR system.

The first data conversion, or a set of sample data as specified in data conversion plan and agreed to by both parties, will be done just before deploying the initial system for key project personnel. This provides data for training and testing. After the system is configured and data is transferred, key project personnel can work with EnSoftek staff to certify the data conversion and correct any problems that have been identified. If Data Acceptance test fails, additional test conversions can be done for certification. When the final data conversion test plan and sample data is acceptable to County, the final go-live process can be scheduled, and the final data conversion will be done during this process.

EnSoftek can only convert data into the new EHR system where useable data is provided by the County and an appropriate related data element exists in the existing EHR database. Data that cannot be reconciled, or deemed unnecessary by both parties, according to the conversion plan will not be converted. EnSoftek makes no guarantee that all existing data can be converted. After final data acceptance completion, any changes to the data must be made by manual data entry by County or through formal change control procedures with EnSoftek.

3. **Deliverables:** Data Conversion Plan describing the mapping of data elements and the handling of exceptions.

4. **Responsibilities:**

a. EnSoftek will:

- i. Conduct a Data Discovery process by working with County subject matter expert(s) to complete a data field mapping between DrCloudEHR and the existing EHR system.
- ii. Develop a data conversion plan control document that describes agreed-upon mapping of data elements and the handling of exceptions.
- iii. Develop the conversion code based on the discovery findings, including both the data extraction routines and the data upload scripts. Where possible perform the data conversion according to the specifications in the control document with data provided by the County.
- iv. A conversion is moving data from one system to another according to the data field mapping. EnSoftek is not responsible for scrubbing or modifying data from the original system. Any data that does not programmatically convert may be maintained in a notes field for historical reference.
- v. Be required to perform, at minimum, 1 test conversion and 1 Production conversion of the agreed upon data elements. Up to three additional test conversions may be performed if required by County to ensure data integrity.

- vi. Verify current EHR database schemas on designated test servers.
  - vii. Deliver to County and upload converted data to the County designated test server.
  - viii. Project Manager will assist in the data review with County and define Data Acceptance tests.
  - ix. Perform a final data conversion upon County's review and approval of the test data conversion.
- b. County will:
- i. Provide existing EHR data in a standardized SQL .BAK file but EnSoftek can work with County to determine a relevant acceptable format including ASCII, pipe-delimited files and/or in a common database structure (MS SQL Server, etc.) on request by EnSoftek project manager.
  - ii. Provide subject matter and technical expert(s) with sufficient expertise related to the data being converted. The subject matter and technical expert(s) will work with EnSoftek during the Data discovery, data review and Sign-Off phases.
  - iii. Provide secure access to the database to be converted in the EnSoftek specified format.
  - iv. Will modify all data being converted to fit the format designated by EnSoftek to fit the DrCloudEHR system.
- 5. Dependencies:**
- a. Provision of the EHR data in a common data interchange format mutually agreed.
  - b. County EHR subject matter expert to assist with data mapping and validation.
  - c. County will facilitate screen shots and output reports containing inmate data to assist with conversion mapping.
  - d. Network Access to the required transaction/interchange point via the County Network.
- 6. Completion Criteria:** This task will be completed upon uploading into the new EHR databases the converted data records from the Department's existing Lock and Track EHR system, as outlined in the Data Conversion and External Conversion sections of the EnSoftek developed project plan and verified by County as defined in the Acceptance test plan.

## Go-Live Plan

- 1. Objective:** Transition all defined Programs and EHR users to working live within the new system.
- 2. Description:** Ensoftek will work with the County to develop a phased Go-Live Plan to be accepted by the County. The plan will specify a comprehensive schedule for the Go-Live of all identified programs within the EHR, as specified in Attachment C. Programs in Scope.
- 3. Deliverables:** Go-Live Plan document
- 4. Responsibilities :**
  - a. Ensoftek Will:
    - i. Assist the county in developing a Go-Live Plan document
    - ii. Insure that all requirements for each phase of go-live are prepared prior to program go-live dates
  - b. The County Will:
    - i. Work with Ensoftek to develop a Go-Live Plan document
    - ii. Insure that each of the following is complete for each group of programs within respective go-live dates:
      - A. Systems Connectivity:

- 1) All PCs have been checked to ensure that the EHR application can be accessed.
  - 2) EHR system faxes have been tested and are working.
  - 3) Wireless PC connections have been checked and areas without connection or “dead spots” have been identified and communicated to wireless users.
  - 4) EHR system interfaces have been tested and are working. This includes E-prescribing, lab orders and results, and any other interface required for operation of the system as defined in the Interface Specifications and any subsequent updates/ change orders.
  - 5) All computers can connect to a printer and print from the EHR system.
- B. Backups and Downtime:
- 1) System backups have been tested and validated. Off-site storage of backups has been arranged and test by EnSoftek.
  - 2) Downtime procedures have been established and are ready to go, if necessary.
  - 3) Paper copies of all patient forms, templates, etc. have been made available in the event of a system failure.
- C. Staff
- 4) Staff has been trained on any new EHR policies and procedures and has signed off indicating that they understand the new policies and procedures.
  - 5) Staff has completed EHR application training (education session sign-in logs have been verified).
  - 6) All morning staff has been instructed to arrive to work 30 minutes early to prepare for the first patients.
  - 7) Staff has performed a “system walk through” of an individual visit from beginning to end, allowing questions to be answered and minor glitches to be corrected.
- D. The Practice
- 1) Appointment times/schedules have been modified to allow for the EHR’s learning curve.
  - 2) Signs have been placed around the practice to let individuals know that an EHR is being implemented and requesting patience with delays.
  - 3) Notification has been provided to individuals in service to let them know that an EHR is being implemented and requesting patience with delays.
  - 4) The phone tree message has been updated with a message stating that the practice is implementing a new EHR and requesting patience with delays.
  - 5) Go-Live day “break area” has been established with snacks and drinks for the staff.
  - 6) Expectations have been set that the Go-Live day might not be perfect, but we will get through it if everyone does the best job they can.
  - 7) Review current new client forms – modify if necessary.
  - 8) Review consent forms, might need new language added.
- E. Support:
- 1) Support escalation procedures have been completed and are in place. The escalation plan has been communicated to all staff and to Ensoftek (these are procedures that define what

actions will be taken in the event there is a problem, who will manage the problem internally, and if necessary, who will report the problem to the vendor).

- 2) The Practice Champions have been trained and are aware of their roles and functions for Go-Live.
- 3) Support team “huddles” have been established to check in and review the issues.
- 4) The resource team has been identified and will be available to make critical system changes on the fly.
- 5) DrCloudEHR has been notified of the Go-Live and is on site or on standby for support.

F. Application

- 1) All users have successfully signed in to the Live EHR system with their own user name and password. Everyone can log on and has the correct privileges.
- 2) Any necessary configurations and deployments for system functionality are complete and have been signed-off on.
- 3) The EHR has been tested and has been signed-off on.
- 4) Paper reports and forms that will be generated out of DrCloudEHR have been tested.

5. **Dependencies:** Operational system with all necessary data, forms, defined roles, workflows, and other tested requirements configured and entered into the system to the extent that live operations can commence for clinical services within the system.

6. **Completion Criteria:** All components of Go-live Plan document have been completed and all programs defined in Attachment C: Programs In-Scope or as specified by Subsequent Change Orders have been effectively transitioned to operating within the new system. Within three (3) days of completion of final phase of system “Go-Live” EnSoftek will certify completion of the EHR system set up in writing to the County.

## Post Go-Live Plan

1. **Objective:** Provide stabilization support for a 60 day period following certification of go-live completion and transition into on-going system support as defined in Master Contract Exhibit C Master Hosted Web Services Agreement, Attachment A, Custom Service Level Agreement, and Exhibit F, Contractor’s Proposal Response to the County’s RFP.
2. **Description:** Ensoftek will work with the County to provide stabilization support as defined in Attachment A of Exhibit C and Exhibit F, Contractor’s Proposal Response to the County’s RFP.
3. **Deliverables:** Post Go-live Support Services, Documented Support Requests, Completed Change Orders
4. **Responsibilities:**
  - a. EnSoftek will:
    - i. Provide support services
    - ii. Provide access for the County to a system for capturing, monitoring, documenting, and managing support requests submitted by the County
    - iii. Assist the County in transitioning to on-going support
  - b. The County will:
    - i. Submit on-going support requests to Ensoftek

ii. Work with EnSoftek to transition to on-going support

5. **Dependencies:** Completion of Go-Live Plan and related tasks

6. **Completion Criteria:** Provide stabilization support for a 60 day period following certification of go-live completion and transition into on-going system support as defined in Exhibit C, Attachment A, Custom Service Level Agreement and Exhibit F, Contractor's Proposal Response to the County's RFP.

## Project Completion and Sign Off

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### EHR Final Acceptance

1. **Objective:** Complete post go-live final system acceptance with the following tasks associated with the final acceptance milestones.
2. **Description:** Perform a series of acceptance tasks based on the following time period:
  - a. Within three (3) days of completion of final phase of system "Go-Live" EnSoftek will certify completion of the EHR system set up in writing to the County.
  - b. Upon receipt of notification EnSoftek and County project managers will ensure that all work per this Statement of Work, and any project change orders, has been completed and will acknowledge go-live acceptance of the system in accordance with the Acceptance Testing Plan.
3. **Deliverables:** Completion Notification, All Completed Change Orders, System Acceptance Acknowledgement
4. **Responsibilities:**
  - EnSoftek will:
    - a. Certify completion of the EHR system set up in writing to the County
  - The County will:
    - a. Work with EnSoftek to ensure that all work per this Statement of Work, and any project change orders, has been completed and will acknowledge go-live acceptance of the system in accordance with the Acceptance Testing Plan.
    - b. Dependencies: Completion of Go-Live Plan and related tasks

**Completion Criteria:** This task is considered complete when the system acceptance criterion, as described in the Acceptance Plan, has been met and final system acceptance has been acknowledged in writing by the County.

**END OF EXHIBIT B NARRATIVE**

# Attachments

## Attachment A: Marion County Change Order Form

Project Information			
Project Name	Electronic Health Records Management System Replacement (EHR)		
Vendor/Contractor	EnSoftek, Inc. (DrCloudEHR™)	Exec Sponsor	Ryan Matthews
Date Submitted		Project Sponsor	
Submitted By		Project Manager	Justin Winn
Change Request ID		Current Phase	

Change Request	Impact Severity	Priority
Defect: <input type="checkbox"/> Enhancement: <input checked="" type="checkbox"/> Issue: <input type="checkbox"/>	Critical: <input checked="" type="checkbox"/> High: <input type="checkbox"/> Medium: <input type="checkbox"/> Low: <input type="checkbox"/>	Resolve Immediately: <input type="checkbox"/> Normal Queue: <input type="checkbox"/> Give High Attention: <input checked="" type="checkbox"/> Low Priority: <input type="checkbox"/>

General Description
<i>Overview of project changes &amp; reason for implementation</i>
Functional Change Requested
<i>Describe the previous function and the new function requested</i>
Potential Solution
<i>This section of the form is optional - Potential solutions can be suggested here for consideration</i>
Benefits Derived from Change
<i>Describe the benefits of approving and implementing this change request</i>
Level of Effort
<i>List the hours, resources and budget necessary to complete the requested change</i>
Impact if Change is not Approved
<i>Describe why this change is necessary, and the impact if not implemented</i>
Attachments
<i>List supporting documents relevant to this change request</i>

# Attachment B: Interface Specifications baseline

## Interface Specifications

ID	Interface Description	Action Requested - Unless otherwise noted "investigate" is being used to signify that assessing vendor interface capability is the responsibility of Ensoftek.	Description of Elements
INT004	System interfaces with current on premises (Oracle ERP)	Investigate	Current Enterprise Resource Planning platform, current manual processes for Accounts Receivable (Billing), Accounts Payable, Point of Sale System, and Supply Chain Management.
INT005	EDIE/Premianage/ Collective Medical (Send only currently)	Investigate	County providers and monitoring emergency services interactions for current and potential individuals receiving Diversion, Crisis Intervention, or other services.
INT007	MOTS - Oregon Behavioral Health	Accept - DrCloudEHR to initiate process	Behavioral Health and Alcohol and Drug clinics.
INT008	EXPRS- DD billing system	Investigate	Piet Vormeer, Senior Systems Analyst, OREGON HEALTH AUTHORITY, Health Systems Division piet.vormeer@state.or.us, <a href="http://www.oregon.gov/OHA">http://www.oregon.gov/OHA</a>
INT009	ALERT - Immunizations	Investigate	State operated payments and eligibility system for all Developmental Disabilities clients and providers.
INT011	THEO- Maternal Child Health	Investigate	ALERT IS is a computerized statewide immunization information system. When patients receive an immunization at a participating clinic, it is reported to THEO (formerly ORCHID- Oregon Child Health Information Data System) is the data entry system within FamilyNet (Citrus) used to collect data for the Babies First, CaCoon, and Maternity Case Management programs. Data for billing, program evaluation, and Title V reporting are collected. ORCHIDS enables the program to analyze and describe the services being provided by Maternal and Child Health (MCH) programs across Oregon.
INT012	Wraptrack (Oregon Wraparound)	Investigate	CDC system for tracking and reporting on HIV testing and services.
INT013	MMIS (OR Medicaid)	Investigate - County to clarify requirements	Medicaid Management Information System operated by the State of Oregon, used to access eligibility information for Oregon Health Plan members. DHS.EDI.Support@state.or.us
INT014	Lasenfiche Document Management	Investigate	Enterprise Content Management used for all records retention processes. System Admin: Rich Meyers (RMYYERS@co.mason.or.us)
INT015	Reliance, State Sponsored HIE	Accept - DrCloudEHR to initiate process	Health Information Exchange allows health care professionals and patients to appropriately access and securely share a patient's medical information electronically. OHA has contracted with Reliance eHealth Collaborative (Reliance) for this program. Reliance will onboard priority (Medicaid physical, behavioral, and oral health providers, according to a work plan developed in consultation with Medicaid partners. COCs will be involved in defining the program process. Other providers in their region participate in the program process. The program will be implemented through a Request for Proposals (RFP) process. COCs must have a data, funding, or governance relationship with Reliance. The On-Boarding program and incentives will run through September 2021.
INT019	Third party transcription service (e.g. FutureNet, eScribe, etc.), Premier Technologies (Current)	Investigate - Premier (County's current system) County to review option for established interface with Nuance 360 (DrCloud proposed)	Medical Transcriptions services dealing with the process of transcribing voice-recorded medical reports that are dictated by physicians, nurses and other practitioners.
INT021	Methasoft, (Natalytics)	Accept - County to initiate	<a href="https://www.oregon.gov/oha/PHU/ABORTORYSERVICE/Pages/Program-Information.aspx">https://www.oregon.gov/oha/PHU/ABORTORYSERVICE/Pages/Program-Information.aspx</a>
INT022	Oregon State Public Health Laboratory	Investigate - County to initiate	<a href="https://oregonstatepublichealthresources.wadswak/">https://oregonstatepublichealthresources.wadswak/</a>
INT023	Touchpoint (Enghouse/ Enghouse EICC)	Investigate	Tamara Sale (tsale@ohsu.edu), Haley Knowles (hknowles@ohsu.edu) or , Megan Sage (msage@ohsu.edu)
INT024	Wraptrack (Oregon Wraparound)	Investigate	
INT025	RedCAP (OHSU)	Investigate	
	Telehealth (Zoom)	Accept - DrCloudEHR to initiate process	
	Open Edge (Payment/ Card Processing) with Teller (MC System)	Pending	
	West Messaging (Patient Messaging)	Accept - DrCloudEHR to initiate process	
	Interfax	Accept - DrCloudEHR to initiate process	
	DrFirst (E-Prescribing)	Accept - DrCloudEHR to initiate process	County currently has 12 prescribing providers and all of them maintain credentials for Controlled Substances
	Redwood Toxicology ( <a href="https://www.redwoodtoxicology.com/contact">https://www.redwoodtoxicology.com/contact</a> )	Investigate	( <a href="https://www.redwoodtoxicology.com/contact">https://www.redwoodtoxicology.com/contact</a> )
	In-Touch (PacificSource Community Solutions, PCS)	Investigate	
	QUEST Diagnostics	Accept - County to initiate	
	Cytocheck (Lab)	Pending	

## General Interface Requirements from RFP

INT001	System supports HL7 developed standards for the electronic data exchange between systems and entities	HL7 is a basic framework for standardizing the transfer and use of Protected Health Information (PHI). More information can be found here: <a href="http://www.hl7.org/implementation/standards/">http://www.hl7.org/implementation/standards/</a>
INT002	System supports FHIR	Fast Healthcare Interoperability Resources is a draft standard describing data formats and elements and an application programming interface for exchanging electronic health records. More information can be found here: <a href="https://www.hl7.org/fhir/overview.html">https://www.hl7.org/fhir/overview.html</a> .
INT003	System supports other current technologies for data interchange (including but not limited to ANSI ASC X12, SGML, XML) and utilize APIs for connecting to third party software and devices	Various forms of data exchange.

ATTACHMENT C  
PROGRAMS IN SCOPE

Division Name	Division Code	Program Code	Program Name	Sub-Program Code	Sub-Program Name	Elicitation Group	Go-Live Group
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BCAMA	PCC Collaborative Assessment/ Management of Suicide Adult	AH	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BCAMC	PCC Collaborative Assessment/ Management of Suicide Child	AH	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	CORT	Crisis Outreach Team	AI	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BRESA	Alcohol & Drug Brief Resource and Enhance Support	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	APCC	Adult Behavioral Health Crisis Services	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BRESA	Brief Resource and Enhance Support Aid Assist	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BRESJ	Brief Resource and Enhance Support Jail Referrals	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BRESX	Brief Resource and Enhance Support Prescriber	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	CPCC	Child Crisis Services	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	IRP	Interim Respite Program	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	PCPC	Primary Care Physician Children	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	PCPA	Primary Care Physician Adult	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	BRES	Brief Resource and Enhance Support	V	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	ANCR	New Crisis Respite Adult	W	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	APRE	Adult Pre-Commitment	X	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	CPRE	Child Pre-Commitment	X	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	MCRTA	Mobile Crisis Response Team Adult	Y	1
Behavioral Health	BH	AFD	Acute, Forensic & Diversion Services	MCRTC	Mobile Crisis Response Team Child	Y	1
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	CII	Community Integration Initiative	AG	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	PSH	PSR Supported Housing	AJ	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	SHP	Supported Housing Project	AK	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	BHDD	Adult Behavioral Health Developmental Disabilities	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	AOP	Adult Behavioral Health Outpatient	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	AMED	Adult Medical Services	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	GCM	Geriatric Case Management	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	SUAT	Service Utilization and Assess	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	WIN	Work Incentives Network	K	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	AFH	Adult Foster Home	L	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	RES	Adult Residential	L	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	ECOS	Enhanced Care Outreach Service	M	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	ECS	Enhanced Care Services	M	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	PASR	Adult Behavioral Health PASAAR	N	2



ATTACHMENT C  
PROGRAMS IN SCOPE

Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	PSRB	Adult Behavioral Health PSRB	O	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	DDPSR	Developmental Disabilities PSRB	O	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	WORKS	Work Solutions	P	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	AICC	Adult Intensive Care Coordination	Q	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	ACT	Assertive Community Treatment Mental Health	R	2
Behavioral Health	BH	AOP	Adult Outpatient Mental Health Services	AACT	Assertive Community Treatment Alcohol & Drug	R	2
Behavioral Health	BH	ATS	Addiction Treatment Services	OPCRT	Alcohol & Drug Drug Court Outpatient	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	AA&D	Alcohol & Drug Adult Outpatient Services (Not Indigent)	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	HEROP	Alcohol & Drug Her Place Outpatient	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	HERPL	Alcohol & Drug Her Place Residential	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	MECRT	Alcohol & Drug Methadone Drug Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	METH	Alcohol & Drug Methadone Services	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	MEVET	Alcohol & Drug Methadone Veterans Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	SXCRT	Alcohol & Drug Suboxone Drug Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	DUII	Alcohol & Drug DUII Treatment Services	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	ADTXB	ACT Clients Enrolled with Alcohol & Drug Outpatient	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	OPMHD	Alcohol & Drug Outpatient Mental Health Drug Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	OPVET	Alcohol & Drug Outpatient Veterans Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	ADOL	Adolescent Drug Treatment	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	DUIED	DUII Education Only	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	MENTR	Mentoring Services Alcohol & Drug Only	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	MEMHD	Methadone Mental Health Drug Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	SUBOX	Suboxone	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	SUMHD	Suboxone Mental Health Drug Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	SUVET	Suboxone Veterans Court	T	3
Behavioral Health	BH	ATS	Addiction Treatment Services	SOAR	Student Opportunity for Achieving Results	U	3
Behavioral Health	BH	ISS	Intensive Supports and Services	CNCR	ED Diversion Program Children New Respite	AD	4
Behavioral Health	BH	ISS	Intensive Supports and Services	CICC	Childrens Intensive Care Coordination	AF	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	CMED	Child/ Adolescent Medical Services	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	LATG	Childrens Behavioral Health Latino Grant	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	COP	Childrens Behavioral Health Outpatient	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	FATC	Fostering Attachment Treatment Court	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	PCITO	Parent Child Interaction Therapy OHP	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	PCITG	Parent Child Interaction Therapy Grant	G	4

ATTACHMENT C  
PROGRAMS IN SCOPE

Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	SUATC	Service Utilization and Assessment Children	G	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	CCOT	Community Crisis Outreach Team Children	H	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	YFCSN	Youth and Family Crisis NB	H	4
Behavioral Health	BH	COP	Child and Youth Outpatient MH Services	YFCS	Youth and Family Crisis Services	H	4
Behavioral Health	BH	ISS	Intensive Supports and Services	EAST	EASA Service Utilization Adult Mental Health	I	4
Behavioral Health	BH	ISS	Intensive Supports and Services	EASTC	EASAC Service Utilization Children Mental Health	I	4
Behavioral Health	BH	ISS	Intensive Supports and Services	CANS	Child/ Adolescent Needs and Strength	J	4
Behavioral Health	BH	ISS	Intensive Supports and Services	DHSFA	DHS Foster Children Assessments	J	4
Behavioral Health	BH	ISS	Intensive Supports and Services	JDMHA	Juvenile Department Mental Health Assessment	J	4
Behavioral Health	BH	ISS	Intensive Supports and Services	JDMHD	Juvenile Detention Alcohol & Drug Assessment	J	4
Behavioral Health	BH	ISS	Intensive Supports and Services	WRAP	Mid-Valley WRAP Program Children	J	4
Behavioral Health	BH	ISS	Intensive Supports and Services	NSOLU	New Solutions	J	4
Human Services	HS	RSS	Residential Supports and Services	REC	Cottages Intensive Residential ECMU	E	2
Human Services	HS	RSS	Residential Supports and Services	RAP	Rental Assistance Grant Program	F	2
Human Services	HS	RSS	Residential Supports and Services	YRAP	Young Adult Rental Assistance Program	F	2
Public Health	PH	CDC	Communicable Disease Control	TB	Tuberculosis	AC	4
Human Services	HS	RSS	Residential Supports and Services	CIIC	Exceptional Needs Care Coordination for CII	AE	5
Public Health	PH	CPS	Clinical Preventative Services	PHIV	HIV Prevention	AA	5
Public Health	PH	CPS	Clinical Preventative Services	IMM	Immunizations	AA	5
Public Health	PH	CPS	Clinical Preventative Services	STI	Sexually Transmitted Infections	AA	5
Public Health	PH	CPS	Clinical Preventative Services	EISO	Early Intervention and Outreach Services	AB	5
Public Health	PH	CPS	Clinical Preventative Services	EPID	Communicable Disease	AC	5
Public Health	PH	MCH	Maternal Child Health Services	MCHN	Maternal Child Home Nursing	Z	5
Public Health	PH	MCH	Maternal Child Health Services	BF	MCHN Babies First	Z	5
Public Health	PH	MCH	Maternal Child Health Services	CACN	MCHN Cocoon	Z	5
Public Health	PH	MCH	Maternal Child Health Services	EBF	MCHN Expanded Babies First	Z	5
Public Health	PH	MCH	Maternal Child Health Services	EBFM	MCHN Expanded Babies First Mothers	Z	5
Human Services	HS	IDD	Developmental Disabilities Services	IDDC	Case Management	A	6
Human Services	HS	IDD	Developmental Disabilities Services	IDDE	Eligibility	B	6
Human Services	HS	IDD	Developmental Disabilities Services	IDDL	Licensing	C	6
Human Services	HS	IDD	Developmental Disabilities Services	AAI	Adult Abuse Investigations	D	6

EXHIBIT C

**EnSoftek, Inc.**

**MASTER HOSTED WEB SERVICES AGREEMENT**



**EnSoftek, Inc.**  
**735 SW 158<sup>th</sup> Ave, Suite 140**  
**Beaverton, OR 97006**  
**[www.drcloudehr.com](http://www.drcloudehr.com)**  
**[www.ensoftek.com](http://www.ensoftek.com)**



## MASTER HOSTED WEB SERVICES AGREEMENT

This Master Hosted Web Services Agreement ("Agreement") is entered into as of July 15, 2020 ("Effective Date"), by and between *EnSoftek, Inc.*, an Oregon corporation and its *affiliated companies* with principal office located at 735 SW 158<sup>th</sup> Avenue, Suite 140 Beaverton, OR 97006 ("EnSoftek") and Marion County, a political subdivision of the State of Oregon ("Customer"). All references to "we", "us", or "our" shall mean EnSoftek and its affiliated companies. All references to "you" or "your" shall refer to Customer, and to any of your Affiliates (defined below) that agree to be bound by this Agreement.

### 1. Definitions.

- 1.1. "Web Services." DrCloudEHR™ online Electronic Medical Records (EMR) service as may be more particularly described on the applicable Order, and any updates or upgrades to our Web Services that may be generally released by us to all customers from time to time. We reserve the right to update and modify the Web Services from time to time.
- 1.2. "Order." A written purchase order signed by the parties in the form of Schedule C, "Investment Overview" or any official Change Request or other binding Order Confirmation to be attached to this Agreement.
- 1.3. "Affiliate." Any parent or Subsidiary Corporation, and any corporation or other business entity controlling, controlled by or under common control with you.
- 1.4. "Privacy Policy". Our Privacy Policy that may be accessed as follows <http://www.drcloudehr.com/privacy-policy/>. We reserve the right to modify our Privacy Policy from time to time in accordance with its terms.
- 1.5. "HIPAA Regulations." The Standards for Privacy of Individually Identifiable Health Information and the Security Standards for the Protection of Electronic Protected Health Information [45 C.F.R. Parts 160 and 164] promulgated by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, modified, or renumbered.
- 1.6. "HITECH Act." The Health Information Technology for Economic and Clinical Health (HITECH) Act, Pub.L. 111-5, Div. A. Title XIII and Title IV of Div. B.) (generally effective February 17, 2010).
- 1.7. "ePHI." The same meaning as the term "electronic protected health information" under the HIPAA Regulations.
- 1.8. "Qualified Service Organization/Business Associate Agreement." The same meaning as "business associate" agreement under the HIPAA Regulations, as modified to comply with the Confidentiality of Patient Records Act (as defined below.)
- 1.9. "Changes." All Changes to this Agreement will be contained in Schedule D.

### 2. Web Services.

- 2.1. Subject to the terms and conditions hereof, including without limitation our Privacy Policy and the applicable Qualified Service Organization/Business Associate Agreement, we shall provide the nonexclusive, non-transferrable right to use and operate the Web Services to you and your Affiliates during the term of this Agreement in accordance with the applicable Order. The initial Order is attached.
- 2.2. The parties agree to execute the Qualified Service Organization/Business Associate Agreement attached as Schedule A with the understanding that it is the Qualified Service Organization/Business Associate Agreement that is applicable to this Agreement.
- 2.3. You will be granted authorized login protocols for the Web Services, and you agree not to use the Web Services in excess of your authorized login protocols. You agree not to access (or attempt to access) the Web Services by any means other than through the login protocols we provide. You agree not to access





other rights and remedies, accelerate Customer unpaid obligations under such agreements so that all obligations become immediately due and payable, and suspend services until such amounts are paid in full. Other than for customers paying by credit card or direct debit whose payment has been declined, EnSoftek will give Customer at least 10 days' prior notice that the account is overdue, before suspending services.

- 3.5. **Change in Fees.** EnSoftek will notify Customer of any change in subscription fees for Services effective thirty (30) days after providing notice; provided, however, that such an increase will not exceed 5% in a twelve (12) month period. Fees for Optional add-ons are subject to change at any time with a thirty (30) day prior notice, effective thirty (30) days from the date notice was sent.

**4. Ownership.**

4.1. The software and technology used by us to generate and provide the Web Services are protected by law, including, but not limited to, United States copyright law and international treaties. The copyrights and other intellectual property rights in this material are owned by us and/or others. Except for the limited rights granted herein, all other rights are reserved.

4.2. You will be the co-owner of all intellectual property rights in your patient files. We will make available your data in a common acceptable format when requested.

**5. Term; Termination.**

5.1. This Agreement shall commence on the Effective Date and will remain in full force and effect for 60 months ("Initial Term") and any subsequent Renewal Terms.

5.2. At the expiration of the Initial Term, this Agreement will automatically renew for successive twelve (12) month periods (each a "Renewal Term" and collectively with the Initial Term the "Term") unless either party provides the other party written notice of its intent not to renew this Agreement at least sixty (60) days prior to the expiration of the current term.

5.3. This Agreement may be terminated prior to the expiration of the Term on written notice: (i) By EnSoftek, if Customer fails to pay any amount due hereunder and such failure continues for 30 days after Customer's receipt of written notice of nonpayment; (ii) By EnSoftek, if Customer commits a material breach of any material provision of this Agreement and either the breach cannot be cured or, if the breach can be cured it is not cured by Customer within fifteen (15) days after Customer's receipt of written notice of such breach; (iii) By Customer, if EnSoftek commits a material breach of any warranty set forth in Section 7 and such breach is not cured by EnSoftek in accordance with Section 7.1; (iv) By either party, effective immediately, if the other party files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

5.4. Termination of your account includes (i) removal of access to all Web Services, and (ii) deletion of your login protocols. Promptly after the effective date of termination, we will transmit your patient files in a commercially reasonable data format. EnSoftek will make every reasonable effort to provide the data to the Customer but will not be held liable if Customer does not make necessary arrangements for receipt of data within fifteen (15) days of termination

5.5. The expiration or termination of this Agreement, for any reason, shall not release either party from any liability to the other party, including any payment obligation that has already accrued hereunder.



**6. Account-Related Responsibilities.**

6.1. You are responsible for maintaining the confidentiality of your login protocols, and any additional information that we may provide regarding accessing the Web Services. If you knowingly share your login protocols with another person who is not authorized to use the Web Services, this Agreement is subject to termination for cause. You agree to immediately notify us of any unauthorized use of your login protocols or any other breach of security.

**7. Limited Warranty: Disclaimers.**

7.1. We warrant that (i) we will undertake commercially reasonable efforts to maximize uptime for the Web Services, except for routine maintenance, and (ii) the Web Services will be free of material defects and will conform to the descriptions provided in the applicable order ("Limited Warranty"). Your sole and exclusive remedy for breach of this Limited Warranty shall be the prompt correction of material defects and non-conforming Web Services at our expense. EXCEPT FOR THE FOREGOING LIMITED WARRANTY, WE DISCLAIM ALL WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING IMPLIED WARRANTIES RESPECTING MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.

7.2. We represent and warrant that during the term of this Agreement, we will comply with applicable state and federal laws and regulations, including without limitation, HIPAA, HITECH ACT and Identity Theft protection Act.

**8. Consequential Damages Waiver.**

8.1. EXCEPT (i) AS MAY BE PROVIDED IN ANY APPLICABLE QUALIFIED SERVICE ORGANIZATION/BUSINESS ASSOCIATE AGREEMENT OR THE HIPAA REGULATIONS OR THE HITECH ACT OR THE CONFIDENTIALITY OF PATIENT RECORD ACT, OR (ii) FOR OBLIGATIONS REGARDING CONFIDENTIAL INFORMATION EXPRESSLY PROVIDED HEREIN, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER ANY THEORY INCLUDING CONTRACT AND TORT (INCLUDING NEGLIGENCE AND STRICT PRODUCTS LIABILITY) FOR ANY INDIRECT, SPECIAL OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY CAUSING SUCH DAMAGES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**9. Indemnity; Liability Cap.**

9.1. "Loss" or "Losses" means (a) all reasonable attorney fees paid or payable by an Indemnitee (as defined in Section 9.2 below) in defense of any claim subject to indemnification under this Section 8, whether prior to, at trial or any other proceeding and in any appeal or other post judgment proceeding; and (b) all sums paid or payable to any other person, including all direct losses and damages (except as disclaimed in this Agreement), injuries (including personal injury, sickness and death), interest, costs, fines, taxes, premiums, assessments, penalties, expenses, attorney fees (whether incurred prior to, at trial or any other proceeding and in any appeal or other post judgment proceedings) and other liabilities of any kind or nature.

9.2. Indemnification Obligations. Each party (the "Indemnitor") will indemnify, defend, and hold harmless the other party, its Affiliates, and their respective officers, directors, shareholders, employees and agents (jointly and severally, the "Indemnitees") from and against all Losses asserted directly or indirectly by any other person for any actual or alleged: (a) infringement of any trademark, patent, copyright, right of privacy, publicity, name or likeness, or any other intellectual property right of that other person, or misappropriation or unauthorized use or disclosure of any trade secret of another person, by the Indemnitor or any Web Services, goods or services provided by the Indemnitor; (b) defect in the Web Services, goods or services provided by the Indemnitor; (c) negligent act or omission by the Indemnitor; (d) breach of any representation, warranty or covenant in this Agreement, any Order or elsewhere by the Indemnitor; (e) intentional misconduct by the Indemnitor; (f) violation of any applicable law by the



Indemnitor; and (g) claim that any of the Indemnitor's employees, principals, contractors or subcontractors are employees of an Indemnitee; in each case, whether arising from or in connection with a demand, action, regulatory action, lawsuit, proceeding (including proceedings under the US Bankruptcy Code), judgment, settlement, appeal or other post judgment proceeding and whether asserted in contract, tort, strict liability or otherwise.

9.3. **Exceptions.** The indemnification obligations described above will not apply to a Loss to the extent that Loss was caused by: (a) the Indemnitees' negligent acts or omissions; (b) the Indemnitees' breach of any representation, warranty or covenant in this Agreement or elsewhere; (c) the Indemnitees' intentional misconduct; (d) the Indemnitees' violation of any applicable law; (e) the Indemnitor's compliance with specifications or detailed instructions submitted by an Indemnitee, but only if the Loss would not have arisen but for that compliance; (f) the Indemnitees' modification of the Web Services, goods or services provided by the Indemnitor without the Indemnitor's consent (other than those modifications contemplated by the Parties); (g) the Indemnitees' use of Web Services, goods or services provided by the Indemnitor in combination with software, goods or services that were not provided or recommended by the Indemnitor or contemplated by the parties, except that this exception will apply only if (i) there are other commercially reasonable non-infringing alternative uses for the Web Services, goods or services provided by the Indemnitor; and (ii) the Loss would not have arisen but for that combination; or (h) the Indemnitees' use of any Licensed Web Services, goods or services after the Indemnitor has furnished to the Indemnitees, at no additional cost, a non-infringing version of the Web Services, goods and services that provide the same or greater functionality and performance as the original Web Services, goods and services.

9.4. **Procedure.** The Indemnitor's duty to indemnify the Indemnitees under this Section 9 is subject to the Indemnitees' compliance with each of the following conditions:

- (a) **Notice.** The Indemnitees promptly notify the Indemnitor of the Loss (except that the Indemnitees' failure to promptly notify the Indemnitor of a Loss will not limit, impair or otherwise affect the Indemnitees' rights under this Section 8 unless the Indemnitor is prejudiced by that failure, and then only to the extent of the prejudice); and
- (b) **Authority.** The Indemnitees give the Indemnitor full and complete authority (including settlement authority) and reasonable assistance (including reasonable access to information in the Indemnitees' possession) for that defense. However, the Indemnitor's rights under this subsection are contingent on its agreement that it will not settle any claim without the Indemnitees' prior written consent unless that settlement includes a full and final release of all claims against the Indemnitees and does not impose any obligations on the Indemnitees.

9.5. **Liability Cap.** Except (i) as may be provided in any applicable QUALIFIED SERVICE ORGANIZATION/BUSINESS ASSOCIATE AGREEMENT OR THE HIPAA REGULATIONS OR THE HITECH ACT OR THE CONFIDENTIALITY OF PATIENT RECORD ACT, or (ii) for obligations regarding confidential information expressly provided herein, our aggregate liability, if any, including liability arising out of contract, negligence, strict liability in tort or warranty, or otherwise, shall not exceed the total of monthly fees payable by you for the six (6) periods immediately preceding the claim for such liability.

**10. Reciprocal Disclosure of Confidential Information and ePHI.**

10.1. We anticipate that each of us may disclose confidential information to the other. Accordingly, we desire to establish in this Section terms governing the use and protection of certain information one party ("Owner") may disclose to the other party ("Recipient"). The Owner retains sole and exclusive ownership of its Confidential Information (defined below).





- 10.2. For purposes hereof, "Confidential Information" means the terms and conditions hereof, and other information of an Owner (i) which relates to Web Services, including non-public and confidential business models and plans, and technical information and data of Owner or its customers or suppliers, (ii) which includes or relates to patient files or patient records, or (iii) which, although not related to the Web Services, is nevertheless disclosed hereunder, and which, in any case, is disclosed by an Owner to Recipient in document or other tangible form bearing an appropriate legend indicating its confidential or proprietary nature, or which, if initially disclosed orally or visually is identified as confidential at the time of disclosure and a written summary hereof, also marked with such a legend, is provided to Recipient within fifteen (15) days of the initial disclosure.
- 10.3. Recipient may use Confidential Information of Owner only for the purposes of this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only as reasonably required to perform its obligations under this Agreement and only to its employees who have a need to know for such purposes and who are bound by signed, written agreements to protect the received Confidential Information from unauthorized use and disclosure. The restrictions of this Agreement on use and disclosure of Confidential Information shall not apply to information that: (i) is in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no wrongful act of Recipient; (iii) is received by Recipient from a third party free to disclose it without obligation to Owner; or (iv) is independently developed by Recipient without reference to Confidential Information.
- 10.4. Recipient may also receive personally identifiable information, individually identifiable health information or ePHI (together referred to as "Customer's Individually Identifiable Confidential Information" or "CII Confidential Information") in connection with the Web Services. Recipient shall comply with all duties and obligations imposed by the applicable Qualified Service Organization/Business Associate Agreement under the HIPAA Regulations, the HITECH ACT, the Confidentiality of Patient Records Act, and any other federal or state regulations governing the disclosure of personally identifiable information, individually identifiable health information or ePHI transmitted to Recipient in connection with the Web Services. Any breach of the applicable Qualified Service Organization/Business Associate Agreement by Recipient, or any violation by Recipient of the HIPAA Regulations, the HITECH ACT, the Patient Records Act, or the Oregon Identity Theft Protection Act will be a material breach of this Agreement.
- 10.5. Notwithstanding anything to the contrary contained herein, an Owner may request Recipient in writing to return or destroy the Owner's Confidential Information, and the Recipient agrees to comply promptly, and in the case of destruction, to certify in writing that the destruction has been completed.
- 11. Export Control.**
- 11.1. We provide Web Services and use software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies and the export control regulations of Switzerland and the European Union. You acknowledge and agree to comply with applicable export controls.
- 12. Registration Data.**
- 12.1. Registration is required for you to establish an account at the Web Services. You agree (i) to provide certain current, complete, and accurate information about you as prompted to do so by our online





registration form ("Registration Data"), and (ii) to maintain and update such Registration Data as required to keep such information current, complete and accurate. You warrant that your Registration Data is and will continue to be accurate and current, and that you are authorized to provide such Registration Data. You authorize us to verify your Registration Data at any time. If any Registration Data that you provide is untrue, inaccurate, not current or incomplete, we retain the right, in its sole discretion, to suspend or terminate rights to use your account. Solely to enable us to use information you supply us internally, so that we are not violating any rights you might have in that information, you grant to us a nonexclusive license to (i) convert such information into digital format such that it can be read, utilized and displayed by our computers or any other technology currently in existence or hereafter developed capable of utilizing digital information, and (ii) combine the information with other content provided by us in each case by any method or means or in any medium whether now known or hereafter devised. The Registration Data will not be provided to any third parties and will be protected from unauthorized disclosure to third parties as provided in Section 13.2 below.

**13. Monitoring.**

13.1. We reserve the right to monitor your access and use of the Web Services without notification to you.

**14. Information Security; Security Notice.**

14.1. Customer shall be solely responsible for acquiring and maintaining technology and procedures for maintaining the security of Customer's link to the Internet.

14.2. As part of the Web Services, we shall implement and maintain commercially reasonable and appropriate information security procedures with respect to any of Customer's Individually Identifiable Confidential Information, or pursuant to this Agreement, consistent with prevailing industry standards to protect data from unauthorized access by physical and electronic intrusion, and that comply with applicable privacy rights, applicable law and business guidance issued by any federal or state regulatory agency to protect personally identifiable information, individually identifiable health information or ePHI. Without limiting any other provision in this Agreement, EnSofttek will not allow any other of its customers to view any information or data of Customer, its patients, employees, suppliers, licensors or licensees.

14.3. Unless resulting from the failure of EnSofttek and its affiliate companies to perform the obligations specified in Section 10 and Section 14.2 above, the parties agree that we shall not be held responsible or liable for situations (i) where data or transmissions are accessed by third parties through illegal or illicit means, or (ii) where the data or transmissions are accessed through the exploitation of security gaps, weaknesses, or flaws unknown to us at the time and should not have reasonably been known to us in EnSofttek's risk assessment.

14.4. We will (a) promptly report to you any unauthorized access to your data promptly upon discovery by us, and we will use diligent efforts to promptly remedy any breach of security that permitted such unauthorized access. In the event notification to persons included in your data is required, you shall be solely responsible for any and all such notifications at your expense.

**15. Miscellaneous.**

15.1. **Notices.** We may give notice to you by means of (i) a general notice in your account information, (ii) by electronic mail to your e-mail address on record in your Registration Data, or (iii) by written communication sent by first class mail or pre-paid post to your address on record in your Registration Data. Such notice shall be deemed to have been given upon the expiration of forty eight (48) hours after mailing or posting (if sent by first class mail or pre-paid post) or twelve (12) hours after sending (if sent by email). You may give notice to us (such notice shall be deemed given when received) at any time by



any of the following: (a) by letter sent by confirmed facsimile to us at the following fax number, (503) 626-1769; or (b) by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail as follows: 735 SW 158<sup>th</sup> Avenue, Suite 140 Beaverton, OR 97006, in either case, addressed to the attention of "President of the Company". Notices will not be effective unless sent in accordance with the above requirements.

- 15.2. **Applicable Laws and Venue.** This Agreement and the Legal Relations between the Parties shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of Conflicts of Laws otherwise applicable to such determinations, jurisdiction and venue with respect to any disputes arising hereunder shall be proper only in Multnomah County, Oregon, USA.
- 15.3. **Severability.** If any provision of this Agreement is declared invalid or unenforceable, such provision shall be deemed modified to the extent necessary and possible to render it valid and enforceable. In any event, the unenforceability or invalidity of any provision shall not affect any other provision of this Agreement, and this Agreement shall continue in full force and effect, and be construed and enforced, as if such provision had not been included, or had been modified as above provided, as the case may be.
- 15.4. **Force Majeure.** We shall not be liable for damages for any delay or failure of delivery arising out of causes beyond our reasonable control and without our fault or negligence, including, but not limited to, Acts of God, acts of civil or military authority, fires, riots, wars, internet disruptions, hacker attacks, communication failure, and embargoes. Provided the affected party immediately notifies the other party and takes reasonable and expedient action to resume operations.
- 15.5. **Further Assurances.** Each party shall, on the reasonable request and at the sole cost and expense of the other party, take, execute, acknowledge and deliver all such further acts, documents and instruments necessary to give full effect to this Agreement.
- 15.6. **Relationship of the Parties.** Nothing contained in this Agreement shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties. The relationship between the parties shall at all times be that of independent contractors. Neither party shall have authority to contract for or bind the other in any manner whatsoever.
- 15.7. **Publicity.** Neither party shall use the other party's trademarks, service marks, trade names, logos, symbols or brand names, or otherwise issue or release any announcement, statement, press release or other publicity or marketing materials relating to the existence or subject matter of this Agreement, or the relationship between the parties, in each case, without the prior written consent of the other party.
- 15.8. **Entire Agreement.** This Agreement, together with all Schedules attached hereto, constitutes the sole and entire agreement of the parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. In the event of a conflict between the terms, provisions and conditions contained in the body of this Agreement and the terms, provisions and conditions contained in the Schedules to this Agreement, the term, provisions and conditions contained in the body of this Agreement shall prevail. In no event shall the provisions of any purchase order or any associated documentation used by Customer, constitute a binding agreement between the parties or serve to modify the provisions of this Agreement, regardless of any failure of EnSoftek to object to any purchase order or associated documentation.
- 15.9. **Assignment.** The Customer shall not assign any of its rights or delegate any of its obligations hereunder without the prior written consent of EnSoftek. Any purported assignment or delegation in



violation of this Section shall be null and void. No assignment or delegation shall relieve Customer of any of its obligations hereunder.

- 15.10. **Waiver.** No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 15.11. **Survival.** Those clauses the survival of which is necessary for the interpretation or enforcement of this Agreement shall continue in full force and effect in accordance with their terms notwithstanding the expiration or termination hereof, such clauses to include, without limitation, the following: Warranty Disclaimers, Limitation of Liability, Confidential Information, Information Security, Security Notice, Notices, Arbitration, Applicable Law, Jurisdiction and Venue, Severability, Force Majeure, and Miscellaneous.
- 15.12. **United Nations Convention of Contracts.** The application the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded.
- 15.13. **Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- 15.14. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission (to which a signed PDF copy is attached) shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

## **16. EXECUTION**

**CERTIFICATIONS AND SIGNATURES.** THIS MASTER WEB SERVICES HOSTING AGREEMENT, INCLUDED IN PARAGRAPH 2.1, "ORDER OF PRECEDENCE" OF THE MARION COUNTY CONTRACT FOR PROCUREMENT, LICENSING, AND MAINTENANCE OF AN ELECTRONIC HEALTH RECORDS MANAGEMENT SYSTEM, CONTRACT NO: IT-3389-20 ("MASTER CONTRACT"), IS CONSIDERED SIGNED AND DULY EXECUTED WITH THE EXECUTION OF THE MASTER CONTRACT.





## Schedule A - Qualified Service Organization/Business Associate Agreement

This Qualified Service Organization/Business Associate Agreement ("Agreement") is made and entered into by and between Marion County, a political subdivision of the State of Oregon ("Covered Entity"), and EnSoftek, Inc. with its principal office located at 735 SW 158th Suite 140 Beaverton, OR 97006 ("Business Associate"). Covered Entity and Business Associate may be referred to individually as a "Party" and collectively as the "Parties".

### Recitals

WHEREAS, Covered Entity and Business Associate have entered into a certain Master Hosted Web Services agreement pursuant to which Business Associate will provide certain services to or on behalf of Covered Entity, and Business Associate may create, receive, maintain, transmit, or have access to Protected Health Information in order to provide those services ("Services Agreement");

WHEREAS, the Department of Health and Human Services ("HHS") has promulgated regulations at 45 C.F.R. Parts 160 and 164 implementing the privacy requirements ("Privacy Rule") and regulations at 45 C.F.R. Parts 160, 162 and 164 implementing the security requirements ("Security Rule") set forth in the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") as amended by regulations implementing Subtitle D of the Health Information Technology for Economic and Clinical Health Act (HITECH) which is Title XIII of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and has promulgated regulations at 42 C.F.R. Part 2 implementing the restrictions on the use and disclosure of alcohol and drug abuse patient records set forth in the Public Health Service Act codified at 42 U.S.C. § 201 et. seq. ("Public Health Service Act");

WHEREAS, the Privacy Rule and Security Rule require Covered Entity to enter into a written contract with Business Associate in order to assure certain protections for the privacy and security of Protected Health Information, and the Privacy Rule and Security Rule prohibit the disclosure or use of Protected Health Information to or by Business Associate if such a contract is not in place, and the above described regulations implementing the Public Health Service Act require the Parties to enter into a written agreement in order to assure protection of alcohol and drug abuse patient records;

WHEREAS, both Parties mutually agree to satisfy the foregoing regulatory requirements and all federal, state and local confidentiality, privacy, and security laws through this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual promises contained herein, and for other good and valuable consideration, receipt of which is hereby acknowledged Covered Entity and Business Associate agree as follows:

#### 1. Definitions.

Terms used, but not otherwise defined in this Agreement shall have the same meaning as those terms in 45 C.F.R. Part 160, Part 162, and Part 164 then in effect or as amended, with respect to use and disclosure of Protected Health Information, which are collectively referred to as the "HIPAA Rules", and 42 C.F.R. Part 2, then in effect or as amended, with respect to alcohol and drug abuse patient records.

1.1. "Breach" shall have the same meaning as the term "Breach" in 45 C.F.R. § 164.402.

1.2. "Data Aggregation" shall have the meaning given such term in 45 C.F.R. § 164.501.

1.3. "Designated Record Set" shall have the meaning given to such term in 45 C.F.R. § 164.501.



1.4. “Disclose” and “Disclosure” mean, with respect to Protected Health Information, the release, transfer, provision of, access to, or divulging in any other manner of Protected Health Information outside Business Associate’s internal operations or to persons or entities other than members of its workforce, and with respect to alcohol and drug abuse patient records, mean a communication of patient identifying information, the affirmative verification of another person’s communication of patient identifying information, or the communication of any information from the record of a patient who has been identified.

1.5. “Electronic Protected Health Information” or “E PHI” shall have the meaning found in the Security Rule, 45 C.F.R. § 160.103.

1.6. “HITECH Act” shall mean the Health Information Technology for Economic and Clinical Health Act, found in Title XIII of the American Recovery and Reinvestment Act of 2009, Public Law 111-005, and the regulations promulgated thereunder by the Secretary.

1.7. “Individual” shall have the same meaning found in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

1.8. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity pursuant to this Agreement.

1.9. “Required by Law” shall have the same meaning found in 45 C.F.R. § 164.103.

1.10. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his or her designee.

1.11. “Unsecured PHI” shall have the same meaning as the term “unsecured protected health information” in 45 C.F.R. § 164.402.

1.12. “Use” or “Uses” shall mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination, or analysis of such information within Business Associate’s internal operations.

## 2. Authorized Uses and Disclosures by Business Associate.

2.1. **General Use and Disclosure** - Except as otherwise limited in this Agreement, Business Associate may Use or Disclose PHI on behalf of Covered Entity as necessary to provide services as set forth in the Services Agreement, if such Use or Disclosure of PHI would not violate the Privacy Rule if done by Covered Entity. Business Associate may use and Disclose alcohol and drug abuse patient records only as permitted by 42 C.F.R. Part 2.

### 2.2. Business Activities of Business Associate

2.2.1 Unless otherwise limited herein, Business Associate may Use PHI:

- (a) As necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;
- (b) To provide Data Aggregation services as permitted by 42 CFR § 164.504(e)(2)(i)(B);
- (c) As Required by Law.

2.2.2 Unless otherwise limited herein, Business Associate may Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate provided that:



- (a) The Disclosure is required by Law; or
- (b) Business Associate obtains reasonable assurances from the person to whom the PHI is Disclosed that it will be held confidentially and Used or further Disclosed only as Required by Law or for the purposes for which it was Disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

2.3. Use and Disclosure of Alcohol and Drug Abuse Patient Records - Business Associate acknowledges and agrees that in receiving, storing, processing, or otherwise dealing with any patient drug and alcohol abuse records, it is fully bound by the regulations set forth at 42 C.F.R. Part 2, as it may be amended. Business Associate agrees that if necessary, it will resist in judicial proceedings any efforts to obtain access to drug and alcohol abuse patient records except as permitted by 42 C.F.R. Part 2, as it may be amended.

### 3. Business Associate Obligations.

3.1. Use of PHI - Business Associate shall not Use or further Disclose PHI other than as permitted or required by the Services Agreement, this Agreement, or as Required by Law. In Using, Disclosing, or requesting PHI from Covered Entity, Business Associate agrees to limit PHI to the minimum necessary to accomplish the intended purpose of such Use, Disclosure, or request. "Minimum necessary" shall be interpreted in accordance with the HITECH Act and the HIPAA Rules, and implementing regulation or guidance on the definition. Business Associate will make reasonable efforts to limit access to PHI to those members of its workforce that need access based upon their roles and functions.

3.2. Appropriate Safeguards; Compliance with Security Rule (C.F.R Part 164 regulations) - Business Associate shall use appropriate administrative, technical, and physical safeguards to prevent Use or Disclosure of PHI other than as provided for by this Agreement. Business Associate shall comply with the Security Rule and shall implement administrative, physical, and technical safeguards (including written policies and procedures) that will reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI it creates, receives, maintains, or transmits on behalf of Covered Entity.

3.3. Disclosure to Subcontractors - Business Associate agrees to ensure that any subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate agrees to comply with the applicable HIPAA Rules and the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such PHI by entering into a Business Associate Agreement with the subcontractor consistent with 45 C.F.R. 164.502(e).

3.4. Delegation of Covered Entity's Duties - To the extent Business Associate is to carry out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.

3.5. Disclosure Accounting - Business Associate agrees to document all Disclosures of PHI and information related to such Disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of Disclosures in accordance with 45 C.F.R. § 164.528 ("Disclosure Information") and to retain such documentation for six (6) years from the date of Disclosure.

Within twenty (20) calendar days after receipt of a written notice from Covered Entity of a request by an Individual for an accounting of Disclosures of PHI, Business Associate shall provide to Covered Entity the Disclosure Information to enable Covered Entity to meet the Disclosure accounting obligations under 45 C.F.R. § 164.528. In the event a request for an accounting regarding PHI is delivered directly to Business Associate or its subcontractors, Business Associate shall within three (3) business days after receipt forward such request to Covered Entity. Within fifteen (15) calendar days after forwarding the request to Covered Entity, Business Associate shall provide its Disclosure Information to Covered Entity. It shall be Covered Entity's responsibility to prepare and deliver any accounting of disclosures to the Individual.





Business Associate will include the following information in any Disclosure Information: the date of the Disclosure; the name of the entity or person who received the PHI, and if known, the address of such entity or person; a brief description of the PHI Disclosed; and a brief statement of the purpose of the Disclosure. If during the period covered by the accounting, Business Associate has made multiple Disclosures of PHI to the same person or entity for a single purpose, including Covered Entity, the Disclosure Information may, with respect to such multiple Disclosures, provide the information listed above for the first Disclosure during the accounting period; the frequency, periodicity, or number of the Disclosures made during the accounting period; and the date of the last such Disclosure during the accounting period.

3.6. **Access to PHI** - Within fifteen (15) calendar days following Covered Entity's request, Business Associate shall make available to Covered Entity or, at the written direction of Covered Entity, to an Individual, for inspection and copying PHI about the Individual that is in a Designated Record Set maintained by the Business Associate, so that Covered Entity may meet its access obligations under 45 C.F.R. §164.524. If Covered Entity requests an electronic copy of PHI that is maintained by Business Associate electronically in a Designated Record Set, Business Associate will provide an electronic copy in the form and format specified by the Covered Entity if it is readily producible in such format; if not readily producible in such format, in an alternative readable electronic form and format agreed to by Covered Entity and the Individual. If the available electronic form and format is not acceptable to the Individual, Business Associate will provide the PHI in hard copy. Any denial of access to the PHI requested shall be the responsibility of the Covered Entity.

3.7. **Amendment of PHI** - Upon receipt of a request from Covered Entity, Business Associate shall promptly amend or make available to Covered Entity for amendment, an Individual's PHI maintained by Business Associate in a Designated Record Set to enable Covered Entity to meet its obligations under 45 C.F.R. § 164.526. Any denial of a request by an Individual for amendment of PHI maintained by Business Associate pursuant to the Agreement shall be the responsibility of Covered Entity.

3.8. **Government Access to Books and Records** - Business Associate shall make its internal practices, books, and records relating to the Use and Disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary for purposes of determining Covered Entity's compliance with the HIPAA Rules. Unless prohibited by law or court or order, Business Associate shall provide to Covered Entity, (i) prompt written notice of Business Associate's receipt of any such request from the Secretary, and (ii) a copy of any documentation, books, and records provided by Business Associate to the Secretary pursuant to the Secretary's request.

3.9. **Reporting and Mitigation of Unauthorized Use and Disclosure of PHI or Breach of Unsecured PHI**

3.9.1 **Reporting of Unauthorized Use and Disclosure of PHI.** Business Associate shall provide a written report to Covered Entity of any Uses or Disclosures of PHI not authorized by the Services Agreement or this Agreement of which it becomes aware not more than forty eight (48) hours after the unauthorized Use or Disclosure is discovered.

3.9.2 **Reporting of Breach of Unsecured PHI.** Business Associate shall notify Covered Entity within forty eight (48) hours following the discovery of a suspected or actual Breach of Unsecured PHI. A suspected or actual Breach shall be treated as discovered by Business Associate as of the first day on which the Breach is known, or, by exercising reasonable diligence would have been known, to the Business Associate. If a delay is requested by a law enforcement official in accordance with 45 C.F.R. § 164.412, Business Associate may delay notifying Covered Entity for the applicable period of time.

3.9.3 **Content of Notice.** The notice of unauthorized Use or Disclosure, or of Breach of Unsecured PHI, shall include:



- a) To the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been improperly accessed, acquired, Used or Disclosed;
- b) Information related to the unauthorized person or persons who impermissibly Used the PHI or to whom the improper Disclosure was made, and whether the PHI was actually acquired or viewed;
- c) The nature of the Breach or other non-permitted Use or Disclosure, including a brief description of what happened, the date of the non-permitted Use or Disclosure or Breach and the date of discovery;
- d) A description of the types of Unsecured PHI that were involved in the non-permitted Use or Disclosure or Breach, including the nature of services, types of identifiers, and the likelihood of re-identification, including whether full name, social security number, credit card number, date of birth, home address, account number, diagnosis, medication, treatment plan, or other information were involved;
- e) The corrective or investigative action Business Associate took or will take to prevent further non-permitted Uses or Disclosures, to protect against future Breaches, and the extent to which the risk to the PHI has been mitigated;
- f) Any details necessary for Covered Entity to conduct a risk assessment to determine the probability that the PHI believed to have been improperly accessed, acquired, Used or Disclosed has been compromised and the steps the affected Individuals should take to protect themselves; and
- g) Such other information, including a written report, as Covered Entity may reasonably request.

**3.9.4 Costs of Breach Notification and Mitigation.** Business Associate shall, at its own cost and expense, mitigate, to the extent practicable, any harmful effects known to Business Associate of any Use or Disclosure of PHI in violation of the requirements of this Agreement. To the extent that Covered Entity determines that the Breach notification requirements of the HIPAA Rules are triggered by a Breach of Unsecured PHI, as described in Section 4.3 below, Business Associate shall reimburse Covered Entity for all costs related to such notifications.

**3.9.5 Security Incidents.** Business Associate will report to Covered Entity any attempted or successful unauthorized access, Use, Disclosure, modification, or destruction of Electronic Protected Health Information provided by Covered Entity or interference with Business Associate's system operations in Business Associate's information system of which Business Associate becomes aware. The Parties acknowledge that probes and reconnaissance scans are commonplace in the industry and, as such, the Parties acknowledge and agree that, to the extent such probes and reconnaissance scans constitute Security Incidents, this Section 3.9.5 constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of such Security Incidents for which no additional notice to Covered Entity shall be required, as long as such probes and reconnaissance scans do not result in unauthorized access, Use, or Disclosure of PHI. Probes and reconnaissance scans include, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, and unsuccessful log-on attempts that do not result in unauthorized access, Use or Disclosure of PHI.

**3.9.6 State Law Requirements.** In the event Business Associate has an independent notification obligation related to impermissible Use or Disclosure of PHI in connection with this Agreement or the Services Agreement, Business Associate shall promptly notify Covered Entity of such obligation and, at least five (5)





business days before giving any such notice, Business Associate shall notify Covered Entity of its intent to provide the required notifications, including any related information required by applicable state law.

3.10. **Retention of PHI** - Business Associate shall retain all PHI throughout the term of this Agreement and shall continue to maintain such information not otherwise returned or destroyed pursuant to Section 5.4 of this Agreement for a period of six (6) years after the termination of this Agreement.

3.11. **Restrictions on Disclosures** - Business Associate will comply with any agreement by Covered Entity to provide for confidential communications of PHI, or to restrict the Use or Disclosure of PHI, pursuant to 45 C.F.R. § 164.522, including any request by an Individual to restrict the Disclosure of the Individual's PHI to a health plan if the Disclosure is (1) for the purpose of carrying out payment or health care operations, is not for purposes of carrying out treatment, and it not otherwise Required by Law, and (2) the PHI pertains solely to a health care item or service for which the Individual, or person other than the health plan on behalf of the Individual, has paid the Covered Entity in full.

3.12. **Prohibition on Sale of PHI** - Except as otherwise expressly permitted by the HIPAA Rules, Business Associate shall not directly or indirectly receive remuneration, including financial or non-financial remuneration, in exchange for an Individual's PHI unless Covered Entity or Business Associate obtains a valid authorization that meets the requirements of 45 C.F.R § 164.508 and states that the disclosure will result in remuneration to the Business Associate.

3.13. **Standard Transactions** - Business Associate shall comply with the HIPAA Rules' Standards for Electronic Transactions when conducting any Standard Transactions on behalf of Covered Entity.

#### 4. Covered Entity Obligations.

4.1. With regard to the Use and/or Disclosure of Protected Health Information by Business Associate, Covered Entity agrees to:

4.1.1 **Notice of Privacy Practices** - Provide Business Associate in a timely manner a written or electronic copy of the notice of privacy practices (the "Notice") that Covered Entity provides to Individuals in accordance with 45 C.F.R. § 164.520, including any limitation(s) in such Notices to the extent that such limitation may affect Business Associate's Use or Disclosure of PHI.

4.1.2 **Restrictions** - Notify Business Associate in writing of any restrictions to the Use or Disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522 to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI. Covered Entity will notify Business Associate in writing of the termination of any such restriction requirement and inform Business Associate whether any of the PHI will remain subject to the terms of the restriction agreement.

4.1.3 **Authorizations** - Inform Business Associate, in writing and in a timely manner, of any changes in, or revocation of an authorization provided to a Covered Entity by an Individual to Use or Disclose PHI to the extent that such changes may affect Business Associate's Use or Disclosure of PHI.

4.1.4 **Confidential Communications** - Notify Business Associate in writing and in a timely manner, of any confidential communications requests related to an Individual's PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such request may affect Business Associate's Use or Disclosure of PHI. Covered Entity will notify Business Associate in writing of the termination of any such confidential communications requirement.

4.2. Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under the Privacy Rule if done by a Covered Entity.



4.3. **Determination of Breach and Notification Obligations.** Covered Entity will be solely responsible to determine whether a non-permitted Use or Disclosure constitutes a Breach and will be responsible to provide, to the extent and within the time required by the HIPAA Rules, notice to the affected Individuals, the media, and the Secretary of any Breach of Unsecured PHI. If Covered Entity determines the non-permitted Use or Disclosure is a Breach that triggers the HIPAA Rules' breach notification requirements, then Business Associate will reimburse Covered Entity for all costs related to the notifications of a Breach of Unsecured PHI created, received, maintained or transmitted by Business Associate.

4.4. **Compliance Review.** Covered Entity may, upon giving reasonable notice to Business Associate, conduct periodic reviews of Business Associate's internal practices, books, and records related to its Use and Disclosure of PHI pursuant to this Agreement to determine compliance with this Agreement and the HIPAA Rules. Such reviews shall be performed on a non-interfering basis and during such times as are reasonably acceptable to Business Associate.

## **5. Term and Termination.**

5.1. **Term and Effective Date -** This Agreement shall be effective on the effective date of the Services Agreement and shall continue in effect until all obligations of the Parties have been met, unless terminated as provided herein or by the mutual agreement of the Parties.

5.2. **Termination for Material Breach -** Upon Covered Entity's determination, in its sole discretion, that Business Associate has violated a material term of this Agreement, Covered Entity will provide Business Associate with written notice of the violation and either (i) an opportunity to cure the breach or end the violation within twenty (20) calendar days after Business Associate's receipt of the notice or such other period determined reasonable and appropriate by Covered Entity, or (ii) terminate this Agreement if Business Associate does not cure the breach or end the violation within such period, or (iii) immediately terminate this Agreement if eliminating the violation or cure of the breach is not possible.

5.3. **Termination of Agreement -** This Agreement shall automatically terminate without any further action of the Parties upon the termination or expiration of the Services Agreement.

### **5.4. Effect of Termination**

5.4.1 Upon termination of this Agreement, Business Associate shall return, within ten (10) calendar days after Business Associate's receipt of the notice of termination or such other period determined reasonable and appropriate by Covered Entity, all PHI received from, or created or received by Business Associate on behalf of Covered Entity that is then maintained in any form by Business Associate or its subcontractors, or if expressly requested to do so by Covered Entity, Business Associate shall destroy such PHI and provide Covered Entity documentation evidencing such destruction. Business Associate shall retain no copies of such PHI except as follows. If Business Associate determines that return or destruction of PHI is not feasible, Business Associate shall provide notice to Covered Entity of the conditions that make return or destruction infeasible, and shall extend the protections of this Agreement to such PHI and limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

5.4.2 In the event this Agreement is terminated for any reason, the Services Agreement will also terminate as of the effective date of termination of this Agreement.

5.5. **Survival -** The obligations of Business Associate under this Section 5 shall survive the termination of this Agreement.

5.6. **No Third Party Beneficiaries -** Nothing in this Agreement shall confer any rights, remedies, obligations, or liabilities upon any person or other third party other than the Parties to this Agreement.



## Schedule B - Service Level Agreement

### 1. Definitions.

- 1.1. "Service Level" The measurements upon which the quality of Web Services is measured.
- 1.2. "Basic Service Level" Any Service Level set forth in this Agreement or an applicable Order that is not a Critical Service Level.
- 1.3. "Critical Service Level" Any Service Level that is described as "critical" in this Agreement or an applicable Order.
- 1.4. "Uptime" Measure of the time the Web Services are working and available.
- 1.5. "Downtime" Any period where the Web Services are not available to the end users, regardless of reason.
- 1.6. "Exempt Downtime" Downtime where the parties have previously agreed upon the time and duration of such Downtime. Only Downtime occurring during such previously-agreed period shall be deemed to be Exempt Downtime. Exempt downtime will include unscheduled internet outages.
- 1.7. "Unscheduled Downtime" All Downtime that is not Exempt Downtime.
- 1.8. "Active User" – All users are considered active and billable unless marked as Inactive in the DrCloudEHR™ User Management Console.

### 2. Procedures.

The establishment of Service Levels will be accomplished as follows:

- 2.1. **Commencement.** Service Levels are established as provided herein and will be measured starting on the "go live" date for the Web Services. Service Level reporting will be put into effect starting on the "go live" date for the Web Services.
- 2.2. **Service Level Changes.** The Parties may agree to add, delete or modify Service Levels. All such changes must be mutually agreed to in writing. Should new technology or improved measurement capabilities be deployed by EnSoftek that impact the Service Level reports, EnSoftek and Customer will agree upon a new measurement process and amend this Schedule as appropriate. Should EnSoftek and Customer agree to implement a new reporting mechanism, EnSoftek and Customer will establish new Service Levels to be aligned with the new reporting mechanism.
- 2.3. **Downtime Incident Reporting.** Upon receipt of a written request from Customer for a prior calendar month requesting information regarding a specific instance of Downtime, EnSoftek will provide Customer with a related incident report from which Customer may determine any Downtime.
- 2.4. **Excused Failures.** Failure to meet Service Levels will not be deemed to be a failure by ENSOFTEK if one of the following conditions exist: (i) the failure is mutually agreed not to be the fault of ENSOFTEK; (ii) the failure of Customer to carry out relevant obligations causing the failure; (iii) failure of equipment not provided by or maintained by EnSoftek; or (iv) Force Majeure Events.

### 3. Service Level Metrics.

In addition to any Service Levels described in detail in the Order, and unless these Service Levels are expressly modified in the Order, the following Service Levels are deemed to be default metrics and will apply to the Agreement.

- 3.1. **Uptime.** The Uptime for the Web Services shall be up at 99% of the time, excluding Exempt Downtime, as calculated for each calendar month.





3.2. **Backups.** EnSoftek uses standard operating procedures to backup all ePHI data and documents on a regularly scheduled basis to prevent data loss. An electronic copy of the data and documents will be provided upon Customer request.

#### 4. **Support Level Metrics.**

Support Services will be performed by EnSoftek subject to the terms and conditions of the Master Hosted Services Agreement.

4.1. a) EnSoftek will maintain the then current version of the DrCloudEHR solution in substantial conformance with its Specifications as amended from time to time by EnSoftek, and with applicable Federal regulatory requirements and laws. EnSoftek will use commercially reasonable efforts to either:

- (i) Correct any reproducible Problems or Defects in the then current or immediately prior release of DrCloudEHR solution which prevent it from operating in substantial conformance with the Specifications and applicable Federal regulatory requirements; or
- (ii) Provide a commercially reasonable alternative that will substantially conform with the Specifications and applicable Federal regulatory requirements and laws.

4.2. Customer will make requests for Support Services by giving EnSoftek written notice specifying a Problem or Defect in the DrCloudEHR solution. In making a verbal request for Support Services, Customer will provide EnSoftek within twenty-four (24) hours after such verbal notice with such written information and documentation as may be reasonably prescribed by EnSoftek.

4.3. On a timely basis EnSoftek will also provide Customer with such updates as are distributed without charge to other similar Customers which reflect modifications and incremental improvements made to the DrCloudEHR solution by EnSoftek;

4.4. EnSoftek will make technical support personnel available from 9:00 a.m. to 5:00 p.m., Customer local time Monday through Friday, exclusive of EnSoftek holidays.

4.5. If reasonable analysis by EnSoftek indicates that a reported Problem or Defect is caused by a problem related to Hardware used by Customer, the hardware's system software, or applicable software other than the DrCloudEHR solution, or Customer's misuse or modification of the DrCloudEHR solution, EnSoftek's responsibility will be limited to the correction of the portion, if any, of the problem caused by a Problem or Defect in the DrCloudEHR solution. Customer will, at EnSoftek's option, pay EnSoftek for the cost of analyzing the reported problem at EnSoftek's then prevailing time-and-materials rate.

4.6. The initial term for provision of Support Services for DrCloudEHR solution will coincide with the whole Subscription time the DrCloudEHR solution is made available to Customer provided that Customer is current on all outstanding invoices per the terms and conditions outlined in the Master Hosted Services Agreement.

4.7. Absent a bona fide dispute, if Customer fails to pay for Hosted Subscription Services when due, EnSoftek may refuse to provide Support Services until Customer makes payment of all Charges due.

4.8. All reported support service requests will be acknowledged within 8 business hours of receipt.

4.9. If analysis by EnSoftek indicates that a reported problem is caused by a reproducible Problem or Defect, EnSoftek will use commercially reasonable efforts to provide Support Services in accordance with the following prioritization of reported problems:

Priority	Definition
1 - Critical	Priority 1: will be assigned when the DrCloudEHR solution or a material DrCloudEHR solution component is non-operational as a result of a defect [in Production environment only] such as: <ul style="list-style-type: none"><li>• The Production system cannot be accessed or utilized in any capacity</li><li>• A direct patient safety issue is present</li><li>• A DrCloudEHR solution defect.</li></ul>



Best efforts will be made to correct Priority 1 problems, or to provide a plan for such correction, within two (2) business days.

*Customer's Commitment:*

- This case Priority must be submitted directly to the EnSoftek Support department.
- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be downgraded to Priority 2.

2 – High

Priority 2: will be assigned to Production defects that result in functions that have a significant negative impact on daily operations. A workaround may be available and/or the capacity to maintain daily business functionality. Commercially reasonable efforts will be made to correct Priority 2 problems, or to provide a plan for such correction, within four (4) business days.

*Customer's Commitment:*

- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be downgraded to Priority 3.

3-Medium

Priority 3: will be assigned for system defects that result in functions that have no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. Commercially reasonable efforts will be made to correct Priority 3 problems, or to provide a plan for such correction, within ten (10) business days.

*Customer's Commitment:*

- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be downgraded to Priority 4.

4 – Low

Priority 4: will be assigned to cosmetic defects that do not affect system usability or non-defect related requests including, but not limited to, system set up/configuration, training, functionality questions, documentation, portal access, and upgrade/change requests. Commercially reasonable efforts will be made to address Priority 4 issues, or to provide a plan for such correction, within fifteen (15) business days except for upgrade/change requests. For upgrade/change requests, customer will be sent a change request form in a reasonable time frame. Such requests will be added to Engineering pipeline for implementation once EnSoftek receives the signed form from the customer.

*Customer's Commitment:*

- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be closed following our Case Closure Notification policy.



**5. Termination Option for Chronic Problems.**

5.1. Either party may terminate this Agreement and without liability or penalty by notifying the other party within ten (10) days following the occurrence of either of the following: (i) Customer experiences more than five (5) Unscheduled Downtime periods in any three (3) consecutive calendar month period; or (ii) Customer experiences more than eight (8) consecutive business hours of Unscheduled Downtime due to any single event. Such termination will be effective immediately after receipt of such notice by the terminating party.

**6. Suspension.**

6.1. If EnSoftek is materially hampered in fully performing hereunder for any reason outside of EnSoftek's reasonable control including without limitation any Force Majeure Event (all of which events are herein called "Disability") Customer may suspend use of the Web Services and its obligations to make subscription fee payments to EnSoftek during the period of such Disability.



**Schedule C - Investment Overview:**

The following pricing outlines the total costs associated with the delivery, implementation, utilization, and support of the DrCloudEHR solution for Marion County:

**SYSTEM HARDWARE - Third Party Product (One-time Fees):**

Description	Qty.	Cost	Extended
Scriptele Signature Pad (Model #ST1571 EasyScript):	1	\$229.00	\$229.00

**IMPLEMENTATION SERVICES (One-time Fees):**

Description	Qty.	Cost	Extended
Customization:	3,610	\$129	\$465,690
Interfaces:	1,562	\$129	\$201,498
Project Management	960	\$129	\$123,840
Data Migration / Conversion	540		\$ 69,660
Installation/Configuration/Testing	2,743		\$353,847
Training	588		\$ 75,852
Deployment and Post Go-Live	622		\$ 80,238
Post Implementation Support (Beginning in Year 2)	100		\$ 12,900
<b>TOTAL</b>			<b>\$1,383,525</b>

**APPLICATION SOFTWARE SUBSCRIPTION SERVICES (ANNUAL FEES)**

Description	Qty.	Cost	Extended
<b>Beginning on Contract Execution: Year 1:</b>			
DrCloudEHR Enterprise Subscription Fee	1	\$95,988	\$ 95,988
<b>YEAR 1 TOTAL:</b>			<b>\$ 95,988</b>
<b>Beginning in Year 2</b>			
DrCloudEHR Enterprise Subscription Fee	1	\$95,988	\$ 95,988
DrCloudEHR Named User Access Subscription Fee	424	\$ 324	\$137,376
DrCloudEHR Additional Instance (Training, Develop/Test)	2	\$ 8,004	\$ 16,008
DrCloudEHR Patient Portal	1	\$ 6,000	\$ 6,000
DrCloudEHR Advanced Report Writer (ARW)	4	\$ 1,791	\$ 7,164
DrCloudEHR Meaningful Use Stage 3 Module	10	\$ 1,188	\$ 11,880
EMR Direct Trust Messaging (Per Mailbox) (Third Party Module)	10	\$ 360	\$ 3,600
DrCloudEHR Interface Module (Per interface)	17	\$ 948	\$ 16,116
DrCloudEHR Telehealth: Annual Subscription (Per User)	380	\$ 420	\$159,600
DrFIRST eRx Subscription (Per prescriber) (Third Party Module) (includes Electronic Prescribing of Controlled Substances (EPCS), and Prescription Drug Monitoring Program (PDMP) reporting)	12	\$ 1,065	\$ 12,780
ChartMeds eMAR* (Third Party Module)	200	\$ 1,480	\$ 17,760
OpenEdge Payment Processing Interface	1	Waived	\$ 0
Custom Level Service Level Agreement (Attachment A)	1	\$64,800	\$ 64,800
InterFax.Net Secure Faxing** (Per Local Fax Line, Up to 1,000 pages per month)	1	\$ 312	\$ 312
<b>YEAR 2 TOTAL:</b>			<b>\$549,384</b>



**Payment Terms:**

The Following Milestones identify the dates and amounts of each payment due to EnSoftek.

**ONE-TIME FEES – HARDWARE**

<u>Milestone</u>	<u>% Due</u>	<u>Amount Due</u>
Hardware (Due on Execution)	100%	\$ 229.00
<b>TOTAL:</b>		<b>\$ 229.00</b>

**ONE-TIME FEES – IMPLEMENTATION SERVICES\***

<u>Milestone</u>	<u>% Due*</u>	<u>Amount Due</u>
Contract Execution:	25	\$345,881.25
Completion of Project Kick-off	15	\$207,528.75
First System Availability (Log-in Access to Base System provided)	15	\$207,528.75
Completion and County Sign-off of GAP Analysis	25	\$345,881.25
Completion of Train the Trainer Services	10	\$138,352.50
Upon completion of End User Acceptance Testing	5	\$ 69,176.25
Upon Go-Live (First Productive Use of the system)	5	\$ 69,176.25
<b>TOTAL</b>		<b>\$1,383,525.00</b>

EHR Final Acceptance \* (10% holdback from Above Invoices) \$138,352.50

\* ALL AMOUNTS DUE WILL BE INVOICED IN FULL, PAYABLE AT 90% of total for each milestone with the remaining 10% of each payable due on Final Acceptance.

**RECURRING FEES**

<u>Milestone</u>	<u>Amount Due</u>
<u>Initial Term</u>	
Year 1*: Due on Contract Execution:	\$ 95,988.00
Year 2: Due on First Contract Anniversary Date:	\$549,384.00
Year 3: Due on Second Contract Anniversary Date:	\$565,866.00
Year 4: Due on Third Contract Anniversary Date:	\$582,841.00
Year 5: Due on Forth Contract Anniversary Date:	\$600,327.00
<u>Contract Extension Years at the County Discretion</u>	
Year 6: Due on Fifth Contract Anniversary Date:	\$618,337.00
Year 7: Due on Sixth Contract Anniversary Date:	\$636,887.00
Year 8: Due on Seventh Contract Anniversary Date:	\$655,933.00
Year 9: Due on Eighth Contract Anniversary Date:	\$675,673.00
Year 10: Due on Ninth Contract Anniversary Date:	\$695,943.00

**Note:**

1. DrCloudEHR is a cloud-based solution requiring that the County provide only end user devices (computers, laptops, printers, etc.) as well as its user internet connectivity.
2. EnSoftek is responsible for all Application hosted servers (primary and back-up) in accordance with the service level agreement.
3. Recurring Fees for DrCloudEHR subscription services will not be modified during the first 5 years (Initial Term) and the next 5 years (Renewal Terms) after which, an amount equal to the percent





change of the Consumer Price Index for All Urban Consumers for the region West – Size Class B/C as calculated by the United States Department of Labor Bureau of Labor Statistics using the figures for year ending December each previous year (<https://www.bls.gov/regions/west/cpi-summary/>), will be assessed. Non contracted rates and third-party rates are subject to change.

4. All standard user roles/permissions/ACLs (Access Control Lists) will be enabled for MCHHS.
5. This project assumes 424 named users require access to the DrCloudEHR solution.
6. One (1) DrCloudEHR Advanced Report Writer User will be included at no additional charge.
7. Patient Portal access is limited to current MCHHS caseload (count of patients, any patient family member(s) or legal representative(s)).
8. One (1) additional DrCloudEHR application instance is provided for testing during implementation and then ongoing throughout the term of the Agreement. Additional instances may be added by the County at an additional cost.
9. E-Prescribing includes basic prescriptions only. The addition of prescribing of controlled substances or State/Federal reporting ("PDMP") is included in Optional software.
10. E-Prescribing is provided through a third-party partner. Separate Agreement only is required for individual users of DrFirst.
11. OpenEdge is required for processing of credit card and or debit card payments. A separate, direct agreement is required with the third-party vendor (OpenEdge).
12. During the initial stage of the implementation, a GAP analysis will be completed. Each Program, location, or functional areas will be identified and MCHHS will provide approval for each component as they are completed to enable the beginning of the system build in accordance with the timeline.
13. MCHHS will provide training facilities, necessary equipment and trainers (super users) that will be responsible for training all end users.
14. Beginning on final acceptance and for a period of three years from contract execution, EnSofttek will provide quarterly webinar-based user training on base DrCloudEHR functionality at no additional charge to the County.
15. EnSofttek will provide up to 5 free executive level passes annually to all User Group activities during the initial term of the Agreement.
16. Implementation assumes a collaborative team will be in place between MCHHS and DrCloudEHR project teams to specify and configure all MCHHS specific forms and reports.
17. MCHHS must make all facilities and personnel available as needed during the project implementation to facilitate timely completion of all deliverables.
18. MCHHS will be responsible for completing all tasks (e.g. Configuration of forms, Golden thread rules, etc.) on-time. MCHHS will provide a Project Manager for the duration of the implementation.
19. The duration of this project will be no more than 14 months from Project Kick-off until Go-live date. For up to a two (2) month period following Go-Live date, EnSofttek will transition Client to Support Services.
20. At the cause or request of Customer, any extension of implementation time beyond the aforementioned 14 months from August 15, 2020, will require additional project services at additional cost of \$98,823 per month.
21. Project Commencement date is April 1<sup>st</sup> 2020. Project Kick-off will be scheduled at a mutually agreeable date, not exceeding 30 days from contract execution. MCHHS will complete all pre-kickoff documentation supplied by EnSofttek no less than 1 week prior to project kick-off meeting.
22. Any forms modification or new forms design and any modified reporting or new reporting design services will be specified and priced in a Project Change Request (PCR).
23. DrCloudEHR Base Subscription includes up to One (1) TB (Terabytes) of storage for the import of external documentation. Additional storage is available as needed at an additional cost.



24. Data conversion assumes MCHHS can provide data in an agreed file format (e.g. CSV) for import processing. Includes demographic only data conversion (1 Test conversion and 1 production conversion). Any additional data to be imported will be specified and priced during the Gap Services and documented in a Project Change Request.
25. The Project deployment will include a 30-day pilot roll-out to facilitate the approval of build and acceptance followed by an immediate roll-out to all other County users.
26. 24x7 support pricing assumes use of HIPAA compliant software/technology to provide support to authorized named users remotely
27. No Travel and Living fees will be charged to MCHHS for EnSoftek Travel for the defined deliverables outlined in the project plan / statement of work.
28. Assumes the use of EnSoftek's standard Agreement as part of the County Agreement.
29. Pricing is based on a five (5) Year Term. A 3.0% Increase will be assessed for each year beginning in year three (3) of the contract term.
30. The project scope of work has been produced based on EnSoftek's exclusive understanding of the requirements and any changes to the scope of work, the outlined requirements, or our understanding thereof may result in a modification to the proposal budget and or implementation timeline.
31. EnSoftek will bill MCHHS based on the milestones outlined below. EnSoftek understands that MCHHS will provide an acceptance certificate for the same. Such acceptance certificates for interim and or final acceptance will not be unreasonably withheld.
32. EnSoftek understands that the County will hold back 10% of each invoice amount, except for any invoice for hardware which are due 100% upon acceptance of a valid order, until final acceptance.
33. Hardware costs do not include the fees for shipping and handling which will be billed at actual costs incurred.
34. \* ChartMeds: Each year following the original Go-Live Date, the County and EnSoftek will review actual usage of eMAR functionality to determine necessary adjustments to the fees owed based on the actual number of eMAR Patients per month and the fees owed. The review will occur 3 months prior to the each anniversary date. An overage in payment will result in a credit towards the next 12-month period. An Overage in usage will require a County Purchase Order to EnSoftek for the calculated amount, payable immediately upon completion of the Review. If the adjustment for the year (12 months), exceeds an average of 100 eMAR Patients per month, the County and EnSoftek will issue a Contract Amendment for the new estimated usage and associated fees for the remainder of the Contract Term. All calculations will be based on \$7.80 per eMAR patient per month above or below 1,000.
35. \*\* InterFax.Net Secure Faxing includes up to 1,000 pages per month. Additional pages (Overages - above 1,000 each month) will be billed monthly, based on the prior months actual usage in lots of 100 pages at a price of \$12.00. For example, if the County's actual usage for last month in 1,020, the County will be billed for \$12.00.
36. Additional Contracted User is any user added to the remainder of the contract term by Customer, through a valid purchase order or Contract Amendment, pro-rated to the anniversary date and billed annually thereafter at a rate of \$27 per month (Annually: \$324)  
Additional Non-Contracted User is any user NOT added to the remainder of the contract term and is hence only billable for the months where access has occurred. Non-contracted users are billed and payable monthly based on the prior months' noncontracted user access at a rate of \$32.40 per named user per month.



**Optional Products and Services**

<u>Description (Annual Fees)</u>	<u>Qty.</u>	<u>Cost</u>	<u>Extended</u>
Dragon Dictation (Per named user)	1	\$ 1,140	\$ 1,140
DrCloudEHR Unplugged (Per Named User & Device)	1	\$ 360	\$ 360
DrCloudEHR Document Storage (per 100GB of Storage)	1	\$ 1,200	\$ 1,200
DrCloudEHR Report Server (DEDICATED Server Environment) Back-end Table Access	1	\$16,560	\$16,560
DrCloudEHR Report Server (SHARED Server Environment) Back-end Table Access	1	\$ 6,912	\$ 6,912
Implementation Extension (Per Month) (At Customer's Cause or request)	1	\$98,823	\$98,823
DrCloudEHR Contracted Named User Access Subscription (Annual Price)	1	\$ 324	\$ 324
DrCloudEHR Non-Contracted Named User Access Subscription (Monthly Price)	1	\$ 32.4	\$32.4/Month



## Schedule D - Changes

**Note:** No part of this Master Web Hosted Services Agreement shall take precedence over any amendments or change orders to the Marion County Contract for Procurement, Licensing and Maintenance of an Electronic Health Records Management System (“Master Contract”), the Master Contract’s Schedule C, Statement of Work, Schedule B, Contractor’s Price, or Contractor’s Response to County’s RFP #HE-531-19.

The following items replace and supersede the Master Web Services Hosting Agreement for only the specific section(s) referenced below:

Paragraph 3.1 is replaced in its entirety with the following:

**3.1. Invoicing and Payment.** Payment of the Implementation and Configuration charge shall be due within thirty (30) days of receipt of invoice. Recurring charges for subscription/access shall start no later than the first day of the month for the same month of the Contract Effective Date of this Agreement. Monthly recurring charges are billed at the beginning of the month for which services are rendered and payable with net 30 terms.

Paragraph 3.3 is replaced in its entirety with the following:

**3.3. Late Charges and Collection Costs.** In the event that any amounts payable hereunder by Customer to EnSoftek are not paid within forty-five (45) days of the due date under section 3.1, then the amount otherwise payable shall bear a late charge from and after the date when such amount was due (without regard to any cure period) at a rate which is equal to the lesser of (i) eighteen percent (18%) per annum or (ii) the maximum amount allowed by applicable law, compounded monthly. In addition, if EnSoftek engages the services of a collection agency, organization, or firm and/or the services of legal counsel to collect any amount payable hereunder, then Customer shall be liable to EnSoftek for, in addition to the amount actually due plus applicable late charges, all costs incurred by EnSoftek in collecting such amounts, including (without limitation) the charges of any and all collection agencies, firms, or organizations; the costs and charges of investigators; and all court costs, attorney’s fees, paralegal fees, and like charges incurred by EnSoftek in collecting any amounts due hereunder. Services may be suspended pending payment.

Paragraph 3.5 is replaced in its entirety with the following:

**3.5. Change in Fees.** EnSoftek will notify Customer of any change in subscription fees for Services effective thirty (30) days after providing notice; provided, however, that such an increase will not exceed the percentage change in the Consumer Price Index for All Urban Consumers for the region West – Size Class B/C as calculated by the United States Department of Labor Bureau of Labor Statistics using the figures for year ending December each previous year (<https://www.bls.gov/regions/west/cpi-summary/>). Fees for Optional add-ons are subject to change at any time with a thirty (30) day prior notice, effective thirty (30) days from the date notice was sent.





Paragraph 5.3 is replaced in its entirety with the following:

5.3 Termination provisions for this Agreement are detailed in Section 2.35 of the Master Contract.

Paragraph 7 is replaced in its entirety with the following:

7. Warranty provisions for this Agreement are detailed in Section 2.17 of the Master Contract.

Paragraph 8 is replaced in its entirety with the following:

8. Reserved.

Paragraph 9.2 is replaced in its entirety with the following:

9.2. Indemnification Obligations. Indemnification obligations are detailed in Section 2.21 of the Master Contract.

Paragraph 9.5 is replaced in its entirety with the following:

9.5. **Liability Cap.** Liability Cap is detailed in Section 2.22 of the Master Contract

Paragraph 14.3 is replaced in its entirety with the following:

14.3. Refer to Section of the 6.9, "Security" of the Master Contract

Paragraph 14.4 is replaced in its entirety with the following:

14.4. Refer to Section of the 6.9, "Security" of the Master Contract

Paragraph 15.2 is replaced in its entirety with the following:

15.2. **Applicable Laws and Venue.** This Agreement and the Legal Relations between the Parties shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of Conflicts of Laws otherwise applicable to such determinations, jurisdiction and venue with respect to any disputes arising hereunder shall be proper only in Marion County, Oregon, USA.

Paragraph 15.8 is replaced in its entirety with the following:

15.8. **Entire Agreement.** Refer to Section 2.18, Contract of the Master Agreement.

Paragraph 15.9 is replaced in its entirety with the following:

15.9. **Assignment.** Assignment rights and obligations are detailed in Section 2.15 of the Master Contract.

Schedule B is replaced in its entirety with Attachment A.

The following is added to the Agreement:

**ATTACHMENT B: "Insurance Coverage"**



## ATTACHMENT A Custom Service Level Agreement

EnSoftek, Inc. will provide software products and professional services required for the implementation of a fully functional Electronic Medical Records system "DrCloudEHR™." EnSoftek shall implement and maintain the DrCloudEHR solution for the duration of this Agreement.

Customer will use a central team that will report issues and respond to questions and advocate on behalf of Customer when interacting with EnSoftek. Further, Customer will make subject matter experts, power users and other resources available to EnSoftek in order to allow EnSoftek to meet its obligations in accordance with the Agreement.

### *Ongoing Support and Maintenance*

After system is fully implemented EnSoftek will provide ongoing hosting of DrCloudEHR to the Customer for the duration of this Agreement. Throughout this period, EnSoftek will assign an Application Support Lead as the dedicated support representative for the Customer to resolve issues and be available when helpdesk tickets need to be escalated.

In addition to the Standard Support Levels as specified in Schedule B, Customer will be provided the guaranteed uptime support including the following:

<b>Standard Support Hours</b>	Monday – Friday 8am to 5pm Local Time Exclusive of EnSoftek Holidays
<b>Guaranteed Uptime</b>	365 days per year 24 hours per day 99.9% Uptime

### **A.1 Service Level Agreement**

#### **A.1.1 Definitions.**

- A.1.1.1 "Service Level" The measurements upon which the quality of Web Services is measured.
- A.1.1.2 "Basic Service Level" Any Service Level set forth in this Agreement or an applicable Order that is not a Critical Service Level.
- A.1.1.3 "Critical Service Level" Any Service Level that is described as "critical" in this Agreement or an applicable Order.
- A.1.1.4 "Uptime" Measure of the time the Web Services are working and available.
- A.1.1.5 "Downtime." Any period where the Web Services are not available to the end users, production environment, regardless of reason, except Exempt Downtime.
- A.1.1.6 "Exempt Downtime" Downtime where the parties have previously agreed upon the time and duration of such Downtime. Only Downtime occurring during such previously-agreed period shall be deemed to be Exempt Downtime. Exempt downtime will include unscheduled internet outages.
- A.1.1.7 "Unscheduled Downtime" All Downtime that is not Exempt Downtime.
- A.1.1.8 "Active User" – All users are considered active and billable unless marked as Inactive in the DrCloudEHR™ User Management Console.

**A.1.1.9 "Performance Credit."** A single Performance Credit shall be the count of each hour of Downtime multiplied by the hourly subscription fees calculated on a monthly basis assuming a 30-day month. Hourly subscription fees are calculated as total number of active users in a given month multiplied by the monthly per user rate divided by average monthly hours of 720. Credit for Uptime Guarantee limited to maximum of 360 Performance Credits per month.

*The following example demonstrates the calculation of performance credits for the given hypothetical scenarios and are for illustrative purposes only.*

Example: Assuming a given month with a 424 users at a base subscription fee of \$5,400 plus a user subscription price of \$11,448 (\$27/user/month X424), a total of \$16,848 had Uptime of 99.5% then a performance credit of \$60.84 would be earned provided it was reported to Vendor within 30 days following the end of the quarter for which the given month falls.

This performance credit is calculated as:

\$16848 monthly subscription divided 720 hours = \$23.40 hourly subscription fee.  
The Downtime is calculated as 720 hours minus the Uptime of 716.4 hours (99.5% \* 720) minus ~1 hour of monthly unplanned outages limit equals 2.6 hours of eligible performance credit downtime. The \$23.40 multiplied by the 2.6 hours equals the \$60.84 total monthly performance credit.

#### A.1.2 Procedures.

The establishment of Service Levels will be accomplished as follows:

**A.1.2.1 Commencement.** Service Levels are established as provided herein and will be measured starting on the "go live" date for the Web Services. Service Level reporting will be put into effect starting on the "go live" date for the Web Services.

**A.1.2.2 Service Level Changes.** The Parties may agree to add, delete or modify Service Levels. All such changes must be mutually agreed to in writing. Should new technology or improved measurement capabilities be deployed by EnSoftek that impact the Service Level reports, EnSoftek and Customer will agree upon a new measurement process and amend this Attachment A as appropriate. Should EnSoftek and Customer agree to implement a new reporting mechanism, EnSoftek and Customer will establish new Service Levels to be aligned with the new reporting mechanism.

**A.1.2.3 Downtime Incident Reporting.** In order to receive a Performance Credit in connection with a particular instance of Downtime, Customer must request the credit from EnSoftek within thirty (30) days from the end of the quarter. Failure to comply with this requirement will forfeit Customer's right to receive a Performance Credit for the applicable instance of Downtime.

**A.1.2.4 Excused Failures.** Failure to meet Service Levels will not be deemed to be a failure by EnSoftek if one of the following conditions exist: (i) the failure is mutually agreed not to be the fault of EnSoftek; (ii) the failure of Customer to carry out relevant obligations causing the failure; (iii) failure of equipment not provided by or maintained by EnSoftek; or (iv) Force Majeure Events.



#### A.1.3 Service Level Metrics.

In addition to any Service Levels described in detail in this agreement, and unless these Service Levels are expressly modified in this agreement, the following Service Levels are deemed to be default metrics and will apply to the Agreement.

**A.1.3.1 Uptime.** *The Uptime for the Web Services shall be online and available 99.9% of the time, excluding Exempt Downtime, as calculated for each calendar month. If the Web Services are available between 99.5% and 99.9% of the time, a Basic Service Level Failure shall be deemed to have occurred. If the Web Services are available between 99.00% and 99.49% of the time, two Basic Service Level Failures shall be deemed to have occurred. If the Web Services are available between 98.50% and 98.99% of the time, a Critical Service Level Failure shall be deemed to have occurred. If the Web Services are available less than 98.50% of the time, two Critical Service Level Failures shall be deemed to have occurred.*

**A.1.3.2 Backups.** *EnSoftek uses standard operating procedures to backup all ePHI data and documents on a regularly scheduled basis to prevent data loss. An electronic copy of the data and documents will be provided upon Customer request.*

#### A.1.4 Maximum Performance Credits.

Notwithstanding the foregoing, the aggregate maximum number of Performance Credits to be issued by EnSoftek to Customer for all events that occur in a single calendar month shall not exceed an aggregate monthly maximum of 360 Performance Credits.

#### A.1.5 Support Level Metrics.

**A.1.5.1 Support Services** *will be performed by EnSoftek subject to the terms and conditions of the Master Hosted Services Agreement.*

**A.1.5.2 a)** *EnSoftek will maintain the then current version of the DrCloudEHR solution in substantial conformance with its Specifications as amended from time to time by EnSoftek, and with applicable Federal regulatory requirements and laws. EnSoftek will use commercially reasonable efforts to either:*

**A.1.5.3 (i)** *Correct any reproducible Problems or Defects in the then current or immediately prior release of DrCloudEHR solution which prevent it from operating in substantial conformance with the Specifications and applicable Federal regulatory requirements; or*

**A.1.5.4 (ii)** *Provide a commercially reasonable alternative that will substantially conform with the Specifications and applicable Federal regulatory requirements and laws.*

**A.1.5.5** *Customer will make requests for Support Services by giving EnSoftek written notice specifying a Problem or Defect in the DrCloudEHR solution. In making a verbal request for Support Services, Customer will provide EnSoftek within twenty-four (24) hours after such verbal notice with such written information and documentation as may be reasonably prescribed by EnSoftek.*

**A.1.5.6** *On a timely basis EnSoftek will also provide Customer with such updates as are distributed without charge to other similar Customers which reflect modifications and incremental improvements made to the DrCloudEHR solution by EnSoftek;*

**A.1.5.7** *EnSoftek will make technical support personnel available from 9:00 a.m. to 5:00 p.m., Customer local time Monday through Friday, exclusive of EnSoftek holidays.*

**A.1.5.8** *If reasonable analysis by EnSoftek indicates that a reported Problem or Defect is caused by a problem related to Hardware used by Customer, the hardware's system software, or*





*applicable software other than the DrCloudEHR solution, or Customer's misuse or modification of the DrCloudEHR solution, EnSoftek's responsibility will be limited to the correction of the portion, if any, of the problem caused by a Problem or Defect in the DrCloudEHR solution. Customer will, at EnSoftek's option, pay EnSoftek for the cost of analyzing the reported problem at EnSoftek's then prevailing time-and-materials rate.*

- A.1.5.9 *The initial term for provision of Support Services for DrCloudEHR solution will coincide with the whole Subscription time the DrCloudEHR solution is made available to Customer provided that Customer is current on all outstanding invoices per the terms and conditions outlined in the Master Hosted Services Agreement.*
- A.1.5.10 *Absent a bona fide dispute, if Customer fails to pay for Hosted Subscription Services when due, EnSoftek may refuse to provide Support Services until Customer makes payment of all Charges due.*
- A.1.5.11 *All reported support service requests will be acknowledged within 8 business hours of receipt.*
- A.1.5.12 *If analysis by EnSoftek indicates that a reported problem is caused by a reproducible Problem or Defect, EnSoftek will use commercially reasonable efforts to provide Support Services in accordance with the following prioritization of reported problems:*

Priority	Definition
1 - Critical	<p>Priority 1: will be assigned when the DrCloudEHR solution or a material DrCloudEHR solution component is non-operational as a result of a defect [in Production environment only] such as:</p> <ul style="list-style-type: none"><li>• The Production system cannot be accessed or utilized in any capacity</li><li>• A direct patient safety issue is present</li><li>• A DrCloudEHR solution defect.</li></ul> <p>Best efforts will be made to correct Priority 1 problems, or to provide a plan for such correction, within two (2) business days.</p> <p><i>Customer's Commitment:</i></p> <ul style="list-style-type: none"><li>• This case Priority must be submitted directly to the EnSoftek Support department.</li><li>• Customer provides specific, detailed information required for troubleshooting/investigation.</li><li>• Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.</li><li>• Without appropriate Customer resources, the case will be downgraded to Priority 2.</li></ul>
2 – High	<p>Priority 2: will be assigned to Production defects that result in functions that have a significant negative impact on daily operations. A workaround may be available and/or the capacity to maintain daily business functionality. Commercially reasonable efforts will be made to correct Priority 2 problems, or to provide a plan for such correction, within four (4) business days.</p> <p><i>Customer's Commitment:</i></p> <ul style="list-style-type: none"><li>• Customer provides specific, detailed information required for troubleshooting/investigation.</li><li>• Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.</li><li>• Without appropriate Customer resources, the case will be downgraded to Priority 3.</li></ul>



**3-Medium Priority 3:** will be assigned for system defects that result in functions that have no major impact on daily operations. An issue that allows the continuation of function, including issues in which a reasonable workaround is available. Commercially reasonable efforts will be made to correct Priority 3 problems, or to provide a plan for such correction, within ten (10) business days.

*Customer's Commitment:*

- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be downgraded to Priority 4.

**4 – Low Priority 4:** will be assigned to cosmetic defects that do not affect system usability or non-defect related requests including, but not limited to, system set up/configuration, training, functionality questions, documentation, portal access, and upgrade/change requests. Commercially reasonable efforts will be made to address Priority 4 issues, or to provide a plan for such correction, within fifteen (15) business days except for upgrade/change requests. For upgrade/change requests, customer will be sent a change request form in a reasonable time frame. Such requests will be added to Engineering pipeline for implementation once EnSoftek receives the signed form from the customer.

*Customer's Commitment:*

- Customer provides specific, detailed information required for troubleshooting/investigation.
- Customer provides appropriate staff and resources to sustain continuous communication and work effort as required.
- Without appropriate Customer resources, the case will be closed following our Case Closure Notification policy.

#### A.1.6 Termination Option for Chronic Problems.

Customer may terminate this Agreement and without liability or penalty by notifying EnSoftek within ten (10) days following the occurrence of either of the following: (i) Customer experiences more than five (5) Unscheduled Downtime periods in any three (3) consecutive calendar month period; or (ii) Customer experiences more than eight (8) consecutive business hours of Unscheduled Downtime due to any single event. Such termination will be effective immediately after receipt of such notice by the terminating party.

#### A.1.7 Suspension.

If EnSoftek is materially hampered in fully performing hereunder for any reason outside of EnSoftek's reasonable control including without limitation any Force Majeure Event (all of which events are herein called "Disability") Customer may suspend use of the Web Services and its obligations to make subscription fee payments to EnSoftek during the period of such Disability.



## **A.2 EMR Technical Requirements**

- **Reports**

Vendor to provide a monthly downtime report.

- **System Availability**

System must be available on 24x7x365 excluding scheduled outages and planned maintenance windows. Failure to meet that requirement will be remedied by financially compensating the Customer for the time that exceeded the uptime limit guarantee as described in the SLA in section I of this attachment.

- **Uptime Guarantee**

System must be available 99.9% of the time. Uptime to be measured on a monthly basis using a 30 day month.

- **Unplanned Outages**

Unplanned outages are not to exceed 1 hour and occur no more frequently than once per month. Failure to meet that requirement will be remedied by financially compensating the Customer as described in section I of this attachment.

- **Disaster Recovery**

The system will be configured such that in the event a natural disaster shuts down the primary hosting facility, the system will be activated at a backup location within 1 hour, enabling basic EHR functionality. Documents and associated resources will be made available for all patients through the backup location within 8 hours.

- **Planned Outages (e.g. System Updates, Maintenance, patches, etc.)**

To be scheduled at an ideal off-hours time that works best for Customer, and the outage is not to exceed 2 hours. Failure to meet that requirement will be remedied as per the performance credits outlined herein.



ATTACHMENT B  
Insurance Coverage

ACORD®		CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY)	
						7/14/2020	
<p>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURE(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.</p> <p>IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. IF SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).</p>							
<b>PRODUCER</b> Inside Insurance 915 South 500 East A110  American Fork UT 84003		<b>CONTACT NAME:</b> Ian Bowman <b>PHONE (A/C, H/O, Ext):</b> 971-341-1126 <b>FAX (A/C, H/O):</b> <b>EMAIL ADDRESS:</b> ibowman@insdinsurance.net		<b>INSURER B AFFORDING COVERAGE</b> INSURER A: TWIN CITY FIRE INS CO CO NAIC # 29459 INSURER B: Hartford Fire and its P&C Affiliates 00914 INSURER C: TWIN CITY FIRE INS CO CO 19482 INSURER D: INSURER E: INSURER F:		<b>INSURED</b> Ensofttek, Inc 735 SW 158th Ave Ste 140 Beaverton, OR, 97006	
<p><b>COVERAGES</b>      <b>CERTIFICATE NUMBER:</b>      <b>REVISION NUMBER:</b></p> <p>THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.</p>							
TYPE	TYPE OF INSURANCE	INSURER	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Employment Practices Liability  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROTECT <input type="checkbox"/> LOC OTHER:	Y	34SBAAB0047	07/15/2020	07/15/2021	EACH OCCURRENCE	\$ 1,000,000
						EMPLOYMENT PRACTICES (Per occurrence)	\$ 1,000,000
						MED EXP (Any one person)	\$ 10,000
						PERSONAL & ADJ INJURY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMPOB AGG	\$ 2,000,000
						EPLI	\$ 500,000
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIREN AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS ONLY					UNINSURED/UNDERINSURED (Per accident)	\$
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> RETENTIONS 10,000 <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE		34 SBA AB6047	07/15/2020	07/15/2021	EACH OCCURRENCE	\$ 5,000,000
						AGGREGATE	\$ 5,000,000
							\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR, PARTNER, EXECUTIVE, OFFICER, MANAGER EXCLUDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO (Mandatory in HI) Please describe your DESCRIPTION OF OPERATIONS below	N/A	34WECA053T	07/15/2020	07/15/2021	PER STATUTE	OTH-DC
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY/LIMIT	\$ 1,000,000
C	<b>Enterprise Liability</b> (Cyber Liability, data breach, non-financial liability, etc)		34TE0318826	07/15/2020	07/15/2021	Each Wrongful Act	\$2,000,000
						Aggregate Limit	\$2,000,000
<p><b>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES</b> (ACORD 101, additional Remarks Schedule, may be attached if more space is required)                  Marion county, its agents, officers and employees are additional insured on the General Liability as respects work performed on its behalf by the named insured. Those usual to the Insured's Operations. Certificate holder is an additional insured per the Business Liability Coverage Form SS0008 attached to this policy. Coverage is primary and non-contributory per the Business Liability Coverage Form SS0008, attached to this policy.</p>							
<b>CERTIFICATE HOLDER</b> Marion County Procurement & Contracts Manager 555 Court S. Street NE, Suite 5232 P.O. Box 14500 Salem OR 97309				<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE Ian Bowman			

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ACORD 25 (2016/03)

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ENDORSEMENT NO:9

This endorsement, effective 12:01 am, 7/15/19  
of policy number 34 TE 0338826-19

forms part

issued to: ENSOFTEK, INC

by: HARTFORD FIRE INSURANCE CO.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**  
**FIRST PARTY EXPENSE ENDORSEMENT**

You and we agree that:

The Limits of Liability stated in item 4 and the Retention Each **Wrongful Act** stated in item 5 of the Declarations Page are amended to add the following Limits of Insurance, Retentions, Waiting Periods, and Period of Restorations:

First Party Aggregate Limit:	\$1,000,000		
<u>First Party Expense</u>	<u>First Party Sublimits</u>	<u>First Party Retention</u>	<u>First Party Waiting Period</u>
Crisis Management Expense	\$1,000,000	\$25,000	
Cyber Investigation Expense	\$1,000,000	\$25,000	
Data Privacy Regulatory Expense	\$1,000,000	\$25,000	
Notification and Identity Protection Expense	\$1,000,000	\$25,000	
PCI Expense	\$1,000,000	\$25,000	
Cyber Extortion Expense	\$1,000,000	\$25,000	
Business Interruption Loss	\$1,000,000	\$25,000	12 hrs
Dependent Business Interruption Loss	\$100,000	\$25,000	12 hrs
Data Restoration Expense	\$1,000,000	\$25,000	
<u>Period of Restoration</u>			
Business Interruption Loss	30 days		
Dependent Business Interruption Loss	30 days		

The above First Party Aggregate Limit and First Party Sublimits are all sublimits of insurance that are part of, and not in addition to, the Aggregate Limit stated in item 4 of the Declarations.

If the space for any of the above First Party Sublimits is left blank or indicated as "N/A", then there is no coverage for that First Party Expense. If the space for a First Party Retention is left blank or indicated as "N/A", the applicable First Party Retention will be the same as the Retention Each **Wrongful Act** stated in item 5 of the Declarations. If the space for a First Party Waiting Period is left blank, the applicable Waiting Period will be 12 hours. If the space for a Period of Restoration is left blank, the applicable Period of Restoration will be 30 days.

Section I – Coverage, Subsection A. Insuring Agreement is amended to add:

**First party expenses** elected below are subject to the applicable First Party Sublimit, the First Party Aggregate Limit and the Aggregate Limit stated in Item 4 of the Declarations, and are in excess of the applicable First Party Retention and Waiting Period. Where applicable, they are also subject to a **period of restoration**. The following **first party expenses** are provided if:

- (i) designated with an 'X' hereon,
- (ii) a limit is specified for the applicable First Party Sublimit stated on page 1 of this endorsement, and





ENDORSEMENT NO: 9

(iii) you receive our prior written consent for such first party expenses:

- Crisis Management Expenses Coverage  
We will reimburse the **named insured** for **crisis management expenses** that directly result from a **data privacy wrongful act** or **network intrusion**.
- Cyber Investigation Expenses Coverage  
We will reimburse the **named insured** for **cyber investigation expenses** that directly result from a **data privacy wrongful act** or **network intrusion**.
- Data Privacy Regulatory Expenses Coverage  
We will reimburse the **named insured** for **data privacy regulatory expenses** that directly result from a **data privacy wrongful act**.
- Notification and Identity Protection Expenses Coverage  
We will reimburse the **named insured** for **notification and identity protection expenses** that directly result from a **data privacy wrongful act**.
- PCI Expenses Coverage  
We will reimburse the **named insured** for **pci expenses** that the **named insured** becomes legally obligated to pay as a direct result of a **data privacy wrongful act** or **network wrongful act**.
- Cyber Extortion Expenses Coverage  
We will reimburse the **named insured** for **cyber extortion expenses** that directly result from a **cyber extortion threat** communicated to the **named insured** by a person or group, who is not insured under this policy.
- Business Interruption Loss Coverage  
We will reimburse the **named insured** amounts which the **named insured** incurs during the **period of restoration** as **business interruption loss** after the expiration of the Waiting Period, and **extra expense**, directly resulting from the **named insured's network outage**.
- Dependent Business Interruption Loss Coverage  
We will reimburse the **named insured** amounts which the **named insured** incurs during the **period of restoration** as **dependent business interruption loss** after the expiration of the Waiting Period, and **extra expense**, directly resulting from a **third party service provider's network outage**.
- Data Restoration Expense Coverage  
We will reimburse the **named insured** for **data restoration expenses**, as a direct result of the **network intrusion**.