

ccLink Provider Portal Access Agreement

THIS ccLink Provider Portal ACCESS AGREEMENT (“Agreement”), dated _____ 2019, is entered into by and between CONTRA COSTA HEALTH SERVICES (CCHS) with an address at 2500 Alhambra Avenue, Martinez, CA 94553 and _____ having an address at _____ (“Outside Entity”).

WHEREAS, CCHS has licensed from Epic Systems Corporation certain software which allows users to remotely access patient electronic health records (“ccLink Provider Portal”) created by CCHS or its affiliates; and WHEREAS, ccLink Provider Portal has the capacity to allow Outside Entity to view electronic health records (“EHR”) of their patients for the sole purpose of treating the patient whose record is being accessed; and WHEREAS, CCHS believes that the use of ccLink Provider Portal by Outside Entity would substantially improve the quality of health care provided in Contra Costa’s service area, and therefore wishes to allow access to ccLink Portal by Outside Entity, subject to the restrictions and other requirements set forth in this Agreement;

NOW, THEREFORE, in consideration of the promises, the mutual agreements and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. ccLink Provider Portal Access.

a. Subject to the terms and conditions of this Agreement, CCHS hereby grants Outside Entity non-transferable and non-exclusive license to access the ccLink Provider Portal to permit those individuals listed on Exhibit A attached hereto and made part hereof, as same may be amended from time to time (collectively “Authorized Users”), to electronically access and use ccLink Provider Portal solely for accessing and reviewing EHR and other information, images and content related to the provision of healthcare to patients of such Outside Entity (the “System License”). Outside Entity and its Authorized Users shall not attempt to reverse engineer, decompile, or otherwise seek to discover the source code for the ccLink Provider Portal or to create derivative works thereof.

b. Outside Entity understands that such access and use shall be limited to that achieved through unique access codes provided to each individual Authorized User by CCHS. No Authorized User shall share his or her unique access codes with any other person or entity. Authorized Users are responsible for maintaining the security of their access codes and are responsible for all transactions and activity made using those codes.

c. Outside Entity further acknowledges and understands that access to the ccLink Provider Portal is provided as a convenience and that CCHS may terminate that access and this Agreement at any time, without cause or further obligation. In addition, CCHS may terminate individual Authorized Users’ access or the System License at any time for any reason without penalty, regardless of any effect such termination may have on Outside Entity’s operations. CCHS will endeavor to notify Outside Entity of any such termination at least thirty (30) days prior to such termination becoming effective, provided that nothing herein shall obligate CCHS to provide such notice. Without limiting the generality of the foregoing, Outside Entity expressly agrees that CCHS may terminate this Agreement and all of the Authorized Users’ access to ccLink Provider Portal immediately if CCHS determines, in its sole discretion, that Outside Entity, or Outside Entity’s directors, officers, employees, contractors or agents have violated a material provision of this Agreement.

d. Outside Entity acknowledges and agrees that any hardware, software, network access or other components necessary for Outside Entity to access and use ccLink Provider Portal must be obtained and maintained by Outside Entity at Outside Entity’s sole cost and expense, which hardware, software, network access or other components shall meet the minimum specifications for access and use of ccLink Provider Portal from time to time designated by CCHS.

2. Intellectual Property Rights. This Agreement does not grant to Outside Entity or its Authorized Users any ownership interest in ccLink Provider Portal. Rather, Outside Entity has a limited license to access and use ccLink Provider Portal solely as permitted under the terms of this Agreement. Ownership of ccLink Provider Portal and all intellectual property rights in it shall remain at all times with CCHS and, as applicable, Contra Costa Health

Services' third party vendors and licensors. Any copy, modification, revision, enhancement, adaptation, translation, or derivative work of or created from ccLink Provider Portal shall be owned solely and exclusively by CCHS, and/or as applicable, CCHS' third party vendors, as shall all patent rights, copyrights, trade secret rights, trademark rights, and all other proprietary rights, worldwide (all of the foregoing rights taken together being referred to collectively herein as "Intellectual Property Rights") therein and thereto.

3. Use or Disclosure of Information in EHR; Ownership of Data.

a. Prior to accessing the EHR of any patient for any reason, Outside Entity shall obtain the consent of that patient, or his or her parent, guardian, surrogate, healthcare proxy, legally authorized representative or qualified person (each a "Qualified Person") in a form approved by CCHS and compliant with all applicable laws and regulations. Outside Entity shall retain all such patient consents for the duration of this Agreement and for a period of six (6) years thereafter, and shall provide copies of all such consents to CCHS upon request.

b. Outside Entity shall not use or disclose any patient information obtained through ccLink Portal in any manner that would constitute a violation of federal or state law, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and all regulations enacted thereunder ("HIPAA") and the California Confidentiality of Medical Information Act ("CMIA"). Outside Entity shall ensure that its directors, officers, contractors, agents, and members of its Workforce as defined in 42 C.F.R. § 160.103 use or disclose patient information obtained through ccLink Provider Portal only in accordance with the provisions of this Agreement and all applicable law. Outside Entity shall, and shall cause all of its directors, officers, contractors, agents, and members of its Workforce to comply with all policies and procedures of CCHS in effect and applicable to the use of ccLink Provider Portal.

c. Outside Entity acknowledges and agrees that CCHS shall own all rights, title and interest in and to the patient data in the applicable EHR. To the extent that a health care provider other than CCHS or its affiliates appends patient data to the EHR ("Data Provider"), such data and all rights, title, and interest in such data shall at all times remain with the Data Provider; however, Outside Entity shall, at its sole expense, (i) obtain all consents, licenses, and permissions necessary for entry and use of such data in connection with the ccLink Portal and EHR; and (ii) grants CCHS a non-exclusive, royalty-free, perpetual license to include such data as part of the EHR. Outside Entity shall not compile, de-identify and/or distribute analyses to third parties utilizing any data received through ccLink Provider Portal without express written permission from CCHS.

4. Managing Access.

a. Outside Entity shall notify CCHS of the identity of and contact information for Outside Entity's Privacy Officer and shall update such information as soon as practicable in the event of any change. Outside Entity shall also designate and provide contact information for a liaison to coordinate addition or removal of Authorized Users. The liaison is responsible for managing the addition, modification and termination of ccLink Provider Portal access by employees and agents of Outside Entity.

b. Before accessing ccLink Provider Portal for the first time, each Authorized User must acknowledge agreement with the ccLink Provider Portal Terms and Conditions as in effect at the time of first access. Such Terms and Conditions are subject to change at any time in the sole discretion of CCHS. By accessing ccLink Provider Portal, each Authorized User agrees to be bound by the Terms and Conditions as amended. Outside Entity agrees to ensure that each Authorized User approved for access under this Agreement adheres to the requirements of this Agreement, the Terms and Conditions and any applicable policies and procedures and agrees that a breach thereof by any Authorized User shall constitute a breach of this Agreement by Outside Entity. Outside Entity shall cause each Authorized User to complete appropriate training on the use of ccLink Provider Portal and the proper use and disclosure of patient information obtained through ccLink Provider Portal.

c. Access to ccLink Provider Portal shall be provided to those contractors, agents and members of the Workforce of Outside Entity who require access to patient information of the type which may be obtained through ccLink Provider Portal to perform their duties to the Outside Entity and its patients. A complete list of Authorized Users through Outside Entity is attached hereto as Exhibit A, which list shall be updated as necessary to add or delete Authorized Users upon written notice by Outside Entity. Outside Entity shall notify CCHS in writing as soon as practicable, but no later than seventy-two (72) hours in advance of any Authorized User's separation from

Outside Entity or change in job functions such that he or she no longer requires access to ccLink Portal to perform his or her duties for or on behalf of Outside Entity. In the event that Outside Entity elects to terminate the employment, contract, or other arrangement with a contractor, agent, or member of its Workforce who is an Authorized User, Outside Entity shall notify CCHS in writing prior to issuing a termination notice to such individual, or if not practicable, immediately upon termination.

5. Reporting of Unauthorized Use of ccLink Provider Portal.

a. As soon as practicable, but in any event within twenty-four (24) hours, Outside Entity shall notify CCHS in writing of any (1) Security Incident as defined in the Business Associate Attachment to this Agreement, and/or suspected or actual breach of security or intrusion involving Outside Entity's computer systems or networks through which the ccLink Provider Portal may be accessed, or (2) unauthorized access, use, or disclosure of Protected Health Information ("PHI") and/or any actual or suspected unauthorized access, use, or disclosure of data accessed through the ccLINK Provider Portal by Outside Entity, its contractors, agents, or members of its Workforce in violation of any applicable federal or state laws or regulations, including but not limited to CMIA. Such notice shall be FAXed to CCMH **Provider Services** at **925-372-4410**, CCMH, **Attn: ccLink Provider Portal**.

b. Outside Entity shall, at no cost, fully cooperate with CCHS investigation into any Security Incident, breach of security, intrusion, unauthorized use or disclosure of PHI, and/or any actual or suspected unauthorized access, use, or disclosure of data accessed through the ccLINK Provider Portal, and shall, at Outside Entity's sole cost and expense, mitigate any know harm caused by such Security Incident, breach of security, intrusion, or unauthorized access, use, or disclosure. Outside Entity shall implement all reasonable corrective actions necessary to prevent any such further unauthorized access, use, or disclosure, Security Incident, breach of security, or intrusion from occurring in the future.

6. Indemnification. Outside Entity agrees to indemnify, defend, and hold harmless CCHS, the Data Providers, and each of their affiliates, directors, officers, contractors, agents, licensors, vendors, and members of their Workforce from and against any and all claims, costs, losses, damages, liabilities, fines, expenses, demands, and judgments, including litigation expenses and attorney's fees, which may arise from or relate to the breach by Outside Entity of any term or condition of this Agreement, including but not limited to any Security Incident, or any breach of security, intrusion, or unauthorized use or disclosure of PHI as described in Section 5.a of this Agreement. Such indemnification shall include, but shall not be limited to, the full cost of any breach notification required to be made under HIPAA or CMIA as a result of any such breach of security, intrusion, or unauthorized use or disclosure of PHI or data. The indemnity in this provision is in addition to and cumulative of any indemnity in the parties' Business Associate Agreement.

7. No Warranties; Limitation of Liability.

a. TO THE FULLEST EXTENT PERMISSIBLE UNDER ANY APPLICABLE LAW, RULE OR REGULATION, CCHS AND ITS LICENSORS AND VENDORS ARE PROVIDING CCLINK PORTAL, AND ALL INFORMATION ACCESSIBLE OR PROVIDED THROUGH CCLINK PORTAL "AS IS" AND WITHOUT REPRESENTATIONS OR WARRANTIES, AND HEREBY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESSED OR IMPLIED, WRITTEN OR ORAL, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SECURITY, ANY WARRANTY THAT AVAILABILITY OR OPERATION WILL BE UNINTERRUPTED OR ERROR FREE, AND/OR ANY WARRANTY TO PROVIDE ADEQUATE TECHNICAL SUPPORT.

b. To the fullest extent permitted by law, IN NO EVENT WILL CCHS OR ITS LICENSORS AND VENDORS BE LIABLE TO OUTSIDE ENTITY, ITS AUTHORIZED USERS, OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, PUNITIVE, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) ARISING OUT OF THIS AGREEMENT, ccLink Provider Portal, OR ANY INFORMATION OR DATA THEREIN, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; IN ANY EVENT, THE MAXIMUM LIABILITY OF ANY THE FOREGOING FOR ALL CLAIMS (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE) OF EVERY KIND WILL IN NOT EXCEED ONE HUNDRED DOLLARS (\$100.00); AND OUTSIDE ENTITY WAIVES ANY AND ALL CLAIMS, NOW KNOWN OR LATER DISCOVERED, THAT IT MAY HAVE AGAINST CCHS AND ITS VENDORS AND LICENSORS ARISING OUT OF THIS AGREEMENT, ccLink Provider

Portal, OR ANY INFORMATION OR DATA THEREIN. If Outside Entity is dissatisfied with ccLink Provider Portal, Outside Entity's sole and exclusive remedy is to terminate this Agreement.

8. Outside Entity Responsibility for Medical Decisions. OUTSIDE ENTITY AGREES THAT CCLINK PORTAL IS A TOOL AVAILABLE TO OUTSIDE ENTITY PERSONNEL AND PROVIDERS FOR ACCESSING PATIENT INFORMATION AND IS NOT INTENDED IN ANY WAY TO ELIMINATE, REPLACE OR SUBSTITUTE FOR, IN WHOLE OR IN PART, MEDICAL JUDGMENT AND ANALYSIS OF THE PATIENT'S CONDITION. OUTSIDE ENTITY AGREES THAT THE SOLE AND EXCLUSIVE RESPONSIBILITY FOR ANY MEDICAL DECISIONS OR ACTIONS MADE BY OUTSIDE ENTITY PERSONNEL WITH RESPECT TO A PATIENT'S MEDICAL CARE AND FOR DETERMINING THE ACCURACY, COMPLETENESS OR APPROPRIATENESS OF ANY DIAGNOSTIC, CLINICAL OR MEDICAL INFORMATION WITH REGARD TO PATIENTS PROVIDED THROUGH CCLINK PORTAL RESIDES SOLELY WITH OUTSIDE ENTITY.

9. Miscellaneous.

- a. Any reference made herein to any provision of law or regulation shall be a reference to such section as in effect and as same may be amended from time to time.
- b. This Agreement may not be amended except in a writing signed by both parties hereto. Both parties hereto agree that this agreement shall be amended to comply with any and all state or federal laws rules, or regulations, including without limitation any future laws, rules or regulations.
- c. Outside Entity may not assign any of its rights or obligations under this Agreement without the express prior written consent of CCHS, which consent may be given or withheld it is sole discretion. Any attempted assignment in violation of this Agreement shall be null and void and of no effect whatsoever.
- d. The respective rights and obligations of either party which are, buy their terms, intended to survive the termination of this Agreement, shall survive any termination of this Agreement.
- e. Except as otherwise expressly provided herein, all notices which are required to be given hereunder shall be in writing and shall be deemed to have been duly given (a) when delivered personally, (b) the next business day following the day on which the same has been delivered prepaid to a nationally recognized overnight courier service, or (c) three (3) days after sending by registered or certified mail, postage prepaid, return receipt requested, in each case to the address first set forth above to the attention of the person signing below, or to such other person at such other address as the party may designate by giving notice.
- f. In the event that any provision of this Agreement is adjudged by any court of competent jurisdiction to be void or unenforceable, all remaining provisions hereof shall continue to be binding on the parties hereto with the same force and effect as though such void or unenforceable provision had been deleted.
- g. No failure or delay in exercising any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other further exercise thereof or the exercise of any other right, power or remedy. The rights provided hereunder are cumulative and not exclusive of any rights provided by law.
- h. This Agreement including all Exhibits and documents referenced herein constitute the entire Agreement between the parties hereto relating to the subject matter hereof, and supersede any prior or contemporaneous verbal or written agreements, communications and representations relating to the subject matter hereof.
- i. Nothing in this Agreement shall be construed to create an agency relationship between CCHS and Outside Entity.
- j. This Agreement may be signed in two or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. A copy of this Agreement bearing a facsimile signature shall be deemed to be an original.
- k. This Agreement shall be construed an interpreted in accordance with California law, without regard to the

conflicts of law provisions thereof. All actions or proceeding arising under this Agreement shall be brought in the state or federal courts sitting in Contra Costa County, California and both parties consent to the personal jurisdiction of such courts.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed as of the date and year first set forth above.

CONTRA COSTA HEALTH SERVICES

By: _____

Name:

Title:

OUTSIDE ENTITY (Provider)

By: _____

Name (Printed): _____

Title: _____

Exhibit A
Authorized Users