

**Request for Quotations and Qualifications**  
for  
**ICD-10 Business Intelligence Technology  
Solution**

**UW-12-0216**

Released by  
**University of Washington**  
**UW Medicine Health System**

**December 7, 2012**

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# **1. INTRODUCTION**

## **1.1 Background and Purpose**

University of Washington (UW), UW Medicine Health System (UW Medicine), is seeking a Business Intelligence Technology Solution to provide analytics in support of ICD-10.

UW Medicine is actively working on planning for the ICD-10 transition by the formation of a “Reimbursement Planning Committee” comprised of revenue cycle management directors and managers with the goal of forecasting changes to reimbursement mainly due to Diagnosis-Related Group (DRG) “switches” that may happen due to the nature of ICD-10 codes. The ICD-10 Reimbursement Planning Committee will be working in conjunction with the ICD-10 Coding Clinical Documentation Improvement Committee, and other key areas including Finance Decision Support as part of ICD-10 Reimbursement Planning work effort.

In order to be successful in this endeavor, UW Medicine seeks a solution that can analyze claims data, as well as data that highlights ICD-10 “documentation gap” areas. This analysis will be real-time and use the most current data available. The solution will also have the capability to use General Equivalence Mappings (GEMs) mappings in a customizable way to create various possible scenarios.

The scope of this Request for Quotations and Qualifications (RFQQ) includes all UW Medicine facilities [University of Washington Medical Center (UWMC), Harborview Medical Center (HMC), Northwest Hospital and Medical Center (NWH), and Valley Medical Center (VMC)]. However, as ICD-10 business intelligence solution development expands beyond DRGs and hospital-based payment mechanisms, UW Medicine plans to leverage professional billing ICD-10 functionality for UW Medicine clinics as it becomes available.

## **1.2 UW Medicine Characteristics**

UW Medicine is an organizational entity within the University of Washington and is under the direction of the CEO who also serves as the Dean of the School of Medicine. UW Medicine provides primary and specialty care to patients throughout the Pacific Northwest, trains medical professionals and scientists, and conducts biomedical and health services research.

UW Medicine includes Harborview Medical Center, Northwest Hospital & Medical Center, Valley Medical Center, UW Medical Center, UW Neighborhood Clinics, UW Physicians (the practice plan for UW School of Medicine faculty who primarily care for adult patients), UW School of Medicine, and Airlift Northwest. In addition, UW Medicine is a Member Organization along with Seattle Children’s of Children’s University Medical Group (the practice plan for UW School of Medicine faculty, who primarily care for pediatric patients), and along with Children’s and the Fred Hutchinson Cancer Research Center, of the Seattle Cancer Care Alliance.

UW Medicine revenues were approximately \$3.2 billion in FY 2010. Approximately two-thirds of the revenue is derived from patient care services. UW Medicine physicians, hospitals, and clinics represent about 20% of the healthcare delivery capacity in the Seattle/King County region and the exclusive provider of services such as burn care, trauma care, heart transplantation, and liver transplantation.

UW Medicine is a vital part of the safety net for uninsured and underinsured patients in our community, providing 60% of the hospital-based charity care and care to Medicaid beneficiaries in King County. In 2009, Harborview Medical Center and UW Medical Center spent 6.7% of their combined total revenue to provide charity care, compared with 1.1% on average for all other King County hospitals.

## ICD-10 IT Environment

UW Medicine's IT environment for ICD-10 Data Sources and Analytics includes multiple systems that impact ICD-10 operations either directly or indirectly.

UW Medicine Entity	System	Modules/Functions	Version	Comments	Number of Users
HMC & UWMC VMC	Epic	Cadence, Prelude, Referrals, EpicCare, HB, PB	2010		Concurrent users: ~3,000 Total users: ~6,000
HMC & UWMC	Epic Clarity	Data Marts using primarily Cognos Framework tools	Cognos – V8.4	Running on SQL Server 2005	IT/Developers: ~50 Report users: ~500
NWH	McKesson STAR	STAR	version 17	ADT/Financial System	
HMC & UWMC NWH	3M	HDM Health Information Management Tool	5.0.2 V6.12	Used by Coding for IP, OBV, OP & Surgery admissions Used by UM / CRM to document approval for services provided and to ensure appropriate admission levels	Users: ~300 Concurrent: ~50 - 70
HMC & UWMC	3M	Grouper Plus; HPM Decision Support Tool	2011.3.1	Decision Support Tool	Users: ~15
VMC	3M	OPPS Grouper		HIM ICD9 coding and DRG grouping	
NWH	3M	APR-DRG and AP-DRG		HIM ICD9 coding and DRG grouping	
NWH	3M	Computer Assisted Coding		Computer assisted coding	
HMC & UWMC NWH	JA Thomas	Clinical Documentation Improvement (CDMP)	12.3.912.1	Used to HMC / UWMC clinical documentation specialists	Users: ~60

UW Medicine Entity	System	Modules/Functions	Version	Comments	Number of Users
HMC & UWMC	MedeAnalytics	RAC, Compliance and Quality Analytics		ASP solution, hosted by MedeAnalytics	Users: ~20
VMC	ChartMaxx	RAC / Compliance analytics		Electronic Health Record document management and imaging system	Users: ~25
HMC & UWMC  NWH	McKesson	HBI Business Intelligence	V15.3  Upgrade to v16 planned for Q2, 2012		Users: ~600
HMC & UWMC  NWH  (2013 timeframe for Data Warehouse)	McKesson	HPM Performance Analytics Data Warehouse  Branded as "Data Transformation Framework"	V15SP4	Upgrade to v16 planned for Q1, 2012  HMC / UWMC - includes internally-created GEM mapping)	Users: ~100 (executive management/ support staff)
HMC & UWMC		HPM Decision Support Suite & Spotfire Visual Display Tool			
HMC & UWMC	Microsoft Amalga	Data Warehouse	VR2SP1	Running on SQL Server. Variety of clinical and financial data used extensively for reporting	IT/Developers: ~30 Report recipients: ~500
VMC	MedAssets Avega	Data Warehouse / Decision Support		Decision support tool	Users: ~75 (executive management / support staff)

### 1.3 No Master Contract

Any Contract resulting from this acquisition process will not be a Department of Enterprise Services (“DES”) Master Contract.

### 1.4 Contract Term

The initial term of any resulting Contract will be three (3) years commencing on the effective date of the Contract. UW reserves the right to extend the Contract for additional two (2) year periods at the sole discretion of UW.

### 1.5 Funding

Any contract awarded as a result of this procurement is contingent upon the availability of funding.

### 1.6 Definitions

“**Apparent Successful Vendor**” or “**(ASV)**” shall mean the Vendor who meets all the requirements of this RFQQ, and achieves the highest total score.

“**Business Days**” or “**Business Hours**” shall mean Monday through Friday, 8 AM to 5 PM, local time in Seattle, Washington, excluding Washington State holidays.

“**Contract**” or shall mean the RFQQ, the Response, Contract document, all schedules and exhibits, all statements of work, and all amendments awarded pursuant to this RFQQ.

“**Delivery Date**” shall mean the date by which the Products and Services must be delivered.

“**Mandatory**” or “**(M)**” shall mean the Vendor must comply with the requirement, and the Response will be evaluated on a pass/fail basis.

“**Mandatory Scored**” or “**(MS)**” shall mean the Vendor must comply with the requirement, and the Response will be scored.

“**Personal Services**” shall mean professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement, pursuant to RCW 39.29.

“**Product(s)**” shall mean anything and everything of a tangible nature, which are supplied by the Vendor.

“**Purchased Services**” shall mean those Services and activities provided by Vendor to accomplish routine, continuing, and necessary functions as set forth in the resulting Contract or Statement of Work. Purchased Services shall include those Services specified as Purchased Services in RCW 43.105.020.

“**Purchaser**” shall mean the University of Washington, for and on behalf of its health system, UW Medicine. UW Medicine consists of the following components: The School of Medicine; University of Washington Medical Center (UWMC) and its outpatient clinics; Harborview Medical Center (HMC) and its outpatient clinics; UW Medicine Eastside Specialties Center; The Association of University Physicians, d/b/a University of Washington Physicians (UWP); University of Washington Physicians Network (UWPN), also known as UW Medicine Neighborhood Clinics (UWNC); UW Medicine Sports Medicine Clinic; Hall Health Primary Care Center; Northwest Hospital and Medical Center (NWH), Valley Medical Center (VMC), and Seattle Cancer Care Alliance (SCCA).

“**RCW**” means the Revised Code of Washington.

“**Response(s)**” shall mean the written proposal submitted by Vendor to UW in accordance with this RFQQ. The Response shall include all written material submitted by Vendor as of the date set forth in the Acquisition Schedule or as further requested by UW.

“**Services**” may include both Personal Services and Purchased Services and shall mean those Services provided by Vendor relating to the solicitation, deployment, development, and/or implementation activities that are appropriate to the scope of this solicitation.



**“Software”** shall mean the object code version of computer programs Licensed pursuant to the Contract. Software also means the source code version, where provided by Vendor. Embedded code, firmware, internal code, microcode, and any other term referring to software residing in the Equipment that is necessary for the proper operation of the Equipment is not included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections.

**“State”** shall mean the state of Washington.

**“Statement of Work” (SOW)** shall mean the statement of work included in, or attached to, the resulting Contract between Vendor and UW for Vendor’s Services to be accomplished under the terms and conditions of the resulting Contract.

**Subcontractor(s)** shall mean one not in the employment of Vendor, who is performing all or part of the Services under the resulting Contract under a separate contract with Vendor. The term “Subcontractor” means Subcontractor(s) of any tier.

**“Vendor”** shall mean a company, organization, or entity submitting a Response to this RFQQ.

## **1.7 ADA**

UW complies with the Americans with Disabilities Act (ADA). Vendors may contact the RFQQ Coordinator to receive this RFQQ in an alternative accessible format.

## SECTION 2

### 2. ACQUISITION SCHEDULE

Activity	Due Date	Due Time
RFQQ Released	December 7, 2012	
Written Questions Due from Vendors	December 14, 2012	1:00 PM Local Time
Written Answers Due to Vendor Questions	December 21, 2012	4:00 PM Local Time
Vendor Proposals Due	January 4, 2013	1:00 PM Local Time
Evaluate Proposals	January 7-11, 2013	
Conduct Oral Interviews with Finalists, if required	January 14-25, 2013	
Announce "Apparent Successful Vendor" and Send Notification via Fax or Email to Unsuccessful Vendors	January 30, 2013	
Optional Debriefing Requests Due	February 1, 2013	1:00 PT Local Time
Hold Debriefing Conferences (if requested)	February 4-5, 2013	4:00 PM Local Time
Begin Contract Negotiations	February 7, 2013	
Contract Execution	February 22, 2013	
Contract Available for Use	February 25, 2013	

**UW reserves the right to revise the above schedule at any time.**

## SECTION 3

### 3. ADMINISTRATIVE REQUIREMENTS

#### 3.1 RFQQ Coordinator

After the release of this RFQQ, all Vendors must direct communications concerning this procurement to the RFQQ Coordinator listed below.

John Lowdon  
UW Medicine Health System  
Email: jlowdon@uw.edu

Unauthorized contact regarding this procurement with State employees other than the RFQQ Coordinator may result in the Vendor's disqualification. Any oral communications will be considered unofficial and non-binding on UW. Vendors should rely only on written statements issued by the RFQQ Coordinator. Responses to verbal requests for information or clarification will be considered unofficial until received in writing.

#### 3.2 Vendor Questions

Each Vendor may submit a maximum of ten (10) questions regarding this RFQQ until the date and time specified in the Acquisition Schedule. Questions must be submitted by email to the RFQQ Coordinator. An official written UW answer will be provided for Vendor questions received by this deadline and posted at <http://www.ga.wa.gov/webs/index.html>.

The Vendor that submitted the question will not be identified. Verbal answers to questions will be considered unofficial and non-binding. Only written answers posted to the website will be considered official and binding.

#### 3.3 "Mandatory Requirement" (M) Defined

A Mandatory (M) requirement is an essential need that must be met by the Vendor and will be scored on a pass/fail basis. Failure to meet any of the Mandatory requirements may cause the entire Response to be eliminated from further consideration.

Any of the following occurrences will constitute failure by a Vendor to meet a Mandatory requirement:

- The Vendor states that a Mandatory requirement cannot be met.
- The Vendor fails to include requested information necessary to substantiate that the Mandatory requirement has been met. The Vendor may reference supplemental material, but the answer must be complete in itself.
- The Vendor indicates that future developments will satisfy the requirement. Only Responses that indicate present capability will meet the Mandatory requirement.
- The Vendor presents the information requested by this RFQQ in a manner inconsistent with the instructions stated by any portion of this RFQQ.
- Vendor references, site visits, or other investigative practices identify the Vendor's inability to comply with one or more of the Mandatory requirements.

#### 3.4 "Mandatory Scored Requirement" (MS) Defined

A Mandatory Scored (MS) requirement is an essential need. Vendors must respond to all scored requirements.

Evaluations will only be based on the quality of the Vendor's Response to a scored requirement. Evaluators will be instructed to score only the content of the Response and not any knowledge obtained

through prior experience with the Vendor or with Vendor presentations and documentation provided prior to the release of this RFQQ.

Therefore, it is in the Vendor's best interest to be thorough and fully responsive when preparing answers to these requirements. Failure of the Vendor to respond to any Mandatory Scored requirement or a score of zero (0) on any Mandatory Scored requirement may cause the entire Response to be eliminated from further consideration.

### **3.5 Response Presentation and Format Requirements**

#### **3.5.1 Preparation Instructions**

Include the Vendor name and the name, address, email address, and telephone number of the Vendor's representative at the beginning of the Response. Figures and tables must be numbered and referenced in the text by that number. Pages must be numbered consecutively within each section, showing section number and page number. All Responses, as well as any reference materials presented, must be written in English.

#### **3.5.2 Response Format Requirements**

Vendors must respond to each requirement contained in Sections 4, 5, and 6 of this RFQQ.

Restate the subsection number and requirement exactly as stated in this RFQQ, followed by the response. Failure of the Vendor to respond to any mandatory item may cause the entire Response to be eliminated from further consideration.

For mandatory requirements, the Vendor must always indicate explicitly whether or not the Vendor's proposed solution meets the requirement. A statement such as, "(Vendor Name) fully complies with this requirement" is acceptable.

Each of the requirements in Sections 4, 5, and 6 is numbered and titled. Each requirement contains a designation as follows that indicates how the Vendor's Response will be evaluated as follows:

(M) Mandatory. The requirement is mandatory, and the Vendor's Response will be evaluated on a pass/fail basis.

(MS) Mandatory Scored. The requirement is mandatory, and the Vendor's Response will be scored.

Responses must be only based on the material contained in this RFQQ. Vendors are to disregard any previous draft material and any oral representations they may have received.

### **3.6 (M) Delivery of Responses**

Responses must be received by the RFQQ Coordinator **no later than** the date and time specified in the Acquisition Schedule.

Responses **must** be submitted electronically as an email attachment to the RFQQ Coordinator at the email address listed in Subsection 3.1. Attachments to email shall use Microsoft products or be in PDF format. Zipped files **cannot** be used for submission of Responses. The cover submittal letter and the Certifications and Assurances form **must** have a scanned signature of the individual within the organization authorized to bind the Vendor to the offer. UW does not assume responsibility for problems with Vendor's email. If UW's email is not working properly, appropriate allowances will be made.

Responses may not be transmitted using facsimile transmission.

Vendors should allow sufficient time to ensure timely receipt of the Response by the RFQQ Coordinator. The "receive date/time" posted by the RFQQ Coordinator's email system will be used as the official time stamp and may not be the exact time. Late Responses will **not be accepted** and will be automatically disqualified from further consideration, unless UW's email is found to be at fault. All Responses and any accompanying documentation become the property of UW and will not be returned.

### **3.7 Cost of Response Preparation**

UW will not reimburse Vendors for any costs associated with preparing or presenting a Response.

### **3.8 Response Property of UW**

All materials submitted in response to this solicitation become the property of UW. UW has the right to use any of the ideas presented in any Response. Selection or rejection of a Response does not affect this right.

### **3.9 Access to Data**

If requested, the Vendor shall provide, at no additional cost, access to data generated under any resulting Contract to UW, to the Joint Legislative Audit and Review Committee, and to the State Auditor. This includes access to all information that supports the findings, conclusions, and recommendations of the Vendor's reports, including computer models and methodology for those models.

### **3.10 Public Records**

UW is subject to RCW 42.56 (Public Records Act). All Vendor Responses and any subsequent Contract will be "public records" as defined in RCW 42.17.

The Vendor must clearly specify any specific information that it claims is confidential or proprietary. Marking of the entire Response or entire sections as proprietary will not be honored. UW will not accept Responses where pricing is marked as proprietary.

All Responses received will remain confidential until the Contract, if any, resulting from this RFQQ is signed by UW and the Apparent Successful Vendor; thereafter, the Responses will be deemed public records.

To the extent consistent with RCW 42.56, UW will maintain the confidentiality of all information marked confidential or proprietary. If a request is made to view the Vendor's information, UW will notify the Vendor of the request and the date that such records will be released unless the Vendor obtains a court order enjoining that disclosure. If the Vendor fails to obtain the court order enjoining disclosure, UW will release the requested information on the date specified.

### **3.11 Minor Administrative Irregularities**

UW reserves the right to waive, in its sole discretion, minor administrative irregularities contained in any Vendor Response. Additionally, UW reserves the right, at its sole option, to make corrections to Vendors' Responses when an obvious arithmetical error has been made in the price quotation.

### **3.12 Errors in Response**

Vendors are liable for all errors or omissions contained in their Responses. Vendors will not be allowed to alter Response documents after the deadline for Response submission. Vendors are liable for all errors or omissions in their Response. UW reserves the right to contact Vendor for clarification of Response contents.

In those cases where it is unclear to what extent a requirement has been addressed, the evaluation team may, at their discretion and acting through the RFQQ Coordinator, contact a Vendor to clarify specific points in the submitted Response. However, under no circumstances will the responding Vendor be allowed to make changes to the proposed items after the deadline stated for receipt of Responses.

### **3.13 Amendments/Addenda**

UW reserves the right to change the acquisition schedule or amend the RFQQ at any time.

UW reserves the right to make corrections or amendments due to errors identified in the RFQQ by UW or a Vendor. Any changes will be date and time stamped and attached to, and made a part of, the RFQQ. All changes must be coordinated in writing with, authorized by, and made by the RFQQ Coordinator.

All RFQQ corrections and amendments will be posted to the website at <http://www.ga.wa.gov/webs/index.html>. Vendors are responsible for checking the website for this information. UW will not send corrections and amendments to Vendors.

### **3.14 Points of Clarification**

UW reserves the right to contact Vendors for clarification of anything contained in any Response; however, Vendors should not assume that deficient answers will result in clarification requests. The right of clarification is not a Vendor's right; it is a UW right that will be employed only if UW believes it is absolutely necessary.

### **3.15 Right to Cancel**

UW reserves the right to cancel or reissue this RFQQ at any time without obligation or liability.

### **3.16 (M) Certifications and Assurances**

To be responsive, Vendors must indicate a willingness to enter into a Contract subject to the Terms and Conditions in Appendix B by signing the Certifications and Assurances statement in Appendix A. All specific areas of dispute with these terms and conditions must be identified in the Vendor's Response and may, at the sole discretion of UW, be grounds for disqualification from further consideration in the award of any resulting Contract.

The Apparent Successful Vendor will be expected to enter into a Contract within five (5) Business Days of delivery of the final Contract to said Vendor. If the selected Vendor fails to sign the Contract within the allotted five (5) day timeframe, UW may elect to cancel the award and award the Contract to the next highest ranked Vendor. UW also may elect to cancel or reissue the RFQQ pursuant to Subsection 3.15. Submission of a Response to the RFQQ constitutes acceptance of the aforementioned requirements.

### **3.17 Contract Terms and Conditions**

Under no circumstances is a Vendor to submit its own standard contract terms and conditions. The Vendor must address the specific language in Appendix B and submit whatever proposed modifications the Vendor may desire. Any such proposed modifications must be submitted in the Vendor's Response, attached to the Certification and Assurances document in Appendix A.

UW expects that the final Contract signed with the Apparent Successful Vendor will be substantially the same as the Contract included in Appendix B. However, given the nature of these Products and Services, and the wide range of potential responses to this RFQQ, UW expressly reserves the right to propose modifications, deletions, or additions to the Contract language during negotiations of the final Contract.

### **3.18 No Multiple Award**

UW anticipates that only one (1) Apparent Successful Vendor will be identified via this procurement and only one (1) Contract will be awarded.

### **3.19 Incorporation of Documents into Contract**

This solicitation document and the Response will be incorporated into any resulting Contract.

### **3.20 Best and Final Offer**

UW reserves the right to make an award without further discussion of the Response submitted. There will be no best and final offer associated with selection of the Apparent Successful Vendor. Therefore, the Response should be submitted on the most favorable terms that Vendor intends to offer.

### **3.21 No Costs Chargeable**

No costs or charges under the proposed Contract may be incurred before the Contract is fully executed.

### **3.22 Minority and Women's Business Enterprises (MWBE)**

In accordance with RCW 39.19, the state of Washington encourages participation in all of its contracts by firms certified by the Office of Minority and Women's Business Enterprises (OMWBE). Participation may be either on a direct basis in response to this solicitation or on a subcontractor basis. However, no preference will be included in the evaluation of Responses, no minimum level of MWBE participation shall be required as a condition for receiving an award and Responses will not be rejected or considered non-responsive on that basis.

The established annual procurement participation goals for MBE is 3% and for WBE, 3%, for this type of project. These goals are voluntary. For information on certified firms, Vendors may contact OMWBE at 866.208.1064 or <http://www.omwbe.wa.gov>.

### **3.23 No Obligation to Contract/Buy**

UW reserves the right to refrain from Contracting with any and all Vendors. Neither the release of this solicitation document nor the execution of a resulting Contract obligates UW to make any purchases.

### **3.24 Non-Endorsement**

In selecting a Vendor to supply Products and Services, UW is neither endorsing Vendor's Products and Services, nor suggesting that they are the best or only solution to UW's needs. By submitting a Response, Vendor agrees to make no reference to UW or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of UW.

### **3.25 Single Response**

If there is a single Response from only one (1) Vendor, then UW may deem the procurement as a failure of competition and, at the sole option of UW, may cancel the RFQQ. Alternatively, UW may choose to name the single Vendor as the Apparent Successful Vendor.

### **3.26 Withdrawal of Response**

Vendors may withdraw a Response that has been submitted at any time up to the Response due date and time identified in the Acquisition Schedule. To accomplish Response withdrawal, an email request with a scanned signature must be submitted to the RFQQ Coordinator by an authorized representative of Vendor. After withdrawing a previously submitted Response, Vendor may submit another Response at any time up to the Response submission deadline.

### **3.27 Announcement of Apparent Successful Vendor**

All Vendors responding to the procurement shall be notified by email or fax when the Apparent Successful Vendor has been determined. The date of announcement of the Apparent Successful Vendor shall be the date the announcement letter is sent. The tentative date for the announcement is identified in the Acquisition Schedule.

### **3.28 Optional Vendor Debriefing**

Only Vendors who submit an unsuccessful Response may request an optional debriefing conference to discuss the evaluation of their Response. The requested debriefing conference must occur on or before the date specified in the Acquisition Schedule. The request must be sent via email to the RFQQ Coordinator.

The optional debriefing will not include any comparison between the Response and any other Responses submitted. However, UW will discuss the factors considered in the evaluation of the Response and address questions and concerns about the Vendor's performance with regard to the solicitation requirements. Debriefing conferences will be conducted by phone and scheduled for a maximum of thirty (30) minutes.

### **3.29 Complaints and Protests Procedures**

Complaint and protest procedures can be found in Appendix C.

### **3.30 Electronic Availability**

The contents of this RFQQ and any amendments/addenda and written answers to questions are only available at <http://www.ga.wa.gov/webs/index.html>.

### **3.31 Covered Services**

Products and Services available under any resulting Contract will be consistent with those specified in this RFQQ.



## SECTION 4

### 4. VENDOR QUALIFICATIONS

This section establishes the Vendor Qualifications for this RFQQ. Vendors must respond and provide detailed information for all items designated Mandatory (M) and Mandatory Scored (MS) requirements. Provide all information in the exact order specified in this section.

Vendors are encouraged to include information in their Responses that are critical to service delivery and provide competitive advantage. UW does not desire highly conceptual Responses. Preference will be given to Vendor Responses that are brief, clear, and directly address the specific requirement.

Responses to this section must be standalone in order to facilitate evaluation and scoring.

#### 4.1 (M) Vendor Status as a Washington State Business

The Apparent Successful Vendor must agree to register with the Washington State Department of Revenue. The Vendor must also agree to collect and report all applicable State sales taxes.

Vendor must acknowledge and agree to the above requirement.

#### 4.2 (M) Use of Subcontractors

Vendors must acknowledge and agree that they will be solely responsible for carrying out the requirements of this RFQQ and any resulting Contract. If, during the course of any resulting Contract, the Vendor proposes to use a Subcontractor, then the Vendor must submit a written request to UW before entering into any agreement with the proposed Subcontractor. UW will then review the proposal and give written approval or disapproval. The intent of this provision is to provide UW with a single point of accountability for all matters pertaining to any Contract resulting from this RFQQ.

#### 4.3 (MS) Subcontractor Information

In order to achieve the best combination of experience and skill, "strategic relationships" or Subcontractor arrangements may be proposed. Any and all such relationships, including "advisors" and "outsourced functions", must be in the context of a Subcontractor to the Vendor. The Vendor must be the prime contractor and must agree to be liable for the performance of any proposed Subcontractor.

If any such relationships are proposed, the Vendor must describe the Subcontractor relationship with the Vendor, including previous experience with the Subcontractor. Discuss the nature of the Subcontractor organization and the management and reporting relationships between the Vendor and the Subcontractor. Also, for each Subcontractor relationship, provide the profile information stated in Subsection 4.7 and the financial information stated in Subsection 4.8.

State the total percentage of performance hours to be subcontracted for the initial implementation and for ongoing support and the nature of the work to be performed. If no subcontracting is intended, so declare.

#### 4.4 (M) In-State Presence

The Vendor must state if it has established an in-state presence within Washington State. If Vendor has established an in-state presence, please identify the address and phone number for each location.

#### 4.5 (MS) Relevant Experience

The Vendor must list three (3) recent engagements that closely relate to the Products and Services described in this RFQQ. The Vendor must provide a concise description of each engagement in two (2) pages or less including its role, scope, service deliverables, timeframe, and final status. The Vendor must also include these service engagements as part of their Response to Subsection 4.12.

#### **4.6 (MS) History, Position, Strategy**

The Vendor must describe in two (2) pages or less its history, position in the marketplace, and strategy for the future as it relates to providing the Product and Services specified in this RFQQ. The Vendor must also describe its business practices and experiences working with (a) large enterprises with semi-autonomous business units, (b) public agencies, and (c) higher education institutions (d) healthcare institutions with a combination of hospital and professional services.

Finally, the Vendor must explain how its business and technology services provide distinct advantages over its competition. How do these differences benefit customers? What competitive advantages or benefits will customers realize?

#### **4.7 (M) Vendor Profile**

The Vendor must provide the following information:

##### **4.7.1 Name, Address, and Telephone Number of the Legal Entity**

Provide the name, address, telephone number, and fax number of the legal entity with whom UW may execute any Contract(s) arising from this procurement.

##### **4.7.2 Legal Status**

Describe the legal status of Vendor such as corporation (including state of incorporation), limited liability company (including state of incorporation), partnership (including state of registration), sole proprietor, etc. Additionally, provide a Federal Employer Tax Identification number and Washington State Uniform Business Identification (UBI) number.

##### **4.7.3 Name, Address, and Telephone Number of Principal Officers and Account Manager**

Furnish the firm's name, address, email address, telephone number, and fax number of the principal officers and the proposed account manager for any Contract arising from this procurement.

#### **4.8 (M) Financial Statements**

The Vendor must provide the name, address, telephone number, and email address of the company's Chief Financial Officer. Also, provide a brief assessment in two (2) pages or less of the company's financial condition and any plans affecting future financial performance.

The Vendor must also state whether it was subject to the "Order Requiring the Filing of Sworn Statements Pursuant to Section 21(a)(1) of the Securities Exchange Act of 1934" (File No. 4-460, dated June 27, 2002) from the United States Securities and Exchange Commission ("SEC"). If the Vendor was required to submit such a statement to the SEC, the Vendor must provide a copy in its response to this RFQQ.

#### **4.9 (MS) Staffing, Qualifications, and Skills**

The Vendor must describe its proposed service organization and the knowledge, skills, abilities, and experience of the team members.

- Provide a description of the proposed service organization and how the team will be managed during the course of initial and ongoing Service delivery including any Subcontractors. If Subcontractors are to be used, state the length of time of the association and number of previous engagements that have been performed together.
- State the name, title or position, email address, and telephone number of the individual who will have primary responsibility for Service delivery. Disclose who within the firm will have prime responsibility and final authority for the Services provided under the proposed Contract.
- Identify responsibilities and qualifications of staff who will be assigned to Service delivery. Provide resumes for the named staff that includes information regarding their particular skill sets, professional certifications, education, experience, significant accomplishments, and other pertinent information.

- Provide demonstrated experience working with hospitals using Epic, demonstrated experience providing solutions for a minimum of five (5) years, and demonstrated experience implementing interface extracts with existing hospital and professional revenue cycle systems. Provide the healthcare software system vendors that have been interfaced with the proposed Product.
- Provide an organization chart highlighting lines of authority for personnel who will be involved in the performance of any resulting Contract. Also indicate relationships of this staff to other programs or functions of the firm.

Scoring for this requirement will be based upon the soundness of the proposed service organization and the alignment of team members' qualifications and skills with RFQQ requirements.

#### **4.10 (MS) Vendor/Customer Communication**

The effective performance and utilization of any resulting Contract will require the Vendor to utilize a variety of communication strategies.

The Vendor must briefly discuss in two (2) pages or less its plan for establishing and maintaining effective communications throughout the Contract period.

#### **4.11 (M) Prior Contract Performance**

If the Vendor had any Contracts terminated for default during the five (5) years immediately preceding the date of this RFQQ, then the Vendor must describe all such incidents. Termination for default is defined as notice to stop performance due to the Vendor's non-performance or poor performance and the issue was (a) not litigated in court or in an alternative dispute resolution setting or (b) litigated, either in court or in an alternative dispute resolution setting, and the decision or judgment was that the Vendor was in default.

Submit full details of all terminations for default experienced by the Vendor in the past five (5) years, including the other party's name, address, and telephone number. Present the Vendor's position on the matter.

UW Medicine will evaluate the facts and may, at its sole discretion, reject the Vendor's Response if the facts discovered indicate that completion of a Contract resulting from this procurement may be jeopardized by selection of the Vendor.

If the Vendor has experienced no such terminations for default in the past five (5) years, so declare.

It is not acceptable for the Vendor to state that the requested information will be provided only if and when the Vendor is selected as the Apparent Successful Vendor. It also is not acceptable for the Vendor to include only legal action that resulted from terminations for default.

#### **4.12 (MS) Customer References**

UW is seeking a Vendor with the attributes of a high-quality service provider. References will be a particularly important aspect of the Vendor's proposal. References will be evaluated based upon the Vendor's demonstrated ability to meet customer's business and technology needs, provide quality staffing, quickly resolve problems, deliver agreed-upon Services, and ensure overall customer satisfaction.

The Vendor must provide at least three (3) quotes from customer references (separate engagements) to include the attributes stated above. For follow-up purposes, identify the name, title, mailing address, email address, and phone number for each reference quotation.

Vendors must contact their three (3) references and authorize them to provide information to UW representatives. The references must be available by phone during the evaluation process. UW may, at its option, contact other sources for reference information.

#### **4.13 (MS) Risk Mitigation**

The Vendor must identify five (5) items perceived to be the highest risks to implementing and supporting their solution and provide a brief plan in three (3) pages or less for mitigating these risks.

#### **4.14 (M) Vendor Project Manager**

Vendor shall appoint a Project Manager who will provide oversight of Vendor contract activities. Vendor's Project Manager will be the principal point of contact concerning Vendor's performance under any resulting Contract. Vendor shall notify the Purchaser Project Manager, in writing, when there is a new Vendor Project Manager assigned to this Contract.

The Vendor Project Manager information is:

Name:  
Address:  
Phone:  
Fax:  
Email:

#### **4.15 (M) Insurance**

The Apparent Successful Vendor is required to obtain insurance to protect UW should there be any claims, suits, actions, costs, or damages or expenses arising from any negligent or intentional act or omission of the Vendor or its Subcontractor(s), or their agents, while performing work under the terms of any Contract resulting from this solicitation. Vendors will find a complete description of the specific insurance requirements in the proposed contract terms in Appendix B, Model Contract.

Vendor must acknowledge and agree to the above requirement.

#### **4.16 (M) Price Protection**

For the initial term of the Contract, the Vendor must guarantee to provide Products and Services at the proposed rates. Rates shall not be increased during the initial term of the Contract. Proposed price adjustments will be taken into consideration when determining whether to extend any Contract. At least sixty (60) calendar days before the end of the then-current term of this Contract, Vendor may propose maintenance fees and Service rate increases by written notice to Purchaser Contracting Officer. The amount of any increase in the maintenance fee and Service rates however, shall not exceed the annual percentage increase, Year over Year, through the end of the most recent month for which the Consumer Price Index (CPI All Items) or 3%, whichever is less.

## SECTION 5

### 5. TECHNICAL REQUIREMENTS

This section establishes the Technical Requirements for this RFQQ. Vendors must respond and provide detailed information for all items designated Mandatory (M) and Mandatory Scored (MS) requirements. Provide all information requested in the exact order specified in this section.

All Products being proposed must be commercially available on or before the Response due date specified in Section 2. If any proposed products are alpha, beta, or other pre-release, the Vendor must state so and describe the product's relative state in the development and testing cycle. UW shall at its discretion decide whether these products are acceptable for use.

Each requirement describes a specific item that must be addressed in order for service delivery to be successful. UW Medicine does not desire highly conceptual responses. Preference will be given to solutions where expert resources can guide UW Medicine data integration from Epic and other applications with the least impact on IT Services.

For each major requirement below (5.1, 5.2, 5.3, and 5.4), the Vendor must describe how its proposed solution satisfies the requirement. Please include information regarding professional / physician ICD business intelligence and deployment timeframe estimates as appropriate.

Responses to this section must be standalone in order to facilitate evaluation and scoring.

#### 5.1 ICD-9 Current Key Metrics

##### 5.1.1 (MS) Key Metrics, Reports, Benchmarks

Vendor must provide descriptions of the metrics, reporting, data and data source(s) needed to meet the following requirement(s).

- Key Metrics (Medicare CMI, CC / MCC Capture Rate, Unspecified Code Usage) over time with ability to drill down into specialty and physician (attending and operating) and associated DRG/diagnosis codes and CPT/diagnosis codes.
- Summary Reports for HB and PB billing based on key metrics with ability to set alerts that can be customized based on increase/decrease, thresholds, frequency, data notification approach.
- Current ICD-9 CMI benchmark comparison by service line/specialty based on data from entity core billing systems [ex: Epic Hospital Billing (HB) / Professional Billing (PB) for HMC, UWMC and VMC; McKesson STAR for NWH] for UW Medicine comparison.
- Current ICD-9 CMI benchmark comparison by service line/specialty based on data from customized selection of comparable peers' MedPar data and/or other BI engine users. Ability to change filter to adjust peers by bed size, geographic location, academic medical center status, etc. is also desired.

#### 5.2 ICD-9 to ICD-10 Reimbursement Impact

##### 5.2.1 (MS) Reimbursement Change / Claims Analysis (MS-DRG as Foundation with Ability to Map MS-DRG to be Relevant for all Payers)

Vendor must provide descriptions of the metrics, reporting, data and data source(s) needed to meet the following requirement(s).

- Potential Reimbursement Change based on claims analysis and simulated ICD-10 MS-DRGs by specialty and physician (attending and operating) with distinct negative impact and positive impact views; analysis should also call out/indicate "Definite" change (when DRG or CPT changed in all simulations).

- By individual MS-DRG and by MS-DRG group
- By additional reimbursement mechanisms as applicable (ex: AP-DRG, APR-DRG, EAPG)
- By Financial Class and by Payer

### **5.2.2 (MS) Drill-Down Capability and Summary Reports**

Vendor must provide descriptions of the metrics, reporting, data, and data source(s) needed to meet the following requirement(s).

- Potential Reimbursement Change data with drill-down capability that identifies specific codes (ICD-10 or CPT) and triggers for change (CC/MCC change, minor procedure switching to major procedure, principal diagnosis change, etc.) at the Service Line, Specialty, and Physician level.
- Summary reports based on Potential Reimbursement Change to identify specific codes that are triggers for change (CC/MCC change, minor procedure switching to major procedure, principal diagnosis change, etc.).

## **5.3 ICD-9 to ICD-10 Documentation Improvement/Opportunity**

### **5.3.1 (MS) Revenue Opportunity**

Vendor must provide descriptions of the metrics, reporting, data and data source(s) needed to meet the following requirement(s).

- Revenue Opportunity based on documentation improvement to CMI benchmark level by service line.
- Revenue Opportunity based on documentation improvement to CMI benchmark level by specialty.

### **5.3.2 (MS) Risk Level Identification**

Vendor must provide descriptions of the metrics, reporting, data and data source(s) needed to meet the following requirement(s).

- Risk level of requiring additional documentation for ICD-10 by specialty and physician (attending and operating)
- Risk level of new documentation elements (ex. Laterality, artery for 43491) being required in documentation based on key data elements (principle diagnosis, secondary diagnosis, procedure codes) by specialty and physician (attending and operating)
- Risk level associated with unspecified code utilization by specialty and physician (attending and operating)

### **5.3.3 (MS) Identification of Current-State Documentation Concept Gaps**

Vendor must provide descriptions of the metrics, reporting, data and data source(s) needed to meet the following requirement(s).

- Summary data for documentation “gap” drivers by ICD-9 code, using ICD-10 documentation concept (ex: laterality, specific location, etc.) and by specialty / physician (attending and operating)
- Documentation “gap” data based on claims analysis by service line, specialty and physician (attending and operating)

## **5.4 Initial and Ongoing Support**

### **5.4.1 (MS) UW Medicine Resource Involvement**

#### 5.4.1.1 Resources / Level of Engagement

Vendor must provide the approach for the resource involvement for all UW Medicine entities (key resource roles, functional area representation, number of resources and level of engagement) required from UW Medicine to complete technical integration and deploy the intended functionality.

#### 5.4.2 (MS) Project Methodology.

##### 5.4.2.1 Standardized methodology for installation, data conversion, integration, training and adoption

Vendor must describe the process and proposed approach for analyzing conversion requirements, completing initial load and data migration from existing contracts, legacy systems, and testing the cutover. Vendor must cite expectations around technical and non-technical resources that will be required from UW Medicine, anticipated duration of initial load and conversion to complete the technical cutover, and list the prospective sources of data that will be required for migration. If additional costs may accrue outside of the cost structure provided in Section 6.1, Vendor must specify the scope of services and costs associated with prospective efforts.

##### 5.4.2.2 Dedicated environment(s) for testing and training

Vendor must describe the environments that will be created to support UW Medicine for testing and training (at a minimum), how they are intended to be used, and the process – both technical and operational - for promoting various configuration, data, and settings into production.

#### 5.4.3 (MS) Support Model

##### 5.4.3.1 Post-implementation support and assistance from account management

Vendor must describe service level support information, and costs (if not included in the basic cost structure in Section 6.1) associated with both routine and special requests anticipated from UW Medicine. Vendor must describe the planned approach and ability to support UW Medicine through the transition to ICD-10.

##### 5.4.3.2 Responsiveness in accord with service level agreements

Vendor must describe scenario-based response time and provide detail of service level agreement approach for ICD-10 Business intelligence technology.

#### 5.4.4 (MS) Training

##### 5.4.4.1 Access to initial and ongoing training and education sessions suited to various UW Medicine customers

Vendor must provide a list of recommended training for end users, including solution administrators, training options, location, and costs (outside of those included in the basic cost structure provided in Section 6.1), and availability for training associated with the initial implementation at UW Medicine and for post-implementation.

## SECTION 6

### 6. FINANCIAL REQUIREMENTS

This section establishes the Financial Requirements for this RFQQ. Vendors must respond and provide detailed information for all items designated Mandatory (M) and Mandatory Scored (MS) requirements. Provide all information in the exact order specified in this section.

UW does not desire highly conceptual responses. Preference will be given for Vendor responses that are brief, clear, and directly address the specific requirement.

Responses to this section must be standalone in order to facilitate evaluation and scoring.

The evaluation process is designed to award this procurement not necessarily to the Vendor of least cost, but rather to the Vendor whose proposal best meets the requirements of this RFQQ. However, Vendors are encouraged to submit proposals which are consistent with state government efforts to conserve state resources.

#### 6.1 (MS) Cost Proposals

Vendors must submit cost information as described in this section.

Cost proposals must be fixed-price bids that represent maximum pricing for all Vendor Products and Services.

Vendors must address all Products and Services described in the Technical Requirements section and submit the following cost information as separate line items:

- Hardware costs (if any)
- Vendor Software licensing costs (enterprise license with unlimited users)
- Software solution components (provide supporting detail by component)
- Third Party Software licensing costs (enterprise license with unlimited users)
- Implementation costs such as project management, system configuration, data conversion, training, etc.
- Maintenance costs such as application support, technical support, system updates, etc.
- Any other costs such as consulting services, system tuning, health checks, etc.
- Optional Software modules (enterprise license with unlimited users)

All costs must be expressed in constant Year 2013 dollars. Any required cost accelerators must be described specifically and completely. Travel-related expenses, if any, must be included in the cost proposals and cost estimates.

The Vendor must identify all items and service-related requirements designated as UW responsibilities. This may include site preparation, facilities, and other infrastructure requirements.

Cost proposals will be evaluated in accordance with the Evaluation Procedures described in Section 7. As stated in Subsection 7.2, UW reserves the right to adjust Vendor Responses during the evaluation process in order to make equivalent comparisons

#### 6.2 Computation

The score for the cost proposal will be computed by dividing the lowest cost bid received by the Vendor's total cost. The resultant number will then be multiplied by the maximum possible points for the cost section.



### **6.3 Financial Grounds for Disqualification**

Failure to identify all costs in a manner consistent with the instructions in this RFQQ is sufficient grounds for disqualification.

### **6.4 Taxes**

Vendor must collect and report all applicable state taxes as set forth in Subsection 4.1, Vendor Status as a Washington State Business. Vendor must not include taxes in their Cost Proposal.

## SECTION 7

### 7. EVALUATION PROCESS

#### 7.1 Introduction

The evaluation process is designed to award the Contract not necessarily to the Vendor of least cost, but rather to the Vendor with the best combination of attributes based upon the evaluation criteria.

Evaluations will only be based upon information provided in the Vendor's Response. In those cases where it is unclear to what extent a requirement has been addressed, the Vendor Evaluation and Selection Team (VEST) may, at its discretion and acting through the RFQQ Coordinator, contact the Vendor to clarify specific points in a Response. However, under no circumstances will the Vendor be allowed to make changes to its Response. Vendors should take every precaution to assure that all answers are clear, complete and directly address the specific requirement. Responses will be evaluated strictly in accordance with the requirements set forth in this RFQQ and any issued addenda.

#### 7.2 Reservation of Right to Adjust Vendor Responses during Evaluation

UW may, at its sole discretion, select or reject individual items being proposed by the Vendor. As part of the evaluation and selection process, UW may find it necessary to add or delete Products or Services from the Vendor's Response in order to make equivalent comparisons.

UW reserves the right to acquire Products and Services on the basis of this RFQQ or to issue further solicitations to identify alternate providers when it appears to be in the best interests of UW.

#### 7.3 Response Evaluation Process

##### 7.3.1 Evaluation Team

Vendor Responses will be evaluated by an evaluation team (VEST) consisting of UW representatives. The RFQQ Coordinator will not serve as an evaluator but will facilitate the evaluation process and may develop information for presentation to the team.

##### 7.3.2 Section Points

Section points have been assigned as follows:

Section	Description	Points	Percentage
4	Vendor Qualifications	49	20%
5	Technical Requirements	122	50%
6	Financial Requirements	74	30%
	<b>Total Points:</b>	<b>245</b>	<b>100%</b>

##### 7.3.3 Contractual

The RFQQ Coordinator will review any Vendor-proposed changes to Schedule B according to the provisions of Subsections 3.16 and 3.17 and Appendix A.

##### 7.3.4 Mandatory Requirements

The RFQQ Coordinator will review Vendor Responses to determine compliance with the Mandatory (M) requirements specified in Sections 3 and 4 (reference Table 1). The coordinator will share this information with VEST at the beginning of the evaluation process.

Only Responses passing all Mandatory requirements will be further evaluated.

### **7.3.5 Mandatory Scored Requirements: Vendor Qualifications and Technical Requirements**

Responses that pass all Mandatory requirements will be further evaluated and scored.

#### **Vendor Qualifications**

VEST will evaluate and assign a score to each Mandatory Scored (MS) requirement based on how well the Vendor's Response matches the requirement.

VEST will assign scores on a scale of zero (0) to seven (7) where the end and midpoints are defined as follows:

0 = Response is missing, totally inadequate or does not fully comply with the requirement.

4 = Response adequately meets the expectation stated in the requirement.

7 = Response is superior and clearly exceeds expectations.

Each Item Score will be multiplied by a Weight to produce a Weighted Score. The Total Section Score will be the sum of the Weighted Scores.

A score of zero (0) on any Mandatory Scored requirement may cause the entire Response to be eliminated from further consideration.

#### **Technical Requirements**

VEST will evaluate and assign a score to each Mandatory Scored (MS) requirement based on how well the Vendor's Response matches the requirement.

VEST will assign scores on a scale of zero (0) to seven (7) where the end and midpoints are defined as follows:

0 = Response is missing, totally inadequate or does not fully comply with the requirement.

4 = Response adequately meets the expectation stated in the requirement.

7 = Response is superior and clearly exceeds expectations.

Each Item Score will be multiplied by a Weight to produce a Weighted Score. The Total Section Score will be the sum of the Weighted Scores.

A score of zero (0) on any Mandatory Scored requirement may cause the entire Response to be eliminated from further consideration.

### **7.3.6 Mandatory Scored Requirements: Financial Requirements**

The Vendor's score for the Financial Requirements Section will be computed as follows:

The score for the financial quote will be computed by dividing the lowest cost bid received by the Vendor's total cost. The resultant number will then be multiplied by the maximum possible points for the cost section.

### **7.3.7 Final Score and Selection of Apparent Successful Vendor**

The RFQQ Coordinator will compute the Vendor's Final Score by totaling Section Scores from Vendor Qualifications, Technical Requirements and Financial Requirements. The Vendor with the highest overall score will be identified as the Apparent Successful Vendor (reference Table 5).

Final Score = Vendor Qualifications Section Score + Technical Requirements Section Score + Financial Requirements Section Score

Vendor notification will be made by email or fax.

#### **7.4 Oral Presentation May be Required**

UW may, after evaluating the written Responses, elect to schedule oral presentations. Should oral presentations become necessary, the RFQQ Coordinator will contact the top-scoring firm(s) from the written evaluation to schedule a date, time, and location for a presentation. Commitments made by the Vendor at the oral interview, if any, will be considered binding. The oral presentation will determine the Apparent Successful Vendor.

**Table 1 - Mandatory Requirements (Sections 3 and 4)**

<b>Section Num</b>	<b>Rqmt Type</b>	<b>Requirement</b>	<b>Pass</b>	<b>Fail</b>
<b>3</b>		<b>Administrative Requirements</b>		
3.6	M	Delivery of Responses		
3.16	M	Certifications and Assurances		
<b>4</b>		<b>Vendor Qualifications</b>		
4.1	M	Vendor Status as a Washington State Business		
4.2	M	Use of Subcontractors		
4.4	M	In-State Presence		
4.7	M	Vendor Profile		
4.8	M	Financial Statements		
4.11	M	Prior Contract Performance		
4.14	M	Vendor Project Manager		
4.15	M	Insurance		
4.16	M	Price Protection		

**Table 2 – Mandatory Scored Requirements (Section 4)**

<b>Section Num</b>	<b>Rqmt Type</b>	<b>Requirement</b>	<b>Item Score (0 to 7)</b>	<b>Weight</b>	<b>Weighted Score</b>
<b>4</b>		<b>Vendor Qualifications</b>			
4.3	MS	Subcontractor Information		1.00	
4.5	MS	Relevant Experience		1.00	
4.6	MS	History, Position, Strategy		1.00	
4.9	MS	Staffing, Qualifications, and Skills		1.00	
4.10	MS	Vendor/Customer Communication		1.00	
4.12	MS	Customer References		1.00	
4.13	MS	Risk Mitigation		1.00	
		<b>Total Section Score</b>			

**Table 3 – Mandatory Scored Requirements (Section 5)**

<b>Section Num</b>	<b>Rqmt Type</b>	<b>Requirement</b>	<b>Item Score (0 to 7)</b>	<b>Weight</b>	<b>Weighted Score</b>
<b>5</b>		<b>Technical Requirements</b>			
5.1.1	MS	Key Metrics, Reports, Benchmarks		1.7143	
5.2.1	MS	Reimbursement Change / Claims Analysis		1.8571	
5.2.2	MS	Drill-Down Capability and Summary Reports		1.5714	
5.3.1	MS	Revenue Opportunity		1.8571	
5.3.2	MS	Risk-Level Identification		1.8571	
5.3.3	MS	Identification of Current State Documentation Concept Gaps		1.8571	
5.4.1	MS	UW Medicine Resource Involvement		1.7143	
5.4.2	MS	Project Methodology		1.5714	
5.4.3	MS	Support Model		1.7143	
5.4.4	MS	Training		1.7143	
		<b>Total Section Score</b>			

**Table 4 – Mandatory Scored Requirements (Section 6)**

Section Num	Rqmt Type	Requirement	Vendor's Bid	Low Bid	Low Bid/ Vendor's Bid	Section Points	Adjusted Score
6		Financial Requirements					
6.1	MS	Cost Proposal				74	
		<b>Total Section Score</b>					

**Table 5 – Vendor's Final Score**

Vendor	Mandatory Requirements (Pass/Fail)	Total Section Scores			Vendor's Final Score
		Vendor Qualifications	Technical Requirements	Financial Requirements	



## APPENDIX A

### Certifications and Assurances

#### ICD-10 Business Intelligence Technology Solution

We make the following certifications and assurances as a required element of the Response to which it is attached, affirming the truthfulness of the facts declared here and acknowledging that the continuing compliance with these statements and all requirements of the RFQQ are conditions precedent to the award or continuation of the resulting Contract.

The prices in this Response have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered. The prices in this Response have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before Contract award unless otherwise required by law. No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition. However, we may freely join with other persons or organizations for the purpose of presenting a single proposal or bid.

The attached Response is a firm offer for a period of one hundred twenty (120) days following the Response Due Date specified in the RFQQ, and it may be accepted by UW without further negotiation (except where obviously required by lack of certainty in key terms) at any time within 120-day period. In the case of protest, your Response will remain valid for 180 days or until the protest is resolved, whichever is later.

In preparing this Response, we have not been assisted by any current or former employee of the state of Washington whose duties relate (or did relate) to the State's solicitation, or prospective Contract, and who was assisting in other than his or her official, public capacity. Neither does such a person nor any member of his or her immediate family have any financial interest in the outcome of this Response. (Any exceptions to these assurances are described in full detail on a separate page and attached to this document.)

We understand that the State will not reimburse us for any costs incurred in the preparation of this Response. All Responses become the property of the State, and we claim no proprietary right to the ideas, writings, items or samples unless so stated in the Response. Submission of the attached Response constitutes an acceptance of the evaluation criteria and an agreement to abide by the procedures and all other administrative requirements described in the solicitation document.

We understand that any Contract awarded, as a result of this Response will incorporate all the solicitation requirements. Submission of a Response and execution of this Certifications and Assurances document certify our willingness to comply with the Contract terms and conditions appearing in Appendix B, or substantially similar terms, if selected as a contractor. It is further understood that our standard contract will not be considered as a replacement for the terms and conditions appearing in Appendix B of this solicitation.

We **(circle one) are / are not** submitting proposed Contract exceptions. If contract exceptions are being submitted, I/we have attached them to this form. If Vendor does not circle one of the alternatives, UW will assume no Contract exceptions are being submitted.

On behalf of the Vendor submitting this response, my name below attests to the accuracy of the above statement. We are submitting a scanned signature of this form with our response.

---

Vendor Signature

---

Vendor Company Name

---

Title

---

Date

**APPENDIX B**  
**MODEL CONTRACT**

**Contract Number UW-12-0216**

**for**

**ICD-10 Business Intelligence  
Technology Solution**

**between**

**University of Washington**

**and**

**[Vendor]**

**Effective Date:** \_\_\_\_\_

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- Exhibit G:*        *UW Medicine Business Associate Agreement*
- Exhibit H:*        *Vendor Technology Specifications*
- Exhibit I:*        *MWBE Certification*
- Exhibit J:*        *RFQQ for ICD-10 Business Intelligence Technology Solution*
- Exhibit K:*        *Vendor's Response*

**CONTRACT NUMBER UW-12-0216**  
**ICD-10 Business Intelligence Technology Solution**

**PARTIES**

This Contract (“Contract”) is entered into by and between the University of Washington (“Purchaser” or “UW” or “UW Medicine” or “Agency”) and [“insert Vendor name”] or “Vendor”).

UW is an agency of Washington State government.

Vendor is a [insert state] corporation and is licensed to conduct business in the state of Washington. Vendor is located at [insert address].

**RECITALS**

The University of Washington issued a Request for Qualifications and Quotation (RFQQ) dated [date], (Exhibit J) for the purpose of purchasing an ICD-10 Business Intelligence Technology Solution in accordance with its authority under RCW 43.105.

[Vendor] submitted a timely Response to UW’s RFQQ (Exhibit K).

UW evaluated all properly submitted Responses to the above-referenced RFQQ and has identified [Vendor] as the apparent successful Vendor.

UW has determined that entering into a Contract with [Vendor] will meet the needs and be in the best interest of UW.

NOW THEREFORE, UW hereby awards to [Vendor] this Contract, the terms and conditions of which shall govern Vendor’s furnishing to UW the Products and Services specified under this Contract. This Contract is not for personal use.

IN CONSIDERATION of the mutual promises as hereinafter set forth, the parties agree as follows:

**1. Definition of Terms**

The following terms as used throughout this Contract shall have the meanings set forth below.

“**Accepts, Accepted or Acceptance**” shall mean Purchaser’s provision to Vendor of a written notice of Acceptance.

“**Acceptance Date**” shall mean the date that Acceptance is deemed to have occurred.

“**Acceptance Testing**” shall mean the process for ascertaining that a deliverable meets the standards set forth in the section titled Acceptance and in Exhibit A-1 prior to Acceptance by the Purchaser.

“**Acceptance Test Plan(s)**” shall mean the written requirements used to ascertain that the Vendor’s Products and Services meet the standards which shall be set forth in Exhibit A-1.

“**Agreement**” shall mean this Contract.

“**Breach of the Security of the System**” shall mean unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by Purchaser.

“**Business Days and Hours**” shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

“**Change Order**” shall mean a memorandum changing the scope of this Contract or revising Product(s) or Service(s) provided hereunder.

“**Confidential Information**” shall mean information that may be exempt from disclosure to the public or other unauthorized persons under either RCW 42.56 or other state or federal statutes. Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, email addresses,

telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, or agency security data.

**"Contract"** shall mean this document, all exhibits, and amendments hereto, and all other documents incorporated herein by reference.

**"Defect(s)"** shall mean a failure of a Product or an omission or deficiency in the Product, which causes it not to conform to the Documentation.

**"Deliverable(s)"** shall mean those items listed as "Deliverables" under Exhibit A-1.

**"Delivery Date"** shall mean the dates for delivery of Deliverables, as described in Exhibit A-3.

**"Documentation"** shall mean Exhibits A-4 and A-5 and manuals, instructions, and similar communicable material of an explanatory nature which are designed and developed by Vendor or its Subcontractors and delivered to Purchaser pursuant to this Contract, including but not limited to: installation and use instructions, operating environment requirements, system architecture documents, design documents, training materials, user manuals, and system guides, whether or not Vendor produces such Documentation before or after this Contract's Effective Date.

**"Effective Date"** shall mean the date stated on the title page of this Contract.

**"Exhibit A"** shall mean the attachment to this Contract containing the Statement of Work (SOW), Pricing, Payment Milestones, Interfaces and Integrations, Functional Requirements, and Training Plan.

**"Exhibit B"** shall mean the attachment to this Contract containing any Support Services Agreements.

**"Exhibit C"** shall mean the attachment to this Contract containing the details of any Product Licenses and Pricing for Expansion of Use.

**"Exhibit D"** shall mean the attachment to this Contract containing the Change Order form.

**"Exhibit E"** shall mean the attachment to this Contract containing any Vendor Hourly Rate(s).

**"Exhibit F"** shall mean the attachment to this Contract containing the UW Data Security Agreement.

**"Exhibit G"** shall mean the attachment to this Contract containing the UW Medicine Business Associate Agreement.

**"Exhibit H"** shall mean the Vendor Technology Specifications.

**"Exhibit I"** shall mean the MWBE Certification.

**"Exhibit J"** shall mean the UW Request for Qualifications and Quotations.

**"Exhibit K"** shall mean the Vendor's Response.

**"Final Acceptance"** shall mean that (i) the System has been installed for production use and is functioning as designed; (ii) operates without error or malfunction for a period of thirty (30) consecutive days after cutover to production use; and (iii) Purchaser has provided written notice to Vendor of its Acceptance of the System as a whole.

**"Final Acceptance"**: see Subsection 29.2.

**"First Productive Use"** shall mean when Purchaser first uses the System to process actual data for production purposes and such use for production purposes continues for thirty (30) consecutive days.

**"Go-Live:"** see Exhibit A-1.

**"Help Desk"** shall mean a service provided by Vendor for the support of Vendor's Products. Purchaser shall report warranty or maintenance problems to Vendor's Help Desk for initial troubleshooting and possible resolution of the problems or for the initiation of repair or replacement services.

**"Level One Support"** shall mean Purchaser's onsite, first point of contact for reporting and resolving technical and application related issues encountered by users. Purchaser's Level One Support personnel will escalate issues to Vendor's Level Two Support as necessary.



**“Level Two Support”** shall mean telephone and remote access support provided by Vendor personnel to resolve issues that cannot be resolved by Purchaser’s Level One Support personnel.

**“License”** shall mean the rights granted to Purchaser to use the Software that is the subject of this Contract.

**“Milestone(s)”** shall mean one or all of the “Milestones” listed under the section titled “Payment Milestones” in Exhibit A-3.

**“PHI”** shall mean Protected Health Information as defined in the Health Insurance Portability and Accountability Act of 1996.

**“Price”** shall mean charges, costs, rates, and/or fees charged for the Deliverables under this Contract, as set forth in Exhibit A-3, and shall be paid in United States dollars.

**“Product(s)”** shall mean anything and everything of a tangible nature, which is supplied by Vendor under this Contract, including without limitation, Software, Work Product, and Documentation.

**“Production”**: see Go-Live or First Productive Use.

**“Project”** shall mean the planned undertaking regarding the subject matter of this Contract and the activities of all parties related thereto during the period commencing on the Effective Date and terminating on the Final Acceptance date.

**“Proprietary Information”** shall mean information owned by Vendor to which Vendor claims a protectable interest under law. Proprietary Information includes, but is not limited to, information protected by copyright, patent, trademark, or trade secret laws.

**“Purchased Services”** shall mean those Services and activities provided by Vendor to accomplish routine, continuing, and necessary functions as set forth in this Contract. Purchased Services shall include those Services specified as Purchased Services in RCW 43.105.020.

**“Purchaser”** shall mean the University of Washington, on behalf of its health system, UW Medicine. UW Medicine consists of the following components: The School of Medicine; University of Washington Medical Center (UWMC) and its outpatient clinics; Harborview Medical Center (HMC) and its outpatient clinics; UW Medicine Eastside Specialties Center; The Association of University Physicians, d/b/a University of Washington Physicians (UWP); University of Washington Physicians Network (UWPN), also known as UW Medicine Neighborhood Clinics (UWNC); UW Medicine Sports Medicine Clinic; Hall Health Primary Care Center, Northwest Hospital and Medical Center (NWH); Valley Medical Center (VMC); and Seattle Cancer Care Alliance (SCCA).

**“Purchaser Contracting Officer”** shall mean the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of the Purchaser Contracting Officer acting within the limits of his/her authority.

**“Purchaser Project Manager”** shall mean the person designated by Purchaser who is assigned as the primary contact person with whom Vendor’s Project Manager shall work for the duration of this Contract and as further defined in the section titled Purchaser Project Manager.

**“RCW”** shall mean the Revised Code of Washington.

**“Response”** shall mean Vendor’s Response to Purchaser’s RFQQ, Exhibit K hereto.

**“RFQQ”** shall mean the Request for Qualifications and Quotations used as a solicitation document to establish this Contract, including all its amendments and modifications, attached as Exhibit J.

**“Services”** shall mean those services to be provided by Vendor under this Contract, including without limitation, those related to the Software, Work Product, and Documentation.

**“Single Point of Contact”** shall mean the Vendor Project Manager responding to issues that might arise regarding all Deliverables provided under this Agreement.

**“Site(s)”** shall mean location(s) in which the System is installed.

**“Software”** shall mean Vendor Software, Interfaces, and any Third-Party Software.

**“Source Code”** shall mean a full source language statement of the programs comprising the Software, including custom programming, updates, and complete program maintenance Documentation and aids provided by Vendor, including, but not limited to, proprietary flow charts, decision tables, conversion programs, utilities, test data, data files containing translation codes, argument lists and Documentation, as are necessary effectively for reasonably skilled programmers to use the Source Code and maintain and enhance the Software without reference to any other Documentation or aid except those third-party development tools used by Vendor to develop the Software.

**“Subcontractor(s)”** shall mean one not in the employment of Vendor, who is performing all or part of the business activities under this Contract under a separate contract with Vendor. The term “Subcontractor” means Subcontractor(s) of any tier.

**“Super User(s)”** shall mean those employees and consultants who are selected by Purchaser as a functional leader, user acceptance tester, or internal trainer.

**“Support Services”**: See Exhibit B.

**“System”** shall mean the complete collection of all Software integrated into a fully functional ICD-10 Business Intelligence Technology Solution.

**“Third-Party Software”** shall mean all software owned by a third party which is sub-licensed to Purchaser by Vendor hereunder. Third-Party Software includes, as granted and limited in the applicable third-party licenses, all current and future versions of the Third-Party Software.

**“University of Washington” or “UW”** shall mean Purchaser.

**“UW Software”** shall mean UW’s proprietary software which Vendor may access or utilize pursuant to this Contract. UW Software includes all prior, current, and future versions of the UW Software and all maintenance updates, upgrades and error corrections and additions, changes to, and new releases and versions of the UW Software.

**“Vendor”** shall mean [insert name], its employees, representatives, agents, and Subcontractors. The performance of any business activities under this Contract by any firm, provider, organization, individual, or other entity on behalf or, by or through Vendor shall be deemed the activity of Vendor. The activities of any Subcontractor retained by Vendor as permitted under the terms of this Contract shall be deemed activity of Vendor.

**“Vendor Contracting Officer”** shall mean the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Contract, an authorized representative of Vendor Contracting Officer acting within the limits of his/her authority.

**“Vendor Project Manager”** shall mean a representative of Vendor who is assigned as the primary contact person whom the Purchaser Project Manager shall work with for the duration of the Project and as further defined in the section titled Vendor Project Oversight and Staff.

**“Vendor Software”** shall mean [insert name] and Third-Party Software products and any modifications and/or enhancements made thereto, including any modifications and/or enhancements first developed under this Agreement, which are to be delivered to Purchaser under this Agreement.

**“Warranty Period”**: see Subsection 32.1.

**“Work Product”** shall mean the ICD-10 Business Intelligence Technology Solution as defined in Exhibit A-4 as well as configuration documents, templates and training materials.

## **Contract Term**

### **2. Term**

#### **2.1 Term of Contract**

The term of this Contract shall be three (3) years commencing upon the Effective Date as identified on the title page of this Contract.

#### **2.2 Term of Contract for Maintenance and Support**

This Contract's Software maintenance and support term may be extended by additional consecutive two (2) year terms, provided that the extensions shall be at Purchaser's option and shall be effected by Purchaser giving written notice of its intent to extend this Contract to Vendor not less than thirty (30) calendar days prior to the then-current Contract term's expiration. Except for the Price adjustments specified in Exhibit B, no change in terms and conditions shall be permitted during these extensions unless specifically agreed to in writing. Any Services acquired beyond the fiscal or biennial year's end of the initial term or any extension is contingent upon receipt of funding.

### **3. Survivorship**

All license and purchase under this Contract shall be bound to terms, conditions, and warranties set forth herein, notwithstanding the termination or expiration of the term of this Contract. Accordingly, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, or cancellation, or termination of this Contract shall so survive. In addition, the terms of the following sections shall survive the termination of this Contract: Payment; Software License and Ownership of Software; Ownership of Work Product; Date Warranty; No Surreptitious Codes Warranty; Vendor Commitments, Warranties and Representations; Protection of Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Review of Vendor's Records; Patent and Copyright Indemnification; Vendor's Proprietary Information; Disputes; and Limitation of Liability Pricing, Invoice, and Payment

### **4. Pricing**

- 4.1** This Contract is for a fixed price. The total amount expended under this Contract, including any and all applicable taxes, shall not exceed \$XX exclusive of annual maintenance fees, unless agreed by mutual consent of the parties through the Change Order process.
- 4.2** Vendor agrees to provide the Deliverables at the Prices set forth in Exhibits A-2, A-3, A-4, and E. No other Deliverables shall be deliverable by Vendor and no other Prices shall be payable to Vendor unless agreed by mutual consent of the parties through the Change Order process.
- 4.3** Prices shall not be increased during the term of the Contract unless agreed by mutual consent of the parties through the Change Order process.
- 4.4** If Vendor reduces its Prices for any of the Software or Services during the term of this Contract, Purchaser shall have the immediate benefit of such lower Prices for new purchases. Vendor shall send notice to the Purchaser Contracting Officer with the reduced Prices within fifteen (15) Business Days of the reduction taking effect.
- 4.5** At least sixty (60) calendar days before the end of the then-current term of this Contract, Vendor may propose maintenance fees and Service rate increases by written notice to Purchaser Contracting Officer. Price adjustments will be taken into consideration by Purchaser Contracting Officer when determining whether to extend this Contract. The amount of any increase in the maintenance fee and Service rates however, shall not exceed the annual percentage increase,

Year over Year, through the end of the most recent month for which the Consumer Price Index (CPI All Items) or 3%, whichever is less.

## **5. Advance Payment Prohibited**

No advance payment shall be made for Products or Services furnished by Vendor pursuant to this Contract. Notwithstanding the above, maintenance payments, if any, may be made on a quarterly basis at the beginning of each quarter.

## **6. Taxes**

- 6.1** Purchaser will pay sales and use taxes, if any, imposed on the Products or Services acquired hereunder. Vendor must pay all other taxes including, but not limited to, Washington Business and Occupation Tax, other taxes based on Vendor's income or gross receipts, or personal property taxes levied or assessed on Vendor's personal property. Purchaser, as an agency of Washington State government, is exempt from property tax.
- 6.2** Vendor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.
- 6.3** All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Vendor or Vendor's staff shall be Vendor's sole responsibility.

## **7. Invoice**

- 7.1** Vendor will submit properly itemized and correct invoices via US Mail to:
  - Name and title of person to receive invoices
  - Address
  - EmailInvoices shall provide and itemize, as applicable:
  - Purchaser Contract number UW-12-0216;
  - Vendor name, address, phone number, and Federal Tax Identification Number;
  - Description of Products or Services, including quantity ordered or provided;
  - Date(s) that Products or Services were provided;
  - Price for each item;
  - Maintenance charges;
  - Net invoice Price for each item;
  - Applicable taxes;
  - Other applicable charges;
  - Total invoice Price; and
  - Payment terms including any available prompt payment discounts.

## **8. Payment**

- 8.1** Payments shall be due and payable within thirty (30) calendar days after receipt and Acceptance of Products or Services or thirty (30) calendar days after receipt of properly prepared invoices, whichever is later.
- 8.2** Purchaser shall pay maintenance and support charges on a monthly basis, in arrears. Payment of maintenance service/support of less than one (1) month's duration shall be prorated at 1/30th of the basic monthly maintenance charges for each calendar day.

- 8.3 Incorrect or incomplete invoices will be returned by Purchaser to Vendor for correction and reissue.
- 8.4 The Purchaser Contract number UW-12-0216 must appear on all bills of lading, packages, and correspondence relating to this Contract.
- 8.5 Purchaser shall not honor drafts, nor accept goods on a sight draft basis.
- 8.6 Credits. Any credits due Purchaser under this Contract may be applied against Vendor's invoices next becoming due with appropriate information attached, upon giving of prior written notice by Purchaser to Vendor.
- 8.7 If Purchaser fails to make timely payment, Vendor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of one dollar (\$1). Payment will not be considered late if payment is deposited electronically in Vendor's bank account or if a check or warrant is postmarked within thirty (30) calendar days of Acceptance of the Products or Services or receipt of Vendor's properly prepared invoice, whichever is later.
- 8.8 Overpayments to Vendor. Within thirty (30) calendar days after receiving written notice, Vendor shall refund to Purchaser the full amount of any verified erroneous payment or overpayment made by Purchaser to Vendor. If Vendor fails to make timely refund, Purchaser may charge Vendor one percent (1%) per month on the amount due, until paid in full.

## **Software License and Ownership**

### **9. Ownership of Software**

- 9.1 UW Software. Purchaser is and shall remain the sole and exclusive owner of all right, title and interest in and to UW Software, including without limitation, all derivative works thereof and/or translations, migrations, revisions, updates, improvements, modifications and enhancements thereto. Vendor will not decompile or disassemble or reverse engineer any UW Software provided under this Contract or modify Software that bears a copyright notice of any third party without the prior written consent of Purchaser or Third-Party Software owner.
- 9.2 Vendor Software. Vendor is and shall remain the sole and exclusive owner of all right, title and interest in and to Vendor Software, including without limitation, all derivative works thereof and/or translations, migrations, revisions, updates, improvements, modifications and enhancements thereto. Purchaser will not decompile or disassemble or reverse engineer any Vendor Software provided under this Contract or modify Software that bears a copyright notice of any third party without the prior written consent of Vendor or Third-Party Software owner.
- 9.3 Except as otherwise specifically stated herein, neither party will gain by virtue of this Contract any rights of ownership of copyrights, patents, trade secrets, trademarks, or any other intellectual property rights owned by the other.
- 9.4 Freedom of Use. Vendor understands that Purchaser may provide information processing services to other users that are agencies of state government and other tax-supported entities. Vendor further understands that Purchaser or other users that are agencies of state government and other tax-supported entities may provide services to the public through Internet applications. Software delivered hereunder may be used in the delivery of these services. Vendor acknowledges and agrees that such use of Software products is acceptable under the licensing agreements contained herein.

- 9.5 Purchaser may move Third-Party and Vendor Software from one Vendor supported device to another provided that Purchaser follows the applicable license obligations regarding such Software.

## 10. Software License and Ownership of Software

Vendor hereby warrants and represents to Purchaser that Vendor is either the owner of the Software or otherwise has the right to grant to Purchaser the licensed rights to the Software delivered by Vendor through this Contract without violating any rights of any third party worldwide. Vendor represents and warrants that Vendor has the right to license the Software to Purchaser as provided in this Contract. To the best of Vendor's knowledge, Purchaser's use of the Software and Documentation within the terms of this Contract will not infringe upon any copyright, patent, trademark, or other intellectual property right worldwide or violate or misappropriate any third party's trade secret, contract, confidentiality, or other rights worldwide. Vendor represents and warrants that to the best of Vendor's knowledge: (i) Vendor is not aware of any claim, investigation, litigation, action, suit or administrative or judicial proceeding pending or threatened based on claims that the Software infringes or misappropriates any patents, copyrights, trademarks, or trade secrets of any third party, and (ii) that Vendor does not know or have reason to know that the Software infringes upon or misappropriates any patents, copyrights, trademarks, or trade secrets of any third party.

## 11. Licensing for Software

Vendor provides Vendor Software under several types of licenses. Each license is subject to the following license terms.

- 11.1 Grant of License. A non-exclusive, perpetual, irrevocable license for Vendor Software and any and all subsequent releases of same during the initial or any extension term of this Contract is granted at the time of Acceptance of the Deliverable which includes a license. No license is granted by the delivery of Vendor Software. Vendor Software contains proprietary technology of Vendor or third parties. No ownership in or title to Vendor Software is transferred to Purchaser.
- 11.2 Vendor Software Use. Except as provided in Subsection 9.4 above, Purchaser may use Vendor Software for internal business purposes only.
- 11.3 Third-Party Software. A non-exclusive, perpetual, irrevocable license for Third-Party Software and any and all subsequent releases of same is granted at the time of Acceptance of the Deliverable which includes a license. These license terms may be enforced by the third party developer or owner of Third-Party Software provided by Vendor to Purchaser under this Agreement. All Third-Party Software licensed directly to Purchaser by a third party, is subject only to the license terms provided with such Software as attached hereto and incorporated hereby as Exhibit C-1.
- 11.4 License Termination. Vendor may terminate this Agreement and the license granted to Purchaser if Vendor is in compliance with this Agreement and Purchaser is in material breach of any provision of this Agreement and such default has not been cured or a resolution has not been derived within thirty (30) days after Vendor gives Purchaser written notice describing the default. Upon termination in accordance with this Section, Vendor may:
- Declare all amounts owed to Vendor by Purchaser to be immediately due and payable;
  - Require that Purchaser cease any further use of the System and immediately return the System including the Software, Interfaces, and Documentation and any copies thereof to Vendor; and
  - Cease performance of all of Vendor' obligations under this Contract without liability to Purchaser.

**11.5** Termination rights. Purchaser's license rights set forth in this Contract shall survive termination of this Contract for any reason, including without limitation, in the event that Vendor shall, for any reason, cease to conduct business, or cease to support the Vendor Software licensed under this Contract.

## **12. Ownership of Work Product**

**12.1** Purchaser and Vendor agree that all Work Product delivered by Vendor and paid for by Purchaser shall be owned by Purchaser.

**12.2** Vendor agrees to assign and hereby assigns and transfers to Purchaser the entire right, title and interest in and to all rights in and to the Work Product, including without limitation, all copyright, patent, trademark and trade secrets, and any registrations and applications relating thereto (including registrations in any U.S. or foreign jurisdiction and any extensions or renewals thereof) and any renewals and extensions thereof, except for such as are reserved to Vendor and third parties pursuant to Section 10 hereof.

**12.3** Vendor shall execute all documents and perform such other proper acts as Purchaser may deem necessary to secure for Purchaser the rights pursuant to this section.

## **13. Documentation**

Vendor warrants that all Software will conform in all material respects to the Documentation during the Warranty Period and any subsequent term of maintenance and support for such Software.

## **14. Compliance with Standards**

**14.1** Vendor represents that all Software, and elements thereof, including but not limited to Documentation and Source Code, shall meet and be maintained by Vendor to conform to the standards set forth in this Contract or applicable industry standards if not set forth in this Contract.

**14.2** Vendor warrants that it has received certification from an authorized certifying authority that its Software quality assurance practices conform to the requirements of the current version of the International Standards Organization (ISO) ISO-9001 standard "Quality systems - Model for quality assurance in design, development, production, installation and servicing" and that this certification was received within one (1) year of execution of this Contract. Vendor further warrants that it will maintain its quality assurance practices and certification in conformance with the ISO-9001 during the term of this Contract.

## **15. Date Warranty**

Vendor warrants that all Software provided under this Contract: (i) does not have a life expectancy limited by date or time format; (ii) will correctly record, store, process, and present calendar dates; and (iii) will lose no functionality, data integrity, or performance with respect to any date; and (iv) will be interoperable with other Software used by Purchaser, that is disclosed to and acknowledged by Vendor, with the System that may deliver date records from the Software, or interact with date records of the Software ("Date Warranty"). Third-Party Software shall be warranted under the applicable third-party license passed on by Vendor to Purchaser. In the event of a third-party date warranty issue, Vendor shall work with Purchaser to resolve Third-Party Software date warranty issues. Subject to the Limitation of Liability provision, in the event of a breach of any of these representations and warranties, Vendor shall indemnify and hold harmless Purchaser from and against any and all harm, injury, damages, costs, and expenses incurred by Purchaser arising out of said breach.

## **16. Physical Media Warranty**

- 16.1** Vendor warrants to Purchaser that each licensed copy of the Software provided by Vendor is and will be free from physical defects in the media that tangibly embodies the copy (the "Physical Media Warranty"). The Physical Media Warranty does not apply to defects discovered more than thirty (30) calendar days after the date of Acceptance of the Software copy by Purchaser.
- 16.2** Vendor shall replace, at Vendor's expense including shipping and handling costs, any Software copy provided by Vendor that does not comply with this warranty.

## **17. No Surreptitious Code Warranty**

- 17.1** Vendor warrants to Purchaser that no licensed copy of the Software provided to Purchaser contains or will contain any Self-Help Code nor any Unauthorized Code as defined below. Vendor further warrants that Vendor will not introduce, via modem or otherwise, any code or mechanism that electronically notifies Vendor of any fact or event, or any key, node, lock, time-out, or other function, implemented by any type of means or under any circumstances, that may restrict Purchaser's use of or access to any program, data, or equipment based on any type of limiting criteria, including frequency or duration of use for any copy of the Software provided to Purchaser under this Contract. The warranty is referred to in this Contract as the "No Surreptitious Code Warranty."
- 17.2** As used in this Contract, "Self-Help Code" means any back door, time bomb, drop dead device, or other software routine designed to disable a computer program automatically with the passage of time or under the positive control of a person other than a licensee of the Software. Self-Help Code does not include software routines in a computer program, if any, designed to permit an owner of the computer program (or other person acting by authority of the owner) to obtain access to a licensee's computer system(s) (e.g., remote access via modem) solely for purposes of maintenance or technical support.
- 17.3** As used in this Contract, "Unauthorized Code" means any virus, Trojan horse, worm or other software routines or equipment components designed to permit unauthorized access, to disable, erase, or otherwise harm Software, equipment, or data; or to perform any other such actions. The term Unauthorized Code does not include Self-Help Code.
- 17.4** Vendor will defend Purchaser against any claim, and indemnify Purchaser against any loss or expense arising out of any breach of the No Surreptitious Code Warranty. No limitation of liability, whether contractual or statutory, shall apply to a breach of this warranty.

## **18. Reauthorization Code**

Vendor's Software shall not require a reauthorization code in order for the Software to remain functional upon Purchaser's movement of the Software to another computer system.

## **19. Software Upgrades, Updates, and Enhancements**

During the term of this Contract or the term of any subsequent maintenance and support agreement relating to the Software, Vendor shall promptly supply to Purchaser:

- 19.1** Upgraded and updated compatible versions of the Software to operate on upgraded and updated versions of operating systems or firmware, in each case, as may be specified by Vendor prior to establishing a stable configuration for user Acceptance Testing and through the Warranty Period.
- 19.2** Upgraded and updated versions of the Software, subject to payment of any maintenance fees, as may be provided in Exhibit B and all releases of the Software that encompass improvements,



extensions, upgrades, maintenance updates, error corrections, or other changes or additions to the Software.

- 19.3** Services beyond those required in connection with the Project or otherwise contemplated hereby shall, if requested, be chargeable to Purchaser at the rate specified in Exhibit E for relevant professional Services. Such Services include, but are not limited to, configuration of the System to accommodate additional functionality.

## **20. Software Maintenance and Support Services**

Software maintenance and Support Services for Software shall be provided by Vendor to Purchaser during the term of this Agreement or any extension thereof. These Software maintenance and Support Services shall be based on Vendor's standard support services organization, which shall assist Purchaser in investigating and responding to any and all issues or questions that might arise. Vendor shall maintain the Software as specified in Exhibit B. Vendor shall provide Purchaser with Level 2 Support services for the two (2) most current commercial releases of the Software.

## **21. Software Documentation**

Vendor will provide two (2) complete sets of documentation for each Software order, including technical, maintenance, and installation information. Vendor shall also provide two (2) complete sets of documentation for each updated version of Software that Vendor provides pursuant to the Software Upgrades and Enhancements section. Vendor shall provide the documentation on or before the date Vendor delivers its respective Software. There shall be no additional charge for this documentation or the updates, in whatever form provided. Vendor's Software documentation shall be comprehensive, well structured, and indexed for easy reference. If Vendor maintains its technical, maintenance and installation documentation on a website, Vendor may fulfill the obligations set forth in this section by providing Purchaser access to its web-based documentation information. Vendor may also provide such information on CD-ROM. Vendor grants Purchaser the right to make derivative works, update, modify, copy, or otherwise reproduce the documentation furnished pursuant to this section at no additional charge.

## **Vendor's Responsibilities**

### **22. Shipping and Risk of Loss**

Vendor shall ship all Products purchased pursuant to this Contract, freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the Products and hazards of transportation. Regardless of FOB point, Vendor agrees to bear all risks of loss, damage, or destruction of the Products ordered hereunder that occurs prior to Acceptance, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Vendor from any obligation hereunder. After Acceptance, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Vendor's fault or negligence.

### **23. Delivery**

- 23.1** Vendor shall deliver the Products ordered pursuant to this Contract on or before the Delivery Date as defined in Exhibit A-3. For any exception to this Delivery Date, Vendor must notify Purchaser and obtain prior approval in writing. Time is of the essence with respect to delivery and Vendor may be subject to termination of this Contract and/or other damages available under law for failure to deliver on time except where such failure is completely outside the control of Vendor.
- 23.2** All deliveries made pursuant to this Contract must be complete. Unless Vendor has obtained prior written approval from Purchaser, which shall not be withheld unreasonably, incomplete deliveries or backorders will not be Accepted. All packages must be accompanied by a packing

slip that identifies all items included with the shipment and the Purchaser's order document number. Vendor's delivery receipt must be signed by an authorized representative of Purchaser for all deliveries made hereunder.

**23.3** No requirements can be omitted from this Contract without the prior written consent of the Purchaser Contracting Officer.

**23.4** By submitting a Product, Vendor represents that, to the best of its knowledge, it has performed the associated tasks in a manner that will, in concert with other tasks, conform to the Documentation and the objectives stated or referred to in this Contract.

## **24. Statement of Work and Support Services Agreement**

**24.1** All Services performed and Products provided by Vendor pursuant to the terms of this Contract shall be documented in Exhibits A-1 and B, which are attached to this Contract and made a part thereof.

**25.2** Exhibit A-1 shall at a minimum:

- a) Reference this Contract number UW-12-0216;
- b) Define Project or task objectives;
- c) Describe the scope of Services or work to be performed;
- d) Identify Deliverables;
- e) Specify a Delivery Date;
- f) Describe the schedule of tasks, activities and events;
- g) Identify task sequence including UW responsibilities;
- h) Specify resource requirements for each task;
- i) Specify compensation and payment for agreed upon Deliverables;
- j) Describe Vendor's roles and responsibilities; and
- k) Be consistent with Section 30 of this Contract.

**24.2** The terms and conditions of Exhibits A-1 and B cannot conflict with the terms and conditions of this Contract. In the event of any conflict, this Contract shall prevail.

**24.3** The schedule for Milestone completions (and the related payments) shall not change as a result of time required by Vendor to correct defects or as a result of Purchaser's inability to complete its responsibilities, as set forth in Exhibit A-1, unless otherwise agreed in advance in writing by the parties. Purchaser's review of a Product or review of defect corrections shall be in accordance with the Project schedule set forth in Exhibit A-3 or otherwise agreed upon by the parties in writing.

## **25. Commencement of Work**

**25.1** Solely for the purposes of compliance with RCW 39.29, this Contract may be deemed a Personal Services Contract. If so determined, under the provisions of RCW 39.29, this Contract is required to be filed with the Office of Financial Management (OFM). No Contract required to be so filed is effective, and no work shall be commenced nor payment made, until ten (10) working days following the date of filing and, if required, until approved by OFM. In the event OFM fails to approve the Contract, the Contract shall be null and void.

**25.2** No work shall be performed by Vendor until this Contract is executed by Vendor and Purchaser and is received by Vendor.

## **26. Access to Data**

In compliance with RCW 39.29, Vendor shall provide access to data generated under this Contract and in the possession, custody or control of the Vendor to Purchaser, to the Joint Legislative Audit and Review Committee, and to the State Auditor at no additional cost. This includes access to all information that supports the findings, conclusions, and recommendations of Vendor's reports, including computer models and methodology for those models.

## **27. Site Security**

While on Purchaser's premises, Vendor, and its agents, employees, or Subcontractors shall conform in all respects with physical, fire, network, data, or other security regulations. Additionally, Vendor will work with Purchaser to comply with its IT security standards and policies, including the UW Data Security Agreement incorporated as Exhibit F.

## **28. Installation**

Vendor shall install the Software in accordance with the Documentation.

## **29. Acceptance**

### **29.1 Test Platform**

**29.1.1** Acceptance Testing. Purchaser will perform Acceptance Testing in accordance with a test plan commencing on the date Vendor informs Purchaser that the System is ready for Acceptance Testing. Vendor will provide Purchaser a draft test plan that includes tasks, timelines and responsibilities. The draft test plan will be reviewed and mutually Accepted by the parties. On the basis of such testing, Purchaser will confirm the System operates as described in the Documentation.

**29.1.2** Remediation. In the event Vendor receives notice that the System does not operate in accordance with the Documentation, Vendor will promptly undertake to replace or repair the System as necessary to rectify the problem. Purchaser shall provide written notice to Vendor detailing such failure as soon as practicable and, in any event, within ten (10) business days of the test date. Vendor shall have ten (10) business days to remedy the failure. In the unlikely event remedial action will require more than ten (10) business days, Vendor shall provide written notice and explanation for the reasons for delay and the parties shall work together to agree upon a suitable solution.

**29.1.3** Breach. If after two (2) instances of remediation as contemplated by Subsection 29.1.2 above, the System does not satisfy Acceptance Testing, Purchaser at its option may: (i) declare Vendor to be in breach of this Contract and terminate this Contract; or (ii) at the sole option of Purchaser, demand replacement System from the Vendor at no additional cost to Purchaser. The process set forth in clause (ii) above shall continue at Purchaser's option until the System substantially conforms to the Documentation. In case Purchaser elects the option set forth in clause (ii) above, Purchaser's option to declare Vendor in breach and terminate this Contract shall remain in effect until exercised or until such time as Acceptance is deemed to have occurred.

### **29.2 Final Acceptance and Go-Live**

**29.2.1** Final Acceptance shall occur when the following criteria have been met:

- a) Software configuration and functionality is in accordance with the mutually Accepted configuration plans;
- b) Go-Live Software conforms to the Documentation;
- c) All software errors interfering in a material way with the operation of the Software have been resolved; and

d) Go-Live Software has been in Production for thirty (30) consecutive days;

or, alternatively, the Go-live Software has been in production for sixty (60) consecutive days and Purchaser has not notified Vendor of any non-conformance with any of the criteria listed under Subsections 29.2.1 (a) through (c) above.

**29.2.2** Go-Live. After Final Acceptance of the Software, the System will be placed into Production.

**29.2.3** Remediation. In the event Vendor receives notice that the Go-Live Software does not satisfy the requirements set forth in clauses (a), (b) and (c) of Subsection 29.2.1 above for Final Acceptance, Vendor will promptly undertake to replace or repair the Go-Live Software as necessary to rectify the problem. Purchaser shall provide written notice to Vendor detailing such failure as soon as practicable and, in any event, within ten (10) business days of the test date. Vendor shall have ten (10) business days to remedy the failure. In the unlikely event remedial action will require more than ten (10) business days, Vendor shall provide written notice and explanation for the reasons for delay and the parties shall work together to agree upon a suitable solution.

**29.2.4** Breach. If after two (2) instances of remediation as contemplated by Subsection 29.2.3 above, the Software still does not satisfy the requirements set forth in clauses (a), (b) and (c) of Subsection 29.2.1 above for Final Acceptance, Purchaser at its option may: (i) declare Vendor to be in breach of this Contract and terminate this Contract; or (ii) at the sole option of Purchaser, demand replacement Go-Live Software from Vendor at no additional cost to Purchaser. The process set forth in clause (ii) above shall continue at Purchaser's option until the Go-Live Software substantially conforms to the Documentation. In case Purchaser elects the option set forth in clause (ii) above, Purchaser's option to declare Vendor in breach and terminate this Contract shall remain in effect until exercised or until such time as Acceptance is deemed to have occurred.

## **30 Third Party Products**

In addition to any applicable warranties provided under this Contract, Vendor agrees to pass through to Purchaser any warranty offered by the third party to Purchaser to the extent it may do so under the applicable warranty terms.

## **31 Exclusions**

The above warranties do not apply to Vendor Software from which the serial numbers have been removed, or to conditions resulting from improper use, external causes, including installation, service or modifications not performed by Vendor or its authorized service providers. Vendor and its suppliers only warrant Vendor Software which will operate in all combinations of hardware and software that have been selected for use by Vendor. Vendor does not warrant that the operation of Vendor Software will be uninterrupted or error free. Warranty and maintenance service may not be performed at Purchaser's site if Vendor reasonably believes conditions at Purchaser's site represent a safety or health risk.

## **32 Warranties**

**32.1** Vendor Software. Vendor represents and warrants that for a 180 day period commencing on the Final Acceptance date (the "Warranty Period"), the Vendor Software, in whole and in part, will perform in all material respects in accordance with its Documentation and without defects or other malfunctions.

**32.2** Services. Vendor represents and warrants that Vendor shall perform the Services as described in this Contract. Vendor will re-perform, at no charge, any Service which fails to materially conform to this Services warranty provided Vendor is notified in writing of the non-conformance within ten (10) business days of the Purchaser having actual knowledge of performance of the non-conforming

Service, in accordance with the standards described in this Contract and applicable Documentation. Time shall be of the essence in connection with performance of the Services.

- 32.3 Power and Authority.** Vendor represents and warrants that it has the full power and authority to grant to Purchaser the rights described in this Contract, that the person executing this Contract for Vendor has actual authority to bind Vendor to each and every term, condition, and obligation of this Contract and that all requirements of Vendor have been fulfilled to provide such actual authority, and that Vendor's entry into and performance under this Contract shall not violate any agreement between Vendor and any third party, any obligation owed by Vendor to any third party, or the rights of any third party.
- 32.4 No conflicts of Interest.** Vendor represents and warrants that it has no interest and shall not acquire any direct or indirect interest that would conflict in any manner or degree with the performance of the work and Services under this Contract.
- 32.5 Non-Infringement.** To the best of Vendor's knowledge, Vendor represents and warrants that the Products and Services provided under this Contract, do not infringe upon any copyright, patent, trademark, or other intellectual property right worldwide or violate any third party's trade secret, contract, or confidentiality rights.
- 32.6 Manufacturers' Warranties.** Vendor assigns to Purchaser all of the manufacturers' and licensors' warranties and indemnities relating to the Third-Party Software to the extent Vendor is permitted by the manufacturers and licensors to make such assignments to Purchaser. Such assignment is subject to all of the terms and conditions imposed by the manufacturers and licensors with respect thereto.
- 32.7 Compliance with Laws.** Vendor represents and warrants that the Products or any one part thereof and Services shall comply with all applicable federal, state and local laws, regulations, codes and ordinances.
- 32.8 Remedies.** If the Vendor Software fails (in a manner replicable by Vendor at either Vendor's or Purchaser's site) to conform to the Documentation during the Warranty Period, Vendor shall promptly commence efforts to bring the Vendor Software up to conform to the Documentation, without charge, as soon as practicable and, in any event, by the time of the next software upgrade.

### **33 Compliance with Standards**

Vendor represents that all Software, and elements thereof, including but not limited to Documentation and Source Code, shall meet and be maintained by Vendor to conform to the standards set forth in this Contract or applicable industry standards if not set forth in this Contract.

### **34 Training**

- 34.1** Vendor shall provide training Services in connection with the Project in accordance with Exhibit A-5. Additional such Services shall (subject to availability of professional resources) be provided upon request and shall chargeable to Purchaser at the rate specified in Exhibit E.
- 34.2** Purchaser shall have the right, so long as the Software licensed or purchased hereunder is in use by Purchaser, to give instruction without charge to Washington State higher education system employees for internal and non-commercial use in courses of the type described in Exhibit A-5, using materials supplied by Vendor. Such use by Purchaser of Vendor's materials shall include the right to reproduce without charge the same solely for the permitted use.

## **35 Protection of Confidential Information**

- 35.1** Each party acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract may consist of information that is exempt from disclosure to the public or other unauthorized persons under either RCW 42.56 or other state or federal statutes (“Confidential Information”). Confidential Information includes, but is not necessarily limited to, names, addresses, Social Security numbers, email addresses, telephone numbers, financial profiles, credit card information, driver’s license numbers, medical data, law enforcement records, agency source code or object code, agency security data, information identifiable to an individual that relates to any of these types of information or other information that is designated as confidential by Purchaser.
- 35.2** Both parties agree as follows:
- a) To hold Confidential Information in confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract.
  - b) To release Confidential Information only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract.
  - c) Not to release, divulge, publish, transfer, sell, disclose, or otherwise make Confidential Information known to any other party without Purchaser’s express written consent or as provided by law.
  - d) To release Confidential Information or material only to employees or Subcontractors who have signed a nondisclosure agreement.
  - e) To implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.
- 35.3** Immediately upon expiration or termination of this Contract, Vendor shall, at Purchaser’s option: (i) certify to Purchaser that Vendor has destroyed all Confidential Information; or (ii) return all Confidential Information to Purchaser; or (iii) take whatever other steps Purchaser reasonably requires of Vendor to protect Purchaser’s Confidential Information.
- 35.4** Purchaser reserves the right to monitor, audit or investigate the use of Confidential Information collected, used, or acquired by Vendor through this Contract. The monitoring, auditing, or investigating may include, but is not limited to, SALTing databases, provided such methods do not corrupt the data.
- 35.5** Vendor acknowledges and agrees that any breach or threatened breach of this section may cause the Purchaser irreparable harm for which monetary damages will be inadequate compensation. Accordingly, Purchaser shall be entitled, in addition to any other remedies available at law or in equity, to immediate injunctive relief without requiring a cure period and without the necessity of posting a bond.
- 35.6** In the event of a Breach of the Security of the System (see Definitions section) resulting in the unauthorized disclosure of Confidential Information, Vendor agrees to comply with all applicable state and federal statutory provisions. If a data compromise and/or identity theft occurs and is found to be the result solely of Vendor’s acts or omissions, Vendor shall assume complete responsibility for notification of affected parties, and be liable for all associated costs incurred by Purchaser in responding to or recovering from the Breach of the Security of the System.
- 35.7** Violation of this section by Vendor or its Subcontractors may result in termination of this Contract and demand for return of all Confidential Information or, subject to the Limitation of Liability provision, monetary damages.
- 35.8** Protected Health Information (PHI) as defined under federal HIPAA law, shall be subject to the terms and conditions of the UW Medicine Business Associate Agreement attached as Exhibit G.

### 36 Minority and Women’s Business Enterprise (MWBE) Participation

With each invoice for payment and within thirty (30) days of Purchaser Contracting Officer’s request, Vendor shall provide Purchaser an Affidavit of Amounts Paid. The Affidavit of Amounts Paid shall either state that Vendor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Vendor shall maintain records supporting the Affidavit of Amounts Paid in accordance with this Contract’s Review of Vendor’s Records section.

### Contract Administration

### 37 Legal Notices

37.4 Any notice, demand, or other communication required or permitted to be given under this Contract or applicable law shall be effective only if it is in writing, signed by the applicable party, and sent by express courier to the parties indicated below.

For purposes of complying with any provision in this Contract or applicable law that requires a “writing,” such communication, when digitally signed with a Washington State Licensed Certificate, shall be considered to be “in writing” or “written” to an extent no less than if it were in paper form.

To Vendor at:	To Purchaser at:
Name	Name
Attn: Title	Attn: Purchaser Contracting Officer
Firm	University of Washington
Address	Purchasing Department
City, State Zip	3917 University Way NE, Box 351110 Seattle, WA 98195-1110

Notices shall be deemed delivered on the date shown on the courier confirmation of delivery. The notice address as provided herein may be changed by written notice given as provided above.

37.5 In the event that a subpoena or other legal process commenced by a third party in any way concerning this Contract is served upon Vendor or Purchaser, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Vendor and Purchaser further agree to cooperate with the other party in any lawful effort by the other party to contest such subpoena or other legal process commenced by a third party.

### 38 Vendor Project Oversight and Staff

38.1 Vendor shall identify and appoint a Vendor Project Manager for Purchaser’s account under this Contract to provide oversight of Vendor activities conducted hereunder in connection with the Project. Vendor’s Project Manager will be the principal point of contact for Purchaser concerning Vendor’s performance of such activities and his/her supervisor shall be of a management level sufficient to make binding decisions pursuant to this Contract and to assure a timely response from all Vendor personnel.

The Vendor Project Manager information is:

Name:  
Address:  
City, State Zip:  
Phone:  
Fax:  
Email:

The Vendor Project Manager supervisor's information is:

Name:  
Address:  
City, State Zip:  
Phone:  
Fax:  
Email:

- 38.2** Vendor shall promptly notify Purchaser Project Manager, in writing, when the Vendor Project Manager is removed or replaced. However, Vendor shall during the Project always have a Vendor Project Manager for the Project. Vendor agrees and represents that its Vendor Project Manager shall be fully qualified to perform the tasks required of that position under this Contract. The Vendor Project Manager shall function as Vendor's authorized representative for all management and administrative matters not inconsistent with the provisions contained herein. The Vendor Project Manager or other Project management personnel for Vendor shall be at the site(s) (current estimate: [insert number] person-hours) as may be reasonably required during the Project.
- 38.3** All staff assigned by Vendor as replacements for other staff shall have comparable or greater skills for performing the Project activities as performed by the staff being replaced.

### **39 Purchaser Project Manager**

Purchaser shall appoint a Purchaser Project Manager for this Contract who will provide oversight of the activities conducted hereunder. Purchaser Project Manager will be the principal contact for Vendor concerning Project activities under this Contract and shall be of a management level sufficient to make binding decisions pursuant to this Contract and to assure a timely response from all Purchaser personnel. Purchaser shall notify Vendor, in writing, when there is a new Purchaser Project Manager assigned to this Contract.

The Purchaser Project Manager information is:

Name:  
University of Washington  
Address:  
Seattle, WA Zip  
Phone:  
Fax:  
Email:



## **40 Section Headings, Incorporated Documents, and Order of Precedence**

- 40.1** The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.
- 40.2** Each of the documents listed below is, by this reference, incorporated into this Contract as though fully set forth herein.
- a) Exhibits A, B, C, D, E, F, G, H, I, J, and K;
- 40.3** Inconsistency. In the event of any inconsistency in this Contract, the inconsistency shall be resolved in the following order of precedence:
- a) Sections of this Contract; and
- b) Exhibits A, B, C, D, E, F, G, H, I, J, and K, in that order;
- c) Applicable Washington state statutes, regulations, and case law;
- d) Applicable federal statutes, regulations, and case law.

## **41 Entire Agreement**

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof. Understandings, agreements, representations, or warranties not contained in this Contract or a written amendment hereto shall not be binding on either party.

## **42 Authority for Modifications and Amendments**

No modification, amendment, alteration, addition, or waiver of this Contract or any portion thereof including, without limitation, any term, condition, Price, warranty, or representation shall be effective or binding unless it is in writing and signed by Purchaser Contracting Officer and Vendor Project Manager's supervisor. Only Purchaser Contracting Officer shall have the express, implied, or apparent authority to alter, amend, modify, add, or waive any portion of this Contract on behalf of Purchaser.

## **43 Change Orders**

- 43.1** Issuance of Change Orders. Purchaser may, at any time, by a written Change Order, request changes within the scope of this Contract using the form in Exhibit D. Such changes may include, without limitation, revisions to Products or Services.
- 43.2** Purchaser acknowledges that Change Orders may have an impact on the Project schedule and the cost to achieve Project goals. This includes both the impact of evaluating and the impact of implementing the Change Order.
- 43.3** Vendor Response. Vendor shall respond in writing to a Change Order within ten (10) calendar days of receipt, advising Purchaser of any cost and schedule impacts. When there is a cost impact, i.e., increase or decrease in Price, Vendor shall advise Purchaser in writing of the increase or decrease involved, including a breakdown of the number of staff hours by level of Vendor and Purchaser personnel needed to effect the change. Any costs associated with a Change Order as relate to professional time shall be in accordance with the rate specified in Exhibit E.
- 43.4** Agreement. Vendor Project Manager's supervisor and Purchaser Contracting Officer shall negotiate in good faith and in a timely manner as to the impact of any Change Orders on Price and schedule. If the parties reach an agreement in writing, the terms hereof shall be deemed to be modified accordingly.

**43.5** Disagreement -“Baseball Arbitration”. In the event that following the negotiations described in Section 43.3, the parties are unable to reach an agreement in writing, then Purchaser may submit the issue of the Change Order price and schedule to a neutral arbiter as follows:

- a) The neutral arbiter shall be knowledgeable regarding software development, installation, and implementation in the context of a large public hospital.
- b) As from ten (10) days after the date of Vendor’s Response (as set forth in Section 43.2), Purchaser may at any time request that the American Arbitration Association (AAA) designate the neutral arbiter, and the AAA’s choice of arbiter shall be binding on both parties. Purchaser will provide Vendor with a copy of the request at the same time that it submits it to the AAA.
- c) On the fifth (5th) business day following the AAA’s designation of a neutral arbiter, but no later, each party may submit to the arbiter and the other party its suggested Change Order price and schedule, along with any written argument (not to exceed ten (10) double-spaced pages) and any supporting documentation demonstrating that the party’s suggested Change Order price and schedule are the most appropriate.
- d) Within five (5) business days of the date established under Subsection (c) above, the arbiter shall inform the parties of his or her decision.
- e) With regard to the Change Order price, the arbiter must choose either the Purchaser’s price or the Vendor’s price, and only one of these two prices. The arbiter shall have no authority to choose any Change Order price other than one of the two prices submitted by the parties.
- f) With regard to the Change Order schedule, the arbiter may choose either the Purchaser’s schedule or the Vendor’s schedule. Alternatively, the arbiter may reject the schedules proposed by the parties and establish such schedule as he or she deems appropriate.
- g) The arbiter shall base his or her decision on the parties’ submissions. If either party fails to submit a suggested price or schedule, the arbiter shall choose the price or schedule suggested by the other party. The arbiter shall have no authority to decide any matter other than the most appropriate change order price and schedule.
- h) The arbiter’s decision as to the Change Order price and schedule shall be final and binding upon the parties. Vendor shall immediately proceed with the Change Order in accordance with the schedule established by the arbiter, and Purchaser shall pay Vendor in accordance with the price chosen by the arbiter.
- i) The cost of the arbitral proceedings shall be assessed to and borne by the party whose price was not chosen.

## **44 Independent Status of Vendor**

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Vendor shall not make any claim of right, privilege or benefit which would accrue to an employee under RCW 41.06 or RCW Title 51.

## **45 Governing Law**

This Contract shall be governed in all respects by the law and statutes of the state of Washington, without reference to conflict of law principles. However, if the Uniform Computer Information Transactions Act (UCITA) or any substantially similar law is enacted as part of the law of the state of Washington, said statute will not govern any aspect of this Contract or any license granted hereunder, and instead the law as it existed prior to such enactment will govern. The jurisdiction for any action hereunder shall be

exclusively in the Superior Court for the state of Washington. The venue of any action hereunder shall be in the Superior Court for King County, Washington.

## **46 Subcontractors**

Vendor may, with prior written permission from Purchaser Contracting Officer, which consent shall not be unreasonably withheld, enter into subcontracts with third parties for its performance of any part of Vendor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce the liability of Vendor to Purchaser for any breach in the performance of Vendor's duties. For purposes of this Contract, Vendor agrees that all Subcontractors shall be held to be agents of Vendor. Vendor shall be liable for any loss or damage to Purchaser, including but not limited to personal injury, physical loss, harassment of Purchaser employee, or violations of the Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information, and Ownership/Rights in Data sections of this Contract occasioned by the acts or omissions of Vendor's Subcontractors, their agents or employees. Without limiting the foregoing, the Patent and Copyright Indemnification, Protection of Purchaser's Confidential Information, Ownership/Rights in Data, Publicity and Review of Vendor's Records sections of this Contract shall apply to all Subcontractors.

## **47 Assignment**

- 47.1** With the prior written consent of Purchaser Contracting Officer, which consent shall be at Purchaser's sole option, Vendor may assign this Contract including the proceeds hereof, provided that such assignment shall not operate to relieve Vendor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser that may arise from any breach of the sections of this Contract, or warranties made herein including but not limited to, rights of setoff.
- 47.2** Purchaser may assign this Contract to any public agency, commission, board, or the like, within the political boundaries of the state of Washington, provided that such assignment shall not operate to relieve Purchaser of any of its duties and obligations hereunder.

## **48 Publicity**

- 48.1** The award of this Contract to Vendor is not in any way an endorsement of Vendor or Vendor's Products by Purchaser and shall not be so construed by Vendor in any advertising or other publicity materials.
- 48.2** Vendor agrees to submit to Purchaser, all advertising, sales promotion, and other publicity materials relating to this Contract or any Product furnished by Vendor wherein Purchaser's name is mentioned, language is used, or Internet links are provided from which the connection of Purchaser's name therewith may, in Purchaser's judgment, be inferred or implied. Vendor further agrees not to publish or use such advertising, sales promotion materials, publicity, or the like through print, voice, the World Wide Web, and other communication media in existence or hereinafter developed without the express written consent of Purchaser (which shall not unreasonably be withheld) prior to such use.

## **49 Review of Vendor's Records**

- 49.1** Vendor and its Subcontractors shall maintain books, records, documents, and other evidence relating to this Contract, protection and use of Purchaser's Confidential Information, and accounting procedures and practices which sufficiently and properly reflect all charges and expenses of any nature invoiced in the performance of this Contract. Vendor shall retain all such records for six (6) years after the expiration or termination of this Contract. Records involving matters in litigation related to this Contract shall be kept for either one (1) year following the termination of litigation, including all appeals, or six (6) years from the date of expiration or termination of this Contract, whichever is later.

- 49.2** All such records shall be subject at reasonable times and upon prior notice to examination, inspection, copying, or audit by personnel so authorized by the Purchaser Contracting Officer and/or the Office of the State Auditor and federal officials so authorized by law, rule, regulation, or contract, when applicable, at no additional cost to the State. During this Contract's term, Vendor shall provide access to these items electronically unless it is impracticable or unacceptable to the requesting state or federal agency, in which case, access shall be provided within King County. Vendor shall be responsible for any audit exceptions or disallowed charges imposed by Vendor on any of its Subcontractors.
- 49.3** Vendor shall incorporate in its subcontracts this section's records retention and review requirements.

## **50 Right of Inspection**

Vendor shall provide right of access to its facilities to Purchaser, or any of Purchaser's officers, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

## **General Provisions**

### **51 Patent and Copyright Indemnification**

Vendor, at its expense, shall defend, indemnify, and save Purchaser harmless from and against any claims against Purchaser that any Product and/or Work Product supplied hereunder, or Purchaser's use of the Product and/or Work Product within the terms of this Contract, infringes any patent, copyright, utility model, industrial design, mask work, trade secret, trademark, or other similar proprietary right of a third party worldwide. Vendor shall pay all costs of such defense and settlement and any penalties, costs, damages and attorneys' fees awarded by a court or incurred by Purchaser provided that Purchaser:

- a) Promptly notifies Vendor in writing of the claim, but Purchaser's failure to provide timely notice shall only relieve Vendor from its indemnification obligations if and to the extent such late notice prejudiced the defense or resulted in increased expense or loss to Vendor; and
  - b) Cooperates with and agrees to use its best efforts to encourage the Washington State Attorney General to grants Vendor sole control of the defense and all related settlement negotiations.
  - c) In the event the Washington State Attorney General does not grant Vendor sole control of the defense or related settlement negotiations, unless prevented from doing so by the attorney-client privilege, work product doctrine, or other privilege or protection, Purchaser agrees to keep Vendor regularly informed regarding any such defense and shall endeavor to obtain Vendor's approval prior to any settlement.
- 51.1** If such claim has occurred, or in Vendor's opinion is likely to occur, Purchaser agrees to permit Vendor, at its option and expense, either to procure for Purchaser the right to continue using the Product and/or Work Product or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Product and/or Work Product is enjoined by a court and none of these alternatives is reasonably available, Vendor, at its risk and expense, will take back the Product and/or Work Product and provide Purchaser a refund. In the case of Work Product, Vendor shall refund to Purchaser the entire amount Purchaser paid to Vendor for Vendor's provision of the Work Product. In the case of Product, Vendor shall promptly provide Purchaser with a non-infringing replacement product or, in case of its inability so to do, refund to Purchaser its depreciated value. No termination charges will be payable on such returned Product, and Purchaser will pay only those charges that were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of four (4) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated on the basis of three hundred sixty-five (365) days per year. In the event the Product has been in Production less than one (1) year, all

charges and expenses associated with the initial installation paid by Purchaser shall be refunded by Vendor.

- 51.2** Vendor has no liability for any claim of infringement arising solely from:
- a) Vendor's compliance with any designs, specifications, or instructions of Purchaser;
  - b) Modification of the Product and/or Work Product by Purchaser or a third party without the prior knowledge and approval of Vendor; or
  - c) Use of the Product and/or Work Product in a way not specified by Vendor;
  - d) unless the claim arose against Vendor's Product and/or Work Product independently of any of these specified actions.

## **52 Save Harmless**

Vendor shall defend, indemnify, and save Purchaser harmless from and against any claims, actions, loss, liability, damage, cost or expense, including without limitation reasonable attorneys' fees arising from any or all: (i) claims of injury to persons, death, or damage to property arising from acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents; (ii) a breach of Vendor's confidentiality obligations hereunder; (iii) intentional or willful misconduct, whether by act or omission, by Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents; or (iv) any breach of security by Vendor, but only if and to the extent that such liability, damage, cost, or expense is adjudged to have been proximately caused by the acts or omissions of Vendor, its officers, employees, or agents, or Subcontractors, their officers, employees, or agents. For any such claim for which it expects indemnification, Purchaser shall give Vendor prompt written notice of and reasonable assistance in the defense of such claim. After such notice of a claim, Purchaser agrees to cooperate with Vendor in good faith to petition the Washington State Attorney General to authorize Vendor to litigate and/or settle any and all claims pursuant to this section.

## **53 Insurance**

Vendor shall, during the term of this Contract, maintain in full force and effect, the insurance described in this section. Vendor shall acquire such insurance from an insurance company/ies authorized to do business within the state of Washington, and shall name the Board of Regents of the University of Washington, officers, employees, agents, and students as additional insureds under the insurance policy/ies. All policies shall be primary to any other valid and collectable insurance. Vendor shall instruct the insurers to give Purchaser thirty (30) calendar days advance notice of any insurance cancellation.

- 53.1** The minimum acceptable limits shall be as indicated below:
- a) Commercial General Liability covering the risks of bodily injury (including death), property damage and personal injury, including coverage for contractual liability, with a limit of not less than \$2 million per occurrence/\$2 million general aggregate;
  - b) Business Automobile Liability (owned, hired, or non-owned) covering the risks of bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of not less than \$1 million per accident;
  - b) Employers Liability insurance covering the risks of any Vendor's employee's bodily injury by accident or disease with limits of not less than \$1 million per accident for bodily injury by accident and \$1 million per employee for bodily injury by disease;
  - c) Umbrella policy providing excess limits over the primary policies in an amount not less than \$2 million;
  - d) Professional Liability Errors and Omissions, with a deductible not to exceed \$25,000, conditioned upon Subsection 54.2 below, and coverage of not less than \$2 million per occurrence/\$2 million general aggregate; and

- e) Crime Coverage of not less than \$1 million per occurrence, which shall at a minimum cover occurrences falling in the following categories: computer fraud; forgery; money and securities; and employee dishonesty.
- 53.2** For Professional Liability Errors and Omissions coverage and Crime Coverage, Vendor shall: (i) continue such coverage for six (6) years beyond the expiration or termination of this Contract, naming Purchaser as an additional insured and providing Purchaser with certificates of insurance on an annual basis; (ii) within thirty (30) days of execution of this Contract provide for Purchaser's benefit an irrevocable stand-by letter of credit, or other financial assurance acceptable to Purchaser, in the amount of \$4 million, during the initial and any subsequent terms of this Contract and for six (6) years beyond the expiration or termination of this Contract to pay for any premiums to continue such claims-made policies, or available tails, whichever is appropriate, at Purchaser's sole option, in the event Vendor fails to do so. In addition, such irrevocable stand-by letter of credit shall provide for payment of any deductible on the Professional Liability Errors and Omissions policy and the Crime Coverage under the same terms and conditions of such policy as though there were no deductible. "Irrevocable stand-by letter of credit" as used in this Contract means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by Purchaser (the beneficiary) of a written demand therefor.
- 53.3** Vendor shall pay premiums on all insurance policies. Vendor shall maintain policies such that Purchaser is included under the coverage as an additional insured.
- 53.4** All insurance provided by Vendor shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State and shall include a severability of interests (cross-liability) provision.
- 53.5** Vendor shall include all Subcontractors as insured under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each Subcontractor. Subcontractor(s) shall comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Vendor's liability or responsibility.
- 53.6** Vendor shall furnish to Purchaser copies of certificates of all required insurance within thirty (30) calendar days of this Contract's Effective Date and copies of renewal certificates of all required insurance within thirty (30) calendar days after the renewal date. These certificates of insurance must expressly indicate compliance with each and every insurance requirement specified in this section. Vendor shall provide a statement describing how the certificates satisfy the requirements in this section within thirty (30) calendar days of this Contract's Effective Date.
- 53.7** By requiring insurance herein, Purchaser does not represent that coverage and limits will be adequate to protect Vendor. Such coverage and limits shall not limit Vendor's liability under the indemnities and reimbursements granted to Purchaser in this Contract.

## **54 Industrial Insurance Coverage**

Prior to performing any onsite work under this Contract, Vendor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in RCW Title 51, and shall maintain full compliance with RCW Title 51 during the course of this Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Vendor, or any Subcontractor or employee of Vendor, which might arise under the industrial insurance laws during the performance of duties and services under this Contract.

## **55 Licensing Standards**

Both parties shall comply with all applicable local, state, and federal licensing, accreditation and registration requirements and standards necessary in the performance of this Contract. (See, for example, RCW 19.02 for state licensing requirements and definitions.)

## **56 OSHA/WISHA**

Vendor represents and warrants that its Products, when shipped, are designed and manufactured to meet then current federal and state safety and health regulations. Vendor agrees to indemnify and hold Purchaser harmless from all damages assessed against Purchaser as a result of the failure of the Products furnished under this Contract to so comply.

## **57 Uniform Commercial Code (UCC) Applicability**

- 57.1** This Contract shall be governed by any applicable sections of the Uniform Commercial Code as set forth in RCW 62A (UCC).
- 57.2** To the extent this Contract entails delivery or performance of Services, such services shall be deemed “goods” within the meaning of the UCC, except when to do so would result in an absurdity.
- 57.3** In the event of any inconsistency or contradiction between this Contract and the UCC, the terms and conditions of this Contract take precedence and shall prevail unless otherwise provided by law.

## **58 Antitrust Violations**

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

## **59 Compliance with Civil Rights Laws**

During the performance of this Contract, Vendor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. §12101 et seq.; the Americans with Disabilities Act (ADA); and RCW 49.60, Washington Law Against Discrimination. In the event of Vendor’s noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy, this Contract may be rescinded, canceled, or terminated in whole or in part under the Termination for Default sections, and Vendor may be declared ineligible for further contracts with Purchaser.

## **60 Severability**

If any term or condition of this Contract or the application thereof is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application; to this end the terms and conditions of this Contract are declared severable.

## **61 Waiver**

Waiver of any breach of any term or condition of this Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties.

## **62 Treatment of Assets**

- 62.1** Title to all property of any kind furnished by Purchaser shall remain in Purchaser. Title to all property furnished by Vendor, for which Vendor is entitled to reimbursement, other than rental payments, under this Contract, shall pass to and vest in Purchaser pursuant to the Ownership of Work Product section. As used in this section, if the “property” is Vendor’s proprietary, copyrighted, patented, or trademarked works, only the applicable license, not title, is passed to and vested in Purchaser.

- 62.2** Any Purchaser property furnished to Vendor shall, unless otherwise provided herein or approved by Purchaser, be used only for the performance of this Contract.
- 62.3** Vendor shall be responsible for any loss of or damage to property of Purchaser that results from Vendor's negligence or that results from Vendor's failure to maintain and administer that property in accordance with sound management practices.
- 62.4** Upon loss or destruction of, or damage to, any Purchaser property, Vendor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.
- 62.5** Vendor shall surrender to Purchaser all Purchaser property prior to completion, termination, or cancellation of this Contract.
- 62.6** All reference to Vendor under this section shall also include Vendor's employees, agents, or Subcontractors.

### **63 Vendor's Proprietary Information**

Vendor acknowledges that Purchaser is subject to RCW 42.56 and that this Contract shall be a public record as defined in RCW 42.56. Purchaser acknowledges that the Source and Object Code for Vendor's Software are claimed by Vendor to be proprietary information. Any other information that is claimed by Vendor to be proprietary information must be clearly identified as such by Vendor. To the extent consistent with RCW 42.56, Purchaser shall maintain the confidentiality of all such information. If a public disclosure request is made to view Vendor's proprietary information, Purchaser will notify Vendor of the request and of the date that such records will be released to the requester unless Vendor obtains a court order from a court of competent jurisdiction enjoining that disclosure. If Vendor fails to obtain the court order enjoining disclosure, Purchaser will release the requested information on the date specified, and Vendor shall hold Purchaser harmless for such release.

## **Disputes and Remedies**

### **64 Disputes**

- 64.1** The parties shall use their reasonable best efforts to cooperatively resolve disputes and problems that arise in connection with this Contract. When a dispute arises between Purchaser and Vendor, both parties will attempt to resolve the dispute and will continue without delay to carry out all their respective responsibilities under this Contract. Except as may be otherwise required by this Agreement, the parties may, but are not required to, pursue the dispute resolution process in this section if they deem it to be in the best interests of the parties.
- 64.2** Purchaser and Vendor shall use their reasonable best efforts to resolve disputes arising in the normal course of business at the lowest organizational level between each party's staff with appropriate authority to resolve such disputes.
- 64.3** In the case of any dispute, and at the written request of a party, each party will appoint, within ten (10) calendar days of receipt of the written request, a knowledgeable, responsible representative with decision-making authority for the matter in dispute to meet and negotiate in good faith to resolve any dispute arising under this Contract. The location, form, frequency, duration, and conclusion of these discussions will be left to the discretion of the representatives. Upon agreement of both parties, the representatives may utilize other alternative dispute resolution procedures such as mediation to assist in the negotiations. If the parties are unable to resolve the dispute within thirty (30) calendar days of receipt of a written request issued pursuant to this section, either party may proceed with any remedy available to it pursuant to law, equity or agency mechanisms.

Purchaser and Vendor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.



## **65 Attorneys' Fees and Costs**

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including the costs and fees of any mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees and costs incurred as a result of the alternative dispute resolution method. Otherwise, the prevailing party shall be entitled to collect from the other party as part of the award in such action the prevailing party's reasonable legal fees and costs in connection with any action to enforce this Contract.

## **66 Non-Exclusive Remedies**

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law or equity.

## **67 Liquidated Damages**

### **67.1 Liquidated Damages – General**

- a) Any delay by Vendor in meeting the Delivery Date set forth in this Contract will interfere with the proper implementation of Purchaser's programs and will result in loss and damage to Purchaser.
- b) As it would be impracticable to fix the actual damage sustained in the event of any such failure(s) to perform, Purchaser and Vendor agree that in the event of any such failure(s) to perform, the amount of damage which will be sustained will be the amount set forth in the following subsections and the parties agree that Vendor shall pay such amounts as liquidated damages and not as a penalty.
- c) Liquidated damages provided under the terms of this Contract are subject to the same limitations as provided in the section titled Limitation of Liability.

### **67.2 Liquidated Damages – Specific**

- a) If Vendor does not have the Products or Services delivered by the Delivery Date agreed upon between Purchaser and Vendor, then Vendor shall provide a revised Delivery Date and pay to Purchaser as fixed and agreed liquidated damages, in lieu of all other damages due to such delay, for each calendar day between the specified Delivery Date and the date that Vendor actually delivers the Product or Service an amount of \$300.00 per day.
- b) If the revised Delivery Date is more than thirty (30) calendar days from the original Delivery Date, then by written notice to Vendor, Purchaser may immediately terminate the right of Vendor to deliver the Products or Services and Purchaser may obtain substitute Products or Services from another vendor. In this event, Vendor shall be liable for fixed and agreed-upon liquidated damages, in lieu of all other damages due to such delay, in the amount specified above, until substitute Products or Services are delivered, or a maximum of sixty (60) calendar days from the original Delivery Date, whichever occurs first.

## **68 Failure to Perform**

If Vendor fails to perform any substantial obligation under this Contract, Purchaser shall give Vendor written notice of such Failure to Perform. If after thirty (30) calendar days from the date of the written notice Vendor still has not performed, then Purchaser may withhold all monies due and payable to Vendor, without penalty to Purchaser, until such Failure to Perform is cured or otherwise resolved.

## **69 Limitation of Liability**

- 69.1** The parties agree that neither Vendor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim

related to bodily injury or death, or a claim or demand based on a Date Warranty or No Surreptitious Code Warranty issue or patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled OSHA/WISHA, Termination for Default, and Review of Vendor's Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

- 69.2** Neither Vendor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Vendor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of Vendor, Purchaser, or their respective Subcontractors.
- 69.3** If delays are caused by a Subcontractor without its fault or negligence, Vendor shall be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Vendor to meet its required performance schedule.
- 69.4** Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

## **Contract Termination**

### **70 Termination for Default**

- 70.1** If either Purchaser or Vendor violates any material term or condition of this Contract or fails to fulfill in a timely and proper manner its obligations under this Contract, then the aggrieved party shall give the other party written notice of such failure or violation. The responsible party will correct the violation or failure within thirty (30) calendar days or as otherwise mutually agreed in writing. If the failure or violation is not corrected, this Contract may be terminated immediately by written notice from the aggrieved party to the other party. The option to terminate shall be at the sole discretion of the aggrieved party. Purchaser reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit Vendor from incurring additional obligations of funds during investigation of any alleged Vendor compliance breach and pending corrective action by Vendor or a decision by Purchaser to terminate the Contract.
- 70.2** In the event of termination of this Contract by Purchaser, Purchaser shall have the right to procure the Products and Services that are the subject of this Contract on the open market and Vendor shall be liable for all damages, including, but not limited to: (i) the cost difference between the original Contract price for the Products and Services and the replacement costs of such Products and Services acquired from another Vendor; (ii) if applicable, all administrative costs directly related to the replacement of this Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, staff time costs; and, (iii) any other costs to Purchaser resulting from Vendor's breach. Purchaser shall have the right to deduct from any monies due to Vendor, or that thereafter become due, an amount for damages that Vendor will owe Purchaser for Vendor's default.
- 70.3** If the Failure to Perform is without the defaulting party's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.
- 70.4** This section shall not apply to any failure(s) to perform that results from the willful or negligent acts or omissions of the aggrieved party.

## **71 Termination for Convenience**

When, at the sole discretion of Purchaser, it is in the best interest of the State, Purchaser Contracting Officer may terminate this Contract, in whole or in part, by fourteen (14) calendar days written notice to Vendor. If this Contract is so terminated, Purchaser is liable only for payments required by the terms of this Contract for Products and Services delivered and Accepted by Purchaser prior to the effective date of termination.

## **72 Termination for Withdrawal of Authority**

In the event that Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, Purchaser may terminate this Contract by seven (7) calendar days written notice to Vendor. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

## **73 Termination for Non-Allocation of Funds**

If funds are not allocated to Purchaser to continue this Contract in any future period, Purchaser may terminate this Contract by seven (7) calendar days written notice to Vendor or work with Vendor to arrive at a mutually acceptable resolution of the situation. Purchaser will not be obligated to pay any further charges for Services including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. Purchaser agrees to notify Vendor in writing of such non-allocation at the earliest possible time. No penalty shall accrue to Purchaser in the event this section shall be exercised. This section shall not be construed to permit Purchaser to terminate this Contract in order to acquire similar Services from a third party.

## **74 Termination for Conflict of Interest**

Purchaser may terminate this Contract by written notice to Vendor if Purchaser determines, after due notice and examination, that any party has violated RCW 42.52, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, Purchaser shall be entitled to pursue the same remedies against Vendor as it could pursue in the event Vendor breaches this Contract.

## **75 Termination Procedure**

- 75.1** In addition to the procedures set forth below, if Purchaser terminates this Contract, Vendor shall follow any procedures Purchaser reasonably specifies in Purchaser's notice of termination.
- 75.2** Upon termination of this Contract, Purchaser, in addition to any other rights provided in this Contract, may require Vendor to deliver to Purchaser any Products specifically produced or acquired for the performance of such part of this Contract as has been terminated, provided Purchaser has paid for such Products. The section titled Treatment of Assets shall apply in such property transfer.
- 75.3** Unless otherwise provided herein, Purchaser shall pay to Vendor the agreed-upon Price, if separately stated, for the Products or Services received and Accepted by Purchaser, provided that in no event shall Purchaser pay to Vendor an amount greater than Vendor would have been entitled to if this Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the Disputes section of this Contract. Purchaser may withhold from any amounts due Vendor such sum as Purchaser determines to be necessary to protect Purchaser from potential loss or liability.
- 75.4** After receipt of a notice of termination, and except as otherwise directed by Purchaser, Vendor shall:
- Stop work under this Contract on the date, and to the extent specified, in the notice;

- Place no further orders or subcontracts for Software, Services, or facilities except as may be necessary for completion of such portion of the work under this Contract that is not terminated;
- As soon as practicable, but in no event longer than thirty (30) calendar days after termination, terminate its orders and subcontracts related to the work which has been terminated and settle all Vendor outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of Purchaser to the extent required, which approval or ratification shall be final for the purpose of this section;
- Complete performance of such part of this Contract as shall not have been terminated by Purchaser and to which Vendor agrees in its sole discretion in writing to continue performance upon;
- Together with Purchaser, take such action as may be necessary for the protection and preservation of the property related to this Contract; and
- Transfer title to Purchaser and deliver in the manner, at the times, and to the extent specified by Exhibit A-1 or agreed to by the parties, any property which is required to be furnished to Purchaser and which has been accepted or requested by Purchaser and payment has been received by Vendor.

## **76 Transition Services**

Upon the expiration or termination of this Contract, Vendor shall (unless termination is as a result of breach by Purchaser) assist Purchaser in the orderly transfer of services, whether tangible or intangible, rendered under this Contract to a successor vendor or entity so as to effect the orderly, non-disrupted business continuation of each party by (a) providing Purchaser with a custom quote based on the rate specified in Exhibit F detailing the cost at which Vendor would be prepared (subject to availability of resources) to provide such assistance, which may include the creation of custom routines for providing to Purchaser all files, data, and records, not including Vendor's Confidential Information hereunder, necessary to effect a smooth transition, and a timeline for accomplishing same and (b) promptly, upon acceptance by Purchaser of such quote, commence work in accordance with such timeline.

With regard to the work referred to in the immediately preceding paragraph, the items to be transitioned include all data collected during normal operation of the Software, all audit trails, any setup information such as user tables, error and warning notification rules, and configuration information used to configure the Software to operate at the Purchaser's site.

**Contract Execution**

**77 Authority to Bind**

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.

**78 Counterparts**

This Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of this Contract signed by each party, for all purposes.

**In Witness Whereof**, the parties hereto, having read this Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

This Contract is effective as of the date identified on the title page.

**Approved**  
**University of Washington**

**Approved**  
**[Vendor]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name                      Date

\_\_\_\_\_  
Print or Type Name                      Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

**Approved**  
**Northwest Hospital and Medical Center**

**Approved**  
**Valley Medical Center**

\_\_\_\_\_  
Signature

Signature

\_\_\_\_\_  
Print or Type Name                      Date

Print or Type Name                      Date

\_\_\_\_\_  
Title

Title

**Approved as to Form**

State of Washington  
Office of the Attorney General

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name  
Assistant Attorney General

\_\_\_\_\_

\_\_\_\_\_ Date

<b>Vendor Information</b>
Vendor's UBI Number:  
Minority or Woman Owned Business Enterprise  Yes _____ No <input type="checkbox"/> (Certification Number)

# EXHIBIT A-1

## Statement of Work

Vendor will provide Products and Services identified in this Exhibit A. Payments for Products and Services will only be made upon Acceptance by Purchaser of these Deliverables as set forth in this Exhibit A.

All Products provided under this Agreement must be commercially available on or before delivery thereof to Purchaser. Alpha, beta or other pre-release products will not be Accepted unless mutually agreed by the parties.

### Purpose

The purpose of this Statement of Work is to define Deliverables, Vendor responsibilities, Purchaser responsibilities and other considerations to implement the ICD-10 Business Intelligence Technology Solution. Vendor shall provide the implementation Services described in this Agreement subject to the terms and conditions set forth below. Vendor shall commence delivery of the implementation Services on a mutually agreeable date. Purchaser will pay Vendor for the implementation Services per payment terms defined in Exhibit A.

#### 1. Project Planning/Assessment

Vendor Responsibilities

- 

Purchaser Responsibilities

- 

Deliverables

- 

#### 2. Insert Project Phase

Vendor Responsibilities

- 

Purchaser Responsibilities

- 

Deliverables

- 

#### 3. Insert Project Phase

Vendor Responsibilities

- 

Purchaser Responsibilities

- 

Deliverables

- 

#### 4. Go-Live and Post-Live Support

Vendor Responsibilities

- 

#### Purchaser Responsibilities

- Final Acceptance

#### Deliverables

- Mutually agreed Go-Live and post-live support plan
- Fully functional System as per Vendor Documentation, Exhibits A and B, and Software functionality requirements
- Final Acceptance



**Exhibit A-2**

**Pricing**

<b>Description</b>	<b>List Price</b>	<b>Discount Price</b>	<b>Maintenance Fees</b>
Hardware			
Vendor Software Licenses			
Software Solution Components			
Third Party Software Licenses			
Implementation Services			
Other Costs			
<b>Total</b>			

Implementation Services include all travel expenses.

Purchaser shall pay annual maintenance fees as set forth in paragraph 12.0 (d) of Exhibit B.

## Exhibit A-3

### Payment Milestones

Hardware: \$XX

Software Costs (including Third-Party Software): \$XX

Professional Services Fee (excluding interfaces): \$XX

Total Project Cost = \$

**Milestone 1:**

Deliverable:

Projected Date:

Amount =

**Milestone 2:**

Deliverable:

Projected Date:

Amount =

**Milestone 3:**

Deliverable:

Projected Date:

Amount =

**Milestone 4:**

Deliverable:

Projected Date:

Amount =

**Milestone 5:**

Deliverable:

Projected Date:

Amount =

**Milestone 6:**

Deliverable:

Projected date:

Amount =

**Total = \$XX**

## Exhibit A-4

### Functional Requirements

The ICD-10 Business Intelligence Technology Solution will provide the following functionality. As Purchaser implements the Vendor Software with the functionality listed below, Purchaser may discover that there are better or alternate methods of accomplishing the functionality.

**A. Functionality Name:**

1. Ability to [describe functionality].
2. Ability to [describe functionality].

**B. Functionality Name:**

1. Ability to [describe functionality].
2. Ability to [describe functionality].

**C. Vendor Software Performance Requirement:**

Redundancy: Ability to have a resilient or mirrored database/Vendor Software in a separate application/main central database repository server that will have a real-time backup of data.

Failover feature: Ability of the backup server to act as “hot-spare” so that in an event that the main server fails, the back-up server automatically takes over as the main server. This can be accomplished by establishing a clustered server environment at Purchaser’s location.

In case of System failure, the ability to failover to hot-spare environment with the replicated production database within two (2) hours. Vendor is also responsible for defining procedures for the synchronization and shift back to primary production system after appropriate break-fix.

**Exhibit A-5**

**ICD-10 Business Intelligence Technology Solution Training Plan**

All Training to be delivered at Purchaser Location

<b>Vendor Training Session</b>	<b>Applications</b>	<b>Description</b>	<b>Length of Sessions</b>	<b>Prerequisites</b>	<b>Max Attendees Per Session</b>	<b>Hrs of Training Per Person</b>	<b>Total Hrs Training Delivered</b>

## Exhibit B

### Support Services Agreement

#### 1.0 Software Maintenance Services

Vendor will provide Purchaser with Level Two Support for the two (2) most current releases of the Software in accordance with the following terms and conditions. Vendor will maintain full support capabilities on 24x7x365 basis with unlimited number of support requests. Vendor will provide Purchaser with a single toll free support number and email with a two (2) hour guaranteed response for Critical Priority requests regardless of method of contact.

For the purposes of this Exhibit, a "Software Error" means a programming error in the Vendor Software that prevents it from performing in conformity with the Documentation. A "Software Question" means an instance where the Vendor Software is capable of implementing a feature resident in the Vendor Software but Purchaser cannot determine, through reasonable investigation, how to implement such feature.

(a) Priority Codes. Vendor will provide phone support for the Software according to the severity of the issue. Purchaser's Level One Support personnel will report the problem and both parties will mutually agree on the call priority. Other Purchaser end-users may call Vendor for support however Vendor will determine the priority code in these situations and, for those not rated "critical" or "high", may refer such end-users to Purchaser's Level One Support personnel.

The following priority codes will be used:

- (1) Critical. A critical priority is given to an issue where a Software Error is adversely affecting the delivery of adequate patient care or causing the Purchaser to incur financial liability due to operational or information deficiency.
- (2) High. A high priority is given to a Software Error or Software Question that is not a critical priority, but is repeatedly affecting a Purchaser's usage of the Software or data integrity.
- (3) Standard. A standard priority is given to a Software Error or Software Question that does not impact the operation or use of the Software.

(b) Priority Code Responses.

(1) Vendor will respond to a critical priority after Purchaser's Level One Support personnel have reported the problem to Vendor and Vendor will diligently work to resolve the problem and will follow up with Purchaser once per every two (2) hours until resolution of the problem.

In the event a critical priority is not resolved within 24 hours, Vendor will provide workaround solutions to Purchaser.

If the critical priority problem is not resolved within three (3) days, Vendor will, at Purchaser's request, provide qualified resources on-site to resolve the problem. Purchaser will not be responsible for any out-of-pocket expenses incurred by Vendor to resolve such problem.

(2) Vendor will respond to a high priority after Purchaser's Level One Support personnel have reported the problem to Vendor and Vendor will diligently work to resolve the problem and will follow up with Purchaser every 4 hours or at a mutually agreed upon contact time.

(3) Vendor will respond to a standard priority after Purchaser's Level One Support personnel have reported the problem to Vendor and will diligently work to resolve the problem, and Vendor will regularly follow up with Purchaser at a mutually agreed upon contact time.

## **2.0 Maintenance Response Guarantee**

In the event Vendor fails to respond to a support request as defined in Section 1.0, Purchaser shall receive a credit toward the next quarterly maintenance fee due. The occurrence of a single failure to respond in accordance Section 1.0 in any one month period will entitle Purchaser to a credit of ten (10) days of support prorated based on a calendar year of 365 days. Multiple failures to respond in accordance with Section 1.0 in any one month period will result in additional credit to Purchaser. Notwithstanding the foregoing, Purchaser will not be entitled to a credit if any failure to meet the support request defined in Section 1.0 is due to Purchaser's failure to cooperate with Vendor or if it is determined that any report of a Software Error or Software Question is not due to the Software.

This guarantee applies during the Production phase.

## **3.0 Software Availability Guarantee**

In the event Software uptime (excludes hardware, network and scheduled downtime) drops below 99.9% during any thirty (30) day period, Purchaser shall be entitled to a credit toward the next quarterly maintenance fee due. Such credit shall be calculated as ten (10) days based on a calendar year of 365 days. Multiple failures to achieve the availability guarantee within any thirty (30) day period will entitle Purchaser to additional credit. Notwithstanding the foregoing, Purchaser will not be entitled to a credit if a) Purchaser fails to cooperate with Vendor b) the Software downtime is due to Purchaser's use of the Software contrary to the applicable Documentation, or c) the downtime is not due to the Software.

This guarantee applies during the Production phase.

## **4.0 Software Response Time Guarantee**

The ICD-10 Business Intelligence Technology Solution will provide a response time as follows:

1. For OLTP transaction, three (3) seconds or less.
2. For interfaces and interface transactions, five (5) seconds or less.
3. For reporting transactions, three (3) minutes or less.

When Purchaser believes the Software response time is not meeting the agreed response times, Purchaser shall contact Vendor to set-up a validation test. The validation test will be run on an isolated network in Purchaser's data center. Vendor shall validate that Purchaser meets the necessary technology specifications set forth in Exhibit H to this Contract prior to performing the validation test. The mutually agreed validation test will be run for a one-hour period and all like-kind transactions will be documented and the respective times documented. Response time will be measured from the time a user hits the enter key or touches an active button to when the screen is ready to accept additional data. Vendor is entitled to review each validation test either via remote connection to the testing workstation, or to be physically present in the data center to observe the validation test.

The number of transactions run during the validation that meet the response time specified above for the applicable application will be divided by the total number of transactions run during the validation test, and the result must meet or exceed 95% or the Purchaser shall receive a credit towards the next quarterly maintenance fee due. Such credit shall be calculated as ten (10) days based on a calendar year of 365 days. Multiple failures in Software response time in any thirty (30) day period will entitle Purchaser to additional credit. Notwithstanding the foregoing, Purchaser will not be entitled to a credit if (a) Purchaser fails to cooperate with Vendor or (b) Purchaser's use of the Software is contrary to the applicable Documentation.

This guarantee applies during the Production phase.

## **5.0 Software Updates and Patches**

Vendor will provide Purchaser with all Software updates and patches to the Software and will notify Purchaser in a timely manner when such upgrades and patches become available. Updates and patches released by vendors of subsystem components will be reviewed as provided in Exhibit H to this Contract.

## **6.0 Software Upgrades**

Vendor will provide annual Software upgrades at no additional charge to Purchaser. A software upgrade, as distinguished from an update, will include feature enhancements in multiple areas and will (unless the Vendor moves to a different methodology) be identified by version number increases to either side of the decimal point (e.g., Version 7.0 to Version 7.1 or Version 8.0). Vendor will ensure to the extent commercially reasonable that Software upgrades preserve all existing functionality except as otherwise agreed in advance by the parties to this Contract.

Vendor will provide assistance (which shall be onsite to the extent so required, typically, during the Mock-Live and Go-Live phases) annually using the Vendor resources outlined below to implement Vendor-provided Software, provided that implementation of new modules or any Interfaces that have been changed since the last such implementation by Purchaser will be handled via the Change Order process. Prior to scheduling an upgrade, Vendor will provide Purchaser with release notes that explain the changes and enhancements. Vendor and Purchaser will agree an upgrade plan that includes tasks, timelines and responsibilities substantially in accordance with the following tables:

**Upgrade Process**

Week	Project Activity
1	Project Planning
	Upgrade Configuration Files
2 & 3	Upgrade Test Environment
	New Functionality Webinar
	Net New Configurations
	Remote Testing
4 & 5	Client- Internal Testing
6	Mock Live
7	Upgrade Go-Live/Post-Live

**Vendor Resources**

Role	Hours
Project Manager	
Application Consultant	
Application Specialist	
Hardware Specialist/Technical Specialist	
<b>Total</b>	

**7.0 Cooperation**

Purchaser shall cooperate and provide Vendor with whatever information and assistance Vendor reasonably requires in order to address Software Errors or Software Questions. If Vendor requests, Purchaser shall provide Vendor with access to Purchaser's Systems, data, Sites and any other information or cooperation Vendor may reasonably require in performing Vendor's obligations hereunder. Vendor will assist Purchaser in building and maintaining a test server such that any upgrades, updates and patches to the Software that

address Software Errors or Software Questions can be tested prior to deploying into the Production environment.

**8.0 Errors Unrelated to Licensed Software**

Vendor is not responsible for providing support for Software Errors or Software Questions caused by (a) incompatibility between the Vendor Software and hardware or software provided by Purchaser or a third party unless the Documentation as specified in the section titled Software Documentation states that Software is compatible, or it logically should be compatible, with such hardware and software, or (b) use of the Software in such a way that is not permitted under this Agreement.

**9.0 Level One Support**

Vendor’s obligations hereunder are conditional upon Purchaser providing the following Level One Support:

- (a) Accepting and responding to questions from users relating to use of Vendor Software, including providing a reasonable level of assistance in diagnosing problems and errors associated with the use of the Vendor Software and implementing any recommendations or solutions related thereto;
- (b) Determining whether a user's problem is related to the Vendor Software;
- (c) When a user contacts Purchaser with a previously diagnosed Software Error or Software Question, informing the user of the recommended solution or answer before contacting Vendor; and
- (d) Providing such other assistance to users as Vendor may reasonably request.

**10.0 Out of Scope Services**

In the event Vendor provides any billable services, Vendor shall charge Purchaser at the rate specified in Exhibit E.

**11.0 Maintenance Fees**

- (a) Purchaser shall pay annual maintenance fees as set forth in 10.0 (d).
- (b) Vendor shall invoice Purchaser quarterly in advance commencing on Final Acceptance. Charges for a partial month’s maintenance shall be prorated on the basis of a thirty (30) day month.
- (c) Vendor shall have the right to revise the maintenance fees at the end of the initial three year period following termination of the warranty period or anytime thereafter (but not more than once every twelve (12) months) by giving Purchaser sixty (60) days prior written notice. The amount of any increase in the maintenance fee however, shall not exceed the annual percentage increase, Year over Year, through the end of the most recent month for which the Consumer Price Index (CPI All Items) or three percent (3%), whichever is less.
- (d)

Description	Annual Maintenance Fee
<b>Vendor Software</b>	
<b>Total</b>	
<b>Third-Party</b>	



<b>Total</b>	
<b>Grand Total</b>	

## Exhibit C-1

### Product Licenses

Vendor	Product Name	License

**Exhibit D**  
**Change Order Form**

<b>Change Order Notice</b>	
No:	
Date:	
Vendor is authorized to provide the following Products or Services:	
<b>Change Order Information</b>	
Originator of Change:	
Description of Change:	
Reason for Change:	
Deliverables:	
<b>Considerations</b>	
PO #:	
Number of Hours:	
Hourly Rate(s):	
Total Services Price:	
Price for Products:	
Delivery Date:	
Total Not-to-Exceed Cost:	
Current Contract Amount:	
Revised Amount:	
Impact to Schedule:	
The total not-to-exceed cost includes all taxes and related expenses.	
This Change Order is subject to the terms and conditions of the Contract between Purchaser and Vendor, as well as all schedules and exhibits thereto.	
<b>Approvals</b>	
<b>Vendor Name</b>	<b>University of Washington</b>
Signature	Signature
Title	Title
Date	Date

## Exhibit E

### Vendor Hourly Rate

The following hourly rate applies to all Vendor Services provided under this Agreement; provided, however, that Vendor reserves the right, at the end of the initial three year period or anytime thereafter (but not more than once every twelve months), to increase this rate, by giving Purchaser sixty days prior written notice. The amount of any increase in the maintenance fee however, shall not exceed the annual percentage increase, Year over Year, through the end of the most recent month for which the Consumer Price Index (CPI All Items) or three percent (3%), whichever is less.

Service	Hourly Rate
All Services	

## Exhibit F

### University of Washington Data Security Agreement

This Data Security Agreement (**Agreement**) is incorporated in and attached to that certain Agreement titled/numbered \_\_\_\_\_ and dated \_\_\_\_\_ (**Contract**) by and between the University of Washington (**University**) and \_\_\_\_\_ (**Contractor**). Contractor agrees to include all of the terms and conditions contained in this Agreement in all subcontractor or agency contracts providing services under contract number \_\_\_\_\_.

Unless defined herein, all terms take the meaning ascribed by University Administrative Policy Statement 2.10, Minimum Data Security Standards.

#### 1. Disclosure of University Data

Contractor shall not use, access, or disclose University Data in any manner that would constitute a violation of state or federal law or contract or agreement terms including, without limitation, by means of outsourcing, sharing, retransfer, access, or use to any person or entity, except:

- a. Employees or agents who actually and legitimately need to access or use University Data in the performance of Contractor's duties under this Agreement or the Contract;
- b. Such third parties, such as but not limited to, subcontractors, as may be specifically identified in this Agreement or the Contract, but only after such third party has agreed in writing and in advance of any disclosure, to be bound by all of the terms of this Agreement; or
- c. Any other third party approved by the University in writing and in advance of any disclosure, but only to the extent of such approval.

#### 2. Use of, Storage of, or Access to, University Data

Contractor shall only use, store, or access University Data:

- a. In accordance with, and only to the extent permissible under this Agreement and the Contract; and
- b. In full compliance with any and all applicable laws, regulations, rules, or standards including to the extent applicable, but without limitation: Family Educational Rights and Privacy Act (FERPA), Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Health Insurance Portability and Accountability Act (HIPAA), the Gramm-Leach-Bliley Financial Services Modernization Act (GLB), Federal Trade Commission Red Flags Rule, the Social Security Act, Payment Card Industry Data Security Standards (PCI-DSS), and Revised Code of Washington (RCW) 19.255.010 and 42.56.590.
- c. Contractor shall notify University in writing if Contractor obtains an export control license for Data covered by EAR or ITAR.
- d. For University Data subject to FERPA, Contractor will be considered a "school official" with a "legitimate educational interest" as those terms are used in FERPA and its implementing regulations.
- e. Any transmission, transportation, or storage of University Data outside the United States is prohibited except on prior written authorization by the University.

#### 3. Safeguarding University Data

Contractor agrees that use, storage, and access to University Data shall be performed with that degree of skill, care, and judgment customarily accepted as sound, quality, and professional practices. Contractor shall implement and maintain safeguards necessary to ensure the confidentiality, availability, and integrity of University Data. If any of these safeguards represent a change to a

System, these changes shall be implemented by Contractor in accordance with Contractor's approved field modification process at the time of System installation and shall be included in the price of the System.

Such safeguards shall include as appropriate, and without limitation, the following:

- a. **System Security.** A System that is owned or supported by Contractor and contains University Data shall be secured as follows:
  - i. Contractor warrants that their System is free of any system settings or defects that would create a potential breach.
  - ii. Contractor shall provide the specifications and configuration settings of the System, including: hardware, operating system, applications, communication ports and protocols.
  - iii. The System shall use secure protocols (e.g. SSH, SSL, SFTPS, TLS, IPSec) to safeguard University Data in transit.
  - iv. Contractor understands the System may be placed on a public network and warrants the System is sufficiently protected from compromises and attacks. Contractor may need to add a host-based or external firewall to protect the System or Contractor may allow the University to add a host-based or external firewall without breach of this Agreement, Contractor's warranty or University support contract.
  - v. Contractor shall coordinate with the University to ensure the following:
    - Limit administrative access to the System.
    - Limit remote access to the System.
    - Limit account access and privileges to the least necessary for the proper functioning of the System.
    - Remove or disable applications and services that are not necessary for the proper functioning of the System.
    - Use named user accounts and not generic or shared accounts.
    - Use Kerberos, LDAP or other industry compliant services for authentication and authorization. If the System lacks the capability to utilize centralized authentication and/or authorization, a secure remote API, batch load interface or other mechanism must be provided for provisioning user accounts and privileges.
    - Enable an appropriate level of auditing and logging for the operating system and applications.
  - vi. The System shall not be deployed with default passwords and shall allow the changing of System and user passwords.

**b. System Maintenance and Support**

- i. Contractor and University shall agree on a process for the timely review, testing, and installation of patches essential for safeguarding the confidentiality, integrity, or availability of the System or University Data.
- ii. Proper change management procedures, as defined below shall be followed.  
*Contractor to insert procedures*
- iii. Contractor shall ensure that the System is supported. Contractor shall provide University with notice 12 months before the System or any components become unsupported.
- iv. If necessary, Contractor shall provide remote support via a mutually agreed upon secure

connection method that includes a detailed audit log of events (e.g., who, what, where, when). Remote access shall be limited to an as needed or as requested basis; Contractor shall provide a list of accounts used for remote access.

#### **c. Data Protections**

- i. Contractor shall only use, store, disclose, or access University Data:
  1. In accordance with, and only to the extent permissible under Contract #\_\_\_\_; and
  2. In full compliance with any and all applicable laws, regulations, rules or standards, including, but without limitation, FERPA, HIPAA, GLB, the Federal Trade Commission Red Flags Rule, EAR, ITAR, the Social Security Act, PCI-DSS, RCW 19.255.010, and RCW 42.56.590.
- ii. Contractor shall have documented policies and procedures to prevent unauthorized use, disclosure loss, or acquisition of, or access to, University Data. This includes, but is not limited to personnel security measures, such as background checks.
- iii. Contractor shall provide University written notice of any employee or agent of Contractor that was or is employed by University that has access to or use of University Data. University shall have sole discretion to disallow access to or use of University Data to any person identified in such notice.
- iv. All transmission of University Data between parties shall be performed using a mutually agreed upon secure transfer method that includes a detailed audit log of events (e.g., who, what, where, when).

#### **4. Oversight**

A security audit, evaluation, or review shall be performed no less than annually so as to ensure compliance with Contractor's safeguards, any safeguards required under this Agreement or the Contract, and industry best practices for the protection of University Data. If an evaluation, audit, or review identifies any error, flaw, or inadequacy with respect to any safeguard that does or may affect University Data, Contractor shall promptly notify the University. Upon the University's request, Contractor shall provide a copy of any report generated in connection with any such evaluation, audit, or review. The University and Contractor shall develop a mutually-agreeable timeline to correct any such error, flaw, or inadequacy, and if Contractor is unable to make such correction, or fails to do so within a reasonable timeframe as determined by the University, the University may immediately terminate the Contract.

#### **5. Data Breach**

- a. If Contractor has reason to believe that University Data may have been accessed, disclosed, or acquired without proper authorization and contrary to the terms of this Agreement or the Contract, Contractor shall alert the University of any Data Breach within two business days, and shall immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of the Data Breach. Contractor shall give highest priority to immediately correcting any Data Breach and shall devote such resources as may be required to accomplish that goal. Contractor shall provide the University any and all information necessary to enable the University to fully understand the nature and scope of the Data Breach. To the extent the University, in its sole discretion, deems warranted—whether in accordance with applicable Washington law such as RCW 42.56.590 or RCW 19.255.010, or federal law such as HIPAA, EAR or ITAR—the University may provide notice or require Contractor to provide notice to any or all parties affected by any Data Breach. In such case, Contractor shall consult with the University in a timely fashion regarding appropriate steps required to notify third parties. Contractor shall provide University information about what Contractor has done or plans to do to mitigate any deleterious effect or the unauthorized use or disclosure of, or access to, University Data. In the event that a Data Breach requires Contractor's assistance in reinstalling software, such assistance shall be provided at no cost to the University and in accordance with the University's policies and standards. The University may discontinue any services or products provided by Contractor until

the University, in its sole discretion, determines that the cause of the Data Breach has been sufficiently mitigated.

- b. Contractor shall defend, indemnify, and save the University harmless from and against any claims, actions, loss, liability, damage, costs, or expenses, including, but not limited to, reasonable attorneys' fees, arising from any or all Data Breaches. The indemnification provided hereunder includes the full costs of forensics analysis, System remediation to eliminate the cause of the Data Breach, and notice to affected individuals, including, but not limited to, the services of a third party firm.

## 6. No Surreptitious Code

Contractor warrants that, to the best of its knowledge, the System is free of and does not contain any code or mechanism that collects information or asserts control of the System without University's consent, or which may restrict University's access to or use of University Data. Contractor further warrants that it will not knowingly introduce, via any means, spyware, adware, ransomware, rootkit, keylogger, virus, trojan, worm, or other code or mechanism designed to permit unauthorized access to University Data, or which may restrict University's access to or use of University Data.

## 7. Compelled Disclosure

If Contractor is served with any subpoena, discovery request, court order, or other legal request or command that calls for disclosure of any University Data, Contractor shall promptly notify the University in writing and provide the University sufficient time to obtain a court order or take any other action the University deems necessary to prevent disclosure or otherwise protect University Data. In such event, Contractor shall provide University prompt and full assistance in University's efforts to protect University Data. Where Contractor is prohibited by law from notifying the University of a legal request for University Data, Contractor will comply with all applicable laws and regulations with respect to the requested University Data.

## 8. Termination Procedures

Upon expiration or earlier termination of the Contract, Contractor shall ensure that no Data Breach occurs and shall follow the University's instructions as to the preservation, transfer, or destruction of University Data. The method of destruction shall be accomplished by "purging" or "physical destruction," in accordance with National Institute of Standards and Technology (NIST) Special Publication 800-88. Contractor shall certify in writing to University that such return or destruction has been completed.

## 9. Survival; Order of Precedence

This Agreement shall survive the expiration or earlier termination of the Contract. In the event the provisions of this Agreement conflict with any provision of the Contract, or Contractors' warranties, support contract, or service level agreement, the provisions of this Agreement shall prevail.

## 10. Definitions

- a. **University Data.** University Data is any and all data within the University's possession, custody, or control, and any and all data that the University has disclosed to Contractor. For the purposes of this Agreement, University Data does not cease to be University Data solely because it is transferred or transmitted beyond the University's immediate possession, custody, or control.
- b. **Confidential Data.** Confidential Data is University Data that is very sensitive in nature and typically subject to federal or state regulations. Unauthorized disclosure of this data could seriously and adversely impact the UW or the interests of individuals and organizations associated with the UW. Confidential Data is data that Confidential Data is University Data may be: identified with a specific individual (i.e. "*personally identifiable information*" or "*PII*"); data subject to proprietary rights under patent, copyright, trademark, or trade secret law; data privileged against disclosure in a civil lawsuit (e.g. data subject to the attorney-client or physician-patient privileges); data subject to laws, regulations, rules, or standards that prohibit or limit disclosure (e.g., the Family Educational



Rights and Privacy Act (FERPA), the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), or the Health Insurance Portability and Accountability Act (HIPAA)); or the nature of the University Data or the circumstances surrounding its disclosure, ought in good faith to be treated as sensitive, proprietary, or confidential.

- c. **Data Breach.** Data Breach means any use, disclosure, loss, or acquisition of, or access to, Confidential Data that is not in accordance with the terms of this Agreement, including Section 3(b) below, or the Contract.
- d. **System.** An assembly of components that supports an operational role or accomplishes a specific objective. This may include a discrete set of information resources (network, server, computer, software, application, operating system or storage devices) organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.
- e. **Change Management.** A formal process used to ensure that changes to a system are introduced in a controlled and coordinated manner. This reduces the possibility that unnecessary changes will be introduced to a system, that faults or vulnerabilities are introduced to the system, or that changes made by other users are undone.

**UNIVERSITY**

**CONTRACTOR**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit G

### UW Medicine Business Associate Agreement

This Agreement is entered into between the \_\_\_\_\_ (hereinafter "Covered Entity") and \_\_\_\_\_ (hereinafter "Business Associate"). Covered Entity is one or more of the affiliated entities known as UW Medicine. UW Medicine is composed of the Harborview Medical Center and its associated clinics; University of Washington Medical Center and its associated clinics; Northwest Hospital & Medical Center and its associated clinics; Airlift Northwest; University of Washington Hall Health Primary Care Center; UW Physicians Sports Medicine Clinic; Association of University Physicians d/b/a University of Washington Physicians; the University of Washington Physicians Network; Reference Lab; Collagen Diagnostic Lab; Molecular Diagnostic Lab; Summit Cardiology; Sports Medicine Group; Neurosurgical Consultants of Washington; The Seattle Arthritis Clinic; Richmond Internal Medicine; The Bone & Joint Center of Seattle; and Primary Care Partners Northwest. Pursuant to 45 CFR §164.105(b) (1), these entities are designated as Affiliated Entities. UW Medicine is also in an organized health care arrangement with the Seattle Cancer Care Alliance (SCCA), Seattle Children's Hospital, the Children's University Medical Group (CUMG), North Seattle Surgery Center (NSSC), VIA Radiology-Meridian Pavilion and Non-UW physicians when non-UW Physicians participate in and provide services to patients within UW Medicine and SCCA facilities.

This Agreement is incorporated into all existing and current contract(s) between the parties (the "Underlying Contract(s)") under which Business Associate is carrying out activities or functions involving the use of protected health information (PHI), as this term is defined in 45 CFR Parts 160 and 164, and it replaces any prior agreement(s) entered concerning such PHI. Business Associates must comply with all requirements for protecting PHI under federal Privacy and Information Security regulations (45 CFR Parts 160 and 164, American Recovery and Reinvestment Act of 2009 (ARRA) Health Information Technology for Economic and Clinical Health (HITECH) Act) and are subject to the application of civil and criminal penalties under sections 1176 and 1177 of the Social Security Act. Covered Entity is committed to providing high quality patient care, education, and research. In furtherance of its mission, Covered Entity wishes to conduct transactions involving the disclosure of PHI to Business Associate for the purpose of conducting the activities set forth in the Underlying Contract(s).

Some or all of the information to be disclosed is required by law to be protected against unauthorized use, disclosure, modification or loss. In order to comply with applicable legal requirements for the protection of information, the parties agree as follows:

#### A. ALLOWABLE USES OF PHI

Only the minimum necessary PHI to accomplish the intended purpose of this agreement can be used or disclosed only for the following purpose:

1. Provision of services pursuant to the underlying Contract.

#### B. OBLIGATIONS OF BUSINESS ASSOCIATE

Section 1. Safeguarding Information.

A. Business Associate shall only use, store, disclose, or access PHI:

- (1) In accordance with, and only to the extent permissible under the Underlying Contract; and
- (2) In full compliance with any and all applicable laws, regulations, rules or standards, including, but without limitation, FERPA, HIPAA, the Gramm-Leach-Bliley Financial Services Modernization Act (GLB), the Federal Trade Commission Identity Theft Rules, the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), the Social Security Act, RCW 19.255.010 and RCW 42.56.590.

- B. Business Associate shall have in place policies and procedures to implement and maintain all safeguards necessary to ensure the confidentiality, availability, and integrity of all Covered Entity data. Such safeguards shall include as appropriate, and without limitation, use of: policies and procedures to prevent any unauthorized use or disclosure of, or access to, PHI; restrictions on administrative access to PHI; system firewalls, secure network and transfer protocols such as Secure Socket Shell (SSH), Secure Copy Protocol (SCP), Hyper-Text Transfer Protocol over Secure Sockets Layer (HTTPS), or Internet Protocol Security (IPSec); industry compliant network authentication protocols such as Kerberos or Lightweight Directory Access Protocol (LDAP); encryption; regular and timely system upgrades, including implementation of security patches; disk quotas to ensure system availability; logging in accordance with UW Medicine specifications, maintenance of logs on centralized servers; and backup systems for disaster recovery, security, and forensics purposes.
- C. Business Associate shall have in place policies and procedures to detect patterns, practices, or specific activities that indicate the possible existence of identity theft (The Federal Trade Commission has regulations known as the Red Flag Rules which are part of the Fair and Accurate Credit Transactions (FACT) Act of 2003) that may arise in the performance of Business Associate's activities and shall:
  - (1) Report all Red Flags to Covered Entity at the address provided for reporting unauthorized use or disclosure of PHI in Section 3; and
  - (2) Take prompt steps to prevent or mitigate possible identity theft when Red Flags are detected.

Section 2. Use or disclosure of Protected Health Information. Business Associate shall not use or disclose PHI received from Covered Entity in any manner that would constitute a violation of federal law, including but not limited to the Health Insurance Portability and Accountability Act of 1996 and any regulations enacted pursuant to its provisions ("HIPAA Standards"), or applicable provisions of Washington state law. Business Associate shall ensure that any use or disclosure by its directors, officers, employees, contractors, and agents of PHI received from Covered Entity, or created or received on behalf of Covered Entity is in accordance with the provisions of this Agreement and applicable federal and state law. Business Associate shall not use or disclose PHI in any manner other than that permitted or required by the Covered Entity for the purpose of accomplishing services to or on behalf of Covered Entity in accordance with the Underlying Contracts. Notwithstanding the foregoing, Business Associate may use PHI for the proper management and administration of the Business Associate and to carry out its legal responsibilities.

Section 3. Reporting Unauthorized Use or Disclosure of PHI. Business Associate shall, within five (5) working days of becoming aware of an unauthorized use or disclosure of PHI by Business Associate, its officers, directors, employees, contractors, agents or by a third party to which Business Associate disclosed PHI, report any such disclosure to Covered Entity. Such notice shall be made to the following:

UW Medicine Compliance  
Box 359210  
Seattle WA 98195-9210  
(206) 543-3098  
comply@uw.edu

Section 4. Agreements by Third Parties. Business Associate shall obtain satisfactory assurances from any agent or subcontractor who will have access to PHI that is received from Covered Entity, or created or received on behalf of the Covered Entity, and shall ensure that the agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to Business Associate through this Agreement with respect to PHI. Business Associate shall require that any agent or subcontractor notify Business Associate of any instances in which PHI is used or disclosed in an unauthorized manner. Business Associate agrees to notify Covered Entity of any such unauthorized use or disclosure. Business Associate shall take steps to cure the breach of confidentiality and end the violation, or shall terminate the agency agreement or subcontract.

Section 5. Access to Information. If Business Associate maintains Designated Record Set (DRS) documentation on behalf of Covered Entity, Business Associate agrees to provide access to the documentation maintained by the Covered Entity. Business Associate shall make available to Covered Entity such information for so long as it is maintained. If any individual requests access to PHI directly from Business Associate, Business Associate shall forward such request to the Covered Entity. Business Associate shall not deny any individual's request for access to the individual's PHI. A denial of access to PHI requested is the responsibility of the Covered Entity.

Section 6. Availability of PHI for Amendment. Within five days of a request from Covered Entity for the amendment of an individual's PHI or a record regarding an individual contained in a DRS (for so long as the PHI is maintained in the DRS), Business Associate shall provide such information to Covered Entity for amendment and incorporate any such amendments in the PHI as required by 45 C.F.R. §164.526.

Section 7. Accounting of Disclosures. Business Associate agrees to implement an appropriate record keeping and reporting process to enable it to provide the following information regarding disclosures of PHI: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. If Business Associate receives a request for an accounting of disclosures, Business Associate shall forward such request to Covered Entity within a reasonable time frame to allow Covered Entity to prepare and deliver any required accounting of disclosures.

Section 8. Restrictions on Certain Disclosure of Health Information. Business Associate agrees to restrict the disclosure of the protected health information of an individual, if Covered Entity agrees to a requested restriction by an individual. If Business Associate receives a request for a restriction, Business Associate shall forward such request to Covered Entity within five business days to allow Covered Entity to respond to the requested restriction.

Section 9. Availability of Books and Records. Business Associate agrees to make its internal practices, books and records relating to the use and disclosure of PHI received from Covered Entity, or created or received on behalf of Covered Entity, available to the Secretary of the U.S. Department of Health and Human Services for purposes of determining Covered Entity's and Business Associate's compliance with the HIPAA Standards. Business Associate shall provide to Covered Entity a copy of any documentation that Business Associate provides to the Secretary within five business days.

Section 10. Return or Destruction of Information. At the termination of the Underlying Contract(s), Business Associate shall return or destroy all PHI received from Covered Entity, or created or received on behalf of Covered Entity, that Business Associate maintains in any form. Business Associate will retain no copies of PHI. If Business Associate determines that return or destruction of any PHI is not feasible, Business Associate shall notify Covered Entity of the reasons why return or destruction is not feasible. If destruction or return of PHI is not feasible, Business Associate shall not use PHI received from Covered Entity, or created or received on behalf of Covered Entity, in a manner other than those permitted or required by state and federal laws or for the purposes described herein.

Section 11. Electronic Protected Health Information ("ePHI"). If Business Associate creates, receives, maintains or transmits ePHI on behalf of Covered Entity, Business Associate agrees to (1) implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Covered Entity's ePHI in accordance with Sections 164.308, 164.310, 164.312, and 164.316 of title 45, Code of Federal Regulations; (2) ensure that any third party agent or subcontractor who receives Covered Entity's ePHI from Business Associate agrees to implement equivalent administrative, physical and technical safeguards; and (3) deploy appropriate safeguards to implement the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards; and (4) report any security incidents involving Covered Entity's ePHI within five business days of discovery.

Section 12. Potential Breach of PHI.

A. If Business Associate has reason to believe that personal information or PHI transmitted pursuant to this Agreement may have been accessed, disclosed, or acquired without proper authorization, Business Associate will, within five business days of discovery, give Covered Entity notice and take

actions as may be necessary to preserve forensic evidence and to identify, mitigate and remediate the cause of the incident. An incident shall be treated as discovered by the BA as of the first day on which such incident is known to the BA, (including any person, other than the individual committing the incident, that is an employee, officer, or other agent of the BA) or should reasonably have been known to the BA (or person referenced above) to have occurred. Business Associate shall give highest priority to immediately mitigate and remediate any unauthorized access and shall devote such resources as may be required to accomplish that goal. The BA shall cooperate with all Covered Entity efforts, including providing any and all information necessary to enable Covered Entity to fully understand the nature and scope of the unauthorized access, including but not limited to identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, or disclosed during the incident.

- B. To the extent Covered Entity deems warranted, Covered Entity may provide notice or may require Business Associate to provide notice to any or all individuals affected by any unauthorized access, whose personal and/or PHI may have been improperly accessed or disclosed that was not protected according to the Secretary of Health and Human Services' annual guidance on the most effective and appropriate technical safeguards for use in carrying out security standards. In such case, Business Associate shall consult with Covered Entity regarding appropriate steps required to notify third parties. In the event that the Business Associate's assistance is required to reinstall software, such assistance shall be provided at no cost to Covered Entity and in accordance with the Covered Entity's policies and standards. Business Associate must coordinate with Covered Entity any public notification to any individual, media outlet, or the Secretary of Health and Human Services.

If Covered Entity determines that notification is required, the BA shall pay the full costs of notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the notification effort and will supply UW Medicine Compliance with the following information to make such notification:

- (a) A brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known.
  - (b) A description of the types of unsecured protected health information that were involved in the breach (such as full name, Social Security number, date of birth, home address, account number, or disability code).
  - (c) A brief description of what the BA is doing to investigate the breach, to mitigate losses, and to protect against any further breaches.
- C. Business Associate shall indemnify, hold harmless, and defend Covered Entity from and against any penalties, claims, actions, loss, liability, damage, costs, or expenses, including but not limited to reasonable attorneys' fees, system remediation, or forensic analysis, arising from or pertaining to a breach of this agreement, the violation of any state or federal law applicable to the use, disclosure or protection of personal information or PHI, and the unauthorized access to PHI. The indemnification provided hereunder includes the full costs of notice to impacted individuals, including the costs to retain an outside consulting firm to undertake the notification effort.
- D. Covered Entity has the right, at any time, to monitor, audit, and review activities and methods in implementing this Agreement in order to assure compliance therewith, within the limits of Business Associate's technical capabilities.

Section 13. Applicability to Organized Health Care Arrangement (OHCA) Members. To the extent that use or disclosure of any protected health information belonging to SCCA, Seattle Children's Hospital, and CUMG is necessary to fulfill the terms of the Underlying Contract(s), Business Associate agrees to treat that information with the same level of confidentiality as Covered Entity's PHI and in accordance with the terms of this Agreement.

### **C. MISCELLANEOUS**

Section 14. Termination. Notwithstanding any provision to the contrary in the Underlying Contract(s), Covered Entity may terminate its participation in the Underlying Contract(s) immediately upon written

notice to Business Associate without liability for such termination, in the event that Covered Entity determines that Business Associate has violated a material provision of this Agreement.

Section 15. Third Party Beneficiaries. Nothing in this Addendum is intended to create any third party beneficiaries.

Section 16. Definitions.

Personal Information means an individual's first name or first initial and last name in combination with any one or more of the following data elements:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

Breach means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency.

All terms not otherwise defined herein shall be defined in accordance with 45 CFR Parts 160, 162, and 164 and state laws governing health care privacy including but not limited to the Uniform Health Care Act (RCW 70.02), mental illness (RCW 71.05), mental health services for minors (RCW 71.34), drug and alcohol abuse (RCW 70.96A, 42 CRF part 2), and HIV/AIDS/STDs (RCW 70.24).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
UW Medicine Representative Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Business Associate Representative Name

\_\_\_\_\_  
Date

## **Exhibit H**

### **Vendor Technology Specifications**

This Exhibit contains technology specifications for the Vendor's System. A new technology specification will be created for each Software Upgrade and Purchaser will need to upgrade its current technology, at Purchaser's expense, to match the new version technology specification.

The recommended Workstation Configuration must be utilized to meet technology requirements in Exhibit B, Item 4.0 (Software Response Time Guarantee).

**Exhibit I**  
**MWBE Certification**



## **Exhibit J**

### **RFQQ for ICD-10 Business Intelligence Technology Solution**

**Exhibit K**  
**Vendor's Response**

## APPENDIX C

### COMPLAINTS AND PROTESTS

#### 1. Complaints Procedure.

- A complaint may be made before a vendor responds to a solicitation document if the vendor believes that the document unduly constrains competition or contains inadequate or improper criteria.
- The written complaint must be made to the issuing agency before the due date of the solicitation response. The agency solicitation process may, however, continue.
- The receiving agency will immediately forward a copy of the complaint to DES and OCIO. The receiving agency will also reply to the vendor with a proposed solution and advise DES and OCIO of its reply.
- If the vendor rejects the agency's proposed solution, DES may direct modification of solicitation requirements or the schedule, direct withdrawal of the solicitation, or may take other steps that it finds appropriate. The DES decision is final; no further administrative appeal is available.

#### 2. Protests.

- Grounds for Protest. Protests may be made after the agency conducting the acquisition has announced the apparently successful vendor and after the protesting vendor has had a debriefing conference with that agency. Protests may be made on only these grounds:
  - Arithmetic errors were made in computing the score.
  - The agency failed to follow procedures established in the solicitation document, the IT Investment Policy, the IT Investment Standards, or applicable state or federal laws or regulations.
  - There was bias, discrimination, or conflict of interest on the part of an evaluator.

##### 2.1. Protest Process.

- Protests are always initially made to the agency conducting the acquisition.
- The protest letter must be signed by a person authorized to bind the vendor to a contractual relationship.
- The agency must receive the written protest within five business days after the debriefing conference.
- The agency will, in turn, immediately notify DES of receipt of the protest. It will also postpone further steps in the acquisition process until the protest has been resolved.
- Individuals not involved in the protested acquisition will objectively review the written protest material submitted by the vendor and all other relevant facts known to the agency.
- The agency will deliver its written decision to the protesting vendor within five business days after receiving the protest, unless more time is needed. The protesting vendor will be notified if additional time is necessary.
- If the protesting vendor is not satisfied with the agency's decision, it may appeal. Appeal is made to DES.
- Written notice of appeal to DES must be received by DES within five business days after the vendor receives notification of the agency's decision.
- In conducting its review, DES will consider all available relevant facts. DES will resolve the appeal in one of the following ways:
  - Find that the protest lacks merit and upholding the agency's action.
  - Find only technical or harmless errors in the agency's acquisition process, determining the agency to be in substantial compliance, and rejecting the protest; or
  - Find merit in the protest and provide options to the agency, including:
    - Correcting errors and reevaluating all proposals;
    - Reissuing the solicitation document; or
    - Making other findings and determining other courses of action as appropriate.

- DES will issue a written decision within five business days after receipt of the notice of appeal, unless more time is needed. The protesting vendor will be notified if additional time is necessary. The DES determination is final; no further administrative appeal is available.
- If a protest arises from an acquisition that requires TSB approval, the vendor may appeal to DES if it is not satisfied with the acquiring agency's decision. Written notice of appeal must be received by DES within five business days after the vendor received notification of the acquiring agency's decision. DES will establish procedures to resolve the appeal. The resulting decision is final; no further administrative appeal is available.

## 2.2. Form and Content.

- A written protest must contain the facts and arguments upon which the protest is based and must be signed by a person authorized to bind the vendor to a contractual relationship. At a minimum, this must include:
  - The name of the protesting vendor, its mailing address and phone number, and the name of the individual responsible for submission of the protest.
  - Information about the acquisition and the acquisition method and name of the issuing agency.
  - Specific and complete statement of the agency action(s) protested.
  - Specific reference to the grounds for the protest.
  - Description of the relief or corrective action requested.
  - A copy of the issuing agency's written decision on the protest.