

CONSULTANT: CMX Medical Imaging  
CONTACT PERSON: Fred Prenner, VP of Imaging Equipment  
ADDRESS: 6601 South Glacier Street  
Tukwila, WA 98188  
FEDERAL TAX ID NUMBER/U.B.I. NUMBER: 91-1196942  
TELEPHONE/FAX NUMBER: (425) 656-1269  
COUNTY DEPT: Information Technology  
DEPT. CONTACT PERSON: Viggo Forde, Director of IT / CIO  
TELEPHONE/FAX NUMBER: (425) 388-3739  
PROJECT: Medical Imaging Software  
AMOUNT: \$77,325.00  
FUND SOURCE: 130.57516517784101 for initial install  
0025333206401 for ongoing maintenance  
CONTRACT DURATION: Five (5) years from contract execution  
unless extended or renewed pursuant to  
Section 2 hereof

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT (the “Agreement”) is made by and between SNOHOMISH COUNTY, a political subdivision of the State of Washington (the “County”) and CMX MEDICAL IMAGING, a Washington company, (the “Contractor”). In consideration of the mutual benefits and covenants contained herein, the parties agree as follows:

1. Purpose of Agreement; Scope of Services. The purpose of this Agreement is to provide cloud-based medical imaging software. The scope of services is as defined in Schedule A attached hereto and by this reference made a part hereof. This Agreement is the product of County RFP No. 23-040JM-C.

The services shall be performed in accordance with the requirements of this Agreement and with generally accepted practices prevailing in the western Washington region in the occupation or industry in which the Contractor practices or operates at the time the services are performed. The Contractor shall perform the work in a timely manner and in accordance with the terms of this Agreement. Any materials or equipment used by the Contractor in connection with performing the services shall be of good quality. The Contractor represents that it is fully qualified to perform the services to be performed under this Agreement in a competent and professional manner.

The Contractor will prepare and present status reports and other information regarding performance of the Agreement as the County may request.

2. Term of Agreement; Time of Performance. This Agreement shall be effective upon contract execution (the “Effective Date”) and shall terminate five (5) years from the Effective Date (the Initial Term”), PROVIDED, HOWEVER, that the term of this Agreement may be extended or renewed in additional five (5) year terms, for the duration of the County’s use of the system (each a “Renewal Term”), at the sole discretion of the County, by written notice from the County to the Contractor. The Initial Term and the Renewal Terms shall collectively be referred to as the (“Term”). The Contractor shall commence work upon the Effective Date and shall conclude after five (5) years unless this Agreement is extended or renewed in accordance with section 2 of this Agreement, PROVIDED, HOWEVER, that the County’s obligations after December 31, 2024 are contingent upon local legislative appropriation of necessary funds for this specific purpose in accordance with the County Charter and applicable law.

3. Compensation.

a. Services. The County shall pay the Contractor for services as and when set forth in Schedule A and Schedule E, which are attached hereto and by this reference made a part of this Agreement.

b. Overhead and Expenses. The Contractor’s compensation for services set forth in Section 3a above includes overhead and expenses and no separate claims for reimbursement of overhead or expenses will be allowed under this Agreement.

c. Invoices. In accordance with the deliverables set forth in Schedule A and Schedule E, the Contractor shall submit properly executed invoices to the County indicating that the work has been performed and the amount due from the County. Subject to Section 8 of this Agreement, the County will pay the invoice within thirty (30) calendar days of receipt.

d. Payment. The County’s preferred method of payment under this contract is electronic using the County’s “e-Payable” system with Bank of America. The Contractor is highly encouraged to take advantage of the electronic payment method.

In order to utilize the electronic payment method, the Contractor shall email [SnocoEpaybles@snoco.org](mailto:SnocoEpaybles@snoco.org) and indicate it was awarded a contract with Snohomish County and will be receiving payment through the County’s e-Payable process. The Contractor needs to provide contact information (name, phone number and email address). The Contractor will be contacted by a person in the Finance Accounts Payable group and assisted with the enrollment process. This should be done as soon as feasible after County award of a contract or purchase order, but not exceeding ten (10) business days.

Department approved invoices received in Finance will be processed for payment within seven calendar days for e-Payable contractors. Invoices are processed for payment by Finance two times a week for contractors who have selected the e-Payable payment option.

In the alternative, if the Contractor does not enroll in the electronic (“e-Payable”) payment method described above, contract payments will be processed by Finance with the issuance of paper checks or, if available, an alternative electronic method. Alternative payment methods, other than e-Payables, will be processed not more than 30 days from receipt of department approved invoices to Finance.

THE COUNTY MAY MAKE PAYMENTS FOR PURCHASES UNDER THIS CONTRACT USING THE COUNTY’S VISA PURCHASING CARD (PCARD).

Upon acceptance of payment, the Contractor waives any claims for the goods or services covered by the Invoice. No advance payment shall be made for the goods or services furnished by Contractor pursuant to this Contract.

e. Payment Method. In addition to Payment section above, the County may make payments for purchases under this contract using the County’s VISA purchasing card (PCARD).

Are you willing to accept PCARD payments without any fees or surcharges?

Yes  No

f. Contract Maximum. Total charges under this Agreement, all fees and expenses included, shall not exceed \$77,325.00 for the initial term of this Agreement (excluding extensions or renewals, if any).

4. Independent Contractor. The Contractor agrees that Contractor will perform the services under this Agreement as an independent contractor and not as an agent, employee, or servant of the County. This Agreement neither constitutes nor creates an employer-employee relationship. The parties agree that the Contractor is not entitled to any benefits or rights enjoyed by employees of the County. The Contractor specifically has the right to direct and control Contractor’s own activities in providing the agreed services in accordance with the specifications set out in this Agreement. The County shall only have the right to ensure performance. Nothing in this Agreement shall be construed to render the parties partners or joint venturers.

The Contractor shall furnish, employ and have exclusive control of all persons to be engaged in performing the Contractor’s obligations under this Agreement (the “Contractor personnel”), and shall prescribe and control the means and methods of performing such obligations by providing adequate and proper supervision. Such Contractor personnel shall for all purposes be solely the employees or agents of the Contractor and shall not be deemed to be employees or agents of the County for any purposes whatsoever. With respect to Contractor personnel, the Contractor shall be solely responsible for compliance with all rules, laws and regulations relating to employment of labor, hours of labor, working conditions, payment of wages and payment of taxes, including applicable contributions from Contractor personnel when required by law.

Because it is an independent contractor, the Contractor shall be responsible for all obligations relating to federal income tax, self-employment or FICA taxes and contributions, and all other so-called employer taxes and contributions including, but not limited to, industrial insurance (workers’ compensation). The Contractor agrees to indemnify, defend and hold the County harmless from any and all claims, valid or otherwise, made to the County because of these obligations.

The Contractor assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes, fees, licenses, excises or payments required by any city, county, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Contractor and as to all duties, activities and requirements by the Contractor in performance of the work under this Agreement. The Contractor shall assume exclusive liability therefor, and shall meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

5. Ownership. Any and all data, reports, analyses, documents, photographs, pamphlets, plans, specifications, surveys, films or any other materials created, prepared, produced, constructed, assembled, made, performed or otherwise produced by the Contractor or the Contractor's subcontractors or consultants for delivery to the County under this Agreement shall be the sole and absolute property of the County. Such property shall constitute "work made for hire" as defined by the U.S. Copyright Act of 1976, 17 U.S.C. § 101, and the ownership of the copyright and any other intellectual property rights in such property shall vest in the County at the time of its creation. Ownership of the intellectual property includes the right to copyright, patent, and register, and the ability to transfer these rights. Material which the Contractor uses to perform this Agreement but is not created, prepared, constructed, assembled, made, performed or otherwise produced for or paid for by the County is owned by the Contractor and is not "work made for hire" within the terms of this Agreement.

6. Changes. No changes or additions shall be made in this Agreement except as agreed to by both parties, reduced to writing and executed with the same formalities as are required for the execution of this Agreement.

7. County Contact Person. The assigned contact person (or project manager) for the County for this Agreement shall be:

Name: Fred Hartmann  
Title: Division Manager, Infrastructure and Security Systems  
Department: Information Technology Department  
Telephone: (425) 388-3998  
Email: [Fred.Hartmann@snoco.org](mailto:Fred.Hartmann@snoco.org)

8. County Review and Approval. When the Contractor has completed any discrete portion of the services, the Contractor shall verify that the work is free from errors and defects and otherwise conforms to the requirements of this Agreement. The Contractor shall then notify the County that said work is complete. The County shall promptly review and inspect the work to determine whether the work is acceptable. If the County determines the work conforms to the requirements of this Agreement, the County shall notify the Contractor that the County accepts the work. If the County determines the work contains errors, omissions, or otherwise fails to conform to the requirements of this Agreement, the County shall reject the work by providing the Contractor with written notice describing the problems with the work and describing the necessary corrections or modifications to same. In such event, the Contractor shall promptly remedy the problem or problems and re-submit the work to the County. The Contractor shall receive no additional compensation for time spent correcting errors. Payment for the work will not be made until the

work is accepted by the County. The Contractor shall be responsible for the accuracy of work even after the County accepts the work.

If the Contractor fails or refuses to correct the Contractor's work when so directed by the County, the County may withhold from any payment otherwise due to the Contractor an amount that the County in good faith believes is equal to the cost the County would incur in correcting the errors, in re-procuring the work from an alternate source, and in remedying any damage caused by the Contractor's conduct.

9. Subcontracting and Assignment. The Contractor shall not subcontract, assign, or delegate any of the rights, duties or obligations covered by this Agreement without prior express written consent of the County. Any attempt by the Contractor to subcontract, assign, or delegate any portion of the Contractor's obligations under this Agreement to another party in violation of the preceding sentence shall be null and void and shall constitute a material breach of this Agreement.

10. Records and Access; Audit; Ineligible Expenditures. The Contractor shall maintain adequate records to support billings. Said records shall be maintained for a period of seven (7) years after completion of this Agreement by the Contractor. The County or any of its duly authorized representatives shall have access at reasonable times to any books, documents, papers and records of the Contractor which are directly related to this Agreement for the purposes of making audit examinations, obtaining excerpts, transcripts or copies, and ensuring compliance by the County with applicable laws. Expenditures under this Agreement, which are determined by audit to be ineligible for reimbursement and for which payment has been made to the Contractor, shall be refunded to the County by the Contractor.

11. Indemnification.

a. Professional Liability.

[The Contractor agrees to indemnify the County and, if any funds for this Agreement are provided by the State, the State and their officers, officials, agents and employees from damages and liability for damages, including reasonable attorneys' fees, court costs, expert witness fees, and other claims-related expenses, arising out of the performance of the Contractor's professional services under this Agreement, to the extent that such liability is caused by the negligent acts, errors or omissions of the Contractor, its principals, employees or subcontractors. The Contractor has no obligation to pay for any of the indemnitees' defense-related cost prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based upon the comparative fault of the Contractor, its principals, employees and subcontractors. For the purpose of this section, the County and the Contractor agree that the County's and, if applicable, the State's costs of defense shall be included in the definition of damages above.

b. All Other Liabilities Except Professional Liability.

To the maximum extent permitted by law and except to the extent caused by the sole negligence of the County and, if any funds for this Agreement are provided by the State, the State, the Contractor shall indemnify and hold harmless the County and the State, their officers, officials, agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatsoever kind or nature arising out of, in connection with, or incidental to the services and/or deliverables provided by or on behalf of the Contractor. In addition, the Contractor shall assume the defense of the County and, if applicable, the State and their officers and employees in all legal or claim proceedings arising out of, in connection with, or incidental to such services and/or deliverables and shall pay all defense expenses, including reasonable attorneys' fees, expert fees and costs incurred by the County and, if applicable, the State, on account of such litigation or claims.

The above indemnification obligations shall include, but are not limited to, all claims against the County and, if applicable, the State by an employee or former employee of the Contractor or its subcontractors, and the Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects only the County and, if applicable, the State, under any industrial insurance act, including Title 51 RCW, other worker's compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim.

In the event that the County or, if applicable, the State incurs any judgment, award and/or cost including attorneys' fees arising from the provisions of this section, or to enforce the provisions of this section, any such judgment, award, fees, expenses and costs shall be recoverable from the Contractor.

In addition to injuries to persons and damage to property, the term "claims," for purposes of this provision, shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, and/or otherwise results in an unfair trade practice.

The indemnification, protection, defense and save harmless obligations contained herein shall survive the expiration, abandonment or termination of this Agreement.

Nothing contained within this provision shall affect or alter the application of any other provision contained within this Agreement.

12. Insurance Requirements. The Contractor shall procure by the time of execution of this Agreement, and maintain for the duration of this Agreement, (i) insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the services hereunder by the Contractor, its agents, representatives, or employees, and (ii) a current certificate of insurance and additional insured endorsement when applicable.

a. General. Each insurance policy shall be written on an "occurrence" form, except that Professional Liability, Errors and Omissions coverage, if applicable, may be written on a claims made basis. If coverage is approved and purchased on a "claims made" basis, the



Contractor warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three (3) years from the date of completion of the work which is the subject of this Agreement.

By requiring the minimum insurance coverage set forth in this Section 12, the County shall not be deemed or construed to have assessed the risks that may be applicable to the Contractor under this Agreement. The Contractor shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits and/or broader coverage.

b. No Limitation on Liability. The Contractor's maintenance of insurance as required by this Agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the County's recourse to any remedy available at law or in equity.

c. Minimum Scope and Limits of Insurance. The Contractor shall maintain coverage at least as broad as, and with limits no less than:

(i) General Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage, and for those policies with aggregate limits, a \$5,000,000 aggregate limit. CG 00 01 current edition, including Products and Completed Operations;

(ii) Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage. CA 0001 current edition, Symbol 1;

(iii) Workers' Compensation: To meet applicable statutory requirements for workers' compensation coverage of the state or states of residency of the workers providing services under this Agreement;

(iv) Employers' Liability or "Stop Gap" coverage: \$1,000,000.

d. Other Insurance Provisions and Requirements. The insurance coverages required in this Agreement for all liability policies except workers' compensation and Professional Liability, if applicable, must contain, or must be endorsed to contain, the following provisions:

(i) The County, its officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Contractor in connection with this Agreement. Such coverage shall be primary and non-contributory insurance as respects the County, its officers, officials, employees and agents. Additional Insured Endorsement shall be included with the certificate of insurance, "CG 2026 07/04" or its equivalent is required.

(ii) The Contractor's insurance coverage shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(iii) Any deductibles or self-insured retentions must be declared to, and approved by, the County. The deductible and/or self-insured retention of the policies shall not limit or apply to the Contractor's liability to the County and shall be the sole responsibility of the Contractor.

(iv) Insurance coverage must be placed with insurers with a Best's Underwriting Guide rating of no less than A:VIII, or, if not rated in the Best's Underwriting Guide, with minimum surpluses the equivalent of Best's surplus size VIII. Professional Liability, Errors and Omissions insurance coverage, if applicable, may be placed with insurers with a Best's rating of B+:VII. Any exception must be approved by the County.

Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits until after forty-five (45) calendar days' prior written notice has been given to the County.

If at any time any of the foregoing policies fail to meet minimum requirements, the Contractor shall, upon notice to that effect from the County, promptly obtain a new policy, and shall submit the same to the County, with the appropriate certificates and endorsements, for approval.

e. Subcontractors. The Contractor shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements for each subcontractor. **Insurance coverages provided by subcontractors instead of the Contractor as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.**

13. County Non-discrimination. It is the policy of the County to reject discrimination which denies equal treatment to any individual because of his or her race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability as provided in Washington's Law against Discrimination, Chapter 49.60 RCW, and the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC. These laws protect against specific forms of discrimination in employment, credit transactions, public accommodation, housing, county facilities and services, and county contracts.

The Contractor shall comply with the substantive requirements of Chapter 2.460 SCC, which are incorporated herein by this reference. Execution of this Agreement constitutes a certification by the Contractor of the Contractor's compliance with the requirements of Chapter 2.460 SCC. If the Contractor is found to have violated this provision, or to have furnished false or misleading information in an investigation or proceeding conducted pursuant to this Agreement or Chapter 2.460 SCC, this Agreement may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Contractor's obligations under other federal, state, or local laws against discrimination.

14. Federal Non-discrimination. Snohomish County assures that no persons shall on the grounds of race, color, national origin, or sex as provided by Title VI of the Civil Rights Act of 1964 (Pub. L. No. 88-352), as amended, and the Civil Rights Restoration Act of 1987 (Pub. L. No. 100-259) be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any County sponsored program or activity. Snohomish County further assures that every effort will be made to ensure nondiscrimination in all of its programs and activities, whether those programs and activities are federally funded or not.



15. Employment of County Employees. SCC 2.50.075, “Restrictions on future employment of County employees,” imposes certain restrictions on the subsequent employment and compensation of County employees. The Contractor represents and warrants to the County that it does not at the time of execution of this Agreement, and that it shall not during the term of this Agreement, employ a former or current County employee in violation of SCC 2.50.075. For breach or violation of these representations and warranties, the County shall have the right to terminate this Agreement without liability.

16. Compliance with Other Laws. The Contractor shall comply with all other applicable federal, state and local laws, rules, and regulations in performing this Agreement.

17. Compliance with Grant Terms and Conditions. The Contractor shall comply with any and all conditions, terms and requirements of any federal, state or other grant, if any, that wholly or partially funds the Contractor’s work hereunder.

18. Prohibition of Contingency Fee Arrangements. The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the County shall have the right to terminate this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

19. Force Majeure. If either party is unable to perform any of its obligations under this Agreement as a direct result of an unforeseeable event beyond that party’s reasonable control, including but not limited to an act of war, act of nature (including but not limited to earthquake and flood), embargo, riot, sabotage, labor shortage or dispute (despite due diligence in obtaining the same), or governmental restriction imposed subsequent to execution of the Agreement (collectively, a “force majeure event”), the time for performance shall be extended by the number of days directly attributable to the force majeure event. Both parties agree to use their best efforts to minimize the effects of such failures or delays.

20. Suspension of Work. The County may, at any time, instruct the Contractor in writing to stop work effective immediately, or as directed, pending either further instructions from the County to resume the work or a notice from the County of breach or termination under Section 21 of this Agreement.

21. Non-Waiver of Breach; Termination.

a. The failure of the County to insist upon strict performance of any of the covenants or agreements contained in this Agreement, or to exercise any option conferred by this Agreement, in one or more instances shall not be construed to be a waiver or relinquishment of those covenants, agreements or options, and the same shall be and remain in full force and effect.



release to any third party any confidential information gained by reason of or otherwise in connection with the Contractor's performance under this Agreement. The Contractor may use such information solely for the purposes necessary to perform its obligations under this Agreement. The Contractor shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

24. Public Records Act. This Agreement and all public records associated with this Agreement shall be available from the County for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the Contractor are needed for the County to respond to a request under the Act, as determined by the County, the Contractor agrees to make them promptly available to the County. If the Contractor considers any portion of any record provided to the County under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, the Contractor shall clearly identify any specific information that it claims to be confidential or proprietary. If the County receives a request under the Act to inspect or copy the information so identified by the Contractor and the County determines that release of the information is required by the Act or otherwise appropriate, the County's sole obligations shall be to notify the Contractor (a) of the request and (b) of the date that such information will be released to the requester unless the Contractor obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the Contractor fails to timely obtain a court order enjoining disclosure, the County will release the requested information on the date specified.

The County has, and by this section assumes, no obligation on behalf of the Contractor to claim any exemption from disclosure under the Act. The County shall not be liable to the Contractor for releasing records not clearly identified by the Contractor as confidential or proprietary. The County shall not be liable to the Contractor for any records that the County releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

25. Interpretation. This Agreement and each of the terms and provisions of it are deemed to have been explicitly negotiated by the parties. The language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either of the parties hereto. The captions and headings of this Agreement are used only for convenience and are not intended to affect the interpretation of the provisions of this Agreement. This Agreement shall be construed so that wherever applicable the use of the singular number shall include the plural number, and vice versa, and the use of any gender shall be applicable to all genders.

26. Complete Agreement. The Contractor was selected through the County's RFP identified in Section 1. The RFP and the Contractor's response are incorporated herein by this reference. To the extent of any inconsistency among this Agreement, the RFP, and the Contractor's response, this Agreement shall govern. To the extent of any inconsistency between the RFP and the Contractor's response, the RFP shall govern.

27. Conflicts between Attachments and Text. Should any conflicts exist between any attached exhibit or schedule and the text or main body of this Agreement, the text or main body of this Agreement shall prevail.

28. No Third Party Beneficiaries. The provisions of this Agreement are for the exclusive benefit of the County and the Contractor. This Agreement shall not be deemed to have conferred any rights, express or implied, upon any third parties.

29. Governing Law; Venue. This Agreement shall be governed by the laws of the State of Washington. The venue of any action arising out of this Agreement shall be in the Superior Court of the State of Washington, in and for Snohomish County.

30. Severability. Should any clause, phrase, sentence or paragraph of this agreement be declared invalid or void, the remaining provisions of this Agreement shall remain in full force and effect.

31. Authority. Each signatory to this Agreement represents that he or she has full and sufficient authority to execute this Agreement on behalf of the County or the Contractor, as the case may be, and that upon execution of this Agreement it shall constitute a binding obligation of the County or the Contractor, as the case may be.

32. Survival. Those provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive.

33. Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same Agreement.

34. Entire Agreement and Order of Precedence. This written Agreement and its corresponding Exhibits and Schedules constitutes the entire agreement between the parties with respect to the subject matter contained herein, superseding all previous agreements, statements or understandings pertaining to such subject matter. In the event of any conflict between this Agreement and any of the attached Exhibits or Schedules, the precedence of documents shall be as follows:

1. Agreement
2. Schedule A Statement of Work and attachments
3. Schedule B CLFR Terms & Conditions
4. Schedule C ARPA CLFR Forms
5. Schedule D Business Associate Agreement
6. Schedule E Konica Minolta Sales Proposal
7. Schedule F Konica Minolta Sales Agreement
8. RFP-23-040JM-C and Contractor’s Response to RFP-23-040JM-C

SNOHOMISH COUNTY:

CMX MEDICAL IMAGING

\_\_\_\_\_  
County Executive Ken Klein Date  
Executive Director

DocuSigned by:  
*Fred Prenner*  
5E2769904B44415...  
\_\_\_\_\_  
4/30/2024 Date

SNOHOMISH COUNTY COUNCIL  
Approved: 5/29/2024  
ECAF 2023-1418 / Motion 24-204

Approved as to insurance  
and indemnification provisions:

**Barker, Sheila** Digitally signed by Barker, Sheila  
Date: 2024.04.30 12:53:36 -07'00'

\_\_\_\_\_  
Risk Management

\_\_\_\_\_  
Date

Approved as to form only:

\_\_\_\_\_  
Legal Counsel to the Contractor

\_\_\_\_\_  
Date



Schedule A  
Scope of Services

**Identification Number: CLFR-050 – Medical Examiner Scanner**

**Project Expenditure Category: 3.4 – Public Sector Capacity: Effective Service Delivery**

All ARPA CLFR funded work under this Scope of Services shall be charged to: Snohomish County 1862928 301108 CLFR-050 Medical Examiner Scanner.

**Project Overview**

The Contractor is a reseller of the commercial off-the-shelf Konica Minolta Symmetry PACS web-based, zero footprint, radiology software platform for the Medical Examiner. The product purchase shall be subject to the terms and conditions as set forth by the manufacturer, Konica Minolta, in their sales agreement, Schedule F.

**Contractor Duties**

The Contractor shall:

- Receive the order described in Schedule E, Quote # WK031457, from County and process it for submission to Konica Minolta;
- Deliver the Symmetry PACS platform described in Schedule E, Quote #WK031457, to County;
- Provide configuration guidance and all system support to the County during implementation;
- Transition support to Konica Minolta when implementation has been completed; and
- Invoice the County in accordance with Schedule E.

**Requirements for ARPA CLFR-Related Work**

The following additional terms and conditions shall apply:

**1. Statutory Eligible Use**

The project complies with the following Statutory Eligible Use: to respond to the COVID-19 public health emergency or its negative economic impacts.

**2. Related Terms, Conditions and Forms**

Schedule B – ARPA CLFR Terms and Conditions

Schedule C – ARPA CLFR Forms:

- C-1 Contractor Cost Certification Form (to be submitted prior to commencing work under this Schedule A).
- C-2 Certification Regarding Lobbying Final Regulations (to be submitted prior to commencing work under this Schedule A)
- C-3 Civil Rights Assurances Certification (to be submitted with each invoice for ARPA CLFR related work)

## SCHEDULE B

### ARPA CLFR TERMS AND CONDITIONS

The County may appropriate funds from its portion of Coronavirus Local Fiscal Recovery Funds (“CLFR”) pursuant to the American Rescue Plan Act (ARPA), PL 117-2, section 9901, codified at 42 U.S.C. Section 802 *et seq.* to be used to pay **CMX MEDICAL IMAGING**. These CLFR Terms and Conditions apply to the Contractor’s provision of Services for which the County has agreed to pay in accordance with the Agreement. In case of conflict between these CLFR Terms and Conditions and the Agreement, the following order of priority shall be used: (1) CLFR Terms and Conditions and (2) the Agreement.

#### I. TERMS AND CONDITIONS

Contractor agrees to comply with Section 603(c) of the Social Security Act, regulations as promulgated by the Department of Treasury (31 CFR Part 35) as amended; Coronavirus State and Local Fiscal Recovery Funds Frequently Asked Questions promulgated by the U.S. Department of the Treasury, as amended; and Compliance and Reporting Guidance – State and Local Fiscal Recovery Funds as promulgated by the U.S. Department of the Treasury, as amended. The Contractor shall also comply with regulatory requirements under the Uniform Guidance at 2 CFR Part 200.

##### A. Compliance with Specific Laws, Regulations, and Agreements.

The Contractor also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and the Contractor shall provide for such compliance by other parties in any agreements it enters into with other parties relating to the Project, Statement of Work. Federal regulations applicable to the funding provided in this Agreement include, without limitation, the following:

1. 2 CFR Part 200, including any future amendments to 2 CFR Part 200, and any successor or replacement Office of Management and Budget (OMB) Circular or regulation, including, Subpart A (Acronyms and Definitions), Subpart B (General Provisions), Subpart C (Pre-Federal Award Requirements and Contents of Federal Awards) [excluding 204 (Notices of Funding Opportunities), 205 (Federal awarding agency review of merit of proposal), 210 (Pre-Award Costs), 213 (Reporting a determination of a non-federal entity is not qualified for a federal award)], Subpart D (Post Federal Award Requirements) [excluding 305(b)(8) and (9) regarding Federal Payment, 308 (Revision of budget or program plan), 309 (modification to period of performance)], Subpart E (Cost Principles), and F (Audit Requirements).

2. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25 and pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
3. Reporting Subaward and Executive Compensation Information, 2 C.F.R., Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a requirement in all lower tier covered transactions that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulations at 31 C.F.R. Part 19.
5. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
6. Governmentwide Requirement for Drug-Free Workplace, 31 CFR Part 20.
7. New Restrictions on Lobbying, 31 CFR Part 21.
8. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 USC §§ 4601-4655) and implementing regulations.
9. Generally applicable federal environmental laws and regulations. Should the aggregate amount under this Agreement exceed \$150,000, Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387) as amended.
10. Hatch Act. Contractor agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. 1501 and 7324-7328), which limits certain political activities of federal employees as well as certain other employees who work with federal funding programs.
11. The Contractor shall include clauses 1 through 10 in Section 1A, adapted for the proper parties in any subcontract.

**B. Protections for Whistleblowers.**

1. In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal

funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.

2. The list of persons and entities referenced in the paragraph above includes the following:
  - a. A member of Congress or a representative of a committee of Congress;
  - b. An Inspector General;
  - c. The Government Accountability Office;
  - d. A Treasury employee responsible for Agreement or grant oversight or management;
  - e. An authorized official of the Department of Justice or other law enforcement agency;
  - f. A court or grand jury; or
  - g. A management official or other employee of Contractor or its subcontractors who has the responsibility to investigate, discover, or address misconduct.
3. Contractor shall inform its employees in writing of the rights and remedies provided under this subsection, in the predominant native language of the workforce.
4. The Contractor shall include the above clauses 1-3, adapted for the proper parties, in any subcontract.

**C. Increasing Seat Belt Use in the United States.**

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies

and programs for their employees when operating company-owned, rented or personally owned vehicles.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

#### **D. Reducing Text Messaging While Driving.**

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, to establish workplace safety policies to decrease accidents caused by distracted drivers.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

#### **E. Nondiscrimination**

The Contractor shall comply with the following statutes and regulations prohibiting discrimination:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the grounds of race, color, or national origin under program or activities receiving federal financial assistance.

By execution of this Agreement, Contractor certifies:

*Contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's VI regulation, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

2. The Fair Housing Act, Title VII-IX of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, national origin, sex, familial status, or disability;



3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;
4. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis or age in programs or activities receiving federal financial assistance; and
5. The American with Disabilities Act of 1990, as amended (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities and services provided or made available by state and local governments or instrumentalities or agencies thereto.

The Contractor shall include the above clauses 1-5, adapted for the proper parties, in any subcontract.

## **F. Conflicts**

The Contractor's employees, subcontractors and board or committee members shall not use, or give the appearance of using, their positions for the personal gain of themselves or those with whom they have family, business or other ties. The Contractor understands and agrees it must maintain a conflict of interest policy consistent with 2 CFR § 200.318(c). Contractor shall disclose to the County any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. 200.112.

The County may, by written notice to the Contractor, suspend or terminate this Agreement in whole or in part if it is found that any of the following laws or their successors, have been violated in obtaining this Agreement or in securing favorable treatment with respect to the awarding, amending, or the making of determinations with respect to the Agreement or any subcontractors entered into by the Contractor: 2 C.F.R. 200.318, Code of Ethics for Municipal Officers (chapter 42.23 RCW) and Ethics Code (chapter 2.50 SCC).

## **G. Public Records**

In addition to complying with the Public Records provisions (Section 24) of the Agreement, Contractor acknowledges that by accepting funds under this Agreement, it may be considered the functional equivalent of a public agency under the Public Records Act, chapter 42.56 RCW.

## **H. Capacity**

The Contractor, by signing this Agreement, acknowledges that it has the institutional, managerial, and financial capability to ensure proper planning,

management, and provision of the services funded. If at any time, the Contractor believes its capacity is compromised or Contractor needs technical assistance, it shall immediately notify the County. The County will make best efforts to provide timely technical assistance to the Contractor to bring the Agreement into compliance.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

#### **I. Remedial Action**

In the event of Contractor's noncompliance with the U.S. Constitution, federal statutes, regulations, or the terms and conditions of the federal award funding this Agreement, Treasury or the County may take remedial action as set for the 2. C.F.R. 200.339.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

#### **J. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment; Compliance with 2 C.F.R. 283**

Contractor shall comply with 2 C.F.R. 200.216 and shall require compliance with 2 C.F.R. 200.216 in any subcontract.

Contractor shall exercise due diligence to ensure that none of the funds, including supplies and services, received under this Agreement are provided directly or indirectly (including through subcontracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities. The Contractor must terminate or void in whole or part any subcontract with a person or entity listed in the System Award Management Exclusions (SAM) as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subcontract.

#### **K. Preferences for Procurements**

As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracting agreements and purchase orders for work or products under this Agreement.

For purposes of this Subsection:

1. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting state through the application of coatings, occurred in the United States.
2. "Manufactured products" means items and construction material composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **II. FISCAL MANAGEMENT**

Every subcontract approved by the County and entered into by the Contractor under this Agreement shall be in writing and shall incorporate all of the clauses in this Section, with word changes where appropriate to properly identify the parties to the subcontract.

### **A. Accounting Standards**

The Contractor agrees to comply with OMB Uniform Guidance and 2 CFR part 200 and to adhere to the accounting principles and procedures required therein, to use adequate internal controls, and to maintain necessary source documentation for all costs incurred.

### **B. Audit and Recovery**

All disbursements of funds to the Contractor under this Agreement shall be subject to audit and recovery of disallowed costs from the Contractor. In the event of Contractor's noncompliance with Section 603 of the Social Security Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the County may impose additional conditions or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of Section 603(c) of the Social Security Act regarding the use of funds, funds shall be subject to recoupment.

1. The Contractor shall maintain its records and accounts so as to facilitate the County's audit requirement and shall ensure that subcontractors also maintain auditable records.
2. The Contractor is responsible for any audit exception incurred by its own organization or that of its subcontractors.
3. The County reserves the right to recover from the Contractor all disallowed costs resulting from the audit.

4. The Contractor shall follow-up on and develop corrective action plans for all audit findings.

### **C. Accounting for Funds**

In the event of an audit, the Contractor shall and account for all funds provided under this Agreement and demonstrate that the funds have only be used as provided in this Agreement.

### **D. Repayment of Funds to County/Recoupment**

The Contractor shall return funds disbursed to it by the County under this Agreement for return by the County to the U.S. Department of the Treasury, upon the occurrence of any of the following events:

1. If Contractor has any unspent funds on hand as of the earlier of the Agreement end date of this Agreement or the termination of this Agreement under Section 21 of the Agreement, Contractor shall return all unspent funds to the County within ten (10) calendar days.
2. If overpayments are made; or
3. If an audit of the Project by the U.S. Department of the Treasury, the State, or the County determines that the funds have been expended for purposes not permitted by the Section 603 of the Social Security Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, the U.S. Department of the Treasury, the County, or this Agreement.

To exercise recoupment or repayment, the County shall make a written demand upon the Contractor for repayment, the Contractor shall be obligated to repay to the County the funds demanded within sixty (60) calendar days of the demand. No exercise of the County of the right to demand repayment of funds by the Contractor shall foreclose the County from making an additional demand for repayment if a return of additional funds is required by the U.S. Department of the Treasury; the County's right to demand repayment from the Contractor may be exercised as often as necessary to recoup from the Contractor all funds required to be returned by the County to the U.S. Department of the Treasury.

The Contractor is solely responsible for seeking repayment from any subcontractor in conformance with its debt collection policy.

## **E. Debts Owed the Federal Government.**

1. Any funds paid to Contractor in excess of the amount to which Contractor is finally determined to be authorized to retain under the terms of this Agreement, that are determined by the Treasury Office of Inspector General to have been misused or that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Contractor shall constitute a debt to the federal government.

2. Any debts determined to be owed the federal government must be paid promptly by Contractor. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Contractor knowingly or improperly retains funds that are a debt as defined in paragraph 1 of this subsection, Treasury will take any actions available to it to collect such a debt.

3. Any debts determined to be owed to the County must be promptly paid by Contractor. A debt is delinquent if it has not been paid by the date specified in County's initial written demand for payment, unless other satisfactory arrangements have been made or if the Contractor knowingly or improperly retains funds that are a debt. The County will take any actions available to it to collect such a debt.

## **F. Cost Principles**

The Contractor shall administer its project set forth in **Schedule C** in conformance with OMB Uniform Guidance and 2 CFR part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding under this Agreement. The Contractor is not required to provide cost sharing or matching funds under this Agreement.

## **G. No Indirect Costs**

If indirect costs are charged, the Contractor will develop an indirect cost allocation plan for determining the Contractor's appropriate share of such costs and shall submit such plan to the County for approval in a form specified by the County.

## **H. State Prevailing Wage Requirements**

Use of federal, state, or local funds to reimburse costs associated with labor performed for any type of maintenance, repair, rehabilitation, construction, etc. may trigger State Prevailing wage requirements per RCW Chapter 39.12. Projects that include construction costs will require performance and payment bonds from the prime contractor.



**I. Cost Reimbursement**

Reimbursement for services delivered under this Agreement shall be on a cost reimbursement basis. Reimbursement shall be provided for services provided pursuant to the Statement of Work (Schedule B). The Contractor shall submit, in a format prescribed by the County and set forth in this Agreement, an invoice and certification detailing, on a monthly basis, all costs associated with the program. Use of funds available under this Agreement will be reviewed monthly. The Contractor certifies that the work to be performed under this Agreement does not duplicate any work to be charged against any other contract, subcontract, or source.

**J. Program Income**

To the extent that program income, as defined in 2 CFR § 200.1, is generated under this Agreement, the receipt and expenditure of program income shall be reported monthly to the County.

Any program income generated under this Agreement must be used for the purposes and under the terms and conditions of this Agreement.

**K. Advance Payment**

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by the County.

**L. Debarment and Suspension Certification**

The Contractor is required to comply with the provisions of Executive Order 12549, Executive Order 12689, 2 CFR 180. The Contractor, by signing this Agreement, certifies that to the best of its knowledge and belief that:

1. The Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any Federal department or agency.
2. That the Contractor has not within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offenses in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction, violation of Federal or state antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
3. The Contractor is not presently indicted for or otherwise criminal or civilly charged by a governmental entity (Federal, state, or local) with

commission of any of the offenses enumerated in paragraph 2 of this section; and

4. The Contractor has not within a three (3) year period preceding the signing of this Agreement had one or more public transaction (Federal, state, or local) terminated for cause of default.

The Contractor shall include the above clause, adapted for proper parties, in any subcontract.

### **M. Debarment and Suspension Certification for Subcontractors**

The Contractor agrees to include the following required language in all subcontracts into which it enters resulting directly from the Contractor's duty to provide services under this Agreement:

*The lower tier subcontractor certified, by signing this Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.*

*When the lower tier subcontractor is unable to certify to any of the statements in the contract, such subcontractor shall attach an explanation to the Agreement.*

## **III. ADDITIONAL REQUIREMENTS**

### **A. Procurement**

Unless specified otherwise in this Agreement, the Contractor shall procure all materials, property, supplies, or services in accordance with the requirements of 2 CFR § 200.318; Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act; 24 CFR § 135; and 24 CFR § 576.404. The Subrecipient, in subcontracting, shall comply with 2 CFR § 321(b)(1-5).

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

### **B. Faith-Based Activities**

Contractor shall ensure that no funds provided under this Agreement are used for inherently religious activities or for a religious purpose.

### **C. Political Activities**

The Contractor agrees that no funds provided, nor personnel employed, under this Agreement shall be in any way or to any extent be applied to, or engaged in, the conduct of political activities in violation of 24 CFR § 570.207(a)(3).

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

### **D. Public Information**

1. The Contractor shall ensure recognition of the role of the County in providing services through this Agreement. All activities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source.
2. Any publication produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number SLFRP0194 awarded to Snohomish County by the U.S. Department of Treasury."
3. The Contractor shall include clause 2 of this subsection in any subcontract.

### **E. COVID Guidelines**

A program or service that imposes conditions on participation in or acceptance of the service that would undermine efforts to stop the spread of COVID-19 or discourage compliance with practices in line with CDC guidance for stopping the spread of COVID-19 shall not be reimbursed by the County.

## **IV. PERFORMANCE EVALUATION AND MONITORING**

The County will monitor the performance of the Contractor against the goals and performance standards set forth in this Agreement. Remedies for substandard performance that is not corrected to the County's satisfaction may include Agreement suspension or termination following the procedures for termination set forth in the Agreement.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

## **V. CORRECTIVE ACTION**

Contractor shall follow up on and develop corrective action plans for all audit

findings in accordance with the Uniform Guidance.

## **VI. RECORDS**

In addition to provisions of the Agreement regarding records, Contractor shall comply with the following:

- A. The Contractor shall maintain records and financial documents sufficient to evidence compliance with Section 603(c) of the Social Security Act, Treasury's implementing regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- B. The Treasury Office of the Inspector General and the Government Accountability Office, or their authorized representatives, and the County shall have the right of access to records (electronic and otherwise) of Contractor in order to conduct audits or other investigations.

### **C. Records to Be Maintained**

The Contractor shall maintain all records required by the Agreement pertaining to the activities funded under this Agreement and as further described in SCHEDULE C. The Contractor shall furnish such records to the County or other authorized officials, as requested. The Contractor shall maintain records including, but not limited to:

1. Records providing a full description of each activity undertaken;
2. Records used for data collection for reports as required;
3. Records of compliance with conflict of interest requirements;
4. Records of compliance with the nondiscrimination requirements;
5. Financial Records, including supporting documentation for all costs submitted via invoice;
6. Any other reporting obligations established by the U.S. Department of the Treasury as they relate to this award.

### **D. Individual Information and Confidentiality**

The Contractor understands that if any personally identifiable information ("PII") is collected under this Agreement, said PII is confidential and the use or disclosure of such information when not directly connected with the administration of the County's or the Contractor's responsibilities with respect to services under this Agreement, may be prohibited by federal, state, and local laws regarding privacy and obligations of confidentiality, unless written

consent is obtained from such person, and, in the case of a minor, that or a responsible parent or guardian. The Contractor shall inform the County immediately upon discovery of any unauthorized disclosure of PII.

The Contractor shall include clause A through D above, adapted for the proper parties, in any subcontract.

## **VII. AFTER-THE-AGREEMENT/CLOSE-OUT REQUIREMENTS**

The Contractor's obligation to the County shall not end until all close-out requirements are completed. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that the Contractor has control over American Rescue Plan Section 9901 Coronavirus State and Local Fiscal Recovery Funds dollars. The County will close-out the award when it determines, in its sole discretion, that all applicable administrative actions and all required work has been completed.

## **VIII. FALSE STATEMENTS**

Contractor understands that making false statements or claims with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreement, and/or any other remedy available by law.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

## **IX. DISCLAIMER**

The United States has expressly disclaimed any and all responsibility or liability to the County or third persons for the actions of the County or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of the award of Federal funds to the County under section 603(c) of the Act, or any Agreement or subcontract under such award.

The County expressly disclaims any and all responsibility or liability to the Contractor or third persons for the actions of the Contractor or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this Agreement or any other losses resulting in any way from the performance of the Agreement, or any subcontract thereto.

The Agreement does not in any way establish an agency relationship between or among the United States, the County, and Contractor.

The Contractor shall include the above clause, adapted for the proper parties, in any subcontract.

**X. TIME OF THE ESSENCE**

Time is of the essence in the performance of each party's obligations under this Agreement. Each party will carry out its obligations under this Agreement diligently and in good faith.





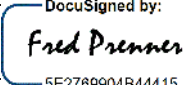
**SCHEDULE C-1**

**CONTRACTOR COST CERTIFICATION FORM**

1. I have the authority and approval from the Contractor to request reimbursement from Snohomish County from the County’s allocation of the CLFR as created in Section 9901 of the American Rescue Plan Act of 2021 (“ARPA”) for eligible expenditures included on the corresponding invoice for the reporting period referenced in the Agreement.
2. I understand Snohomish County will rely on this certification as a material representation in processing this reimbursement.
3. I certify the use of funds submitted for reimbursement from the CLFR under this Agreement were used only to cover those costs in accordance Section 9901 of the American Rescue Plan Act of 2021, the regulations as promulgated by Department of Treasury (Treasury) at 31 CFR Part 35, as amended, and Department of Treasury FAQs and guidance.
4. I understand the use of funds pursuant to this certification must adhere to official federal guidance issued. I have reviewed the Section 9901 of the American Rescue Plan Act of 2021, the Treasury regulations at 31 CFR Part 35, as amended, and Treasury FAQs and guidance and certify costs meet the parameters set forth therein. Any funds expended by Contractor or its subcontractor(s) in any manner that does not adhere to the Section 9901 of the American Rescue Plan Act of 2021, Treasury’s regulations at 31 CFR Part 35, as amended, and Treasury FAQs and guidance shall be returned to the County for return to the Treasury.
5. I understand the Contractor receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced for the County upon request and may be subject to audit by state and/or federal representatives.
6. I understand any funds provided pursuant to this certification cannot be used as a revenue replacement for lower than expected tax or other revenue collections.
7. I understand funds received pursuant to this certification cannot be used for expenditures for which the Contractor has received any other funding (whether state, federal or private in nature) for the same expense.

**By signing this document, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, or otherwise (U.S. Code Title 18, Section 1001 and Title 31, Section 3729-3730 and 3801-3812).**

CONTRACTOR NAME: CMX MEDICAL IMAGING

Signature:  5E2789904B44415...

Name and Title: VP of Imaging Equipment

Date: 4/30/2024

**SCHEDULE C-2**

**CERTIFICATION REGARDING LOBBYING**

**AMERICAN RESCUE PLAN ACT OF 2021, SECTION 9901**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.


(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all contractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**I hereby certify that I have read and understood the obligations described above, that the Contractor is in compliance with the above-described nondiscrimination requirements, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any information submitted in conjunction with this document could subject me to punishment under federal, civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, et seq. and punishment under federal law.**

**CONTRACTOR NAME: CMX MEDICAL IMAGING**

By:  DocuSigned by: 5E2789904B44415...

Title: VP of Imaging Equipment

Date: 4/30/2024

## DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 1352 0348-0046  
 Complete this form to disclose lobbying activities pursuant to 31 U.S.C.  
 (See reverse for public burden disclosure.)

<b>1. Type of Federal Action:</b> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change <b>For Material Change Only:</b> year _____ quarter _____ date of last report _____
<b>4. Name and Address of Reporting Entity:</b> Prime _____ Subawardee: Subawardee _____ Tier _____, if known:  Congressional District, if known :4c	<b>5. If Reporting Entity in No. 4 is a Subawardee:</b> Enter Name and Address of Prime:   Congressional District, if known :	
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>8. Federal Action Number, if known :</b>	<b>9. Award Amount, if known :</b> \$	
<b>10a. Name and Address of Lobbying Entity</b> (if individual, last name, first name, MI ):   (attach Continuation Sheet(s) SF-LLLA, if necessary)	<b>b. Individuals Performing Services</b> (including address if different from No. 10a ) (last name, first name, MI ):	
<b>11.</b> Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: Print Name: Title: Telephone No.: _____ Date:	
<b>Continuation Sheet(s) SF-LLLA attached:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No		
<b>Federal Use Only:</b>		

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether sub-awardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or sub-award recipient. Identify the tier of the sub-awardee, e.g., the first sub-awardee of the prime is the 1st tier. Sub-awards include but are not limited to subcontracts, sub-grants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Sub-awardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**DISCLOSURE OF LOBBYING ACTIVITIES**  
CONTINUATION SHEET

Approved by OMB  
0348-0046

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

Authorized for Local Reproduction

## SCHEDULE C-3

<b>CIVIL RIGHTS ASSURANCES CERTIFICATION</b>
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### **AMERICAN RESCUE PLAN ACT OF 2021, SECTION 9901**

The funds provided to Contractor are available under section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act.

The Contractor understands and acknowledges that:

As a condition of receipt of federal financial assistance from the Department of the Treasury, with monies distributed through Snohomish County, the Contractor named below (hereinafter referred to as the "Contractor") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Contractor's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or fund made available through the Department of Treasury.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Contractor's program(s) and activity(ies), so long as any portion of the Contractor's program(s) or activity(ies) is federally assisted in the manner prescribed above

The Contractor certifies the following:

1. Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of



national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.

3. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Contractor and Contractor's successors, transferees, and assignees for the period in which such assistance is provided.
5. Contractor acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between Contractor and Contractor's subgrantees, contractors, subcontractor, successor, transferees, and assignees:

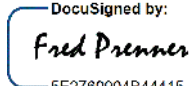
*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Contractor understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Contractor for the period during which it retains ownership or possession of the property.
7. Contractor shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Contractor shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Contractor shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Contractor also must inform the Department of the Treasury if Contractor has received no complaints under Title VI.
9. Contractor must provide documentation of an administrative agency or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Contractor and the administrative agency that made the finding. If the Contractor settles a case or matter alleging such discrimination, the Contractor must provide documentation of the settlement. If Contractor has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Contractor makes sub-awards to other agencies or other entities, the Contractor is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.
11. The United States of America has the right to seek judicial enforcement of the terms of this assurance document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

I hereby certify that I have read and understood the obligations described above, that the Contractor is in compliance with the above-described nondiscrimination requirements, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any information submitted in conjunction with this document could subject me to punishment under federal, civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, et seq. and punishment under federal law.

Contractor Name: CMX MEDICAL IMAGING

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By:  5E2769904B44415...

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Title: VP of Imaging Equipment

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Date: 4/30/2024

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## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (the “Agreement”) is entered into between Snohomish County (the “Covered Entity”) and Konica Minolta Healthcare Americas, Inc. (the “Business Associate”), collectively (the “Parties”) and individually (a “Party”). This Agreement is effective as of the Effective Date below.

### RECITALS

WHEREAS, Business Associate provides certain services to Covered Entity (the “Services”) that sometimes may involve (i) the creation, receipt, maintenance, transmission, or use of Protected Health Information and Electronic Protected Health Information by Business Associate, or (ii) the disclosure of Protected Health Information and Electronic Protected Health Information by Covered Entity (or another business associate of Covered Entity) to Business Associate. Accordingly, the creation, receipt, transmission, or maintenance of Protected Health Information and Electronic Protected Health Information by Business Associate is subject to the Privacy, Security, Breach Notification, and Enforcement rules promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) at 45 C.F.R. Parts 160 and 164. This Agreement is intended to document the business associate assurances required by the HIPAA Privacy Regulations at 45 C.F.R. § 164.504(e) and the HIPAA Security Regulations at 45 C.F.R. § 164.314(a).

WHEREAS, this Agreement will govern the terms and conditions under which Covered Entity may disclose or have disclosed Protected Health Information and Electronic Protected Health Information to Business Associate, and under which Business Associate may create, receive, maintain, transmit, or use Protected Health Information and Electronic Protected Health Information on behalf of Covered Entity.

NOW, THEREFORE, in consideration of the covenants hereinafter set forth and for other good and valuable consideration, the sufficiency of which are hereby acknowledged, Covered Entity and Business Associate agree as follows:

### AGREEMENT

1. Definitions. Capitalized terms used in this Agreement, but not otherwise defined in this Agreement shall have the same meanings as those terms in the HIPAA Privacy and Security Regulations at 45 C.F.R. Parts 160 and 164. Unless otherwise stated, a reference to a “Section” is to a Section in this Agreement. For Purposes of this Agreement, the following terms shall have the following meanings.
  - 1.1. Breach. “Breach” shall have the same meaning as the term “breach” in 45 C.F.R § 164.402
  - 1.2. Designated Record Set. “Designated Record Set” shall have the same meaning as the term “designated record set” in 45 C.F.R. § 164.501.
  - 1.3. Electronic Protected Health Information or EPHI. “Electronic Protected Health Information” or “EPHI” shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

- 1.4. Individual. “Individual” shall mean the person who is the subject of Protected Health Information as provided in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).
  - 1.5. Individually Identifiable Health Information. “Individually Identifiable Health Information” shall have the same meaning as the term “individually identifiable health information in 45 C.F.R. § 160.103.
  - 1.6. Protected Health Information or PHI. “Protected Health Information” or “PHI” shall have the same meaning as the term “protected health information” in 45 C.F.R. § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
  - 1.7. Required By Law. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.103.
  - 1.8. Secretary. “Secretary” shall mean the Secretary of the federal Department of Health and Human Services or that person’s designee.
  - 1.9. Security Incident. “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. § 164.304.
  - 1.10. Unsecured Protected Health Information. “Unsecured Protected Health Information” shall have the same meaning as the term “unsecured protected health information” in 45 C.F.R. § 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
2. Permitted Uses and Disclosures by Business Associate.
    - 2.1. General. Except as otherwise specified in this Agreement, Business Associate may use or disclose PHI to perform its obligations for, or on behalf of, Covered Entity provided that Business Associate uses and discloses PHI in the following manner:
      - 2.1.1 Consistent with the minimum necessary policies and procedures of Covered Entity; and
      - 2.1.2 Would not violate 45 C.F.R. Subpart E if done by Covered Entity, except as specified in paragraphs 2.2 and 2.2 of this section
    - 2.2. Other Permitted Uses. Except as otherwise limited by this Agreement, Business Associate may use PHI it receives or creates in its capacity as a business associate of Covered Entity, if necessary:
      - 2.2.1. For the proper management and administration of Business Associate;
      - 2.2.2. To carry out the legal responsibilities of Business Associate; or
      - 2.2.3. To provide Data Aggregation services to Covered Entity that relate to the health care operations of Covered Entity in accordance with the HIPAA Privacy Regulations.

2.3. Other Permitted Disclosures. Except as otherwise limited by this Agreement, Business Associate may disclose to a third party PHI it receives or creates in its capacity as a business associate of Covered Entity for the proper management and administration of Business Associate, provided that:

2.3.1. The disclosure is Required By Law; or

2.3.2. Business Associate obtains reasonable assurances from the third party to whom the information is disclosed that (i) the PHI will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the third party, and (ii) the third party notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4. De-Identified Information. Health information that has been de-identified in accordance with the requirements of 45 C.F.R. §§ 164.514 and 164.502(d) and is therefore not Individually Identifiable Health Information (“De-Identified Information”) is not subject to the provisions of this Agreement. Covered Entity may disclose PHI to Business Associate to use for the purpose of creating De-Identified Information, whether or not the De-Identified Information is to be used by Covered Entity.

3. Obligations and Activities of Business Associate Regarding PHI.

3.1. Limitations on Uses and Disclosures. Business Associate will not use or further disclose PHI other than as permitted or required by this Agreement or as Required By Law.

3.2. Safeguards. Business Associate will use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.

3.3. Mitigation. Business Associate will mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate or subcontractor or agent of Business Associate in violation of the requirements of this Agreement.

3.4. Reporting. Business Associate will report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement of which it becomes aware.

3.5. Agents and Subcontractors. Business Associate will ensure that any agent, including any subcontractor to whom Business Associate provides PHI that was created for or received from or on behalf of Covered Entity, has executed an agreement containing the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Business Associate will ensure only those who reasonably need to know such information in order to perform Services receive such information and, in such case, only the minimum amount of such PHI is disclosed as is necessary for such performance.

3.6. Access. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity, Business Associate will make such PHI available to Covered Entity or, as directed by Covered Entity, to an Individual, that is



necessary for Covered Entity to respond to Individuals' requests for access to PHI in accordance with 45 C.F.R. § 164.524. Business Associate will provide such PHI in an electronic format upon request by Covered Entity unless it is not readily producible in such format in which case Business Associate will provide Covered Entity a readable electronic format as agreed to by Covered entity and Individual.

- 3.7. Compliance with Requirements. To the extent Business Associate is to carry out Covered Entity's obligation under HIPAA, Business Associate will comply with the requirement applicable to such obligation.
- 3.8. Amendment of PHI. Where PHI held by Business Associate is contained in a Designated Record Set, within fifteen (15) days of receiving a written request from Covered Entity or an Individual, Business Associate will make any requested amendment(s) or correction(s) to PHI in accordance with 45 C.F.R. § 164.526.
- 3.9. Disclosure Documentation. Business Associate will document its disclosure of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with C.F.R. § 164.528.
- 3.10. Accounting of Disclosures. Within thirty (30) days of receiving a request from Covered Entity, Business Associate will provide to Covered Entity information collected in accordance with Section 3.8 of this Agreement, as necessary to permit Covered Entity to make an accounting of disclosures of PHI about an Individual in accordance with 45 C.F.R. § 164.528.
- 3.11. Access to Business Associate's Internal Practices. Business Associate will make its internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI, including EPHI, created, used, disclosed, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, available to the Secretary or to Covered Entity, available to the Secretary or to the Covered Entity, in a time and manner designated by the Secretary or reasonably specified by Covered Entity, for purposes of the Secretary determining Business Associate or Covered Entity's compliance with the HIPAA Privacy Regulations and HIPAA Security Regulations.
- 3.12. Breach Notification. Business Associate, following the discovery of a Breach of Unsecured Protected Health Information, shall notify Covered Entity of such Breach. Except as otherwise required by law, Business Associate shall provide such notice without unreasonable delay, and in no case later than thirty (30) calendar days after discovery of the Breach.
  - 3.12.1. Notice to Covered Entity required by this Section 3.12 shall include (i) to the extent possible, the names of the individual(s) whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Breach; (ii) a brief description of what happened including the date of

the Breach and the date of the discovery of the Breach, if known; (iii) a description of the types of Unsecured Protected Health Information that were involved in the Breach; (iv) a brief description of what Business Associate is doing or will be doing to investigate the Breach to mitigate harm to the individual(s) and to protect against further Breaches; and (v) any other information that Covered Entity determines it needs to include in notifications to the individual(s) under 45 C.F.R. §164.404(c).

3.12.2. After receipt of notice, from any source, of a Breach involving Unsecured Protected Health Information used, disclosed, maintained or otherwise possessed by Business Associate, or of a Breach involving Unsecured Protected Health Information for which the Business Associate is otherwise responsible, Covered Entity may in its sole discretion (i) require Business Associate, at Business Associate's sole expense, to use a mutually agreed upon written notice to notify, on Covered Entity's behalf, the individual(s) affected by the Breach, in accordance with the notification requirements set forth in 45 C.F.R. § 164.404, without unreasonable delay, but in no case later than sixty (60) days after discovery of the Breach; or (ii) elect to provide notice to the individual(s) affected by the Breach.

3.13. Remuneration in Exchange for PHI. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI unless Covered Entity notifies Business Associate that it obtained a valid authorization from the Individual specifying that the Individual's PHI may be exchanged for remuneration by the entity receiving such Individual's PHI.

3.14. Marketing. Business Associate must obtain or confirm that Covered Entity has obtained an authorization for any use or disclosure of PHI for marketing, as defined in 45 C.F.R. § 164.501.

3.15. Exporting Information. Business Associate shall ensure that any agent or subcontractor to whom Business Associate provides PHI, as well as Business Associate, not export PHI beyond the borders of the United States of America.

#### 4. Obligations of Covered Entity

4.1. Limited Disclosure Obligations. Covered Entity will limit the PHI provided to Business Associate to only that necessary to the business needs of Covered Entity. Prior to the transmission of PHI to Business Associate, Covered Entity will notify Business Associate of the need to transmit PHI and will arrange with Business Associate for the proper and secure transmission of such PHI.

4.2. Requested Restrictions. Covered Entity shall notify Business Associate, in writing, of any restriction on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, which permits an Individual to request certain restrictions or uses and disclosures, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

4.3. Changes in or Revocation of Permission. Covered Entity will notify Business Associate in writing of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes or revocation may affect Business Associate's use or disclosure of PHI.

4.4. Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Regulations and the HIPAA Security Regulations if done by Covered Entity, except to the extent that Business Associate will use or disclose PHI for Data Aggregation or management and administrative activities and legal responsibilities of Business Associate.

5. Security Restrictions on Business Associate

5.1. General. Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security Regulations.

5.2. Agents; Subcontractors. Business Associate will ensure that any agent, including a subcontractor, to whom Business Associate provides EPHI, agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of such EPHI.

5.3. Reporting of Security Incidents. Business Associate shall report to Covered Entity any Security Incident affecting EPHI created, received, maintained, or transmitted by Business Associate on behalf of Covered Entity, of which Business Associate becomes aware.

5.4. HIPAA Security Regulations Compliance. Business Associate agrees to comply with Sections 164.306, 164.308, 164.310, 164.312, and 164.316 of Title 45, Code of Federal Regulations with respect to all EPHI.

6. Term and Termination.

6.1. Term. This Agreement shall take effect on Effective Date, and shall terminate when all of the PHI disclosed to Business Associate by Covered Entity or created or received by Business Associate on behalf of Covered Entity, is destroyed according to applicable records retention guidelines or returned to Covered Entity, or, if it is infeasible to return or destroy PHI in accordance with applicable records retention guidelines, protections are extended to such information, in accordance with the termination provisions in this Section 6.

6.2. Termination for Cause. If Covered Entity determines that Business Associate has breached a material term of this Agreement, Covered Entity will provide written notice to Business Associate that sets forth Covered Entity's determination that Business Associate breached a material terms of this Agreement, and Covered Entity may:

6.2.1. Provide written notice to Business Associate that provides an opportunity for Business Associate to cure the breach or end the violation, as applicable. If Business Associate does

not cure the breach or end the violation within the time specified by Covered Entity, then Covered Entity may immediately thereafter terminate this Agreement; or

6.2.2. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure it not possible

6.2.3. If neither termination nor cure is feasible as provided in Section 6.2.1 and 6.2.2 of this Agreement, Covered Entity will report the violation to the Secretary.

### 6.3. Effect of Termination.

6.3.1. Except as provided in Section 6.3.2 of this Agreement, upon termination of this Agreement, for any reason, Business Associate will return or destroy in accordance with records retention guidelines all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision also applies to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate will retain no copies of the PHI.

6.3.2. In the event that Business Associate determines that returning or destroying the PHI in accordance with records retention guidelines is infeasible, Business Associate will provide to Covered Entity notification of the conditions that make return or destruction in accordance with records retention guidelines infeasible. Upon reasonable determination that return or destruction of PHI in accordance with records retention guidelines is infeasible, Business Associate will extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains the PHI.

## 7. Miscellaneous

7.1. Regulatory References. A reference in this Agreement to a section in the HIPAA Privacy Regulations or the HIPAA Security Regulations means the section as in effect or as amended.

7.2. Amendment. If any new state or federal law, rule, regulation, or policy, or any judicial or administrative decision affecting the use or disclosure of PHI is enacted or issued, including but not limited to any law or regulation affecting compliance with the requirements of the HIPAA Privacy Regulations or the HIPAA Security Regulations, the parties agree to take such action in a timely manner and as is necessary for the Covered Entity and Business Associate to comply with such law, rule, regulation, policy or decision. If the parties are not able to agree on the terms of such an amendment, either party may terminate this Agreement on at least thirty (30) days prior written notice to the party.

7.3. Survival. The respective rights and obligations of Business Associate under Section 6.3 of this Agreement (“Effect of Termination”) shall survive the termination of this Agreement.

7.4. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the HIPAA Privacy Regulations and the HIPAA Security Regulations. The section and paragraph headings of this Agreement are for the convenience of the reader only and are not intended to act as a limitation on the scope or meaning of the sections and paragraphs themselves.

- 7.5. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Business Associate and Covered Entity and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.
- 7.6. Assignment. This Agreement shall not be assigned or otherwise transferred by either party without the prior written consent of the other, which consent shall not be unreasonably withheld provided that no such consent shall be required for either party's assignment or transfer of this Agreement in connection with a sale or transfer of all or substantially all of the business or assets of the assigning party. This Agreement shall be binding on and inure to the benefit of all the parties hereto and their permitted successors and assigns.
- 7.7. Entire Agreement. This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes all prior communications, representations, and agreements, oral or written, of the parties with respect to its subject matter.
- 7.8. Severability and Waiver. The invalidity of any term or provision of this Agreement will not affect the validity of any other provision. Waiver by any party of strict performance of any provision of this Agreement will not be a waiver of or prejudice any party's right to require strict performance of the same provision in the future or of any other provision of this Agreement.
- 7.9. Notices. Any notices permitted or required by this Agreement will be addressed as follows or to such other address as either Party may provide to the other.

If to Covered Entity:

Viggo Forde  
Snohomish County  
3000 Rockefeller Avenue, M/S 504  
Everett, WA 98201

If to Business Associate:

Konica Minolta Healthcare Americas, Inc.  
2217 US Highway 70 East  
Garner, NC 27529

- 7.10. Counterparts. This Agreement may be executed in multiple counterparts all of which together will constitute one agreement, even though all Parties do not sign the same counterpart. Electronic or facsimile transmission of any signed original document, and retransmission of any signed electronic or facsimile transmission, shall be the same as delivery of an original.
- 7.11. Effective Date. This Agreement is effect on execution or on the first day upon which Business Associate received PHI from Covered Entity, whichever is earlier ("Effective Date").







KONICA MINOLTA

# SCHEDULE E SALES PROPOSAL

**150**  
YEARS



**symmetry**-PACS

Snohomish County - Symmetry PACS Cloud Hosted

**Snohomish County Examiners**

Joanie Fadden  
[j.fadden@co.snohomish.wa.us](mailto:j.fadden@co.snohomish.wa.us)  
Quote # WK034845 Version 1

## Symmetry PACS Software

Product Details	Qty	Price
<p><b>UE01J1G - Symmetry PACS - 5,000 Annual Exams</b></p> <p><small>symmetry PACS</small></p> <p>Konica Minolta has deployed an entirely web-based, zero footprint, radiology software platform far superior to other PACS systems available on the market. Symmetry PACS was designed with the purpose of providing never seen speed and workflow efficiency with the most advanced features and toolsets available. All prior PACS have been forced to sacrifice speed or functionality, but Symmetry PACS delivers both.</p> <ul style="list-style-type: none"> <li>• Zero Footprint Viewer</li> <li>• Full DICOM viewer</li> <li>• Compatible with all Operating System (Mac, Windows, Linux)</li> <li>• Server-Side-Rendering</li> <li>• Single Integrated Database</li> <li>• Tablet Viewing</li> </ul> <p>Concurrent Users: Symmetry PACS functionality allows for no more than 20 concurrent users (including physician portal users)</p> <p>Annual Study Volume License: This license queries on a perpetual 365-day calendar from current day. Up to 5,000 Annual Exams per year.</p> <p>***If the end user location grows beyond licensed study volume during the contract, additional charges will apply. Additional blocks of 2,500 annual exams can be purchased using UE01J8C. PACS will be installed for 1 site.</p> <p>The Symmetry PACS Package will include the following, in addition to the PACS:</p> <p><b>Symmetry PACS Physician Portal x1</b>          Provide referring physicians secure, remote web access to review their results and access their images. Physicians can order exams directly from the Portal as well as electronically sign-off their exam orders. Group referring physicians together by clinic and office location so that multi-provider groups can access results for all their patients.</p> <p>*Note: Customer is responsible for creating an URL for Portal access</p> <p>*Note: The Symmetry PACS Physician Portal user count does count towards the max availability of 20 concurrent users within the Symmetry PACS system.</p> <p><b>Symmetry PACS Professional Services - 2 Day Remote</b>          Includes project management and applications training for a single site and up to 5 staff. Additional training may be purchased for additional sites and staff for additional fees.</p> <p>Training days are remote, completed during two (2) eight (8) hour consecutive days, cannot be deferred, and must be used within the same month as Go-Live. While each training day can be shortened or forfeited, the entitled sixteen (16) hours cannot be extended beyond the two (2) consecutive days. Training Days are designed to be used pre-Go-Live to ensure a successful implementation.</p>	1	\$29,375.00

## Symmetry PACS Software

Product Details	Qty	Price
<p>*Additional Software Applications Training – Remote (Per Day) may be purchased using UE09J24.            *1-week on-site training may be purchased using PROF-SERV-5</p> <p><b>Symmetry PACS Software Support - 5 Years [UE01J3E]</b></p> <p><u>End of Term Renewal:</u>            Renewals are subject to Terms and Conditions of the Sales Agreement. At time of renewal, customer will pay the current prevailing rate. This includes the initial Symmetry PACS package, options, and additional purchases added to the monthly amount during the term.</p>		
<p><b>SW-OPAL-FORWARDER - Exa Forwarder Software License - to route exams to KMHA Private Cloud</b></p> <p>Forwarder is used to transmit images from outside facilities quickly.</p> <ul style="list-style-type: none"> <li>• Small footprint allows install on existing PC</li> <li>• Requires remote install (included with each forwarder license purchase)</li> <li>• Allows for secure transfer drastically improving sending time of DICOM studies</li> <li>• Up to 10x faster than DICOM send</li> </ul> <p>*No hardware included*</p>	1	\$2,125.00

Capital Subtotal: **\$31,500.00**

## Support

Description	Qty
<p>UE01J3E                                    <b>Symmetry PACS Software Support - 5 years</b></p> <p>World-class support from our dedicated IT support team to address all eventualities of your PACS software. From a workflow perspective, our well-trained engineers ensure your PACS software continues to work with minimal disruption and downtime so you can get back to what's most important – patient care. *</p> <ul style="list-style-type: none"> <li>• Available Support Hours: Monday through Friday, 8:00am to 8:00pm, EST, excluding holidays and weekends. Extended remote technical support available 24/7 for emergency requests - defined as critical or high severity issues (site down, major component down, or data breach).</li> <li>• Critical/MFR &amp; High severity issues should be reported via Telephone Support Line to ensure prompt response and to minimize patient care impact: U.S.: 833.562.2737   Canada: 877.678.3583</li> <li>• All other support requests should be submitted via Online Customer Portal (<a href="https://support.kmhpub.com/PremierCustomer/Home.aspx">https://support.kmhpub.com/PremierCustomer/Home.aspx</a>) or our Telephone Support Line.</li> </ul> <p>* Software support for Symmetry PACS and extended modules            * Coverage begins at Go-Live, or D&amp;A Acceptance, whichever occurs first            * Coverage includes warranty period</p>	1

## Professional Services

Product Details	Qty	Price
<p><b>UE05J80 - Data Migration – PACS Images per TB</b></p> <p>Migration of PACS data from legacy system to Konica Minolta solutions. Includes:</p> <ul style="list-style-type: none"> <li>-Migration of prior data (DICOM studies and limited patient demographics)</li> <li>-Non-DICOM patient demographics are importable with a customer provided CSV file</li> <li>-All action performed Remotely (Konica Minolta will need remote access to the old and new servers)</li> <li>-All windows Updates and SQL updates should be run prior to Konica Minolta engineer engaging remotely</li> </ul> <p>Data Migration - PACS Images does NOT include:</p> <ul style="list-style-type: none"> <li>-Migration of radiology results (requires UE05J81)</li> <li>-Migration of non-DICOM patient information via HL7 (requires UE05J82)</li> <li>-Migration of scanned documents (requires UE05J83 and/or UE06J55)</li> <li>-Migration of billing data</li> </ul> <p>Data migration requires cooperation from source PACS systems vendor for proper migration validation and may incur additional cost from the source vendor. Lack of consistency in the source data included, but not limited to, duplicate MRNs or incorrect DICOM data may cause conflicts in the Exa/Symmetry system. Konica Minolta will make every effort to avoid these conflicts.</p>	1	\$2,625.00

Capital Subtotal: **\$2,625.00**

## Integration Options

\* Optional

Product Details	Qty	Price
<p><b>SW-HL7-MODALITY - HL7 Modality Worklist</b></p> <p>Provides PACS system interface for passing patient demographics and modality configuration.</p> <p>SIU Patient Demographics</p> <ul style="list-style-type: none"> <li>-EMR/EHR/PM sends out-bound message to KMHA</li> <li>-KMHA can accept both new and update messages</li> </ul> <p>OR</p> <p>ORM Exam Orders</p> <ul style="list-style-type: none"> <li>-EMR/EHR/PM sends out-bound message to KMHA</li> <li>-New, Updates, Cancellations</li> </ul>	1	\$6,250.00




**Integration Options**

\* Optional


Product Details	Qty	Price
<p><b>UE01J80 - VPN/Firewall Set Up</b></p> <p>This fee includes KMHA IT Engineering Services to create and set up the VPN/Firewall rule, per site/tunnel. VPNs are between KMHA’s private cloud and Customer’s network or the network of an entity which the customer maintains an active Business Associate Agreement (BAA).</p> <p>*Any modifications required after Go-Live (or first clinical use) to a newly created or existing VPN tunnel/firewall rule are subject to additional fees and will require a VPN/Firewall Change Request. Requires purchase of UE06J88.</p>	1	\$650.00

\* Optional Subtotal: **\$6,900.00**

**Monthly | Cloud Infrastructure**

Product Details	Price	Qty	Est. Monthly Payment
<p><b>UE01JH8 - Private Cloud Instance - Small</b></p>  <p>Minolta will host your Exa PACS application and database in our SOC 2 compliant data centers. As your business grows, it can be challenging to keep up with the evolving constraints on storage space, memory and CPU usage, and operating systems constantly being updated. Konica Minolta monitors site uptime and downtime and SSL certificate validity. Windows patching is provided.</p> <p>\$550 per month, billed monthly. Monthly invoicing will begin once a Private Cloud configuration is completed with Symmetry Software Licenses loaded and the customer can complete initial access to the Cloud infrastructure. Actual monthly invoicing for both Private Cloud Instance and Image Storage will continue as long as customer continues to utilize these services.</p>	\$550.00	1	\$550.00

## Monthly | Cloud Infrastructure

Product Details	Price	Qty	Est. Monthly Payment
<p><b>UE01JG7 - Private Cloud Storage - Data per TB</b></p>  <p>Storage for Exa private cloud instances. Used to store Images, Documents, and Database backups. Includes offsite backup of the data contained in the primary storage to an alternate cloud environment.</p> <p>\$55 per TB, per month, billed monthly. Customer understands that once data migration commences KMHA will begin monthly invoicing for the actual amount of Image storage consumed on a monthly basis. The customer also understands that the quoted amount for Image Storage is subject to change based on actual usage. Payment for Exa Private Cloud Instance or Exa Image Storage is not dependent upon completion of any implementation or other services. Actual monthly invoicing for both Exa Private Cloud Instance and Exa Image Storage will continue as long as customer continues to utilize these services.</p>	\$55.00	1	\$55.00

Recurring Subtotal: **\$605.00**

Capital Subtotal: **\$605.00**

## End of Term Renewal

Description	Qty
<p><b>End of Term Renewal</b></p> <p><b>Any license granted under the Sales Agreement only grants Customer the right to use the Licensed Programs during the Term set forth on the quote. KMHA reserves all right, title and interest in and to the Licensed Programs, documentation, updates and materials created or generated by KMHA in connection with the performance of support and services with respect to the Licensed Programs.</b></p> <p><b>Customer further acknowledges that KMHA may have provided equipment to Customer for purposes of integration and acceptance testing and that any such equipment is and will continue to be owned by KMHA. KMHA thus has a security interest in any such equipment.</b></p> <p><b>Unless otherwise agreed between customer and KMHA, at the end of the Term Customer shall discontinue use of the Licensed Programs, and the Licensed Programs in Customer's possession shall be immediately returned to KMHA or Customer shall destroy the Licensed Programs and submit a certification confirming the same. Unless otherwise agreed between customer and KMHA, the initial term shall mean 5 years or 60 months from the final delivery and acceptance sign off. Customer will need to contact KMHA a minimum of Six (6) months prior to end of term to determine renewal option. Customer will also need to have a valid service contract beyond the initial term in order to receive the benefits from KMHA's customer support services.</b></p>	1



## Snohomish County - Symmetry PACS Cloud Hosted

### Prepared by:

**MVUS**  
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### Prepared for:

**Snohomish County Examiners**  
9509 29TH AVE WEST  
EVERETT, WA 98204  
Joanie Fadden  
(425) 388-7046  
j.fadden@co.snohomish.wa.us

### Quote Information:

**Quote #: WK034845**  
Version: 1  
Delivery Date: 04/03/2024  
Expiration Date: 05/31/2024

## Capital Summary

Description	Amount
Symmetry PACS Software	\$31,500.00
Professional Services	\$2,625.00
<b>Total: \$34,125.00</b>	

## Recurring Recurring Summary

Description	Amount
Monthly   Cloud Infrastructure	\$605.00
<b>Recurring Total: \$605.00</b>	

## \*Optional Expenses

Description	One-Time
Integration Options	\$6,900.00
<b>Optional Subtotal: \$6,900.00</b>	

## Payment Summary

Description	Amount
<b>Capital Milestone 1: 30% Down Payment</b>	
<b>Total Payments</b>	<b>\$10,237.50</b>

There will be a payment due of thirty percent (30%) of the net project cost due at contract signing.

<b>Capital Milestone 2: 30% Payment</b>	
<b>Total Payments</b>	<b>\$10,237.50</b>

Milestone 2 - KMHA Deliverable (Phase 1). Server is online and accessible, and software has been accessed within twenty-four (24) hours of initial login. There will be a payment due of an additional thirty percent (30%) of the net project cost at the completion of this milestone.

<b>Capital Milestone 3: 30% Payment</b>	
<b>Total Payments</b>	<b>\$10,237.50</b>

Milestone 3 – Customer acceptance/Pre-Go-Live: There will be a payment due of an additional thirty percent (30%) of the net project cost at the completion of this milestone. Customer must be current on financial contractual obligations before receiving clinical applications training. Failure to pay or late payment may delay clinical applications training.

<b>Capital Milestone 4: 10% Payment</b>	
<b>Total Payments</b>	<b>\$3,412.50</b>

Milestone 4 - Training signoff, Go Live: Clinical Use/Operational Signoff-Delivery and Acceptance. There will be a payment due of the last ten percent (10%) of the net project cost at the completion of this milestone.

Prerequisites. The following documents shall be fully executed:

- Quote (Order Form)
- Sales Agreement
- Business Associate Agreement (BAA)

<b>Recurring Monthly Payments to KMHA [Estimated]: Cloud Infrastructure, Other Subscription   60 Month</b>	
Selected Recurring Payment	\$605.00
<b>Total Monthly Payments</b>	<b>\$36,300.00</b>
<b>Total Payments</b>	<b>\$605.00</b>

1. Monthly invoicing will begin once a Private Cloud configuration is completed with Exa Software Licenses loaded and the customer can complete initial access to the Cloud infrastructure.

2. Monthly invoicing for subscription services, inclusive of KMHA private cloud, will be for the prior month and will continue while the services are utilized. Actual monthly amount due may vary based on actual usage.

3. [BANK financed customers]. KMHA will invoice the Customer for all subscription services, inclusive of KMHA Private Cloud. Customer will be responsible for all recurring payments tied to the same services.

Customer agrees to the payment terms and conditions as outlined herein. KMHA reserves the right to cancel services and/or support due to late/nonpayment. Unless otherwise indicated, all invoices are net thirty (30) business days from receipt of a properly prepared invoice, non-refundable.

This proposal is the result of our discussions of the product scope, requirements, number of users/exams, pricing and timing. If any information has been misrepresented or has not been presented, this quote may be voided and replaced by a new quote/proposal.

This quote/proposal is subject to the terms and conditions set forth in a Sales Agreement. This quote/proposal, when accepted, shall be appended to the Sales Agreement and both documents shall be read and considered as a single document.

KMHA shall advise Customer if sales tax is due based on the law and policies of the applicable jurisdiction, the nature of the product(s) involved, and the tax status of the Customer within the applicable jurisdiction.

CUSTOMER, BY SIGNING THIS QUOTE BELOW AND BY SIGNING THE SALES AGREEMENT, ACKNOWLEDGES THAT IT HAS READ THE PRODUCT AND SERVICES DESCRIPTIONS IN THE QUOTE, THE APPLICABLE PRICING, AND THE TERMS AND CONDITIONS AS SET FORTH IN THE SALES AGREEMENT, AND ACKNOWLEDGES THAT IT UNDERSTANDS AND AGREES TO THE SAME.

### Konica Minolta Healthcare Americas

### Snohomish County

DocuSigned by Chris Van Houten  
Signature:  | I approve this document  
4/30/2024 | 11:40:20 AM EDT  
Name: Chris Van Houten  
4C56C5CD4ACF4CF38A268068B1F2D331

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

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

Name: Ken Klein

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

Title: Executive Director

Date: 4/30/2024

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



KONICA MINOLTA

## SALES AGREEMENT

**THIS SALES AGREEMENT** is between Konica Minolta Healthcare Americas, Inc. (“KMHA”) and Snohomish County (the “Customer”), and sets forth the terms and conditions which govern, in part, the business relationship between KMHA and Customer, and upon which KMHA sells its products and services to Customer (the “Terms”).

This Agreement is generally divided into three subparts. The first part sets forth KMHA’s standard terms and conditions for the sale of KMHA products and services to Customer. The second part deals with and sets forth the terms and conditions of KMHA’s sale of software-based products and services to Customer and the licensing the use of the software to Customer. The third part sets forth certain miscellaneous terms and conditions which further govern the parties’ business relationship, but which do not deal directly with the sale of KMHA product or services, or the licensing of KMHA software.

In addition to the foregoing, certain exhibits will be appended hereto from time to time and shall be incorporated herein by reference. Should there be any discrepancy between the terms of any such exhibit and this Agreement, the terms of the exhibit shall prevail. The specific exhibits which shall be appended hereto during the business relationship of KMHA and Customer are the following: (1) the Master Subscription Agreement; (2) the Quote; and (3) the Statement(s) of Work.

KMHA objects to and shall not otherwise be bound by any additional or different terms, whether in writing or otherwise, in any other communication to KMHA. These Terms are for the benefit of KMHA and its customers and business partners, and not for the benefit of any third party. Notwithstanding any contrary provision in any other communication or writing, no action by KMHA, such as delivery of any product, the rendering of any services, or the commencement of work on specialty products will be deemed an acceptance by KMHA of any document with terms different from or additional to those contained or referenced herein.

### Standard Terms and Conditions

**1. Prices.** After the initial five (5) year term, KMHA’s prices on quotations and proposals are subject to change with a minimum of 90 days’ notice to the Customer. Unless otherwise stated in writing by KMHA, all prices quoted are exclusive of transportation charges, taxes, and insurance. Typographical errors are subject to correction by KMHA. Prices quoted are only for the products and services specified. **UNLESS OTHERWISE SPECIFIED IN WRITING, ALL QUOTATIONS ARE FIRM FOR A PERIOD OF THIRTY (30) DAYS, EXPIRE THIRTY (30) DAYS AFTER THE DATE THEREOF, AND CONSTITUTE OFFERS.** Budgetary quotations and estimates are provided for preliminary information only and shall not constitute offers, or impose any responsibility or liability upon KMHA of any kind or nature whatsoever.

**2. Order Submissions and Acceptance.** All orders for products and/or services from Customer shall be made using a Quote or other similar document (each an "Order Document"). No Order Document shall be binding upon KMHA until it has been accepted by KMHA in writing, and KMHA shall not have any liability to Customer with respect to any Order Document that is not accepted by KMHA. KMHA shall notify Customer of any rejection of an Order Document and of the assigned delivery date for accepted orders within ten (10) business days of KMHA's receipt of the Order Document. KMHA's acceptance of any Order Document shall not constitute acceptance of any Customer terms and conditions thereon, which are expressly rejected. Where applicable, Customer shall supply KMHA with a PO for reconciliation of Order Document.

**3. Invoices, Payment, and Taxes.**

Invoices. KMHA shall render an invoice to Customer for the purchase price set forth in the quotation or proposal upon delivery of the KMHA products and/or services to Customer. Typographical errors shall be subject to correction by KMHA.

(b) Payment Terms. Unless credit terms are agreed upon in writing by KMHA or by a KMHA business partner as set forth in the Master Subscription Agreement appended hereto at Exhibit A, payment for KMHA products and/or services is due upon delivery. Past due balances shall be subject to a 1% per month (12% per year) service charge, the highest rate permitted by applicable law, if less. If Customer fails to pay any KMHA invoice when due, or otherwise breaches these Terms, KMHA shall be entitled to the reasonable costs (including attorney's fees) incurred in collection or otherwise enforcing this Agreement.

(c) Taxes. All payments shall be exclusive of all taxes and duties, including without limitation sales, use, value added and other taxes, duties or levies on transactions made under the Agreement. Customer shall pay an amount equal to any tax or duty that KMHA is required to collect upon the sale or delivery of the KMHA products or services to Customer, exclusive of KMHA's income taxes. If a certificate of exemption or similar document is required to exempt Customer from sales or use tax liability, Customer shall obtain and furnish to KMHA evidence of such exemption with Customer's order in a form reasonably satisfactory to KMHA.

(d) Alterations. Any alterations that are made to the specifications of a KMHA product from those stated in the Quote from Customer shall be at Customer's sole cost and expense.

(e) Enforceable Right. KMHA shall have and enforceable right to payment for work performed to date at any point in the Term of this Agreement on a pro-rata basis. Should there be any delays in the implementation process caused by Customer due to circumstances within its control, and KMHA has allocated personnel to Customer's project, any such delay which lasts longer than fifteen (15) business days shall, beginning on the sixteenth (16<sup>th</sup>) business day, be subject to an additional fee for liquidated damages, and not as a penalty, for allocated but unused KMHA resources in the amount of five hundred dollars (\$500.00) per day until the project is resumed.

**4. Delivery/Shipment.** All products shall be delivered FOB KMHA's shipping point designated by KMHA at the time the order is accepted by KMHA. If Customer specifies the carrier to be used, shipment may be made on a collect basis by KMHA. Products shall be scheduled for shipment in accordance with KMHA's applicable shipping sequence reflected on Customer's Order Form, where applicable. KMHA shall not be liable for any damages or penalties arising from any delays in delivery or for any failure to give notice of any delivery delay.

**5. Risk of Loss.** Unless otherwise agreed to by KMHA in writing, all transportation shall be at Customer's sole cost and expense. Risk of loss and damage shall pass to Customer upon delivery of the products to the transportation provider at the KMHA shipping point. Unless expressly agreed to in writing by KMHA, the FOB shipping point shall be the KMHA loading dock from which the Products are shipped. "Delivery" shall occur when the products are received by the transportation provider at the FOB shipping point. Neither confiscation nor destruction of, nor damage to any product shall release, reduce or in any way affect Customer's liability to KMHA.

**6. Acceptance of the KMHA Products.** "Acceptance" of KMHA Products by Customer shall be deemed to have occurred when KMHA and Customer, in good faith, agree that the Product(s) is/are (a) operating according to Specifications, and (b) ready for clinical use. In addition, Customer shall have the option, at its expense, to test the Product(s) to confirm the safety, reliability, and performance of the Product(s) and to perform corollary or parallel testing to verify the accuracy of the Product(s)' performance. Unless otherwise agreed to by KMHA, Customer shall accept or reject Products within thirty (30) days after the date of Successful Installation or delivery. "Successful Installation" shall mean that KMHA and Customer have agreed that the installation of the Product(s) was successful, or the Product(s) is/are being used by Customer with a usage of an excess of twenty-five (25) exams per day for seven (7) consecutive days and is/are ready for clinical use.

**7. Warranty and Limitations of Warranty.**

(a) KMHA warrants to Customer that, during the applicable warranty period each standard product manufactured by KMHA shall be free of defects in materials and workmanship.

(b) Unless otherwise specified by KMHA or otherwise reduced to writing and expressly approved by an authorized officer of KMHA in writing, the warranty period for standard KMHA products shall be one (1) year from the installation completion date.

(c) Customer's EXCLUSIVE REMEDY, and KMHA's SOLE OBLIGATION under the foregoing warranty shall be, with respect to the KMHA products, to repair or, at KMHA's option, replace such products, or any defective portion thereof. Notwithstanding the foregoing, KMHA may, as an alternative, elect to refund an equitable portion of the purchase price of the affected product. Items expendable in normal use ("Consumables") are not covered by the foregoing warranty. All warranty replacement or repair of parts shall be limited to product malfunctions, which, in the reasonable opinion of KMHA, are due or traceable to defects in original material or workmanship. All replaced parts shall become the property of KMHA. All obligations of KMHA under this warranty shall cease in the event of abuse, misuse, accident, alteration, or neglect of the KMHA product. In-warranty repaired or replacement parts are warranted only for the remaining un-expired portion of the original warranty period applicable to the repaired or replaced parts or ninety (90) days, whichever is greater. After the expiration of the applicable warranty period, Customer shall be charged at KMHA's then current rates for parts, labor and transportation.

(d) Customer must use reasonable care to avoid hazards. KMHA expressly disclaims any responsibility for loss or damage caused by the use of any KMHA products other than in accordance with proper operation procedures. No warranty is provided by KMHA for any products sold or provided to Customer by KMHA which are not manufactured or produced by KMHA, and any manufacturer's warranty for such products, if any, shall be assigned to Customer without recourse to KMHA.



(e) KMHA DOES NOT WARRANT THAT ANY PRODUCT OR THE FUNCTIONS PERFORMED BY ANY PRODUCT WILL MEET THE REQUIREMENTS OF ANY OF ITS CUSTOMERS, OR THAT THE OPERATION OF ANY SUCH PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE.

(f) THE WARRANTIES SET FORTH IN THE AGREEMENT ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, USE OR APPLICATION, OR ARISING FROM A COURSE OF DEALING, WHICH ARE EXPRESSLY DISCLAIMED, AND ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF KMHA, UNLESS SUCH OTHER WARRANTIES, OBLIGATIONS OR LIABILITIES ARE EXPRESSLY AGREED TO IN WRITING BY AN AUTHORIZED OFFICER OF KMHA. STATEMENTS MADE BY ANY PERSON, INCLUDING REPRESENTATIVES OF KMHA, WHICH ARE INCONSISTENT OR IN CONFLICT WITH THE TERMS OF THE AGREEMENT SHALL NOT BE BINDING UPON KMHA UNLESS REDUCED TO WRITING AND SIGNED BY AN AUTHORIZED OFFICER OF KMHA.

**8. Warranty-Expendable Products (“Consumables”)**. KMHA warrants that, at the time of delivery to Customer, Consumables manufactured and sold by KMHA to Customer will be free of defects in material and workmanship and will conform to KMHA’s specifications therefor or other specifications expressly agreed to in writing by KMHA. KMHA SHALL HAVE NO OTHER OR FURTHER RESPONSIBILITY THEREFOR WHATSOEVER, AND KMHA DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT THERETO.

**9. Damages and Liability**. KMHA’S AGGREGATE LIABILITY TO CUSTOMER IN DAMAGES OR OTHERWISE SHALL NOT EXCEED THE TOTAL OF ALL PAYMENTS, IF ANY, RECEIVED BY KMHA FOR THE PRODUCT(S) OR SERVICES FURNISHED OR TO BE FURNISHED, AS THE CASE MAY BE, WHICH IS THE SUBJECT OF THE CLAIM OR DISPUTE. KMHA SHALL NOT BE LIABLE TO CUSTOMER OR ITS AFFILIATES FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES, WHETHER FORSEEABLE OR NOT, ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS OR THE PERFORMANCE OR NON-PERFORMANCE OF ANY OBLIGATIONS HEREUNDER OR OTHERWISE RELATED HERETO, INCLUDING (WITHOUT LIMITATION) LOST PROFITS OR LOST DATA RESULTING FROM DELAYS, LACK OF FUNCTIONALITY, NON-DELIVERIES, MIS-DELIVERIES, SERVICE INTERRUPTIONS OR DAMAGES TO CUSTOMER’S BUSINESS. IN ADDITION. KMHA SHALL NOT BE RESPONSIBLE SHOULD ANY HARDWARE SUPPLIED BY CUSTOMER OR PREPARED FOR THE INSTALLATION OF SOFTWARE NOT MEET ACCEPTABLE STANDARDS OF PERFORMANCE. No action, regardless of form, arising out of, or in any way connected with the Products furnished by KMHA may be brought by Customer more than two (2) years after the date on which the cause of action accrued.

**10. Confidentiality**. “Proprietary Information” means all information that the disclosing party designates as confidential or which ought to be considered as confidential from its nature or from the circumstances surrounding its disclosure. Customer and its business partners, and KMHA, agree not to disclose to any third party any Proprietary Information disclosed to it by the other party without the prior written consent of the disclosing party unless subject to the Public Records Act as described in Section 11. Customer and its business partners shall limit access to the Proprietary Information of KMHA to those persons having a need to know such information in order to fulfill the purposes and intent of the business relationship.



Each party shall hold the Proprietary Information of the other party in confidence and strictly for, and on behalf of the other party unless subject to the Public Records Act as described in Section 11. A party's Proprietary Information shall not include information that (1) is or becomes publicly available through no act or omission of the other party; (2) was in the other party's lawful possession prior to the disclosure; (3) is lawfully and rightfully disclosed to the other party by a third party without restriction on use or disclosure; or (4) is independently developed by the other party.

KMHA shall not disclose, transfer, sell or otherwise release to any third party any confidential information gained by reason of or otherwise in connection with KMHA's performance under this Agreement. KMHA may use such information solely for the purposes necessary to perform its obligations under this Agreement. KMHA shall promptly give written notice to the County of any judicial proceeding seeking disclosure of such information.

**11. Public Records Act.** This Agreement and all public records associated with this Agreement shall be available from the Customer for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of KMHA are needed for the Customer to respond to a request under the Act, as determined by the Customer, KMHA agrees to make them promptly available to the Customer. If KMHA considers any portion of any record provided to the Customer under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, KMHA shall clearly identify any specific information that it claims to be confidential or Proprietary Information. If the Customer receives a request under the Act to inspect or copy the information so identified by KMHA and the Customer determines that release of the information is required by the Act or otherwise appropriate, the Customer's sole obligations shall be to notify KMHA (a) of the request and (b) of the date that such information will be released to the requester unless KMHA obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If KMHA fails to timely obtain a court order enjoining disclosure, the Customer will release the requested information on the date specified.

The Customer has, and by this section assumes, no obligation on behalf of KMHA to claim any exemption from disclosure under the Act. The Customer shall not be liable to KMHA for releasing records not clearly identified by KMHA as Proprietary Information. The Customer shall not be liable to KMHA for any records that the Customer releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

**12. Intellectual Property Rights.** Customer, its business partners, and vendors of KMHA acknowledge and agree that all rights in and to the KMHA product(s), and all patents, copyrights, trade secrets, trademarks, trade names, and any other forms of intellectual property associated therewith, will be and remain the sole and exclusive property of KMHA. Customer, its business partners, and vendors of KMHA will not remove, cover or deface the KMHA name or any of KMHA's trademarks included on any of the product(s), nor will Customer or its business partners have any right to use the KMHA name or any of KMHA's trademarks, or any name or mark confusingly similar thereto, in connection with its use of the KMHA product(s) without the express written consent of KMHA.

**13. Assignment or Encumbrance of KMHA Products.** Until such time as all payments have been made for the KMHA products, Customer shall not assign, transfer, pledge, hypothecate, mortgage, charge, encumber or otherwise dispose of the KMHA products without the prior written consent of KMHA.

### **Software Terms and Conditions/Grant of Software License**

**14. Software Terms.** This section of the Agreement deals with the license of KMHA software (the “Licensed Programs”) to Customer.

**15. Site Preparation and Cyber Security.**

(a) Site Preparation. Customer is solely responsible, at its cost and expense, for (a) preparing the site for installation; (b) storing the Licensed Programs after delivery but prior to installation; (c) moving the Licensed Programs from their delivery point to the installation site; and (d) unless otherwise agreed by KMHA in writing, the actual installation of the Licensed Programs, as applicable, in accordance with the manufacturer’s and/or KMHA’s specifications. In connection with the Licensed Programs, Customer may require server software, additional cabling and additional network infrastructure (including but not limited to servers, T1 connections, routers, bridges, and Ethernet hub and drops) to properly install, operate and maintain the Licensed Programs. The installation of such cabling and network infrastructure and all costs and expenses associated therewith are the sole responsibility of Customer. In addition, Customer should anticipate that additional fees for its telecommunication provider’s line installation (to facilitate remote service by KMHA) and access may be incurred in connection with the installation, operation and maintenance of the Licensed Software. Customer shall be solely responsible for providing KMHA with such access and for paying all costs and expenses associated therewith.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, KMHA DOES NOT OFFER ANY WARRANTY WITH RESPECT TO ANY LICENSED PROGRAMS, OR ANY OTHER MATERIAL OF ANY KIND, PROVIDED TO CUSTOMER AND ASSUMES NO LIABILITY FOR THE FITNESS OR ADEQUACY OF THE PREMISES OR THE UTILITIES AVAILABLE AT THE PREMISES IN WHICH ANY PRODUCT OR LICENSED PROGRAMS ARE TO BE INSTALLED, USED OR STORED OR WHERE ANY SERVICES ARE TO BE PROVIDED.

ACCORDINGLY, CUSTOMER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS KMHA AND ITS DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES AND CLAIMS ARISING OUT OF THE CONDITION OF SUCH PREMISES OR UTILITIES.

CUSTOMER ACKNOWLEDGES THAT THE KMHA SOFTWARE IS AN ADVISORY DEVICE AND IS NOT DESIGNED TO SUBSTITUTE FOR THE PRIMARY DEFENSES AGAINST DEATH OR INJURY DURING SURGICAL, MEDICAL LIFE SUPPORT OR OTHER POTENTIALLY HAZARDOUS APPLICATIONS WHICH WILL CONTINUE TO BE THE SKILL, KNOWLEDGE AND EXPERIENCE OF THE USERS OF THE KMHA LICENSED PROGRAMS.

THE OBLIGATIONS OF EACH PARTY HERETO ARE EXPRESSLY STATED IN THESE TERMS AND ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, WITHOUT LIMITATION, TO THE FULLEST EXTENT ALLOWABLE BY LAW. THIS EXCLUSION OF ALL OTHER WARRANTIES EXTENDS TO IMPLIED WARRANTIES OF SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW, OR FROM A

COURSE OF DEALING OR USAGE OF TRADE.

b) Cyber Security. As between the Customer and Covered Entity under HIPAA, Customer has the responsibility to protect the Customer PACS system (Exa server) and all interconnecting networks that house PHI data (not applicable to systems using a private cloud service to store and transmit PHI). Customer shall ensure it has the appropriate physical security and cybersecurity deployed to safeguard PHI data from breach or ransomware. These measures should be aligned to Customer's risk acceptance and privacy rule standards, under the HIPAA regulatory requirements, from the Department of Health and Human Services ("HHS").

These safeguards are (but not limited to):

- 1) Reasonable perimeter security (area access restrictions);
- 2) Appropriate network segmentation;
- 3) Multiple firewalls and routers;
- 4) Data encryption at any points of PHI. "at rest" and "in transit;"
- 5) Appropriate endpoint protection. AV / Malware protection, Endpoint Detection and Response EDR;
- 6) An appropriate Disaster Recovery and Business Continuity (DRBC) plan that is tested regularly to ensure it will work properly in the event of ransomware attack or system failure.

**16. KMHA Licensed Programs Warranty and Limitations of Warranty.** KMHA warrants to Customer that each Licensed Program provided to Customer under this Agreement shall conform substantially to KMHA's then current user manual for such Licensed Program.

Customer's EXCLUSIVE REMEDY, and KMHA's SOLE OBLIGATION with respect to any Licensed Program shall be to use commercially reasonable efforts to correct any defects and supply Customer with a corrected version of such Licensed Program as soon as reasonably practicable after Customer has notified KMHA of such nonconformity. Customer shall give KMHA prompt written notice of such noncompliance discovered through testing or other use, together with any available details that may reasonably assist KMHA to effect a cure without additional cost or expense to Customer. KMHA's warranty obligations with respect to any Licensed Program shall be void if such Licensed Program or Product is modified, reconfigured, or altered in any way by or through Customer without the express prior written consent of KMHA.

Licensed Programs may contain or be derived from portions of materials provided by third party suppliers under license to KMHA. Such third-party suppliers may enforce any of the provisions of the Agreement to the extent that such third-party supplier's materials are affected. KMHA shall not be liable for the performance or non-performance of materials provided by third party suppliers to KMHA. Should a third-party supplier terminate its relationship with KMHA, KMHA will seek a reasonable alternate solution for the materials affected by such termination. Customer's use of obsolete or non-conforming materials from third party supplier's contrary to the recommendation of KMHA shall be at its own risk and liability.

**17. Data Process Roles and Customer Data.** As between Customer and KMHA, Customer is the entity that determines the purposes and means of processing personal data and KMHA is the data processor. Customer shall control the categories of data subjects and personal data processed under this Agreement. KMHA has no knowledge, or control over, the personal data that Customer provides for processing. Customer is solely responsible for the accuracy, quality, and legality of the Customer Data and the means by which Customer acquired the Customer Data. Customer is responsible for providing notices, obtaining consents, and satisfying any other requirements for KMHA to use the Customer Data to perform its obligations under this Agreement. Customer shall not provide KMHA with any data which is regulated by the United States Health Insurance Portability and Accountability Act unless Customer has entered into a Business Associate Agreement with KMHA. In certain instances, stored data may be corrupted, inaccessible, or the source storage device is unable to provide the data as originally stored. When this occurs, KMHA shall make every reasonable effort to restore the data to its original state, if corrupted, or retrieve the data, if inaccessible or the source storage device is unable to provide the data as originally stored. The corrupted or irretrievable data will be removed as a deliverable in this Scope of Work. In the case where KMHA, cannot restore or retrieve the data, KMHA shall not be held liable for the restoration, retrieval, or integrity of the data. If Customer's hardware (excluding any hardware owned by KMHA) or personnel have cause the data to be corrupt or irretrievable, KMHA will not be responsible or liable for such corrupt or irretrievable data.

**18. Grant of Software License.** Subject to the terms of the agreement and KMHA's receipt of all applicable fees, to the extent that the agreement includes any Licensed Programs, the following terms shall apply:

(a) **Rights Granted.** KMHA grants to Customer a non-exclusive, non-transferable license to:

(i) Use such Licensed Programs solely for Customer's own internal business purposes on the Designated System(s) and only in accordance with the Documentation;

(ii) Use the Documentation provided with such Licensed Programs to support Customer's authorized Use of such Licensed Programs;

(iii.) Use only the number of KMHA software licenses as provided in the Customer Order Form;

(iv.). Copy such Licensed Programs and Documentation for archival and backup purposes. No other copies of such Licensed Programs or Documentation shall be made in whole or in part. All copies of such Licensed Programs and Documentation shall include all copyright, trademark, restricted rights and other proprietary notices as originally provided therein;

(v) Transfer and Use such Licensed Programs on backup equipment, but only if Customer's Designated Equipment is not operative, provided that Customer promptly informs KMHA of such transfer in writing; and

(vi) Exchange such Licensed Programs from Customer's current platform to a new platform ("Transfer Platform"), provided that: (1) Customer is then subscribing for KMHA's support services and is current in the payment of its support services fees; (2) the Transfer Platform requested by the Customer is commercially available from KMHA; (3) the Customer's Licensed Programs on the current platform have been maintained at a current revision level (no more than two prior releases back); (4) the same number of copies of such Licensed Programs will be accessed on the Transfer Platform by the same number of Concurrent Users, Named Users or Servers as were accessed under the originally licensed platform; and (5) Customer makes such request in writing (subject to KMHA's acceptance), and pays the applicable exchange fee. Customer shall remove the Licensed Programs from the originally licensed platform at the time of transfer and shall discontinue any use of the transferred Licensed Programs on the originally licensed platform after such Licensed Programs have been transferred to the Transfer Platform.

(b) Restrictions. Customer, directly or indirectly, alone or with any other party, shall not:

(i) Distribute, transfer, resell, rent, lease, sublicense or loan the Licensed Programs or the Documentation, or any portion thereof, to any other party;

(ii) Make the Licensed Programs or the Documentation available to others in a service bureau arrangement or for any similar commercial time-sharing or third-party training use;

(iii) Disassemble, reverse engineer, decompile, or modify the Licensed Programs;

(iv) Transfer the Licensed Programs or Documentation to any third party for outsourcing or any other purpose without the express prior written consent of KMHA; or

(v) Create derivative works based upon any of the Licensed Programs;

(c) Third Party Software. Any Licensed Programs which are licensed by KMHA from a third party ("Third Party Software") and are sublicensed to Customer under the Agreement shall be subject to the terms and conditions of the applicable third party's license accompanying the Third-Party Software.

(d) Location of Designated Equipment. Customer may relocate the Designated Equipment, provided that Customer promptly informs KMHA of the subsequent location in writing.

(e) Concurrent Users. Access to the Licensed Programs at any given time may not exceed the maximum number of Concurrent users to which Customer is entitled based on the total number of Concurrent User licenses obtained by Customer.

(f) Named Users. Customer's access to the Licensed Programs is limited to those employees of Customer who have been named users.

(g) Reservation of Rights. Any license granted under the Agreement only grants to Customer the right to use the Licensed Programs during the Term set forth in the Customer Order Form and such license is in effect. All materials and intellectual property created or generated by KMHA in connection with the performance of Support and Services hereunder shall be the sole and exclusive property of KMHA. Except as expressly provided herein, KMHA reserves all right, title and interest in and to the Licensed Programs, Documentation, Updates and materials created or generated by KMHA in connection with the performance of Support and Services hereunder. Without limiting any prohibition provided herein, Customer hereby assigns to KMHA all of Customer's right, title and interest in and to any and all derivative works of the Licensed Programs, Documentation and materials created or generated by KMHA in connection with the performance of Support and Services hereunder.

(h) Audit Rights. KMHA may, at its expense, conduct an audit, during Customer's normal business hours, of Customer's use of the Licensed Programs and Documentation to verify compliance with the terms of the Agreement.

#### **19. Confidentiality and Restrictions on Disclosure as to KMHA Licensed Programs**

(a) Use of Proprietary Information.

(i) The receiving party will protect all Proprietary Information of the disclosing party as strictly confidential to the same extent it protects its own Proprietary Information, and not less than a reasonable standard of care.

(ii) Proprietary Information of either party disclosed prior to execution of the Agreement will be subject to this section.

(iii) In the event of legal proceedings relating to the Proprietary Information, receiving party shall promptly notify the disclosing party of such legal proceedings so that the disclosing party has sufficient time to apply for applicable injunctive relief.



(b) Exceptions. The restrictions on use or disclosure of Proprietary Information will not apply to any Proprietary Information that:

(i) is independently developed by the receiving party without reference to the disclosing party's Proprietary Information,

(ii) is generally available to the public without breach of the Agreement by the receiving party,

(iii) at the time of disclosure, was known to the receiving party free of confidentiality restrictions, or

(iv) the disclosing party agrees in writing is free of confidentiality restrictions.

(c) Publicity. Neither party will use the name of the other party in publicity activities without the prior written consent of the other.

## **20. Licensed Software Indemnification.**

(a) Intellectual Property Infringement. KMHA will, at its own cost and expense, defend any action brought against Customer with respect to any claim that the design or manufacture of any Product or the use of any Licensed Program furnished to Customer under the Agreement constitutes an infringement of any United States patent, copyright, Trademark or other lawfully protected intellectual property right. Subject to the provisions of this Section, KMHA will pay damages either awarded by a court of last resort or paid, in KMHA's sole discretion, by way of settlement, which are based on such claim of infringement, provided that Customer promptly notifies KMHA in writing of such claim and gives KMHA full authority, information and assistance in defending or settling such claim.

(b) Remedies. If any such Product or Licensed Program is held to constitute an infringement or violation of any such proprietary rights and Customer's use thereof is or may reasonably be expected to be enjoined, then KMHA will, in its sole discretion and at its own cost and expense, either procure a license which will protect Customer against such claim without cost to Customer, or replace such Licensed Program with a non-infringing Product or Licensed Program.

(c) Exclusions. KMHA EXPRESSLY EXCLUDES from any liability hereunder, and Customer shall hold KMHA harmless from and against any expenses, losses, costs, damages or liabilities resulting from, any alleged infringement of any U.S. patent, copyright, trademark or other intellectual property right (1) arising from a use or combination of any Product or Licensed Program with other equipment, processes, programming, applications or materials not furnished to Customer by KMHA; (2) based upon items made with the Licensed Programs furnished under the Agreement; and/or (3) arising out of compliance by KMHA with Customer's designs, specifications or instructions.

THE FOREGOING STATES KMHA'S ENTIRE LIABILITY FOR ANY CLAIM BASED UPON ALLEGED INFRINGEMENT OF ANY PATENT OR OTHER INTELLECTUAL PROPERTY RIGHTS.



(d) Claims Brought Against KMHA. Customer will defend KMHA against claims brought against KMHA, its Affiliates or subcontractors, by any third party dealing with or relating to Customer Data or any act or omission of Customer dealing with or relating to this Agreement. Customer will indemnify KMHA against all damages finally awarded against KMHA, its Affiliates or subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

(e) Third Party Claim Procedure.

(i) The party against whom a third-party claim is brought will timely notify the other party in writing of any claim, reasonably cooperate in the defense and may appear (at its own expense) through counsel reasonably acceptable to the party providing the defense.

(ii) The party that is obligated to defend a claim will have the right to fully control the defense.

(iii) Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the party against whom the claim is brought.

## **21. Limitation of Liability as to Licensed Software.**

(a) Unlimited Liability: Neither party will exclude or limit its liability for damages resulting from:

(i) the parties' obligations under the previous section,

(ii) unauthorized use or disclosure of Confidential Information,

(iii) either party's breach of its data protection and security obligations that result in an unauthorized use or disclosure of personal data,

(iv) death or bodily injury arising from either party's gross negligence or willful misconduct, or

(v) any failure by Customer to pay any fees due under the Agreement.

(b) Exclusion of Damages. Subject to subpart(a):

(i) neither party will be liable to the other party for any special, incidental, consequential, or indirect damages, loss of good will or business profits, work stoppage or for exemplary or punitive damages.

(c) Risk Allocation. This Agreement allocates the risks between KMHA and Customer. The fee for the Licensed Programs reflects this allocation of risk and limitations of liability.

## **22. Product Changes.**

(a) KMHA reserves the right to amend the Licensed Programs offered at any time, provided that KMHA will give Customer a minimum of thirty (30) days prior notice if such amendment shall affect any undelivered Licensed Programs that is the subject of an outstanding sales quotation.

## **23. Definitions.**

(a) "Concurrent User(s)" means the maximum number of users (e.g., persons having access through a single terminal workstation, personal computer and/or via an interface from an extended

system) with an active session against a specific Licensed Program (including but not limited to KMHA databases) at the same time. In Customer environments which utilize multiplexing software and/or hardware, the number of Concurrent Users is the maximum number of persons or interface processes accessing the Licensed Program at the multiplexing front end at the same time. A "Licensed Program" shared by multiple terminal workstations, personal computers and/or via external interfaces at the same time.

**(b) "Customer Data" means any data that Customer provides to KMHA through the Licensed Programs.**

(c) "Designated Equipment" means the Server, terminal workstations, personal computers and/or associated equipment identified as part of the Designated System by the Customer.

(d) "Designated System(s)" means the Designated Equipment, operation system and associated networks designated by Customer pursuant to the Agreement.

(e) "Documentation" means explanatory and informational materials concerning the Licensed Programs, in printed or electronic format, which KMHA has released for distribution to end users with the Licensed Programs. "Documentation" does not include source code.

(f) "Internal Business Purpose" means Customer's internal business purposes, which includes permitting unaffiliated physicians, business users and clinicians to use the viewing functionality of the KMHA Licensed Programs.

(g) "Licensed Programs" means those machine-readable computer software programs including but not limited to the applications, databases and interfaces which are owned or distributed by KMHA and licensed to Customer under the Agreement. Licensed Programs and Updates are provided hereunder to Customer in object code form only.

(h) "Named Users" means Customer's designated users of a specific Licensed Program (including but not limited to KMHA databases) who are the only individuals authorized to access such Licensed Program.

(i) "Proprietary Information" as to the KMHA Licensed Programs means (1) the Licensed Programs and Documentation; (2) any other information relating to the Licensed Programs received by Customer from KMHA which is identified by KMHA as proprietary or confidential; (3) the terms of the Agreement; (4) each party's written, technical, business, financial or marketing information which are clearly marked as proprietary or confidential. Oral disclosures of confidential or proprietary information will be deemed Proprietary Information hereunder if reduced to writing, clearly marked as proprietary or confidential and provided by the disclosing party to the receiving party within thirty (30) days following such disclosure.

(j) "Server" means a Designated System configured with the Licensed, Programs to support an authorized number of Concurrent Users.

(k) "Updates" means maintenance releases, improvements, major software releases and enhancements which are generally provided by KMHA to customers who are eligible to receive

maintenance support services, provided, however, that “Updates” shall not include new, separate product offerings.

(l) “Upgrade” means a new release of any of KMHA’s proprietary Licensed Programs set forth in the agreement which includes modifications, improvements or amendments to such Licensed Programs.

(m) “Use” means (1) copying or transferring any portion of any Licensed Program from storage units or media into the random access memory of Customer’s computer equipment; (2) executing any portion of any Licensed Program by way of a terminal workstation, personal computer, external interface, or as a Concurrent User for any purpose; and (3) accessing any Designated System for the purpose of obtaining or preparing information or data created through the execution of a Licensed Program.

#### **24. Termination.**

(a) Termination by KMHA. In the event Customer (i) commits a breach of any material obligation of the Agreement, (ii) is in default of any covenant or condition set forth herein, or (iii) becomes insolvent or bankrupt, or receivership proceedings are initiated by or against Customer, and if such breach is not cured within thirty(30) days after written notice from KMHA, KMHA may (i) forthwith terminate the agreement and any license granted herein upon written notice, (ii) require Customer to immediately pay all fees currently due and owing, any payments currently due and owing pursuant to the terms hereof, and any amounts due and owing for work performed by KMHA to the date of termination, not currently due to be paid, on a pro-rata basis, (iii) require the immediate return of all KMHA Licensed Programs in the possession of Customer or a certification in writing that all copies of any KMHA Licensed Programs have been destroyed, and (v) pursue any other remedy existing in law or in equity.

(b) Termination by Customer In the event KMHA commits a breach of any material obligation of the agreement, (ii) is in default of any covenant or condition set forth herein, or (iii) becomes insolvent or bankrupt, or receivership proceedings are initiated by or against KMHA, and if such breach is not cured within thirty (30) days after written notice from Customer, Customer may terminate the agreement and any licensed granted herein upon written notice. Such termination shall not relieve Customer of any of its payment obligations under this Agreement or any other agreement dealing with the KMHA products and/or services provided to Customer. Upon any such termination, Customer shall (i) discontinue use of the KMHA Licensed Programs and (ii) immediately return all KMHA Licensed Programs in Customer’s possession or certify in writing that all such copies have been destroyed. In the absence of any for cause termination event by KMHA, Customer shall not terminate this Agreement, without cause, after all of the KMHA work, other than training, has been completed without a material issue. For reasons other than non-appropriation, should Customer still seek to terminate this Agreement without cause in this instance, the Agreement shall be deemed breached by Customer.

(c) Termination for Non-Appropriation. In the event that sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the Customer may terminate this contract as a matter of public convenience as provided herein. The Customer will not be obligated to make payments for services or amounts incurred after the end of the Customer’s current fiscal period (budget year), provided the Customer provides the KMHA written notice prior to the

end of the current fiscal period that non-allocation of funds is probable and provides a Notice of Termination within 14 days after the end of the fiscal period.

**Miscellaneous Provisions**

**25.** **Performance.** KMHA shall not be liable in any way for any failure to perform its obligations when such failure or delay is due to acceptance of prior orders, technical difficulties,

acts of God, labor disputes, failures of materials or facilities, acts of war or terrorism, curtailment of or failure to obtain sufficient electrical or other energy supplies, compliance with any laws, regulations or orders, whether valid or invalid, from any governmental body or instrumentality, or any other circumstance or causes beyond KMHA's reasonable control.

**26. Binding Agreement.** These Terms are binding upon all successors, administrators, trustees and permitted assigns of Customer.

**27. HIPAA.** KMHA acknowledges that it may be a Business Associate of Customer for HIPAA purposes. KMHA's and Customer's joint obligations under HIPAA shall, if applicable, be set forth in a separate Business Associate Agreement entered by both KMHA and Customer.

**28. Severability.** If any part, provision, or clause of the Agreement, or the application thereof to any person or circumstance, is held invalid, void or unenforceable, such holding shall not affect and shall leave valid all other parts, provisions, clauses or applications of the terms and conditions remaining, and to this end the terms and conditions contained herein shall be treated as severable.

**29. Notices.** Legal notices and communications given by the parties to one another shall be given in writing and delivered via return receipt mail or express delivery service to the parties' respective business addresses or to such other address as the parties may substitute by giving notice to one another in accordance with this provision.

**30. Governing Law.** The Agreement shall be construed and enforced in accordance with the laws of the State of Washington without regard to conflicts of law principles.

**31. Dispute Resolution and Forum Selection.** All disputes or legal proceedings related to the products or services provided by KMHA shall be brought in the appropriate State or Federal Courts of Washington.

**32. Waiver of Jury Trial.** THE PARTIES HERETO HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ALL OF THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN ANY PROCEEDING BROUGHT TO ENFORCE OR DEFEND ANY OF THESE TERMS. NO PARTY SHALL SEEK TO CONSOLIDATE ANY PROCEEDING IN WHICH THE RIGHT TO A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER PROCEEDING IN WHICH THE RIGHT TO A TRIAL BY JURY CANNOT BE, OR HAS NOT BEEN WAIVED.

**33. Right to Injunctive Relief.** Customer acknowledges that Customer's breach of its obligations with respect to KMHA's proprietary rights will cause irreparable injury to KMHA and will entitle KMHA to seek injunctive or other equitable relief.

**34. No Waiver.** No failure or delay on the part of any party hereto in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. Any waiver granted hereunder must be in writing and shall be valid only in the specific instance in which provided.

**35. Electronic Signature.** Electronic signatures that comply with applicable law are deemed original signatures.

**36. Regulatory Matters.** KMHA Proprietary Information is subject to export control law of the United States. Customer will not submit KMHA Proprietary Information to any government agency for licensing consideration or other regulatory approval, and will not export KMHA Proprietary Information to countries, persons or entities if prohibited by export laws.

**37. Assignment.** Without KMHA’s prior written consent, Customer may not assign or transfer this Agreement (or any of its rights or obligations) to any party.

**38. Relationship of the Parties.** The parties are independent contractors, and no partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties is created by this Agreement.


**39. Entire Agreement.** This Agreement constitutes the complete and exclusive statement of the agreement between KMHA and Customer in connection with the parties’ business relationship related to the subject matter of the Agreement. All previous representations, discussions, and writings (including any confidentiality agreements) are merged in and superseded by the Agreement and the parties disclaim any reliance on them.

**40. Amendments.** No modification or amendment of the Agreement or waiver of any provision of the Agreement will be valid unless in writing and signed by Customer and KMHA and specifically stating that it is a modification or amendment hereto.

**IN WITNESS WHEREOF,** the parties have executed this Sales Agreement as of the date(s) set forth below.

**Konica Minolta Healthcare Americas, Inc.**

**Snohomish County**

DocuSigned by Chris Van Houten  
By:  | I approve this document  
4/30/2024 11:40:27 AM EDT  
4C56C5CD4ACF4CF38A268068B1F2D331  
Chris Van Houten  
Title: \_\_\_\_\_  
Date: 4/30/2024

By: \_\_\_\_\_  
Ken Klein  
Title: Executive Director  
Date: \_\_\_\_\_