GENERAL SERVICES ADMINISTRATION

Federal Supply Service Authorized Multiple Award Schedule
Price List

Online access to contract ordering information, terms and conditions, up to date pricing, and the option to create an electronic delivery order are available through GSA Advantage!, a menu driven database system. The internet address for GSA Advantage!® is: GSAAdvantage.gov.

GSA Multiple Award Schedule (MAS) Contract

FSC / DSC Codes: DA01 and 7A21

Contract Number: 47QTCA22D003Q

Contract Period: January 24, 2022 – January 23, 2027

Softek Solutions, Inc.
4500 West 89th St., Suite 100
Prairie Village, KS 66207
913-649-1024

www.SoftekInc.com

Business size - Small

For more information on ordering from Federal Supply Schedules go to the GSA Schedules page at GSA.gov.
1a. Table of awarded special item number(s) with appropriate cross reference to item descriptions and awarded price(s):
Special Item Number 511210 – Software Licenses
Special Item Number 54151 – Software Maintenance Services
Special Item Number 54151S – IT Professional Services
Special Item Number OLM – Order Level Materials

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract:
Special Item Number 511210: VM-INSTALL-PEHR - $1,813.60
Special Item Number 54151: SUPP-SERV-PEHR - $2,720.40
Special Item Number 54151S: Panther EHR Software Performance Consultant - $272.04 per hour

1c. Description of commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services:
Title: Panther EHR Software Performance Consultant
Functional Responsibility: Provides implementation and training support in the deployment of the Panther EHR Software products. Participates in client meetings involving changes to the Millennium/Genesis infrastructure and software upgrades/patches. Coordinates with the customer to determine of when the customer should undergo a Softek Panther software upgrade based on function/features that need to be introduced. Understands the customer’s Cerner roadmap and any changes that are expected. Finds out about any customer downtime and Millennium/Genesis code change expected. The consultant may travel to customer sites to assist in delivering training on best practices and optimizing Millennium/Genesis EHR systems.
Educational Requirement: Bachelors Degree
Experience Requirement: 6 Years

2. Maximum order:
   Special Item Number 511210: $500,000
   Special Item Number 54151: $500,000
   Special Item Number 54151S: $500,000

3. Minimum order: $100.00

4. Geographic coverage: Domestic and Overseas Delivery

5. Point of production: Prairie Village, Kansas (Johnson County)

6. Discount from list prices or statement of net price: All prices in this price list reflect net, discounted GSA pricing.

7. Quantity discounts: 2.5% additional discount for orders over $150,000

8. Prompt payment terms: Net 30. Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions.

9. Foreign items: None

www.softekinc.com
10a. Time of delivery: 30 Days aro.

10b. Expedited Delivery: Items available for expedited delivery are noted in this price list.

10c. Overnight and 2 day delivery. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

10d. Urgent Requirements. This contract contains the Urgent Requirements clause, and agencies can also contact the Contractor’s representative to effect a faster delivery.

11. F.O.B. point: FOB Destination

12a. Ordering address: 4500 W. 89th St., Suite 100, Prairie Village, KS 66207

12b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPAs) are found in Federal Acquisition Regulation (FAR) 8.405-3.

13. Payment Address: 4500 W. 89th St., Suite 100, Prairie Village, KS 66207

14. Warranty provision: Standard Commercial Warranty

15. Export packing charges: None

16. Terms and conditions of rental, maintenance, and repair: Please see the attached Softek Solutions, Inc. Master Software Service Agreement (EULA)

17. Terms and conditions of installation: None

18a. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices: Not applicable

18b. Terms and conditions for any other services: None

19. List of service and distribution points: None

20. List of participating dealers: None

21. Preventive maintenance: None

22a. Special attributes such as environmental attributes: None

22b. Section 508 compliance information is available upon request from the Contractor. The EIT standards can be found at: www.Section508.gov.

23. Unique Entity Identifier (UEI) number: DUNS 835745303

24. Contractor is registered in the System for Award Management (SAM) database.
<table>
<thead>
<tr>
<th>Part Number</th>
<th>Description</th>
<th>UOM</th>
<th>GSA Price</th>
<th>COO</th>
<th>SIN</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAC-1-PEHR</td>
<td>Panther EHR Performance Software annual cost per facility</td>
<td>YR</td>
<td>$27,204.03</td>
<td>US</td>
<td>511210</td>
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<tr>
<td>VM-INSTALL-PEHR</td>
<td>Setup, Installation and Configuration with Softek owned hardware; one-time cost</td>
<td>EA</td>
<td>$1,813.60</td>
<td>US</td>
<td>511210</td>
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<tr>
<td>SERV-INSTALL-PEHR</td>
<td>Setup, Installation and Configuration with Client owned hardware/VM; one-time cost</td>
<td>EA</td>
<td>$3,627.20</td>
<td>US</td>
<td>511210</td>
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<tr>
<td>NODE-1-PEHR</td>
<td>Panther EHR Performance Software annual cost for 1 Node Production Domain</td>
<td>YR</td>
<td>$35,365.24</td>
<td>US</td>
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<td>NODE-2-PEHR</td>
<td>Panther EHR Performance Software annual cost for 2 Node Production Domain</td>
<td>YR</td>
<td>$53,501.26</td>
<td>US</td>
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<td>NODE-3-PEHR</td>
<td>Panther EHR Performance Software annual cost for 3 Node Production Domain</td>
<td>YR</td>
<td>$71,637.28</td>
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<td>NODE-4-PEHR</td>
<td>Panther EHR Performance Software annual cost for 4 Node Production Domain</td>
<td>YR</td>
<td>$89,773.30</td>
<td>US</td>
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<td>NODE-4-PEHR</td>
<td>Panther EHR Performance Software annual cost for 5 Node Production Domain</td>
<td>YR</td>
<td>$107,909.32</td>
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<td>NODE-6-PEHR</td>
<td>Panther EHR Performance Software annual cost for 6 Node Production Domain</td>
<td>YR</td>
<td>$126,045.34</td>
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<td>NODE-7-PEHR</td>
<td>Panther EHR Performance Software annual cost for 7 Node Production Domain</td>
<td>YR</td>
<td>$144,181.36</td>
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<td>NODE-8-PEHR</td>
<td>Panther EHR Performance Software annual cost for 8 Node Production Domain</td>
<td>YR</td>
<td>$162,317.38</td>
<td>US</td>
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<td>NODE-9-PEHR</td>
<td>Panther EHR Performance Software annual cost for 9 Node Production Domain</td>
<td>YR</td>
<td>$180,453.40</td>
<td>US</td>
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<td>NODE-10-PEHR</td>
<td>Panther EHR Performance Software annual cost for 10 Node Production Domain</td>
<td>YR</td>
<td>$198,589.42</td>
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<td>NODE-11-PEHR</td>
<td>Panther EHR Performance Software annual cost for 11 Node Production Domain</td>
<td>YR</td>
<td>$216,725.44</td>
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<td>NODE-12-PEHR</td>
<td>Panther EHR Performance Software annual cost for 12 Node Production Domain</td>
<td>YR</td>
<td>$234,861.46</td>
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<tr>
<td>NODE-13-PEHR</td>
<td>Panther EHR Performance Software annual cost for 13 Node Production Domain</td>
<td>YR</td>
<td>$252,997.48</td>
<td>US</td>
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<tr>
<td>NODE-14-PEHR</td>
<td>Panther EHR Performance Software annual cost for 14 Node Production Domain</td>
<td>YR</td>
<td>$271,133.50</td>
<td>US</td>
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<tr>
<td>NODE-15-PEHR</td>
<td>Panther EHR Performance Software annual cost for 15 Node Production Domain</td>
<td>YR</td>
<td>$289,269.52</td>
<td>US</td>
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<tr>
<td>NODE-16-PEHR</td>
<td>Panther EHR Performance Software annual cost for 16 Node Production Domain</td>
<td>YR</td>
<td>$307,405.54</td>
<td>US</td>
<td>511210</td>
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<tr>
<td>NODE-17-PEHR</td>
<td>Panther EHR Performance Software annual cost for 17 Node Production Domain</td>
<td>YR</td>
<td>$325,541.56</td>
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<td>511210</td>
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<tr>
<td>NODE-18-PEHR</td>
<td>Panther EHR Performance Software annual cost for 18 Node Production Domain</td>
<td>YR</td>
<td>$343,677.58</td>
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<td>511210</td>
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<tr>
<td>NODE-19-PEHR</td>
<td>Panther EHR Performance Software annual cost for 19 Node Production Domain</td>
<td>YR</td>
<td>$361,813.60</td>
<td>US</td>
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<tr>
<td>NODE-20PEHR</td>
<td>Panther EHR Performance Software annual cost for 20 Node Production Domain</td>
<td>YR</td>
<td>$379,949.62</td>
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<td>511210</td>
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<tr>
<td>NODE-21-PEHR</td>
<td>Panther EHR Performance Software annual cost for 21 Node Production Domain</td>
<td>YR</td>
<td>$398,085.64</td>
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<tr>
<td>NODE-22-PEHR</td>
<td>Panther EHR Performance Software annual cost for 22 Node Production Domain</td>
<td>YR</td>
<td>$416,221.66</td>
<td>US</td>
<td>511210</td>
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<tr>
<td>SUPP-SERV-PEHR</td>
<td>Panther Server Support: Software support/facility annual cost on Softek provided hardware</td>
<td>YR</td>
<td>$2,720.40</td>
<td>US</td>
<td>54151</td>
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<tr>
<td>SUPP-VM</td>
<td>Panther Software Support on Client Owned Hardware/VM: Software Annual support and facilitation cost associated with configuration, maintenance, troubleshooting the servers operating system and any additional patching needed to keep the system compliant for optimal use</td>
<td>YR</td>
<td>$4,488.66</td>
<td>US</td>
<td>54151</td>
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## GSA Schedule Net Pricing

<table>
<thead>
<tr>
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## IT Professional Services

<table>
<thead>
<tr>
<th>Labor Category</th>
<th>Functional Description</th>
<th>GSA Price</th>
<th>UOM</th>
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<tr>
<td>Panther EHR Software</td>
<td>Provides implementation and training support in the deployment of the Panther EHR Software products. Participates in client meetings involving changes to the Millennium/Genesis infrastructure and software upgrades/patches. Coordinates with the customer to determine when the customer should undergo a Softek Panther software upgrade based on function/features that need to be introduced. Understands the customer’s Cerner roadmap and any changes that are expected. Finds out about any customer downtime and Millennium/Genesis code change expected. The consultant may travel to customer sites to assist in delivering training on best practices and optimizing Millennium/Genesis EHR systems.</td>
<td>$272.04</td>
<td>Hour</td>
</tr>
</tbody>
</table>
1. **Definitions.** As used in this Agreement, the following definitions shall apply:

   (a) “Agreement” means this Softek Solutions, Inc. Master Software Service Agreement (EULA) – Terms and Conditions, as incorporated into the Softek GSA Multiple Award Schedule.

   (b) “Client” means, for the purposes of this Agreement, each Softek end user eligible ordering activity that has issued a purchase order for Softek Services under the Softek GSA Multiple Award Schedule.

   (c) “Panther” means Softek’s server based system management software for use with Cerner Corporation’s Millennium® software in object code form, as may be more particularly described in a Softek Schedule and substantially in accordance with the references and descriptions in the Panther Documentation with respect to the computer software portion of Panther (but only to the extent such Panther Documentation references and descriptions do not conflict with the terms of the Softek Schedule), and all updates, revisions, maintenance and enhancements thereto supplied by Softek. “Panther” does not include Sublicensed Software, Panther Hardware, or any program licensed to Client by a third party.

   (d) “Panther Hardware” means the computer server and devices purchased or leased by Client from Softek or a third party or provided by Client (subject to Softek’s approval), including devices stated in a Softek Schedule, upon which the computer software portion of the Panther System will be installed. “Panther Hardware” also includes any substitute devices that Softek may provide pursuant to Section 9.

   (e) “Panther Modules” means major software objects within Panther including sensors, reporting tools, system management alerts, and other objects that increase Panther functionality.

   (f) “Panther Documentation” means all Panther help files, software documentation and written material related to Panther that is provided by Softek to Client prior, during, and after installation of the Panther System.

   (g) “Panther System” means collectively Panther, Panther Documentation, Panther Hardware, the Panther Modules, Evaluation Modules (if any), Mobile Applications, and any Sublicensed Software Softek may provide to Client in support of Panther.

   (h) “Professional Services” means the services designated as Professional Services within an applicable Softek Schedule to be provided by Softek to Client.

   (i) “Softek Schedule” means the schedule setting forth the items of Softek Services being purchased, leased, or licensed by Client including the respective scope of use, pricing, and other relevant terms for such items, which is executed by the Parties. This Agreement expressly incorporates the terms of each Softek Schedule.

   (j) “Softek Services” means the collective products and services offered by Softek, including the Panther System and Professional Services, set forth in a Softek Schedule.

   (k) “Sublicensed Software” means the third party software provided to Client by Softek in conjunction with Panther, consistent with the terms of a Softek Schedule.

   (l) “Support Services” means Softek’s efforts to keep Panther in working order in the manner specified in a Softek Schedule.

   (m) “Work Product” means any customized or custom computer software programs, documentation, techniques, methodologies, inventions, analysis frameworks, software, or procedures that are developed, conceived, or introduced by Softek in the course of or as the result of Softek performing its obligations.
under this Agreement, whether acting alone or in conjunction with Client or its employees, affiliates, or others.

2. **Grant of Subscription.**

   (a) **Panther.** Subject to the terms and conditions of this Agreement (and subject to Client’s timely payment of all amounts owing hereunder), Softek hereby grants to Client, and Client hereby accepts, a personal, nonexclusive, revocable, non-sublicensable, non-assignable, and non-transferable license to use one (1) copy of the Panther Documentation and the Panther Module(s) listed as licensed software in a Softek Schedule, solely in accordance with the scope of use limitations and for the term duration set forth in a Softek Schedule. Softek may, at its sole discretion, make one or more Panther Modules or prototype applications that are not listed as licensed software in a Softek Schedule available to Client on an evaluative basis (an “Evaluation Module”). If Softek makes any Evaluation Module available to Client, then the following terms shall apply: (i) each Evaluation Module (if any) shall be available solely on a personal, limited, non-exclusive, non-sublicensable, non-assignable, non-transferable, and freely revocable license to Client to use one (1) copy of the Evaluation Module solely for evaluative, non-commercial, and non-productive purposes, in accordance with Softek’s direction; (ii) Client’s use of an Evaluation Module shall, at all times, be subject to the terms of this Agreement and any written evaluation agreement in place between Softek and Client (if any, including any terms governing Client’s use of an Evaluation Module set forth within a Softek Schedule); (iii) Client’s use of an Evaluation Module shall not, in any event, exceed the scope of use and durational restrictions set forth within a Softek Schedule for other Panther Modules listed therein as licensed software; (iv) Softek may freely limit, suspend, or terminate Client’s license to an Evaluation Module at any time; and (v) Client’s use of an Evaluation Module is expressly conditioned upon Client’s timely payment of all amounts owing hereunder. Client’s right to use Panther will begin on the effective date set forth in the Softek Schedule and the Panther System has been installed by Softek at the designated Client site, consistent with the terms of an applicable Softek Schedule. No right to use, print, copy, modify, create derivative works of, adapt, translate, distribute, disclose, decompile or reverse engineer the Panther System is granted to Client or any third party except as expressly set forth in this Agreement. Softek hereby reserves all rights not expressly granted under this Agreement.

   (b) **Mobile Applications.** If Client, or any individual user of Client, downloads, uses, or accesses any mobile device application developed by Softek for use with phones, tablets, or similar portable devices (each, a “Mobile Application”), then (i) any use of or access to the Mobile Application is pursuant to a limited, revocable, and personal license to use the Mobile Application solely for its intended and designed use (as may be evidenced by Softek’s documentation); and (ii) Client shall be solely responsible for the security of all (1) mobile devices (including the safekeeping of all individual user log in credentials) upon which the Mobile Application is installed; (2) data transmitted through the Mobile Application; and (3) network connections servicing each mobile device on which a Mobile Application is installed.

3. **Consent.** Whenever a Party’s consent, approval or similar action is required by this Agreement, it will not be unreasonably delayed or withheld. Each Party grants to the other a non-exclusive, revocable and nontransferable license to use each other’s registered company name for the sole purpose of acknowledging the Parties’ relationship under this Agreement.

4. **Exclusive Use and Benefit.** Client agrees that the Panther System shall be used solely by Client’s individual employees only at Client’s site operating under an active license for Cerner Corporation’s Millennium® Software, for which Panther will be utilized once Panther is installed. The Panther System may only be used by
Client within the continental United States. The Panther System may only be used in a manner that is consistent with its intended use, as evidenced by the Panther Documentation and Softek Schedule. Client shall not allow any third party to this Agreement to use or have access to the Panther System, either directly or indirectly, and shall not allow any third party to make copies or reproductions of the Panther System or distribute the Panther System in any form. Client shall not load any additional software on the Panther System without the prior written consent of Softek. Client shall not remove, obscure or modify any copyright, trademark, or other proprietary rights notices that are contained in or on the Panther System or any report or other deliverable. Client will limit access to the Panther System to its employees who have a need to know in order to carry out Client’s permitted use of the Panther System; provided, that such employees are under confidentiality restrictions as least as protective of the Panther System as contained in this Agreement. Client will supervise, manage, control, and be responsible for the Panther System and the security thereof. At all times Panther, the Panther Documentation, the Panther Modules, the Evaluation Modules, the Mobile Applications, the Work Product, and all copies thereof and improvements thereto, shall remain the sole property of Softek. Both Parties acknowledge and agree that the Panther System is being marketed solely to Client and is being provided to Client for Client’s sole benefit and not for the benefit of any third party.

5. **Support Services.** Softek will provide Client with the Support Services set forth within the Softek Schedule (if any). Both Parties acknowledge and agree that the Support Services are being provided solely for Client’s sole benefit and not for the benefit of any third party.

6. **Professional Services.** Softek will provide Client with the Professional Services set forth within the Softek Schedule (if any). The Professional Services will be supported by Client’s direction and participation pertaining to one or more deliverables that will be provided by Softek in connection therewith. Early termination of the Professional Services by Client will cause the unpaid portions of the Fees for completed Professional Services to become immediately due and payable by Client who agrees to promptly pay such amounts. The Parties agree to reasonably cooperate with one another in scheduling and conducting any meeting related to Professional Services; provided, that, all meeting and consultation times will not exceed the maximum number of hours committed by Softek for Professional Services in the applicable Softek Schedule. Any services provided by Softek to Client in excess of the initial hours set forth in a Softek Schedule will be billed to and payable by Client at Softek’s then current GSA Schedule Pricelist hourly rate for such services. Both Parties acknowledge and agree that the Professional Services are being provided solely for Client’s benefit and not for the benefit of any third party.

7. **Fees.**

   (a) **Engagement Fees.** Client will pay Softek the fees and expenses charged by Softek for Client commencing use of Softek Services that are identified in a Softek Schedule (the “Engagement Fees”).

   (b) **Fees.** In addition to the Engagement Fees, Client will pay Softek the fees and expenses charged by Softek for the delivery of Softek Services and other items set forth in the applicable Softek Schedule in accordance with the GSA Schedule Pricelist, as well as all expenses reasonably incurred by Softek in rendering services to Client in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable (the “Fees”). Client shall only be liable for such travel expenses as approved by Client and funded under the applicable ordering document. Client represents and warrants to Softek that (i) the information set forth on the most recently executed Softek Schedule regarding Client’s authorized officer for billing purposes is accurate and complete in all respects and that such officer has the requisite corporate authority to authorize payments of all amounts under this Agreement to Softek; and (ii) that Client shall promptly update, in writing to Softek, such information if such information no longer is correct.

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(c) **Payment.** All Engagement Fees and Fees must be paid in accordance with the terms of the respective Softek Schedule. If Client fails to pay any Engagement Fee or Fees when due within thirty (30) days of the invoice receipt date, Client shall pay a finance charge on all unpaid amounts in accordance with the Prompt Payment Act (31 USC 3901 et seq) and Treasury regulations at 5 CFR 1315. Softek shall state separately on invoices taxes excluded from the fees, and the Client agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 552.212-4(k). Any suspension or termination of this Agreement does not waive Client’s obligation to pay any such unpaid amounts and late penalties.

8. **Hardware and Sublicensed Software.** Client assumes all responsibility for validating the Panther Hardware that is purchased or leased from Softek or that is purchased, leased, or licensed from a third party (including all peripheral devices) as well as using device configurations which are not recommended by Softek. All Panther Hardware purchased from Softek is priced F.O.B. the manufacturer’s plant. Softek retains a security interest in each item of Panther Hardware purchased from Softek until Client pays Softek in full for the same and Client agrees to promptly execute all documents (including UCC financing statements) necessary for Softek to perfect a security interest therein. Softek accepts no responsibility or liability for any costs, expenses, claims, or damages incurred by Client or any third party as a result of the failure of the Panther System or any other system of Client to function properly as a result of (a) Client’s use of any non-recommended devices or software, or (b) with the exception of Panther Hardware leased directly from Softek, Client’s failure to maintain and update any hardware, software, or network in accordance with Softek’s hardware, software, and network requirements stated in the Softek Schedule. The Panther System may utilize third party software and Sublicensed Software. Subject to the terms of this Agreement, Softek grants to Client a non-exclusive, non-transferable, and non-assignable sublicense to use the Sublicensed Software, subject to the terms and conditions contained within the applicable third party provider’s license and their end-user terms. Nothing herein shall bind the Client to any Sublicensed Software terms unless the terms are provided for review and agreed to in writing by all parties. None of the fees charged to Client under a Softek Schedule include fees for opensource software. All warranties, if any accompany the Panther Hardware or Sublicensed Software, are not the responsibility of Softek and are the responsibility of the third party supplier only. Softek and its Sublicensed Software providers may, after giving Client reasonable notice, during normal business hours and in a manner that will not unreasonably interfere with Client’s operations, enter Client’s facilities and access Client’s systems to ensure that Client’s use of the Panther Hardware and Sublicensed Software is in accordance with the end-user terms governing such devices.

9. **Technology Refresh.** Softek may issue new specifications for, and make changes to, the Panther System provided that such changes will be limited to conditions caused by either (a) major version changes to the Panther System (e.g. Version 6.x to 7.x); (b) unanticipated and material increases in the Panther System’s use by Client due to data volume growth or end user growth; (c) industry driven technology upgrades, provided such upgrades are consistent with upgrades performed by similarly situated entities as Client, taking into account their similar size, sophistication, and organization; or (d) updates or changes in Softek’s required hardware, software and network requirements stated in a Softek Schedule (collectively, a “Refresh”). Softek will provide Client with prior notice of a Refresh and will provide Client with at least sixty (60) days’ advanced notification of any Refresh that involves a major version upgrade to the Panther System under Section 9(a). Any decision by Client to delay or decline a Refresh may result in limitations on functionality, slow response times, or stability issues with the Panther System for which Softek may not be held liable.

10. **Maintenance, Additions, and Attachments: Collocation.** Client shall not incorporate or attach any software, additions, or attachments to the Panther System or modify the Panther System in any way without Softek’s prior written consent. Client shall not, and shall not permit any third party to, copy, reverse engineer, decompile, or
disassemble any part of the Panther System. If Softek approves in writing of any addition, attachment, or modification, Client shall, at no cost to Softek, remove the same and restore the Panther System to its original condition prior to its return to Softek. Client shall prepare and maintain all sites utilizing the Panther System including providing power and environmental requirements, wiring, communications lines, and obtaining and maintaining all necessary permits and certifications. Client will notify and share with Softek all software configuration settings which are owned, under contract, or licensed by Client that support, in any way, the necessary interface exchanges between the Panther System and Client’s systems. Softek agrees to use these software configuration settings for the sole purpose of providing services to Client and will promptly return such items to Client’s control upon termination of this Agreement. Client hereby grants to Softek all necessary licenses for Softek to have reasonable access to and use of its facilities and equipment as necessary for the operation and maintenance of the Panther System so that Softek can perform installation services, Professional Services, and Support Services and so that Softek can ensure Client’s use of the Panther System is within the permitted scope of use. Client will allow Softek to establish high-speed remote access to Client’s network through SecureLink (or similar service approved by Softek) in order to gain access to the Panther System.

11. **Intellectual Property Rights.** Each Party owns and shall retain all right, title and interest in and to any and all intellectual property (including trade secrets, copyrights, patents, trademarks, and other intellectual property rights) and all moral rights of such Party originated or developed prior to the date of this agreement, or independently developed materials or works of authorship and intellectual property rights embodied therein, as well as any derivative works, enhancements or modifications to the same, subject to any licenses provided by one Party to the other in this Agreement. Notwithstanding the foregoing, Client acknowledges and agrees that the Panther System is being licensed, not sold, to Client by Softek and that title to any design materials, specifications, report formats, improvements (whether made by Client or Softek), code, programming (whether suggested or requested by Client or otherwise), and all applicable intellectual property rights that are developed by Softek in conjunction with the same or as a result of any services delivered by Softek to Client hereunder, including all Work Product, shall pass in their entirety, and Client hereby assigns all right, title, and interest Client may have in and to the same, including any so-called “moral rights” or rights of droit moral, exclusively to Softek, free and clear of all liens, claims, security interests, or encumbrances. All intellectual property rights in the Panther Hardware, Sublicensed Software, or other third party products used or delivered by either Party in conjunction with this Agreement, shall remain with the third party owners of such products. If Client provides development services to Softek (including if Softek permits Client to be a development partner under a Softek Schedule), Client agrees to the development partner terms located within the Softek Schedule.

12. **Confidential Information.** For the purposes of this Agreement, “Confidential Information” means the non-public, confidential or proprietary information disclosed in any manner by either Party to the other Party and includes the disclosing Party’s technology, trade secrets, business operations, service protocols, pricing (excluding GSA Schedule pricing) and statistical data, technical or financial data, sales or marketing information, contract or pricing formulas, customer lists, Panther, the Panther Documentation, and all non-publicly available information relating to the Panther System or Softek’s services or methodologies and any other information for which a reasonable person would determine is confidential based on the type of information disclosed and method of disclosure. Except as expressly permitted by this Agreement, each Party agrees not to disclose, nor will they permit their respective employees, agents, attorneys, or independent contractors to disclose, use, copy, distribute, sell, license, publish, reproduce, or otherwise make available the Confidential Information of the disclosing Party. Each Party will protect the Confidential Information of the other by using the same or greater level of care that it uses to protect its own confidential information of like kind which, in no event, will be less than a reasonable degree of care. Notwithstanding, the receiving Party shall not be liable to the disclosing Party for the disclosure of Confidential Information which:
(a) was already in the possession of, or was developed independently by, the receiving Party at or before the disclosure of the Confidential Information to the receiving Party by the disclosing Party; (b) is or becomes public knowledge not as a result of any breach of this Agreement;

(c) is approved for release by the disclosing Party in writing;

(d) is received by the receiving Party from a third party who did not have a duty of confidentiality to the disclosing Party; or

(e) the receiving Party is required to disclose by order or regulation of any governmental entity; provided, however, that the receiving Party gives the disclosing Party timely notification, to the extent permissible under the circumstances, prior to the date of disclosure and the disclosing Party is given a reasonable opportunity to file a motion for a protective order or otherwise intervene and the receiving Party uses commercially reasonable efforts to obtain confidential treatment of such information and discloses only that portion of the Confidential Information that is legally required for disclosure. Softek recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as “confidential” by the vendor, to the extent required by law.

Notwithstanding any other provisions of this Agreement, Client’s obligations under this Section 12 regarding any Softek Confidential Information that constitutes a trade secret under any applicable U.S. law will continue until such time, if ever, as such trade secret(s) ceases to qualify as a trade secret under applicable U.S. law, other than as a result of any act or omission of Client. With the sole exception of the BAA with respect to the Parties’ treatment of protected health information (as that term is defined by 45 C.F.R. 160.103), this Section 12 supersedes any prior agreement between the Parties governing each Party’s treatment of Confidential Information.

13. **Indemnification**

(a) **Infringement.** Subject to the limitations set forth in Section 13(b) below, Softek agrees to indemnify Client from all losses arising from Panther actually infringing a U.S. copyright, trade secret, or patent of a third party recognized under the laws of the United States; provided, that: (i) Client gives Softek written notice of such claim, suit, demand, or action within thirty (30) days of Client receiving notice for such claim, suit, demand, or action; and (ii) Client reasonably cooperates with Softek in determining the defense and settlement thereof. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. If a temporary or final injunction is obtained against Client’s use of Panther by reason of infringement of a U.S. copyright, trade secret, or patent, or Panther actually infringes a U.S. copyright, trade secret, or patent of a third party to this Agreement, Softek shall, at its option and expense, (1) procure for Client the right to continue to use Panther; (2) replace or modify Panther or such infringing portion thereof so that it no longer is infringing; provided, that the utility or performance of Panther is not adversely affected by such replacement or modification; or (3) immediately terminate this Agreement and refund the unused whole month portions of the Fees paid by Client to Softek for Panther. The foregoing shall be Client’s sole and exclusive remedy and Softek’s sole and exclusive obligation for any claim arising under this Section.

(b) **Indemnity Limitations.** Softek shall have no liability or indemnification obligation to Client for any claim, suit, demand, or action arising from (i) the Panther System being modified by any party other than Softek; (ii) Client’s use of the Panther System with computer equipment or programs not approved by Softek; (iii) Softek’s use, copying, or distribution of specifications, designs, programs, formats, algorithms; documentation, databases or other information or materials supplied by Client or Client’s agents; (iv) Client’s use of other than the most current version of the Panther System, if a non-infringing version has been made generally available by Softek and such claim would have been avoided by use of such non-
infringing version; or (v) any use of the Panther System in combination with any third party system, equipment, or software that but for such use, no such claim of infringement would be likely to arise.

14. **Warranty.**

   (a) Softek warrants that, under normal use and service, Panther shall substantially conform to the Panther specifications contained in the Panther Documentation, but will not necessarily be error free.

   (b) If Panther fails to meet the warranty of Section 14(a) and Client gives Softek written notice describing such failure in reasonable detail, Softek shall work to provide a work around of the failure within sixty (60) days of Client’s notification to Softek of such failure, and then within a mutually agreed period of time, to correct the failure by repair, replacement, or adjustment, as determined by Softek’s sole discretion. If the failure cannot be resolved by a work around within sixty (60) days (and with a permanent fix within a mutually agreeable time period) then Client’s sole remedy is to terminate this Agreement in accordance with Section 15(b).

   (c) Notwithstanding anything to the contrary herein, Softek shall not be liable to Client for the warranty provisions of this Agreement (i) if modifications, attachments, features, or devices are made to or employed on the Panther System which are not supplied, recommended, or approved by Softek in writing; (ii) if the Panther System is subject to misuse or abuse by Client or a third party; (iii) if Client has not subscribed to receiving Support Services in a Softek Schedule; (iv) if Client fails to maintain and update Panther Hardware and keep the Panther Hardware under its manufacturer’s warranty if Panther Hardware is purchased from Softek or a third party or leased from a third party; (v) if Client declines or delays a Softek recommended Refresh; (vi) if Client fails to adhere to Softek’s hardware, software, and network requirements set forth in a Softek Schedule; (vii) if the Panther System becomes inoperable, limited, or restricted in operation due to Client’s or a third party’s software product that alters Client’s system configuration; or (viii) with respect to any Evaluation Module.

   (d) EXCEPT AND TO THE EXTENT EXPRESSLY PROVIDED IN SECTION 14(a), NEITHER SOFTEK NOR ITS THIRD PARTY SUPPLIERS MAKE ANY OTHER REPRESENTATIONS OR WARRANTIES UNDER THIS AGREEMENT OR ITS SCHEDULES, EXHIBITS, OR OTHER ATTACHMENTS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

15. **Termination**

   (a) This Agreement will commence on the date of this agreement and remain effective until either Party terminates this Agreement in accordance with the terms of this Agreement.

   (b) When the Client is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Softek shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Except as provided in Section 13, Client’s sole remedy for any breach of this Agreement by Softek is (A) Client’s termination of this Agreement under this Section 15(b), and (B) if Client has made any advanced payments for use of the Panther System as of the date of termination, Softek will return the Fees actually paid to Softek for any whole unused months; provided, that in no event shall Softek refund any partial monthly payments.

   (c) Reserved.
(d) Upon the termination of this Agreement, (i) all licenses and rights granted to Client under this Agreement and any Softek Schedule, exhibit, or other attachment will immediately terminate; (ii) Client will immediately pay any outstanding Engagement Fees and Fees owed to Softek; (iii) Client will cease using the Panther System and any other devices or systems provided by Softek and will immediately return all copies of the Panther System and Softek’s Confidential Information to Softek, returning to Softek any Panther Hardware leased from Softek and Sublicensed Software (subject solely to any rights expressly granted to client under the terms of the applicable Sublicensed Software provider’s end user terms); (iv) Softek may, subject to Government security requirements, during normal business hours and upon written notice to Client, enter Client’s premises and repossess the Panther System; and (v) Softek will cease performing all of its obligations under this Agreement without liability to Client.

(e) Reserved.

(f) Sections 7(c), 8 (but only with respect to the security interest granted thereunder and Softek’s disclaimer of liability with respect to system failure), 10 (but only with respect to the restrictions on Client’s treatment of the Software System), 11, 12, 14(d) (but only to the extent of disclaiming warranties), 15, 16, 17, 18, 19, and the BAA (to the extent set forth therein) shall survive the termination of this Agreement; provided, that, nothing contained in this Agreement will be construed so as to provide a perpetual or ongoing license, subscription, or other right to Client to any part of Softek Services after the termination of this Agreement.

16. **Reserved.**

17. **Limitation of Liability.**

   (a) TO THE FULL EXTENT PERMITTED BY LAW, IN NO EVENT SHALL SOFTEK BE LIABLE TO CLIENT FOR ANY COVER OR ANY INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF USE OR LOST BUSINESS, REVENUE, PROFITS, OR GOODWILL, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF, INCLUDING ANY USE, DELIVERY, INSTALLATION, OR PERFORMANCE OF SOFTEK SERVICES, EVEN IF SOFTEK HAS BEEN ADVISED, KNEW, OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES. CLIENT AGREES THAT SOFTEK IS MERELY PROVIDING AN INFORMATION DATA TOOL WITH CORRESPONDING SERVICES UNDER THIS AGREEMENT AND IS IN NO WAY PROVIDING DIAGNOSIS, TREATMENT, OR ANY OTHER KIND OF MEDICAL SERVICES. CLIENT AGREES TO NOT USE SOFTEK SERVICES FOR ANY HIGH RISK USE THAT COULD LEAD TO DEATH OR SERIOUS BODILY INJURY AND AGREES TO BE SOLELY RESPONSIBLE FOR DECISIONS REGARDING THE USE OF SOFTEK SERVICES IN ITS FACILITIES.

   (b) TO THE FULL EXTENT PERMITTED BY LAW, SOFTEK’S MAXIMUM LIABILITY UNDER THIS AGREEMENT SHALL, IN ALL EVENTS, BE LIMITED TO THE AMOUNT OF FEES COLLECTED BY SOFTEK UNDER THIS AGREEMENT.

   (c) TO THE FULL EXTENT PERMITTED BY LAW, ANY ACTION AGAINST SOFTEK MUST BE COMMENCED WITHIN SIX (6) YEARS AFTER THE EVENT GIVING RISE TO THE CAUSE OF ACTION OCCURS.

   (d) THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR’S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.
18. **Notices.** Whenever notice must be given under the provisions of this Agreement, such notice must be in writing and will be deemed to have been duly given when received or delivered (as evidenced by affidavit, applicable receipt, or confirmed transmission, as applicable) by (a) hand; (b) certified mail, return receipt requested, postage prepaid; (c) overnight delivery service prepaid with instructions for next business day delivery (receipt confirmed); or (d) facsimile (transmission confirmed) or electronic mail (transmission confirmed) during the receiving Party’s normal business hours or on the next business day if sent after normal business hours. Notices must be sent to the addresses or facsimile numbers of the receiving Party set forth below:

| If to Softek Solutions, Inc., to: Softek Solutions, Inc. | If to Client, to: |
| 4500 West 89th Street | [______________________________] |
| Attn: David Fletcher | Attn: [______________________________] |
| Facsimile number: 913-648-0128 | Facsimile number: [______________________________] |
| Email: david.fletcher@softekinc.com | Email: [______________________________] |

Any notice required under this Agreement that alleges (or will immediately lead to an allegation of) default, or asserts a right to exercise a remedy, must be provided by the means specified in Sections 18(b) or 18(c) above.

19. **Miscellaneous.**

(a) **Sole Agreement; Amendment.** This Agreement is the sole agreement between the Parties relating to the subject matter hereof and supersedes all prior understandings, writings, proposals, representations, or communications, oral or written, of either Party. Unless expressly stated otherwise, in the event of a conflict between the terms of this Agreement and the terms of a Softek Schedule, purchase order, or any other attachment or exhibit, the following order of preference governs: (i) first, the terms and conditions of this Agreement, excluding its exhibits, schedules, attachments, and appendices; (ii) second, the Softek Schedule; and (iii) third, any other documents incorporated herein by reference. This Agreement may be amended only by a writing signed by an authorized representative of both Parties.

(b) **Severability; Counterparts; Headings and Captions.** If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement or render such term or provision unenforceable in any other jurisdiction, which shall remain in full force and effect. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court of competent jurisdiction may modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible. This Agreement may be executed by electronic means and in one or more counterparts, each of which is an original and all of which together constitute only one (1) agreement between the Parties. All headings and captions in this Agreement are for reference purposes only and do not affect the interpretation of this Agreement.

(c) **Force Majeure.** Excusable delays shall be governed by FAR 552.212-4(f).

(d) **Assignment.** Neither Party may assign its rights or delegate its obligations under this Agreement, even by operation of law, without the prior written consent of the other Party; provided, that Softek may assign its rights and delegate its obligations under this Agreement to a wholly owned subsidiary or in conjunction with its reorganization, merger, or the transfer of substantially all its stock or the assets to which this Agreement pertains in accordance with the provisions of FAR 42.1204. Any assignment in contravention to this Agreement is void.

(e) **Cumulative Rights.** The rights and remedies of Softek under this Agreement shall be cumulative and in addition to all other rights and remedies available to it at law or in equity. In addition to any other remedy it may have, Softek shall have the right to suspend access to and use of the Panther System for Client’s failure to fulfill its material obligations in this Agreement.
(f) **Relationship.** Softek shall, at all times, be and remain an independent contractor of Client and this Agreement shall not constitute, nor shall it be deemed or construed to create, a partnership, joint venture, or any other kind of relationship of any nature whatsoever between the Parties (whether de jure, de facto, or otherwise). Neither Softek nor any of its employees (including those of its employees who actually perform the services provided for in this Agreement) shall be considered or otherwise deemed to be employees of Client. Neither Party shall have the authority to contract on behalf of the other Party or to otherwise bind the other Party without the express written authorization or consent of the other Party.

(g) **System Data.** Client grants to Softek an irrevocable, exclusive, perpetual, world-wide, and royalty-free right and license to access, analyze, and use all data collected, stored, or generated through Client’s use of Softek Services or gathered by the Panther System pertaining to (i) Client’s system’s performance and diagnostics, and (ii) statistical information about the use of the Panther System including access times, benchmarking results, functionality use, and other statistical and performance data (the “System Data”) for any legal purpose including analysis and incorporation of the System Data in databases, reports, comparative data sets, scores or scoring systems generated therefrom, and the creation and distribution of works and derivative works.

(h) **BAA.** The Parties agree to, and hereby incorporate by reference, the terms set forth on Exhibit A (the “BAA”).

(i) **Binding Effect.** This Agreement is binding upon and will inure to the benefit of the Parties and their permitted successors and assignees.

(j) **Governing Law.** This Agreement shall be governed by and interpreted solely in accordance with the Federal laws of the United States.

(k) **Waiver.** No delay or failure in exercising any right under this Agreement and no partial or single exercise of such right will be deemed to constitute a waiver of such right or any rights hereunder. All waivers and consents to any terms in this Agreement by either Party must be in writing. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion or for any other matter.
EXHIBIT A
BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT ("BAA") is between each Client ("Covered Entity") and Softek Solutions, Inc., a Kansas corporation with a principal place of business at 4500 West 89th Street, Prairie Village Kansas ("Softek") in connection with the Softek Solutions, Inc. Master Software Service Agreement (EULA) – Terms and Conditions to which it is attached as Exhibit A (the "Agreement"). Capitalized terms used, but not defined, within this BAA shall have the meanings given to them in the Agreement.

WHEREAS, Covered Entity may disclose confidential PHI to Softek in conjunction with services being or to be provided by Softek to Covered Entity;

WHEREAS, Softek and Covered entity have executed, or will soon execute, an agreement whereby Softek will be providing one or more software solutions or services to Covered Entity (the "Agreement");

WHEREAS, Certain privacy regulations have been promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH") and published in the Code of Federal Regulations ("C.F.R.") at Title 45, Sections 160 and 164 (the "Privacy Regulations");

WHEREAS, Certain security regulations have been promulgated under HIPAA and HITECH and published in the C.F.R. at Title 45, Sections 160, 162 and 164 (the "Security Regulations"); and

WHEREAS, This BAA is intended to outline Softek’s use of certain "protected health information" (as that term is defined by 45 C.F.R. 160.103) that is provided or made available by Covered Entity to Softek after the Effective Date ("PHI"). NOW THEREFORE, the parties to this BAA agree as follows:

1. Restrictions of Use and Disclosure of PHI. Softek agrees that, consistent with 45 C.F.R. 164.504(e)(2)(i), it will only use and disclose PHI as expressly permitted by this BAA or by the Privacy Regulations.

2. Permitted Use and Disclosure of PHI. Softek is permitted to use or disclose PHI provided or made available from Covered Entity relating to and as necessary to maintain and support Covered Entity’s health information systems, to aggregate data, and to provide other services on behalf of the Covered Entity as may be entered into under contract, as set forth below. Softek may:
   a. consistent with 45 C.F.R. 164.504(e)(4)(i)(A)-(B), use the PHI as necessary for the proper management and administration of Softek or to carry out Softek’s legal responsibilities;
   b. consistent with 45 C.F.R. 164.504(e)(2)(i)(B), use or disclose the PHI to provide data aggregation services, as that term is defined by 45 C.F.R. 164.501, including use for statistical compilations, reports, research, and all other purposes allowed under applicable law;
   c. consistent with 45 C.F.R. 164.504(e)(4)(ii), disclose PHI received from Covered Entity for the proper management and administration of Softek or to carry out legal responsibilities of Softek, provided: (i) the disclosure is required by law; or (ii) Softek obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person and that the person will notify Softek of any instance of which it is aware in which the confidentiality of the PHI has been breached; and
   d. consistent with 45 C.F.R. 164.502(e)(1)(ii), 164.504(e)(2)(ii)(D), 164.314(a)(2)(i)(B), and 164.308(b)(2), provide PHI to any subcontractors or agents, provided that Softek will ensure that such agent or subcontractor agrees to the same restrictions on the use and disclosure of such PHI that apply to Softek.

3. Covered Entity Obligations. Consistent with 45 C.F.R. 164.504(e)(2)(ii)(H), to the extent Softek is required to carry out one or more of Covered Entity’s obligations under the Privacy Rule, Softek shall comply with the requirements of the Privacy Rule that apply to Covered Entity solely with respect to Softek’s performance of such obligations.

4. Appropriate Safeguards. Softek will, consistent with 45 C.F.R. 164.504(e)(2)(ii)(B), establish and maintain appropriate safeguards to prevent any use or disclosure of the PHI other than as provided for by this BAA. Softek will, consistent with 45 C.F.R. 164.314(a)(2)(i)(A), implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the electronic PHI that it creates, receives, maintains or transmits on behalf of Covered Entity.
5. **Security Regulations.** Consistent with 45 C.F.R. 164.504(e)(2)(ii)(B), Softek shall comply, where applicable to business associates, with the Security Regulations with respect to electronic PHI to prevent use and disclosure of the PHI other than as provided by this BAA.

6. **Minimum Necessary.** Softek will, when using or disclosing PHI in accordance with 45 C.F.R. 164.502(b)(1), make reasonable efforts to use or disclose the minimum amount of PHI necessary to accomplish the intended purpose of the use, disclosure, or request.

7. **Reports of Improper Use or Disclosure.** Softek will, consistent with 45 C.F.R. 164.504(e)(2)(ii)(C) and 164.314(a)(2)(ii)(C), report to Covered Entity any use or disclosure of PHI not provided for or allowed by this BAA and any Security Incident (as defined by 45 C.F.R. 164.304) of which Softek becomes aware.

8. **Breach of Unsecured PHI.** Softek shall, consistent with 45 C.F.R. 164.410 and following the discovery of a “Breach” of “Unsecured Protected Health Information,” as those terms are defined in 45 C.F.R. 164.402, notify Covered Entity of such Breach. Except as provided in 45 C.F.R. 164.412, Softek shall provide the notification without unreasonable delay and in no case later than fifteen (15) calendar days after discovery of a Breach. Softek shall provide Covered Entity with any other available information that Covered Entity is required to include in its notification to the individual under 45 C.F.R. 164.404(c) at the time of notification or promptly thereafter as information becomes available.

9. **Designated Record Set.** To the extent Softek maintains PHI in a Designated record set (as defined by 45 C.F.R. 164.501), Softek will:
   a. to the extent applicable and consistent with 45 C.F.R. 164.504(e)(2)(ii)(E), make available PHI in accordance with 45 C.F.R. 164.524.
   b. to the extent applicable and consistent with 45 C.F.R. 164.504(e)(2)(ii)(F)), make available PHI for amendment and incorporate any amendments to PHI in accordance with 45 C.F.R. 164.526.

10. **Accounting.** Softek agrees, consistent with 45 C.F.R. 164.504(e)(2)(ii)(G), to make information available to provide an accounting of disclosures of PHI received from, or created or received by Softek on behalf of Covered Entity in accordance with 45 C.F.R. 164.528.

11. **Access.** Consistent with 45 C.F.R. 164.504(e)(2)(ii)(I), Softek will make its internal practices, books, and records relating to the use or disclosure of PHI received from, or created or received by Softek on behalf of the Covered Entity, available to the Secretary of the Department of Health and Human Services or the Secretary's designee for purposes of determining compliance with the Privacy Regulations.

12. **Term.** This BAA shall commence on the Effective Date and shall expire when all of the PHI provided by Covered Entity to Softek is destroyed or returned to Covered Entity pursuant to Section 14 below.

13. **Termination.** If Softek materially breaches this BAA then, consistent with 45 C.F.R. 164.504(e)(2)(iii)), Covered Entity may terminate this BAA and the Agreement under which Softek received or had access to the PHI that is the subject of the breach after sending written notice to Softek describing Softek failure in detail and affording Softek a sixty (60) day period in which to cure such failure.

14. **Return or Destruction of PHI.** At termination of this BAA and consistent with 45 C.F.R. 164.504(e)(2)(ii)(J), Softek will return or destroy all PHI received from or created or received by Softek on behalf of Covered Entity that is not necessary for Softek to continue its proper management and administration or to carry out its legal responsibilities under this BAA. If return or destruction of the PHI is not feasible, the parties will extend the protections of this BAA for as long as necessary to protect the PHI and to limit any further use or disclosure.

15. **De-Identified PHI.** Consistent with 45 C.F.R. 164.514(a)-(b), any PHI provided to Softek which is later de-identified and therefore no longer individually identifies a patient (and is no longer “protected health information” under 45 C.F.R. 160.103) is not subject to the provisions of this BAA.

16. **No Third Party Beneficiaries.** This BAA shall be binding upon and inure solely to the benefit of the parties hereto and their permitted assigns and successors and nothing herein, express or implied, is intended to or shall confer upon any other person or entity, any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this BAA.

17. **Notices.** Whenever under this BAA one party is required to give notice to the other, such notice shall be deemed given if mailed by First Class United States mail, postage prepaid, and addressed to the parties at their addresses set forth in the preamble of this BAA. Either party may at any time change its address for notification purposes by mailing a notice to the other Party stating the change and setting forth the new address.

18. **Entire Agreement.** This BAA constitutes the entire agreement between the parties related to the confidentiality of the PHI and supersedes all prior negotiations, discussions, representations or proposals, whether oral or written between the parties in relation to the same, including any prior business associate agreements. This BAA may not be modified unless done so in
writing and signed by a duly authorized representative of both parties. If any provision of this BAA, or part thereof, is found to be invalid, the remaining provisions shall remain in effect.

19. Changes to Law. Any citation to a regulation or statute within this BAA that, due to a subsequently promulgated regulation or enacted statute issued after the Effective Date, is altered or rendered inaccurate shall be construed so as to comply with its corresponding part, if any, within the subsequently promulgated regulation or enacted law.