

FIRST DATABANK

**FIRST DATABANK AND CONTRA COSTA HEALTH SERVICES
LICENSE AGREEMENT**

This LICENSE AGREEMENT made and entered into at South San Francisco, California as of the Effective Date noted on Exhibit 1 (attached and made a part hereof) between FIRST DATABANK, INC., with offices at 701 Gateway Boulevard, Suite 600, South San Francisco, California 94080 ("First DataBank"), and LICENSEE identified in Exhibit 1.

WHEREAS:

1. First DataBank owns or is a Licensee of, and licenses or sublicenses various copyrighted databases of medical, pharmaceutical and nutritional information, and periodic updates thereto ("Databases"), related access software products ("Toolkits") and user manuals ("Manuals") referred to collectively, as the "FDB Knowledge Bases";
2. Licensee desires to obtain the use of one or more of the FDB Knowledge Bases with the Licensee's electronic information system or other computer system (the "System") as described in the Declaration of Use (Exhibit 1);
3. Subject to the terms and conditions of this Agreement, First DataBank is willing to grant to Licensee a nonexclusive license or sublicense to use the FDB Knowledge Bases indicated in Exhibit 1.

NOW, THEREFORE, in consideration of the premises and of the covenants and Agreements hereinafter set forth, it is agreed as follows:

1. DEFINITIONS OF CERTAIN TERMS. As used in this Agreement:

- a) "Licensed Products" means those FDB Knowledge Bases indicated in Exhibit 1 as being licensed to Licensee;
- b) "Effective Date" is the date stated in Exhibit 1 and is the Effective Date of this Agreement;
- c) "Fee Term" means the twelve-month period beginning on the Effective Date and each successive twelve-month period;
- d) "Territory" means the United States of America and its territories and possessions.

2. LICENSE. Subject to the terms and conditions of this Agreement, First DataBank grants and Licensee accepts the following limited, non-transferable and non-exclusive license or sublicense:

- a) To use the Licensed Products solely for its business operations in the Territory, as defined in Exhibit 1 during the term of this Agreement;
- b) To the extent Exhibit 1 permits bundling of any or all of the Licensed Products, Licensee agrees to add substantial value to the Licensed Products contained in the bundle;
- c) Licensee shall have no right to use the Licensed Products on behalf of any third party, on a service bureau basis or otherwise unless (i) such services are specifically permitted in Exhibit 1, and (ii) such third party has entered into a license Agreement with Licensee or First DataBank and First DataBank has been paid the required license fee;
- d) Under no circumstances shall Licensee use the Licensed Products, or any portion thereof, to develop a competitive product, regardless of what is set forth in Exhibit 1;
- e) Licensee shall obtain no implied license rights to the Licensed Products. Any rights not expressly granted to Licensee in this Agreement shall be retained by First DataBank;
- f) Although some tangible objects may be delivered to Licensee pursuant to this Agreement, title to such objects shall not pass to Licensee, and this Agreement is not for the sale of goods. The Licensed Products shall be delivered to Licensee within twenty (20) working days from whichever is later, the date this License Agreement is executed or the Effective Date on the Exhibit 1. Updates thereto shall be delivered with the frequency and in the format indicated in Exhibit 1;
- g) Licensee will not alter, amend, modify, or change in any respect, any of the Licensed Products unless authorized to do so by First DataBank. Without limiting the foregoing, Licensee shall have no right to use, modify, reproduce or distribute the Licensed Products, nor the right to license third parties to exercise any rights with regard to the Licensed Products other than as permitted in Exhibit 1.

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3. TERM AND TERMINATION.

- a) This Agreement and license shall continue for a term of ~~two~~ ^{two} (2) years from the Effective Date. Unless licensee terminates the Agreement as provided in Paragraph 3, the Agreement ~~will~~ ^{shall} renew for an additional three (3) year term beginning July 1, 2013 at the rates outlined on Exhibit 1, Section D of this Agreement. Thereafter the Agreement may be renewed for successive five (5) year periods at each renewal date at the then effective rate in accordance with paragraph 3b below.
- b) At least sixty (60) days before the end of any term, First DataBank shall send to Licensee written notice of the applicable renewal rate. At least thirty (30) days prior to the end of the term, First DataBank must receive from Licensee written notice of acceptance of renewal for the next term. If Licensee fails to give such written notice of acceptance, then the delivery and use of the Licensed Products will be discontinued as of the end of the current term that is in effect. First DataBank may also give notice of non-renewal in its sole and absolute discretion, without cause and without stating any reason therefore, by sending Licensee written notice of non-renewal at least thirty (30) days prior to the end of the term then in effect.
- c) Either party may terminate this license on thirty (30) days written notice, if the other party has materially breached any provision of this Agreement, and such breach has not been cured within such thirty (30) day period. Notwithstanding the previous sentence, Licensee has the right to terminate this Agreement, with an effective date of June 30, 2013, by providing sixty (60) days prior written notice to First DataBank and provided that all License Fees are paid through the termination effective date.
- d) Upon termination of this Agreement, Licensee shall immediately cease use of the Licensed Products, and shall take such steps as are necessary to prohibit further use of the Licensed Products within Licensee's System and shall furnish First DataBank a written description of the steps so taken. Termination of this Agreement shall automatically terminate all sublicenses of the Licensed Products granted by Licensee. Within thirty (30) days of termination, Licensee shall return to First DataBank all copies or duplicates thereof of the Licensed Products.

4. PAYMENT OF LICENSE FEES. In consideration of the grant of the license, Licensee agrees to pay the Fees ("License Fees") listed in Exhibit 1. Licensee's obligation to pay License Fees for periods preceding termination will survive termination of this Agreement.

5. IMPLEMENTATION. Licensee assumes all responsibility to program or obtain compatible software for use of the Databases. All programming shall be done in accordance with specifications included in Database Manuals and supplements and other documentation provided by First DataBank. Licensee agrees that when programmed, the System shall display Copyright Notices, Disclaimers, and Expiration Dates as specified in individual Database and Licensed Product Manuals.

6. COVENANTS OF LICENSEE. Licensee hereby agrees with First DataBank as follows:

- a) In the event that First DataBank grants Licensee permission to modify any of the Licensed Products, then Licensee assumes all liability for such modified Licensed Products. Licensee hereby acknowledges and agrees that First DataBank disclaims all warranties, express and implied, regarding any Licensee-modified Licensed Products. Further, Licensee hereby agrees to defend, indemnify, and hold First DataBank harmless from any third party claim arising from such Licensee-modified Licensed Products to the extent that such claim would not have existed but for Licensee's modification of the Licensed Products.
- b) Licensee will not use the name of First DataBank, Inc. or "First DataBank", the names of any of the First DataBank Knowledge Bases, or any trademark owned by or licensed to First DataBank, except as authorized in writing;
- c) Licensee shall reimburse First DataBank at First DataBank's direct cost for all shipping and delivery; and for all First DataBank originated magnetic media received by Licensee from First DataBank;
- d) Licensee will pay all taxes, however designated, including sales and use taxes and state and local privilege or excise taxes arising out of this Agreement and the transaction contemplated hereby;
- e) That as long as this Agreement is in effect, and for a one (1) year period thereafter, Licensee shall maintain complete records with respect to the use of the Licensed Products, and the number and type of end user sites, if any. During normal business hours, at reasonable intervals but no more often than quarterly, and upon reasonable notice, First DataBank or its designated representative may audit and review those records necessary to confirm that the fees paid to First DataBank are correct and that Licensee has complied with all of the terms of this Agreement, including but not limited to, the Declaration of Use and Fee and Payment Schedule set forth in Exhibit 1;
- f) USAGE. Licensee shall use the Licensed Products solely for Licensee's business purposes in the Territory as described in Exhibit 1, "Declaration of Use". Licensee may not, without the prior written consent of First DataBank, transmit the Licensed Products to other data processing systems or units that are "on-line" with Licensee's data processing unit, or use the Licensed Products, or any data derived from the Licensed Products in a computer service business, network, time-sharing, multiple CPU, or multiple user arrangements including the Internet and Intranets, except as, if applicable, explicitly identified in Exhibit 1. Licensee shall not copy, reproduce, store in a retrieval system, sell, assign, pledge, sublicense, convey, transfer, redistribute, transmit, grant other rights in, or permit any unauthorized use of the Licensed Products, or any of them, in any form or by any media (electronic, mechanical, photocopy, recording, or otherwise), on either a permanent or temporary basis to any third party except as authorized in Exhibit 1. Licensee may use an outside Data Recovery Center in the Territory

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provided First DataBank is notified in writing within thirty (30) days of such location. In such case, the terms of this Agreement shall be fully applicable.

- g) Licensee hereby covenants and agrees to indemnify and hold First DataBank harmless from and against any liability, loss, injury or expense (including reasonable attorneys' fees and court costs) imposed upon, incurred or suffered by First DataBank by reason of Licensee's negligence.
- h) Licensee acknowledges and agrees that the covenants and Agreements made in this Paragraph 6 are made for the benefit of First DataBank and shall survive the termination of this Agreement. In the event of any breach by Licensee of the terms of this Agreement, in addition to other relief to which First DataBank shall be entitled, First DataBank shall be entitled to terminate this License.

7. CONFIDENTIALITY:

- a) In connection with their obligations under and pursuant to this Agreement, each of the parties hereto may disclose to the other Confidential Information (as defined herein);
- b) Disclosing Party means a party that discloses Confidential Information pursuant hereto and "Receiving Party" means a party that receives Confidential Information pursuant hereto;
- c) The term "Confidential Information" shall mean information or data, including without limitation, computer programs, software, code, algorithms, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), trade secrets, schematics and other technical business and customer information, financial and product development plans, forecasts and strategies, furnished by the Disclosing Party to the Receiving Party (whether before or after the date hereof) and all analyses, compilations, forecasts, studies or other documents prepared by the Receiving Party which contain or reflect any such information. Without limiting the foregoing, the term "Confidential Information" shall include the Licensed Products and the terms of this Agreement. "Confidential Information" may include information disclosed orally and information saved in digital or analog form, in electronic or magnetic mediums and on film or tape. The term "Confidential Information" will not, however, include information which:
 - (i) is or becomes available to the Receiving Party on a non-confidential basis from a source (other than the Disclosing Party) which, to the knowledge of the Receiving Party, is not prohibited from disclosing such information to the Receiving Party by a legal, contractual or fiduciary obligation;
 - (ii) was known by the Receiving Party, as evidenced by its written records, prior to receipt from the Disclosing Party; or,
 - (iii) is independently developed by the Receiving Party without use of any Confidential Information;
- d) Each Party:
 - (i) will keep the Confidential Information confidential and will not (except as permitted by this Agreement or required by legal process, and only after compliance with the paragraph below) without the prior written consent of the other Party, disclose any Confidential Information in any manner whatsoever; and,
 - (ii) will not use any Confidential Information other than in connection with this Agreement, provided, however, that the Receiving Party may reveal the Confidential Information to its affiliates, controlling persons, employees, representatives and agents that have a need to know such Confidential Information to further the permitted use thereof, as long as said affiliates, controlling persons, employees, representatives and agents are informed by the Receiving Party of the confidential nature of the Confidential Information and agree to act in accordance with the terms of this Agreement. Each Party will cause its affiliates, controlling persons, employees, representatives and agents to observe the terms of this Agreement, and will be liable for any breach of this Agreement by any of its affiliates, controlling persons, employees, representatives and agents;
- e) In the event that the Receiving Party is requested pursuant to, or required by, applicable law, regulation or legal process to disclose any of the Confidential Information, the Receiving Party will notify the Disclosing Party promptly (and in any event in advance of providing Confidential Information) so that the Disclosing Party may seek a protective order or other appropriate remedy (and the Receiving Party will consult with the Disclosing Party with respect to taking steps to resist or narrow the scope of any such request or legal process) or, in the sole discretion of the Disclosing Party, waive compliance with the terms of this Agreement. In the event that no such protective order or other remedy is obtained, or that the Disclosing Party waives compliance with the terms of this Agreement, the Receiving Party will furnish only that portion of the Confidential Information which it is advised by the Receiving Party's counsel is legally required and will exercise reasonable efforts to obtain reliable assurance that confidential treatment will be accorded the Confidential Information.

- 8. PROPRIETARY RIGHTS INDEMNIFICATION. First DataBank shall hold harmless and defend Licensee against suits based solely on a claim by a third party that the use of Licensed Products by Licensee under this Agreement infringes on any patent, copyright, trademark, or other property right in the Territory, provided that Licensee gives First DataBank prompt written notice of such suits and permits First DataBank to control the defense thereof.

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9. **DISCLAIMERS.**

- a) Licensee shall inspect and test Licensed Products upon receipt thereof. The Licensed Products are deemed proper and correct unless, within ten (10) working days after receipt thereof, Licensee provides First DataBank with written notice and documentation of any error in the Licensed Products;
- b) First DataBank has utilized reasonable care in collecting and reporting the information contained in the Licensed Products and has obtained such information from sources believed to be reliable. First DataBank, however, does not warrant the accuracy of codes, prices or other data contained in the Licensed Products. Information reflecting prices is not a quotation or offer to sell or purchase. The clinical information contained in the Licensed Products is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of physicians, pharmacists, or other healthcare professionals in patient care. The absence of a warning for a given drug or drug combination should not be construed to indicate that the drug or drug combination is safe, appropriate or effective in any given patient.
- c) **FIRST DATABANK MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OTHER THAN THOSE IN THIS LICENSE AGREEMENT, AND FURTHER MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO THE ACCURACY OF THE DATA FROM WHICH THE LICENSED PRODUCTS ARE COMPILED, NOR THE COMPATIBILITY OF THE LICENSED PRODUCTS WITH LICENSEE'S HARDWARE AND SYSTEMS, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
- d) **IN NO EVENT SHALL FIRST DATABANK BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, RELIANCE, OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, EVEN IF FIRST DATABANK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
- e) **IN NO EVENT SHALL FIRST DATABANK'S LIABILITY EXCEED THE AMOUNT PAID TO IT BY LICENSEE FOR THE CURRENT FEE TERM OF THIS LICENSE AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION OR CLAIM, AND REGARDLESS OF WHETHER THE ACTION OR CLAIM IS BASED ON ANY ALLEGED ACT OR OMISSION OF FIRST DATABANK, INCLUDING BUT NOT LIMITED TO ANY ACTION BASED ON NEGLIGENCE, BREACH OF WARRANTY OR BREACH OF CONTRACT.**

10. **PROFESSIONAL RESPONSIBILITY.** Licensee acknowledges that the professional duty to the patient in providing healthcare services lies solely with the healthcare professional providing patient care services. Licensee takes full responsibility for the use of information provided by the Licensed Products in patient care and acknowledges that the use of the Licensed Products in no way is intended to replace or substitute for professional judgment. First DataBank does not assume any responsibility for actions of Licensee which may result in any liability or damages due to malpractice, failure to warn, negligence or any other basis. Licensee shall ensure that all healthcare professionals using the Licensed Products are aware of the limitations of the use of the Licensed Products.

11. **USE OF PATIENT EDUCATION.** Licensee hereby agrees not to modify the Patient Education Knowledge Databases. If Licensee distributes the Patient Education Knowledge Database information, then Licensee agrees to distribute an unmodified version of the information from the Patient Education Knowledge Database for each applicable drug. Licensee further agrees to include the following disclaimer, or subsequent disclaimer language that may be provided by First DataBank, at the top of any patient education information material provided to patients from the Patient Education Knowledge Databases:

NOTE: This is a summary and does not contain all possible information about this product. For complete information about this product or your specific health needs, ask your healthcare professional. Always seek the advice of your healthcare professional if you have any questions about this product or your medical condition. This information is not intended as individual medical advice and does not substitute for the knowledge and judgment of your healthcare professional. This information does not contain any assurances that this product is safe, effective or appropriate for you.

12. **ASSIGNMENT.** This license and Licensee's rights hereunder may not be assigned or otherwise transferred, voluntarily or by operation of law. Any purported assignment of the rights or delegation of the duties under this Agreement by Licensee shall be void unless prior written consent is secured from First DataBank.
13. **FORCE MAJEURE.** Failure of First DataBank to perform or delay in the performance of First DataBank's obligations under this Agreement due to any cause or event not reasonably within First DataBank's control, including but not limited to casualty, labor disputes, failure of equipment, compliance with governmental authority, war, terrorism, or Act of God, shall not constitute a breach of this Agreement, and First DataBank's performance shall be excused during such period of delay.
14. **NOTICES.** Notices hereunder shall be delivered by hand, air courier express or certified mail with return receipt requested to the address of the Licensee identified on Exhibit 1, and shall be deemed delivered three (3) days after mailing. Any notices Licensee submits to First DataBank shall be sent to: First DataBank, Inc., Attn: Contract Administration, 500 East 96th Street, Suite 500, Indianapolis, Indiana 46240.

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15. CHOICE OF LAW; VENUE. This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applied to Agreements entered into and to be performed entirely within California between California residents. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded. In the event of any dispute concerning this Agreement or the Licensed Products, suit may be brought only in a court of competent jurisdiction in the U.S. District Court of the Northern District of California or the California Superior Court for the County of ~~San Mateo~~. *Contra Costa County* JK
16. ENTIRETY; AMENDMENTS. This Agreement, including all Exhibits hereto, constitutes the complete and exclusive statement of the Agreement between the parties which supersedes all prior Agreements, proposals, oral or written, and all other communications between the parties relating to the subject matter of this Agreement. All amendments to this Agreement shall be in writing signed by both parties.
17. NO WAIVER. No term or provision hereof shall be deemed waived and no such breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by a party to, or waiver of a breach by the other, whether express or implied, shall not constitute a consent for, or waiver of, or excuse for any other different subsequent breach.
18. SEVERABILITY. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the Effective Date on Exhibit 1.

FIRST DATABANK

DATED: 9/27/11

500 East 96th Street, Suite 500
 Indianapolis, IN 46240-3767
 (800) 428-4495
 (317) 571-7200
 (317) 571-7253 (FAX)

By

Signature: [Signature]

James M. Schultz
 Name (Print)

Vice President, Finance
 Title

LICENSEE

DATED: 6/14/11

CONTRA COSTA HEALTH SERVICES
 595 Center Avenue
 Suite 200
 Martinez, CA 94553
 (925) 313-6220

By

Signature: [Signature]

Jay Richardson
 Name (Print)

Buyer II
 Title

**EXHIBIT 1
LICENSEE REPRESENTATION
LICENSED PRODUCTS
DECLARATION OF USE
LICENSE FEES AND PAYMENT SCHEDULE
ADDITIONAL TERMS AND CONDITIONS**

This Exhibit 1 is a part of the License Agreement between First DataBank and Licensee and identifies Licensee, the Licensed Products, Declaration Of Use, License Fees, and Additional Terms (if any) applicable to that Agreement.

The Effective Date of this Agreement is: July 1, 2011

A. LICENSEE REPRESENTATION

Licensee Name: Contra Costa Health Services
Street Address: 595 Center Avenue, Suite 200
City/State/Zip: Martinez, CA 94553
Telephone: (925) 313-6220

B. LICENSED PRODUCTS: Unless otherwise specified, Licensed Products are updated weekly.

**NATIONAL DRUG DATA FILE™ (NDDF), Enhanced Package
COUNSELING MESSAGES MODULE™
DOSAGE RANGE CHECK MODULE™
DRUG ALLERGY MODULE™
DRUG-DISEASE CONTRAINDICATION MODULE™
DRUG-DRUG INTERACTION MODULE™
DRUG-FOOD INTERACTION MODULE™
DRUG-LAB INTERFERENCE MODULE™
DUPLICATE THERAPY MODULE™
INDICATIONS MODULE™
INTRAVENOUS MODULE™
MIN/MAX DOSE MODULES™
PATIENT EDUCATION MODULE™, English
PRECAUTIONS MODULES (GERIATRIC, PEDIATRIC, PREGNANCY, LACTATION)
PRESCRIBER ORDER ENTRY MODULE™ (POEM)
PRIORITIZED LABEL WARNINGS MODULE™, English
SIDE EFFECTS MODULE™**

C. DECLARATION OF USE:

1. DECLARATION OF USE FOR IMPLEMENTATION ONLY

Licensee shall use the Licensed Products for the purpose of implementation of Licensee's Epic Inpatient Pharmacy Dispensing, Inpatient Electronic Medication Administration Record (EMAR), Inpatient Computerized Physician Order Entry (CPOE) and Ambulatory Electronic Medical Record (EMR/ePrescribing) systems at Licensee's site identified on Exhibit 2 attached to this Agreement. This licensed use is solely for the purpose of implementation and is not for live productive use in a clinical setting. Licensee shall be required to notify First DataBank, in writing, such notification to be directed to First DataBank's Contract Administration Department at the address outlined in Section 14 of the License Agreement, prior to going live with any of the Epic applications described above.

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At the time Licensee notifies First DataBank that any of their Epic applications goes live, the live Epic fees outlined in Section D will go into effect.

2. DECLARATION OF USE FOR LIVE EPIC SYSTEM

1. Inpatient Dispensing Application

Licensee shall use the Licensed Products within Licensee's Epic Inpatient hospital pharmacy computer system to support and regulate the distribution of medication to the patient and assist in clinical screening from within the boundaries of a single hospital institution. The PATIENT EDUCATION MODULE™, English may be accessed by nurses' stations throughout the hospital for reference inquiries in the provision of patient care. The Licensed Products will be used in a single computer system at Licensee's site identified on Exhibit 2 attached to this Agreement.

2. Inpatient Electronic Medication Administration Record (EMAR) Application

Licensee shall use the Licensed Products within Licensee's Epic Inpatient electronic medication administration record (EMAR) computer system that works in concert with order entry and pharmacy systems to produce a dynamic and complete picture of a patient's medication status and retrieve information directly from clinician orders and the patient's active medication list, so healthcare providers can see a comprehensive list of medications to be administered, and provide active decision support at the point of care. The Licensed Products will be used in a single computer system at Licensee's site identified on Exhibit 2 attached to this Agreement.

3. Inpatient Computerized Physician Order Entry (CPOE) Application

Licensee shall use the Licensed Products within Licensee's Epic inpatient hospital pharmacy computer system to support computerized physician order entry (CPOE) in an inpatient hospital setting. The Licensed Products will be used in a single computer system at Licensee's site identified on Exhibit 2 attached to this Agreement.

4. Ambulatory EMR/ePrescribing Application

Licensee shall use the Licensed Products within Licensee's Epic Ambulatory EMR/ePrescribing system for an outpatient Electronic Medical Record (EMR) and prescription writing application that will enable the documentation of patient medical information, as well as the generation and screening of prescriptions, in Licensee's outpatient clinics and physician offices for use by prescribing medical practitioners (PMPs). Licensee will provide the number of PMPs that access the Licensed Products through the outpatient EMR/ePrescribing application as outlined on Exhibit 3 to this Agreement. At the time Licensee goes live with the Epic Ambulatory EMR/ePrescribing application, the number of PMPs outlined on Exhibit 3 shall be updated annually as the basis for user fee assessment. Notwithstanding the previous sentence, Licensee will be invoiced annually for a minimum of three hundred (300) PMPs, unless Licensee's number of PMPs decreases to two hundred seventy (270), or increases to three hundred thirty (330) annually. Licensee will report such change in the number of PMPs to First DataBank, in writing, such notification to be directed to First DataBank's Contract Administration Department at the address outlined in Section 14 of the License Agreement. At the time Licensee notifies First DataBank that they have less than two hundred seventy (270) PMPs, or more than three hundred thirty (330) PMPs, the Annual User Fees for Licensee's Epic Ambulatory EMR/ePrescribing system, for the next Fee Term, shall reflect the actual number of PMPs.

Authorized use of Licensed Products, except as authorized above, expressly excludes distribution of data to any third party outside of Licensee's organization, use in medical practice management systems which support drug dispensing, a clinical data repository, disease management applications, claims preparation and adjudication for the purpose of third party billing, prescription pricing in a retail setting, litigation or regulatory investigations or inquiry (other than pursuant to a subpoena or other legal process compelling disclosure, supporting internet website(s), or any other use not clearly defined above.

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D. LICENSE FEES AND PAYMENT SCHEDULE:

	07/01/2011 to 06/30/2012
Annual License Fee for Epic Implementation Only as defined in Section C.1:	\$ 10,640

	07/01/2012 to 06/30/2013	07/01/2013 to 06/30/2014	07/01/2014 to 06/30/2015	07/01/2015 to 06/30/2016
Annual License Fee for the First Live Epic Inpatient application as defined in Section C.2:	\$ 11,068	\$ 11,343	\$ 11,628	\$ 11,923

	07/01/2012 to 06/30/2013	07/01/2013 to 06/30/2014	07/01/2014 to 06/30/2015	07/01/2015 to 06/30/2016
Annual License Fee for the Second Live Epic Inpatient application as defined in Section C.2*:	\$ 5,534	\$ 5,672	\$ 5,814	\$ 5,962

*Annual License Fee reflects a multi-application discount.

	07/01/2012 to 06/30/2013	07/01/2013 to 06/30/2014	07/01/2014 to 06/30/2015	07/01/2015 to 06/30/2016
Annual License Fee for Third Live Epic Inpatient application as defined in Section C.2*:	\$ 2,767	\$ 2,836	\$ 2,907	\$ 2,981

*Annual License Fee reflects a multi-application discount.

	07/01/2012 to 06/30/2013	07/01/2013 to 06/30/2014	07/01/2014 to 06/30/2015	07/01/2015 to 06/30/2016
Annual Base Fee for the Live Epic Ambulatory EMR/ePrescribing application as defined in Section C.2.4*:	\$ 5,534	\$ 5,672	\$ 5,814	\$ 5,962

*Annual Base Fee reflects a multi-application discount.

	07/01/2012 to 06/30/2013	07/01/2013 to 06/30/2014	07/01/2014 to 06/30/2015	07/01/2015 to 06/30/2016
Annual User Fees for the Live Epic Ambulatory EMR/ePrescribing application as defined in Section C.2.4:				
PMPs 1-1,000	\$ 83	\$ 85	\$ 87	\$ 89
PMPs 1,001-2,500	\$ 70	\$ 72	\$ 74	\$ 76
PMPs 2,501- 5,000	\$ 55	\$ 56	\$ 58	\$ 59
PMPs 5,001+	\$ 41	\$ 42	\$ 43	\$ 45

Note: Per User Fees are per PMP per year and are calculated incrementally based on the number of PMP's falling into each tier. Licensee will be invoiced annually for a minimum of three hundred (300) PMPs unless Licensee notifies First DataBank per the process outlined in Section C.2.4 of Exhibit 1 of this Agreement.

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- i) The Annual Base Fee for the Ambulatory EMR/e-Prescribing application reflects a discounted Annual Base Fee due to multiple applications. In the event the outpatient Ambulatory EMR/ePrescribing application is the first and only live Epic application utilized by Licensee, the Annual Base Fee will revert to First DataBank's undiscounted Annual Base Fee. At which time Licensee goes live with its first Inpatient application, the Annual Base Fee for the Ambulatory EMR/ePrescribing application will reflect the discounted Annual Base Fee.
- ii) License Fees shall consist of Annual License and Base Fees plus User Fees as specified in Exhibit 1. The Annual Fee for the first Fee Term is payable by Licensee to First DataBank upon execution of this Agreement. Payment should be submitted with the signed Agreement. Annual Fees for subsequent Fee Terms are due and payable on each anniversary of the Effective Date. Fees for each Fee Term will be based on the then current number of total licensed beds as outlined in the current edition of Billian's HEALTHDATA™ Hospital Blue Book and the total number of prescribing medical practitioners (PMPs) as outlined in Section D.
- iii) Except for any payments due upon execution, Licensee will remit all payments in full no later than thirty (30) days of the invoice date. ~~Amounts not received within thirty (30) days will be subject to late fees of one and one-half percent (1.5%) per month, on a prorated basis. In addition, First DataBank may recover from Licensee all expenses incurred in connection with collecting overdue amounts, including, but not limited to, collection costs and reasonable attorney's fees.~~ Failure to pay amounts when due may result in discontinuation of product delivery and suspension of implementation support and customer service. JR
- iv) **IMPLEMENTATION SUPPORT SERVICES:** Implementation support services will be available to Licensee for the term of this Agreement via telephone, during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday), at no additional charge to Licensee.

STANDARD CUSTOMER SUPPORT SERVICES: Standard customer support services will be available to Licensee for the term of the License Agreement via First DataBank's customer support toll-free number (1-800-633-3453) during normal business hours (8:00 A.M. to 8:00 P.M. EST Monday through Friday), via e-mail at cs@firstdatabank.com, or via the Support Link at First DataBank's website at www.firstdatabank.com.

E. ADDITIONAL TERMS AND CONDITIONS:

1. The Annual License Fees for the Epic Implementation and Live Epic Inpatient applications for the Fee Term beginning July 1, 2011 and ending June 30, 2012 are based upon up to 200 licensed beds at Licensee's site identified on Exhibit 2 attached to this Agreement. License Fees for future Fee Terms will be based upon then current total number of licensed beds.

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EXHIBIT 2 - USER SURVEY

SITE LISTING

In accordance with Sections C.1, C.2.1, C.2.2 and C.2.3 of Exhibit 1 to this Agreement the following is Licensee's inpatient hospital site accessing the Licensed Products under the terms of the Agreement.

Contra Costa Regional Medical Center
2500 Alhambra Avenue
Martinez, CA 94553
Licensed beds: 166

LICENSEE:

BY: 

DATE: 6/14/11

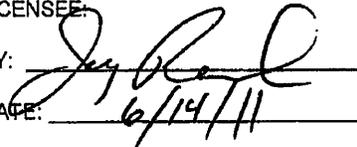
EXHIBIT 3 - USER SURVEY

USER COUNT

In accordance with Section C.2.4 of Exhibit 1 to this Agreement the following is a count of prescribing medical practitioners (PMPs) with access to the Licensed Products in Licensee's outpatient clinics and physician offices under the terms of the Agreement.

Number of prescribing medical practitioners (PMPs): 300

LICENSEE:

BY: 

DATE: 6/14/11