



Regional Extension Center: Request for Proposal

For EHR Comprehensive Products

OHIP

4/16/2010

The Ohio Health Information Partnership (OHIP) is seeking responses regarding electronic health record (EHR) ambulatory systems that can be used in physician and other health care provider office settings.

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I. Summary

The Ohio Health Information Partnership (OHIP) is seeking responses regarding electronic health record (EHR) ambulatory systems that can be used in physician and other health care provider office settings.

This Request for Proposal (RFP) addresses OHIP's mission to advance the adoption, implementation and meaningful use of health IT among health care providers to improve the safety, quality, accessibility, availability and efficiency of health care for the citizens of Ohio.

As the state-designated entity for Ohio's statewide health information exchange, OHIP is seeking vendors whose products are capable of bringing providers to meaningful use in a cost efficient and effective manner. It is OHIP's intent to contract with a number of vendors that can be designated as high quality and reasonable cost vendors to act as the front line for electronic health record adoption in Ohio.

OHIP views the selection of these vendors as part of the overall process in Ohio to create an effective electronic health records system. That system will be accessible to both the individual and to his or her physician, hospital and other health care providers.

To assist EHR vendors in providing IT support to their clients in this state, Ohio is moving ahead quickly to establish IT educational certification programs linked to recognized vendor products. The first IT support personnel certified by Ohio's community colleges and universities should be available for hiring by early fall, 2010. It is the hope that such educational programs will allow the vendors, OHIP and OHIP's regional partners to provide in-depth support for products selected as OHIP's recognized vendor solutions.

As a part of the qualifying process, respondents may be asked to provide a demonstration of their proposed solutions.

II. Dates and Schedule of Events

Responses must be submitted electronically to OHIP on or before 5:00 PM ET, May 17, 2010.

Event	Date
OHIP releases RFP	April 16, 2010
Vendor questions due by close of business	April 23, 2010
Vendor RFP responses due by close of business	May 17, 2010
Notification of RFP awards	May 31, 2010

III. RFP Instructions

Appendix A contains the general RFP information which must be submitted. **Appendix B** is a list of proposed terms and conditions to be included in the vendor/provider contracts for any preferred OHIP EHR vendors. Vendors are asked to review these terms and conditions and, if acceptable or acceptable with modification, reference them to the vendor's current provider contract terms. **Appendix C** is a Preferred Vendor Agreement to be executed between vendor and OHIP. **All three Appendices must be completed for a vendor to be considered in the RFP process.**

Appendix D is a list of OHIP's regional partners and their geographic territories so vendors will be aware of what entities will be providing support for EHR assessment, installation and service.

Please note the following when submitting your RFP response:

- Responders must submit information in a Word document to ehrRFP@ohionline.org and are encouraged to review all reference documents before submission.
- Responses are saved based on the e-mail address of the responder. If you need to collaborate with colleagues before submission, use Appendix A of this document to collect and organize responses in advance.
- Responses and all related attachments should not exceed a total of 50 pages.
- Verification of receipt of your submitted RFP will be emailed to your RFP contact within two business days of receipt.

a. Hyperlinks and Electronic Attachments

- If hyperlinks or other electronic documents are to be provided, please include the links and/or name of the documents in the response under the question to which they pertain.
- To email electronic document attachments, please email them to ehrRFP@ohionline.org and place **"OHIP EHR RFP Response Attachment"** in the subject line.

b. Questions

- If you have questions regarding the RFP, please email them to ehrRFP@OHIPonline.org and place **"OHIP EHR RFP Question"** in the subject line.
- Answers to questions will be made available to all vendors through OHIP's website at http://ohionline.org/ehr_rfp_faqs.aspx. Questions must be submitted by close of business on April 23, 2010. We ask that you keep your questions brief and specific to the RFP.

IV. Background

OHIP is a newly formed non-profit organization whose initial board members include representatives from BioOhio, the State of Ohio, the Ohio State Medical Association, the Ohio Osteopathic Association and the Ohio Hospital Association. OHIP's board has been expanded to include representation from the business community, consumers, payers, behavioral health providers, hospitals, physician providers and Federally Qualified Health Centers (FQHCs).

In September 2009, OHIP was designated by the State of Ohio as the authorized non-profit entity to submit an application for the American Recovery and Reinvestment Act (ARRA) State Grant to Promote Health Information Technology Planning and Implementation. At that time, OHIP decided also to submit a bid for the development of a statewide regional extension center (REC) to support the provider adoption of EHR.

In November 2009, OHIP submitted the application (FOA # EP-HIT-09-003) to serve as the statewide Regional Extension Center (REC) under the ARRA Health Information Technology Extension Program. On February 8, 2010, OHIP was notified of its award (Grant Award No. 90RC0012/01) as a statewide REC with overlapping responsibilities for the 11 Ohio counties also covered by HealthBridge in its REC award.

OHIP's model for providing REC services includes partnering with regional entities ("Regional Partners") around the state to provide many of the services necessary for successfully implementing EHR in a meaningful way. The services that will be provided by both OHIP and the Regional Partners are listed in the REC Project Abstract and Narrative.

On March 9, 2010, OHIP designated 7 such groups to be regional entities. These regional partners are listed in Appendix D along with a map of the regions.

This RFP is being issued to enhance the role that OHIP and its regional partners can play in bringing physicians and other providers to meaningful use of electronic health records.

v. Reference Documents

It is recommended that responders review the following documents or websites before submitting RFP responses:

Document	Location
OHIP REC Project Abstract and Narrative	http://ohiponline.org/ohip.hierfi.rec.abstract.narrative.pdf
OHIP Regional REC Partners	Appendix D
OHIP Main Website (News)	http://www.ohiponline.org/
Ohio Health Care Coverage and Quality Council Website	http://www.healthcarereform.ohio.gov

vi. General Terms and Conditions

1. This RFP process is solely for OHIP's benefit and is only intended to provide information to OHIP. The issuance of this RFP does not imply an offer to do business with any respondent. The RFP is designed to provide respondents with the information necessary for the preparation of informative responses.
2. OHIP reserves the right not to review or otherwise to reject, in whole or in part and at any time, any or all responses received in response to this RFP. Issuance of the RFP in no way constitutes a commitment by OHIP to award any contract for the goods and services described in the RFP.
3. OHIP is subject to strict accountability and reporting requirements as a recipient of funds from public sources. Any response or other information submitted by a respondent to OHIP is subject to disclosure by OHIP as required by law, including but not limited to, the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). OHIP makes no agreements or representations of any kind, and expressly disclaims any requirement to maintain the confidentiality of any information provided by respondent in response to this RFP. All material and information provided to OHIP in response to this RFP shall upon receipt become the property of OHIP and will not be returned.
4. By submitting a response, the respondent agrees that OHIP may copy the response for purposes of facilitating OHIP's review or use of the information. The respondent represents that such copying will not violate any copyright, license or other agreement with respect to the materials submitted.
5. Ohio has laws which restrict the gifts which may be given or received by state employees and require certain individuals to disclose information concerning their activities with state government. By submission of a response, respondent certifies that respondent has not paid or agreed to pay to any employee, official or current contracting consultant of OHIP any fee, commission or any other thing of value that is in any way contingent upon OHIP contracting with respondent.
6. OHIP reserves the right to modify this RFP at any time. OHIP reserves the right to contact respondents after the submission of responses for the purpose of clarifying any response. Respondent understands that any and all information provided in response to the RFP is subject to validation. By submitting a response each respondent agrees that it will not bring any claim or have any cause of action against OHIP, or any agent of OHIP or the State of Ohio, based on any

misunderstanding concerning the information provided in the RFP or concerning OHIP's failure, negligent or otherwise, to provide the respondent with pertinent information as intended by this RFP.

7. OHIP is not responsible for any costs incurred by a respondent which are related to the preparation or delivery of the response or any other activities of respondent related to this RFP.
8. The laws of the State of Ohio and the United States of America shall apply to and govern the interpretation, validity and effect of this RFP. OHIP contractors and subcontractors may be subject to federal or state laws or regulations applicable to recipients of funds from public sources. Respondents are responsible for determining the applicability of these laws to their activities and for complying with applicable requirements.
9. OHIP will not be responding to phone or email inquiries about the selection process or identifying vendors still under consideration, or releasing information about the proposals or results until contracts for the EHR RFP have been awarded, and OHIP determines, in its sole discretion, that the release of such information will not unduly prejudice this or future RFP processes.

Appendix A: Request for Proposal for EHR Comprehensive Products

1. Organizational Information

Company Information			
Company Name			
Address			
Phone Number			
Company Web Site			
Company Contacts			
Business Contact Name			
Title			
Phone Number			
eMail Address			
Technical Contact Name			
Title			
Phone Number			
eMail Address			
Structure of Business			
EHR employees (Total)	Within Ohio:	Outside of Ohio:	
# of EHR employees in sales and marketing	Within Ohio:	Outside of Ohio:	
# of EHR employees in product development	Within Ohio:	Outside of Ohio:	
# of EHR employees in implementation/ training	Within Ohio:	Outside of Ohio:	
# of EHR employees in product support	Within Ohio:	Outside of Ohio:	
# of EHR employees in administrative roles	Within Ohio:	Outside of Ohio:	
Installations			
# of <u>new EHR installations</u> over the last 3 years	Within Ohio:	Outside of Ohio:	
# of <u>new EHR users</u> over last three years	Within Ohio:	Outside of Ohio:	
# EHR installations by practice size	Small (1-4 physicians):	Medium (5-9 physicians)	Large (10+ physicians):
Total # of Ohio installations	Small (1-4 physicians):	Medium (5-9 physicians)	Large (10+ physicians):
Total # of Ohio users	Small (1-4 physicians):	Medium (5-9 physicians)	Large (10+ physicians):
Total # of EHR installations nationally	Small (1-4 physicians):	Medium (5-9 physicians)	Large (10+ physicians):
Resource Availability			
# of state EHR installation initiatives (other than the Ohio REC) in which the vendor is participating or has submitted a proposal			

II. Name and Version # of Product

The name and version number of the product that is the subject of this RFP. NOTE: Separate RFPs must be completed for each product requested for consideration.

Name of Product	Version Number

III. Ohio Installations

Type of Organization	List Two (2) Organizations in Each Category	Product and Modules Installed (EHR, CPOE, eRX, CDS, Other)
Tertiary Hospitals		
Community Health Centers		
Large Group Practices (10+ Physicians)		
Small/Solo Practices (< 10 Physicians)		
Behavioral Health Facilities		

IV. Interfaces

List all EHR products (generally) or Health Information Exchanges (HIEs) specifically within Ohio to which this version of your product successfully interfaces:

EHR Product or HIE	Location in Ohio with Established Interface

v. Financial Information

Financial Information for FY 07, 08 and 09	
Total Annual Revenue (by year):	
Revenue from EHR products or services:	
EHR Revenue per EHR employee:	
% of EHR Revenue spent on R&D:	
Revenue from other products or services	
Cash:	
Net Income:	
Net Margin %:	
Total Assets:	
Total Liabilities:	
CAGR - Compound Annual Growth Rate	
FTE Growth (annual, previous FY)	
Publicly traded: Yes / No	Symbol:
Private: Yes / No	Investors:
Ownership structure (specify who is the owner and what is the % ownership)	
Do you currently send aggregated de-identified data to anyone?	

vi. Minimum Requirements

In order to qualify to participate in the selection process, an EHR vendor must meet a minimum set of requirements. The following narrative describes the minimum set of vendor and system capabilities a potential vendor must possess to be considered. Specify if you meet the requirement and if you do not meet a specific requirement please indicate your plans and timetable to meet it.

1. CCHIT 2011 certification or at least:
 - a. Preliminary ARRA 2011 Certification (modular certification limited to security, privacy and interoperability)
 - b. If not CCHIT 2011 or Preliminary ARRA 2011 certified please specify your expected timeframe
 - c. CCHIT 2008 or 2009 outpatient certified
2. Must use the following EHR standards: ICD9/10, LOINC, CPT, HCPCS, SNOWMED-CT, and nationally available medication terminology
3. Interoperability with state of Ohio HIE, as developed by OHIP.
4. Generates as well as accepts HL7 Continuity of Care Documents as structured data (not images)
5. Compliance with meaningful use criteria, as specified below.
6. Compliance with HIPAA Privacy and Security Rules and other regulatory requirements [The Joint Commission (TJC), Center for Medicare and Medicaid Services (CMS), NHIN protocols, Ohio Board of Pharmacy e-prescribing and other applicable requirements and other state and local laws]

7. Compliance with fair data sharing practices set forth in the Nationwide Privacy and Security Framework
8. Role-based access controls
9. Ability to flag or otherwise identify sensitive diagnosis by ICD-9, CPT-4 or other codes (give timeline for software upgrade for ICD-10 or plans for adoption).
10. Ability to track and report 2011 Meaningful Use quality metrics.
11. Ability to configure security features (such as password policy, lockouts, timeouts, etc.).
12. Must provide a complete solution covering all of the following system functions: EHR, Practice Management (including scheduling), Billing, Clinical Decision Support, Patient Portal, e-Prescribing, Laboratory Interfaces. Partnering with a vendor offering any of this functionality which may not be part of the core EHR is permissible.
13. System in-use by 300+ providers nationwide.
14. Local support office in Ohio or willingness to establish a local presence in Ohio to assist in the EHR implementation efforts of regional REC partners.
15. If selected as an OHIP vendor, must supply a formal training plan with estimated time table that supports timely implementation of EHR products.
16. Must guarantee Go-Live dates, and must agree to compensate providers for failure to meet such guarantee.
17. Vendor must agree to establish a reasonable price for ongoing support at a rate that will encourage continued use of an EHR system.

VII. Meaningful Use Criteria

Although the definition of “meaningful use,” as specified in the rule proposed on January 13, 2010 by the Office of the National Coordinator (ONC) of the HHS, is subject to change in the final rule, the categories are spelled out. This RFP is designed to establish the ability of EHR systems to meet the 2011 provider objectives and the 2011 ambulatory measures in the meaningful use rule. If the proposed rule is modified before the RFP awards, vendors will be given the opportunity to comment on their ability to meet the updated definition.

Comment briefly on your system's ability to meet the following criteria:

I. System Capabilities for Providers

- a. Ability to support CPOE (requires computer-based entry by providers of orders (meds, lab, procedure, diagnostic imaging, immunization, referral) but electronic interfaces to receiving entities not required in 2011)
- b. Ability to support drug-drug, drug-allergy, drug-formulary checks
- c. Ability to support maintenance of up-to-date problem list of current and active diagnoses based on ICD-9 or SNOMED
- d. Ability to generate and transmit permissible prescriptions electronically (eRX)
- e. Ability to support maintenance of active medication list
- f. Ability to record demographics including: preferred language, insurance type, gender, race and ethnicity
- g. Ability to record advance directives
- h. Ability to record vital signs including: height, weight, BP

- i. Ability to calculate and display both adult and pediatric BMI
- j. Ability to incorporate lab-test results into EHR as structured data
- k. Ability to generate lists of patients by specific condition to use for quality improvement, reduction of disparities and outreach
- l. Ability to report ambulatory quality measures to CMS
- m. Ability to send reminders to patients per patient preference for preventive/follow up care
- n. Support the implementation of one clinical decision rule relevant to specialty or high clinical priority
- o. Support the documentation of a progress note for each encounter
- p. Ability to check insurance eligibility electronically from public and private payers
- q. Ability to submit claims electronically to public and private payers
- r. Ability to provide patients with an electronic copy of their health information (including lab results, problem list, medication lists, allergies) upon request
- s. Ability to provide access to patient-specific education resources
- t. Ability to provide clinical summaries for patients for each encounter
- u. Ability to exchange key clinical information (e.g., problem list, medication list, allergies, test results) among providers of care and patient authorized entities electronically (HIE capability and demonstrated exchange to be further specified by HIE WG of HIT Policy Committee)
- v. Ability to perform medication reconciliation at relevant encounters and each transition of care
- w. Ability to submit electronic data to immunization registries and actual submission where required and accepted, including submission in appropriate format (UPIF) of consent documentation to relevant agencies
- x. Ability to provide electronic syndromic surveillance data to public health agencies and actual transmission according to applicable law and practice
- y. Compliance with HIPAA Privacy and Security Rules
- z. Compliance with fair data sharing practices set forth in the Nationwide Privacy and Security Framework

II. 2011 Measures

Report the following quality measures to an outside entity (electronic interfaces to receiving entities not required in 2011)

- a. % diabetics with A1c under control
- b. % hypertensive patients with BP under control
- c. % of patients with LDL under control
- d. % of smokers offered smoking cessation counseling
- e. % of patients with recorded BMI
- f. % of orders (for medications, lab test, procedures, radiology and referrals) entered directly by physicians through CPOE
- g. Use of high-risk medications (Re: Beers criteria) in the elderly

- h. % of patients over 50 with annual colorectal cancer screening
- i. % of females over 50 receiving mammogram
- j. % of patients at high-risk for cardiac events on aspirin prophylaxis
- k. % of patients who receive flu vaccine
- l. % of lab results incorporated into EHR in coded format
- m. % of all medications entered into EHR as generic, options exist in the relevant drug class
- n. % of orders for high cost imaging services with specific structured indications recorded
- o. % claims submitted electronically to all payers
- p. % patient encounters with insurance eligibility confirmed
- q. % of all patients with access to personal health information electronically
- r. % of all patients with access to patient-specific educational resources
- s. % of encounters for which clinical summaries were provided
- t. % of encounters where medication reconciliation was performed
- u. % of transitions in care for which summary care record is shared (i.e., electronic, paper, e-Fax)

Stratify reports by gender, insurance type, primary language, race and ethnicity

Implemented ability to exchange health information with external clinical entity (specifically labs, care summary and medication lists)

Report up-to-date status for childhood immunizations

Conduct or update a security risk assessment and implement security updates as necessary

VIII. Pricing

The estimated cost of the EHR solution will be an important factor in determining which vendors will participate in the program. Pricing should be comprehensive and include all hardware, software and services associated with a comprehensive EHR solution. Estimated costs should closely reflect the total implementation costs, including:

- **Server hardware / software.** The vendor must supply or recommend/price a server (or ASP/SaaS) that is configured to support the practice's patient population and proposed number of users. The server specification must include minimum and recommended hardware configurations, operating system software versions and appropriate tools or utility software to manage/maintain the server environment. The vendor must also provide the growth assumptions that would trigger the need to upgrade or replace the proposed server.
- **Network infrastructure.** The vendor must supply or recommend/price the hardware and software necessary to establish the local area network over which the workstations will communicate with the server and necessary security infrastructure.
- **Client hardware /software.** The vendor must supply hardware recommendations/pricing for physician and administrative staff workstations, including minimum and recommended hardware configurations, and operating system software and versions. In addition, the vendor must supply recommendations/pricing for other desktop devices (e.g., printers, scanners) required by the application and appropriate to offices of these sizes.
- **Telecommunications/Connectivity services.** The vendor must identify and price the telecommunications or broadband connectivity services required to access any external services and support remote access to the EHR solution.
- **Application software.** The vendor must identify and price the EHR software application including all of the modules and components necessary to achieve the EHR functionality described in other sections of the proposal.
- **Third party software.** The vendor must identify and price any third party software, dictionaries, databases or services required to achieve the EHR functionality described in other sections of the proposal.
- **Implementation.** The vendor must estimate the cost and number of days of consulting, project management, training and other professional services necessary to successfully install the EHR solution in the physician practice. The vendor must also specify the cost of additional professional services if requested by the practice.
- **Interfaces.** The vendor must detail the price to develop and implement each of the required interfaces.
- **Product maintenance and support.** The vendor must specify the price of the product maintenance and technical support services described in the proposal. If maintenance and support are priced separately, please make note of that.
- **Data conversion.** The vendor should estimate the cost and number of days of assistance that will be required to convert key data from the practice's paper charts. If the practice is converting from a different EHR system, the vendor should estimate the cost to convert data to the vendor's system.
 - **Vendors must provide a complete cost estimate for the proposed EHR solution for each proposed practice size. Use the attached chart to list any costs related to installation. Theoretical practice sizes are listed below.**

Proposed Size	Large Practice	Medium Practice	Small Practice
Physician Users	10	5	1
Physician Extenders	15	10	2
Exam Rooms	20	10	2
Patients	20,000	10,000	2,000
Workstations	45 (or 25, plus 10 mobile devices)	25 (or 15, plus 5 mobile devices)	5 (or 3, plus 1 mobile device)

a. Cost Estimate

Practice Size	Large Practice	Medium Practice	Small Practice
Hardware (vendor provided or through 3 rd party)			
Core software			
Optional software			
3 rd Party Software			
Interfaces			
Network			
Basic services			
Additional optional services			
First year maintenance and support			

Please describe the items included in each category (The table below includes some examples in each category. Complete the list of items included in each).

Hardware	Core software	Optional software	3 rd Party Software	Interfaces	Network	Basic services	Additional services	First year maintenance and support
Server	EMR License	eRx	3 rd party software license if any	Lab	Router	EHR install	EHR training	
Laptop	PMS License			Transcription		PMS install		

IX. Financial Options

The availability of reasonable financing options for providers is a key component to widespread EHR adoption. Please describe financing options that the vendor will make available to providers for either a client- server or SaaS model. Please comment in your response on the following options:

1. Vendor letter of credit with a financial institution for a physician loan guarantee program covering multiple installations. Such program is being established with the assistance of the state of Ohio.
2. Vendor guarantees of individual practice loans from financial institutions for installation of that vendor's EHR product and related costs.
3. Other Vendor financing options that defer payment of equipment, license, service, support, annual, subscription and any other fees, until the provider achieves meaningful use and begins receiving Medicare or Medicaid incentive payments.

X. Client References

Please supply a minimum of three (3) client references. If possible, the client list should encompass different market segments.

Organization Name:	
Contact Name & Title:	
Contact Telephone:	
Product(s) Installed:	

Organization Name:	
Contact Name & Title:	
Contact Telephone:	
Product(s) Installed:	

Organization Name:	
Contact Name & Title:	
Contact Telephone:	
Product(s) Installed:	

Organization Name:	
Contact Name & Title:	
Contact Telephone:	
Product(s) Installed:	

Appendix B: Contract Terms and Conditions

As part of the process of selecting preferred EHR vendors ("Vendors") for Ohio providers, OHIP is requesting Vendors to address selected contractual terms and conditions. Completion of this Attachment is required for consideration of the Vendor in the RFP process. Blank or negative responses may result in elimination of the Vendor from further consideration.

The Vendor is required to attach a contract template modified to reflect the terminology the Vendor proposes in its response to this Appendix. The terms and conditions the Vendor proposes must be inserted word for word in the response to each of the questions in this Appendix, and cross-referenced to the Vendor's contract template. OHIP will score the Vendor's responses based on the wording the Vendor offers. OHIP will assign the highest score if the Vendor accepts OHIP's provision without modification, no credit if the Vendor refuses to concede anything, and varying credit if the Vendor modifies the provision.

Please respond to each question below by circling one of the following designations, and indicate where in the Vendor's contract template this provision appears:

- | | | |
|---|---|--|
| A | = | Accept with No material changes |
| M | = | Propose modifications in any manner; include proposed language |
| D | = | Decline to Accept |

I. Products

1.1 Any equipment, software including any and all third party software and any interfaces (collectively "Software"), and other products and services, which are required to achieve effective system functionality and performance, shall be identified by Vendor in a product/cost spreadsheet to be attached to and incorporated in the agreement. Any additional equipment, software, products and services not so specified, but later deemed necessary by the Vendor, shall be provided by the Vendor to Provider at no charge.

A M D

1.2 Unless specifically indicated in the product/cost spreadsheet, Software and other products shall not have a limit on the number of users or concurrent users.

A M D

1.,3 The Vendor agrees to provide Provider updated documentation to the equipment, Software and other products, as the same are updated.

A M D

II. Fees

2.1 All fees shall be identified in the product/cost spreadsheet by line item for each item of equipment, Software, other product or service.

A M D

2.2 Payment terms must be tied to the achievement of milestones rather than to the passage of time or specific dates, assuming there is no delay caused by the Provider when it is in the reasonable control of the Provider. Payment terms for Software license and implementation fees will be as follows for each Software module:

a. _____% down upon agreement execution;

 A M D

b. _____% upon installation of product on Provider hardware and completion of training and pre-Live Status acceptance testing, as defined in Section 3.13 of this Appendix C;

 A M D

c. _____% upon "Live Status" operations (e.g. systems integration and actual processing of live data);

 A M D

d. _____% upon Acceptance, which shall be defined as the system operating in accordance with the warranties set forth in the agreement and without material error for a period of at least forty-five (45) continuous days. Acceptance shall not occur prior to the first successful month-end reporting process.

 A M D

2.3 Payment terms for remotely hosted products shall be fifty percent (50%) upon the Provider's certification of achievement of meaningful use, and fifty percent (50%) due sixty (60) days thereafter.

 A M D

2.4 Vendor agrees to offer Provider financing options to extend payment for equipment, Software and other products and services until the Provider achieves meaningful use, and to have payment tied to Provider's receipt of Medicare or Medicaid EHR incentive payments.

 A M D

2.5 Payment for support and maintenance services shall begin on Acceptance of product, and may be deferred until the Provider achieves meaningful use.

 A M D

2.6 Any increases in fees, including without limitation license fees, annual fees, hosting fees, support fees, implementation fees and service fees, shall be limited on an annual basis to the lesser of 3% or the percentage change in the Consumer Price Index All Items/Urban Consumers (CPI) for the preceding twelve (12) month period. Vendor agrees there will be no increases in fees during the first 36 months after execution of the agreement.

 A M D

2.7 "Additional Services" shall not include any implementation services required to install the system. Vendor shall identify any Additional Services in advance to Provider. Charges for Additional Services shall be agreed upon in advance and shall not be assessed without the Provider's written approval.

 A M D

2.8 The words “then current rates” or any equivalent terminology shall be deleted from the agreement and replaced with a schedule of the Vendor rates with annual increases capped by the lesser of 3% or CPI.

 A M D

2.9 There will be no interface fees amongst the Vendor’s own products. The only interface fees that can be charged are the interface fees identified in the product/cost spreadsheet for interfaces to non-Vendor products.

 A M D

2.10 Interest and late fees may not be imposed on overdue payments except in the case of undisputed charges, which are more than 45 days overdue. The interest rate may not exceed 10% per year. The Provider will not be responsible for the payment of the Vendor’s collection fees, including without limitation attorney’s fees.

 A M D

2.11 Additional purchases of equipment, software and other products by Provider shall be at the same discounted percentage reflected in the prices on the product/cost spreadsheet.

 A M D

2.12 The fees quoted will include all interfaces and Vendor services required for the Provider to achieve meaningful use in accordance with federal regulatory standards.

 A M D

2.13 The fees for customizations shall be reasonable, fixed in amount, and set in advance by mutual agreement of the Provider and Vendor.

 A M D

III. Implementation

3.1 An Implementation Work Plan encompassing all products shall be attached to the agreement which shall identify: (i) detailed tasks; (ii) responsibilities of Provider and Vendor for each task; (iii) timeline/schedules for each task; and (iv) assumptions.

 A M D

3.2 The implementation services shall address the migration and conversion of existing Provider data to the Vendor’s system, and shall clearly define what data or records will be converted, the cost for conversion, any additional equipment or software requirements needed for the conversion, and the timeline for conversion.

 A M D

3.3 The implementation services shall include all necessary training to allow the Provider to use the system for the Provider electronic health record and other functions.

 A M D

3.4 The implementation fees quoted shall be fixed and inclusive of all fees, charges and expenses (including without limitation travel and out-of-pocket expenses), provided that the Provider does not modify the Implementation Work Plan in a manner that increases Vendor's costs.

A M D

3.5 Any changes in implementation services and fees must follow a written change order procedure. All additional services and the fees for additional services must be approved in writing in advance by Provider.

A M D

3.6 The Vendor will provide a guaranteed Live Status date for each Software module as part of the Implementation Plan, which shall not exceed eight (8) months after agreement execution. If delays in the Live Status date occur due to the Vendor's fault or system error, Provider will receive a credit equal to 1% of total implementation fees for each day of delay. If the system has not been accepted as the result of Vendor delay or system error within ninety (90) days after the date scheduled for Live Status in the Implementation Work Plan, Provider may return all items of the system without further obligation to Vendor and shall receive a full refund of all amounts paid to Vendor.

A M D

3.7 Vendor shall provide qualified personnel in adequate numbers to maintain the scheduled timeline for each task, as designated in the Implementation Work Plan.

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3.8 Provider shall have the right to review the qualifications and references of all implementation staff assigned to Provider's installation. Provider may refuse the services of any personnel Provider deems to be of insufficient experience.

A M D

3.9 Vendor personnel assigned to the implementation shall remain with the project through Acceptance, unless Provider requests replacement or the assigned personnel leaves Vendor's employment.

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3.10 Vendor's Project Manager shall have at least three (3) successful prior implementations of the proposed system/products as a Project Manager at customer sites comparable to Provider's site.

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3.11 Vendor's implementation personnel assigned to install Ohio Providers shall work from Vendor offices located in Ohio.

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3.12 Vendor will permit Provider to delay implementation of equipment, Software or other products for a period of up to 12 months, provided Provider gives Vendor 60 days advance written notice.

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3.13 The parties shall agree upon Acceptance testing standards for each product and the system as a whole, and Vendor shall provide for both a pre-Live Status and post-Live Status product and system

Acceptance testing periods of not less than 60 days each. Pre-Live Status Acceptance testing shall confirm that each item of equipment, Software and other products has been installed and is functioning in accordance with the warranties of the agreement and without material error. Post-Live Status Acceptance testing shall confirm that each item of equipment, Software and other products is functioning on an integrated basis with the system in accordance with the warranties of the agreement and without material error.

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3.14 Vendor shall correct and resolve any and all demonstrated errors or malfunctions of the equipment, Software and other products as part of the implementation services. Acceptance of the system shall not occur until Vendor has resolved all material problems and defects.

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iv. Equipment

4.1 Hardware and other equipment purchased from or through Vendor shall be new, and not used or refurbished, unless Provider specifically consents to the purchase of used equipment. A reasonable price discount shall be allotted for used equipment.

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4.2 Upon payment of the purchase price, Vendor shall deliver to Provider clean title to the equipment free and clear of liens and encumbrances.

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4.3 The Provider shall be permitted to purchase any equipment meeting specifications of the Vendor from a third party supplier if the cost is less than that offered by the Vendor for the same equipment. If equipment is purchased from a third party supplier, all response time warranties will apply so long as Provider purchases the equipment recommended by Vendor.

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4.4 The Provider shall be permitted to update equipment without incurring additional license, use or support fees.

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v. Warranties

5.1 The Vendor warrants that it has good title to and the right to license or sell each Software module, item of equipment and other product listed in the product/cost spreadsheet.

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5.2 The Vendor warrants that each Software module, item of equipment, and other product shall be free from defect in design and workmanship and shall operate in accordance with the Vendor's specifications and documentation, which were provided during Provider's system selection process and attached to the agreement as an exhibit, and in accordance with the Vendor's written responses to any Provider request for proposal.

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5.3 The Vendor warrants system response time for 99% of transactions to be less than two (2) seconds for screen to screen and field to field transactions, and less than three (3) seconds for database queries, measured over a two (2) hour period and assuming no concurrent report writing functions. For each Software module, if response times fall below the guaranteed standards, the Vendor will purchase and install at no charge to the Provider the necessary equipment and software to achieve this performance level for the period commencing upon the date of agreement execution through twenty-four (24) months after Live Status.

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5.4 The Vendor warrants that the system, Software and other products shall be available for Provider's use a minimum of ninety-nine percent (99%) of the time as measured over a 24-hour period. In the event that system, Software or product availability falls below 99% due to a Vendor or system problem, Vendor shall provide Provider a credit in the amount of three percent (3%) of total monthly system support and maintenance fees for each failure to meet the system availability warranty.

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5.5 The Vendor warrants that the Software, equipment and other products shall comply with, and permit Provider to comply with, all applicable local, state and federal laws and regulations including without limitation the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") security and privacy rules and the Health Information Technology for Economic and Clinical Health Act ("HITECH") meaningful use rules, the Ohio Board of Pharmacy rules, and with the standards of any applicable accreditation organization.

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5.6 The Vendor warrants that any electronic health record Software will be certified as of August 1, 2010, and remain certified during the term of the agreement, as qualifying EHR technology, within the meaning of HITECH, by the certification agency designated by the United States Department of Health and Human Services.

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5.7 The Vendor warrants that the Software and other products shall be free from all viruses and worms and shall not contain disabling devices, to disrupt Provider's use of the system, disable Provider's information systems, or compromise the integrity or availability of Provider data.

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5.8 The Vendor warrants that all services shall be performed by competent personnel in a professional manner and in compliance with local, state and federal laws and regulations.

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5.9 The Vendor warrants that the Software modules, equipment and other products will be compatible, and operate in an integrated manner, with other system components, including operating system and application Software, hardware and any existing Provider software to be interfaced with an existing Provider network hardware and software.

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5.10 The Vendor warrants that all interfaces with third-party software shall be HL7 and TCP/IP compliant, and that Vendor has achieved interface in practices or facilities similar to Provider with the third party software in use or to be in use by Provider.

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5.11 The Vendor warrants that any enhancements or upgrades to the Software and/or system will be compatible with the Provider's version of the Software and/or system.

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5.12 The Vendor of a remotely hosted system warrants the security of its system and of Provider data, which security shall include the following safeguards: (i) data encryption technologies for both transmission and storage; (ii) appropriate firewalls to block viruses; (iii) appropriate physical safeguards for the data center where the server is located; and (iv) twice daily backup of Provider's data with offsite storage.

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5.13 The Vendor warrants that it will not "sunset" support and enhancement for, or remove any functionality being used by Provider from, any of the Software or other products acquired pursuant to the agreement within seven (7) years from the date of agreement execution.

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vi. Third Party Products

6.1 The Vendor will attach to the agreement any third party terms and conditions applicable to Provider. The Vendor agrees that Provider will not be obligated to provide indemnity or to undertake any other financial obligation by such third party terms and conditions unless Provider specifically consents in writing to such obligation.

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6.2 The Vendor shall act as first point of contact in resolving any disputes between Provider and any Third-Party Vendor at no charge to Provider.

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vii. Support

7.1 Vendor agrees to offer Software, equipment and other product support and maintenance to Provider for a minimum of seven (7) years, during which period Provider may terminate such support and maintenance after the expiration of the first year upon sixty (60) days notice to Vendor.

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7.2 Vendor agrees that the system shall continue to meet the performance warranties and standards of the agreement during any period for which Provider purchases support and maintenance from Vendor.

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7.3 Vendor agrees that support and maintenance services shall include without additional charge (i) all updates, releases, new versions and enhancements to the Software and other products; (ii) telephone consultation; (iii) telephonic or electronic response by qualified personnel to problems and issues reported by Provider within two (2) hours of receiving the Provider's contact; (iv) resolution within 24 hours of Provider contact of critical errors causing the system or major functionality to be down or compromising the integrity or availability of Provider data; (v) resolution of major errors and malfunctions for which a workaround exists within two (2) business days of Provider contact; and (vi) correction of minor errors that do not impact system functionality within 30 days of Provider contact.

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7.4 Vendor agrees to offer support and maintenance services for the system at rates that are reasonable and designed to encourage continued use by providers.

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7.5 Vendor agrees to provide Provider a credit equivalent to one day's fees for support and maintenance for the affected equipment, Software or other products for each day that an error continues beyond the times reflected in the resolution standards set forth above.

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7.6 Vendor agrees that Provider shall not be responsible for the payment of travel and other out-of-pocket expense associated with the resolution of errors and failure of the equipment, Software or other products to operate as warranted.

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7.7 Vendor agrees to update and otherwise modify the Software and other products as may be required to permit Provider to comply with applicable local, state and federal laws and regulations, including without limitation HIPAA privacy and security regulations, HITECH meaningful use regulations, and Ohio Board of Pharmacy rules. Such updates or modifications shall be provided in a timely manner to permit Provider to comply with the regulations' time frames. Vendor agrees to provide such regulatory updates and modifications to Provider at no charge beyond the agreed upon support fees.

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7.8 Any future releases of new software or other products replacing those being purchased by Provider in the agreement shall be made available to Provider at no charge, including license fees and installation fees, for seven (7) years after agreement execution. Annual support fees for such releases shall not exceed those of the existing product being replaced.

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7.9 Vendor agrees to provide maintenance and support for each Software module or other product's current version and one previous version. Vendor agrees to allow Provider a minimum of 12 months to install any updates or new releases.

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7.10 In the event that Vendor makes any changes to its platform or infrastructure, whether in hardware, operating system or database, within three (3) years post Live Status for the entire system, all fees related to the new platform or infrastructure, including license, implementation, conversion and out-of-pocket expenses will be borne by Vendor. Any associated support fees will be provided to Provider at the level that existed prior to the changes.

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7.11 The Vendor agrees that support personnel servicing Providers in Ohio shall be based at Vendor offices located within the State of Ohio.

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VIII. Confidentiality

8.1 The Vendor agrees that it will not, at any time during the term of the agreement or any time thereafter, use for any purpose other than performance of its obligations to Provider, or disclose to any person, firm, or corporation, any confidential or proprietary information of Provider without Provider's prior written consent. Confidential and proprietary information shall include: (i) all patient and practitioner information and records; (ii) financial data; (iii) charges, rates and other billing information; (iv) clinical outcomes and quality information; and (v) employee and personnel information.

 A M D

8.2 The Vendor will execute the Provider's HIPAA Business Associate Agreement, which shall be attached to and incorporated into the agreement, prior to Vendor accessing any patient information.

 A M D

8.3 The Vendor agrees to follow Provider's information systems security policies including those governing remote access, firewalls, and security codes.

 A M D

8.4 The Vendor agrees that the Provider owns the Provider's records and data, and that Provider shall have the irrevocable right to access Provider's data and records during the term and after the termination of this Agreement, without additional cost to Provider. Under no circumstance shall Vendor withhold Provider access to Provider records.

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8.5 For remotely hosted systems, the Vendor agrees that (i) the Vendor's data storage policies shall be consistent with the Provider's record retention policies; and (ii) the Vendor shall provide the Provider upon request a HIPAA-compliant back-up log.

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IX. Term/Termination

9.1 The term for licensed Software shall be perpetual.

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9.2 The Provider shall have the right to terminate any annual license and support obligation after the expiration of the first year upon sixty (60) days notice to Vendor.

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9.3 The agreement may be terminated for breach. Failure by either party to comply with any material term or condition of the agreement shall constitute a breach. The non-breaching party shall be entitled to give written notice to the breaching party. If the breaching party does not cure the breach within 30 days after receipt of the notice, the non-breaching party may terminate the agreement by giving written notice. The right to terminate is in addition to any other rights and remedies provided under the agreement or otherwise under law.

 A M D

9.4 The Provider may terminate the agreement immediately in the event of Vendor's exclusion, suspension, debarment or other ineligibility to participate in federal health care programs as defined in 42 USC 1320a-7b(f).

 A M D

9.5 Upon termination of the agreement, Vendor agrees to assist Provider in an orderly transition to another vendor or system, during which transition period Provider shall have access to Provider's data and Vendor's systems and services.

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9.6 Upon termination of this Agreement, Vendor promptly shall make available to Provider in electronic copy and usable format, as reasonably requested by Provider, all Provider data and records in Vendor's possession.

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9.7 Vendor shall not impose a termination fee or other liquidated damages upon Provider as the result of termination of the agreement.

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X. General

10.1 The agreement shall be governed by the laws of the State of Ohio. Any disputes arising under the agreement shall be brought exclusively in the federal or state courts located within the Ohio County in which the Provider is located. The parties consent to the jurisdiction and venue of such courts and waive any objections thereto.

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10.2 Any disputes between the parties that cannot be resolved within thirty (30) days shall be resolved by the use of an informal resolution/escalation process defined by the Provider and the Vendor in the agreement.

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10.3 Any disputes between the Vendor and Provider that cannot be resolved within thirty (30) days by the process defined above, may be submitted by agreement of the parties to arbitration to be conducted by the American Health Lawyers Association pursuant to its Dispute Resolution Rules in the Ohio County in which the Provider is located. Arbitration shall not apply to disputes involving injunctive or class action relief.

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10.4 Vendor shall escrow with an independent escrow agent the source code for all versions, releases, and updates of the Software together with appropriate updated documentation and installation instructions at no additional charge to Provider.

 A M D

10.5 Vendor shall not require Provider to defend, hold harmless or indemnify the Vendor or any other person or entity.

 A M D

10.6 Vendor shall defend, indemnify and hold harmless the Provider from and against all claims, liabilities, damages and expenses related to the infringement of third party rights by the Software, equipment and other products acquired from Vendor. In the event that Provider's use of the Software, equipment or any other product is enjoined, Vendor shall arrange for Provider to use such Software, equipment or product, or provide comparable non-infringing Software, equipment or products, or refund to Provider all sums paid by Provider to Vendor for the acquisition and installation of the Software, equipment or product.

 A M D

10.7 Neither party shall assign the agreement or any right or obligation under the agreement without the written consent of the other party, provided that consent shall not be required in the case of assignment to a successor in interest to substantially all of the party's assets. Provider may outsource Provider's data processing operations to a third party organization without incurring any additional license or other fees pursuant to the agreement.

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10.8 Vendor agrees that documents will not be incorporated by reference into the agreement unless made available to and approved by the Provider prior to the agreement execution. The Provider shall not be bound by any terms and conditions not set forth in the agreement.

 A M D

10.9 Vendor agrees that any limitations or disclaimers of liability shall be mutual, shall not be less in amount than twice the total amount paid by the Provider under the agreement, and shall not apply to limit or disclaim: (i) Vendor's defense and indemnity obligations for infringement; (ii) damages resulting from the unauthorized use or disclosure of confidential information, including without limitation breach of the HIPAA Business Associates Agreement; (iii) damages resulting from either party's knowing violation of federal or state laws or regulations; and (iv) personal injury or property damages resulting from either party's gross negligence or reckless conduct.

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10.10 Vendor agrees that to the extent Section 952 of the Omnibus Reconciliation Act of 1980 (Public Law 96-499) is found applicable to the agreement, until the expiration of four (4) years after the furnishing of services pursuant to the agreement, Vendor shall make available, upon written request by the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or to any of their duly authorized representatives, the agreement and the books, documents, and records of Vendor that are necessary to certify the extent of any costs of Provider arising from the agreement. Further, if Vendor carries out any of its duties arising from the agreement through a subcontract, the value or cost of which is Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, with a related organization, such subcontract will contain a clause to the effect and until the expiration of the four (4) years after furnishing of such service pursuant to such subcontract, that the

related organization will make available upon written request to the Secretary of the United States Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, the subcontracts, books, documents, and records of such organization that are necessary to verify the nature and extent of such costs.

A M D

10.11 Vendor agrees to represent and warrant that there are no suits, claims, investigations, or other proceedings pending or threatened, which might adversely affect its ability to perform its responsibilities under the agreement. Vendor further agrees to warrant that neither Vendor nor any of its principals, owners, officers, or employees have been excluded, suspended, debarred, or otherwise rendered ineligible to perform services to providers in federal or state health care plans. Vendor agrees to acknowledge that Provider has made available to Vendor information about the federal false claims act and federal administrative remedies law for false claims and statements, and any related civil or criminal Ohio laws and the Provider's policies and procedures for detecting and preventing fraud. Vendor agrees to abide by such Provider's policies and procedures as to the items and services Vendor provides pursuant to this Agreement and to make such policies and procedures available to Vendor's employees involved in performing such services.

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Appendix C: Preferred Vendor Agreement

This Preferred Vendor Agreement (the "Agreement") is made as of _____, 2010 (the "Effective Date"), by and between Ohio Health Information Partnership ("OHIP"), an Ohio non-profit corporation located at 1275 Kinnear Road, Columbus, Ohio 43212, and _____, a _____ corporation located at _____ ("Vendor").

Vendor is engaged in the business of developing, licensing/providing, implementing and supporting electronic health records technology and products. OHIP has been designated by the State of Ohio as the authorized entity to lead the implementation and support of health information technology throughout Ohio. OHIP also has been awarded the Regional Extension Center (REC) grant for the State of Ohio (with 11 Ohio counties overlapping with the HealthBridge REC) under the American Recovery and Reinvestment Act of 2009 Health Information Technology Extension Program. (Award No. 90RC0012/01) In its role as a REC, OHIP and its regional partners will assist physicians and other health care providers in achieving meaningful use of electronic health records. The parties desire to enter into this Agreement to promote the meaningful use of electronic health records.

NOW THEREFORE, the parties agree as follows.

1. Responsibilities and Warranties of Vendor

1.1 Vendor-Physician Contracts. Vendor agrees to deliver, implement and support the products and services ("Vendor System") identified in Vendor's responses to OHIP's REC Request for Proposal for EHR Comprehensive Products ("RFP") in accordance with the terms and conditions of this Agreement and Vendor's responses to the RFP.

1.2 Vendor Warranties. Vendor will warrant:

1.2.1 good title to and the right to license or sell each module or item of the Vendor System;

1.2.2 each module or item of the Vendor System shall be free from defect in design and workmanship and shall operate in accordance with the Vendor's specifications and documentation, and in accordance with the Vendor's written responses to any Provider request for proposal;

1.2.3 Vendor System response time for 99% of transactions will be less than two (2) seconds for screen-to-screen and field-to-field transactions, and less than three (3) seconds for database queries, measured over a two (2) hour period and assuming no concurrent report writing functions. For each Software module, if response times fall below the guaranteed standards, the Vendor will purchase and install at no charge to the provider the necessary equipment and software to achieve this performance level for the period commencing upon the date of agreement execution through twenty-four (24) months after Live Status for the Vendor System;

1.2.4 the Vendor System shall be available for use a minimum of ninety-nine percent (99%) of the time as measured over a 24-hour period. In the event that Vendor System availability falls below 99% due to a Vendor or Vendor System problem, Vendor shall provide the provider a credit in the amount of three percent (3%) of total monthly system support and maintenance fees for each failure to meet the system availability warranty;

1.2.5 the Vendor System shall comply with, and permit the provider to comply with, all applicable local, state and federal laws and regulations including without limitation the Health

Insurance Portability and Accountability Act of 1996 ("HIPAA") security and privacy rules, the Health Information Technology for Economic and Clinical Health Act ("HITECH") meaningful use rules, the Ohio Board of Pharmacy rules, and the standards of any applicable accreditation organization;

1.2.6 any electronic health record component(s) of the Vendor System will be certified as of August 1, 2010, and remain certified during the term of the agreement, as qualifying EHR technology, within the meaning of HITECH, by the certification agency designated by the United States Department of Health and Human Services;

1.2.7 the Vendor System shall be free from all viruses and worms and shall not contain disabling devices to disrupt the provider's use of the system, disable provider's information systems, or compromise the integrity or availability of provider data;

1.2.8 all services shall be performed by competent personnel in a professional manner and in compliance with local, state and federal laws and regulations;

1.2.9 the Vendor System will be compatible, and operate in an integrated manner, with other system components, including operating system and application software, hardware and any existing provider software to be interfaced with an existing provider network hardware and software;

1.2.10 all interfaces with third-party software shall be HL7 and TCP/IP compliant, and Vendor has achieved interface in physician practices or facilities similar to Provider with the third party software in use or to be in use by the provider;

1.2.11 any enhancements or upgrades to the Vendor System and/or system will be compatible with the provider's version of the Vendor System;

1.2.12 for remotely hosted systems, Vendor will assure the security of the Vendor System and of provider data, which security shall include the following safeguards: (i) data encryption technologies for both transmission and storage; (ii) appropriate firewalls to block viruses; (iii) appropriate physical safeguards for the data center where the server is located; and (iv) twice daily backup of the provider's data with offsite storage;

1.2.13 Vendor will not "sunset" support and enhancement for, or remove any functionality being used by the provider from, the Vendor System within seven (7) years from the date of agreement execution;

1.2.14 neither Vendor nor its officers, owners or employees performing services on behalf of providers is or will be excluded, suspended, debarred or otherwise rendered ineligible to participate in federal health care plans, as defined in 42 USC 1320a-7b(f), or otherwise receive payment from funding under any federal grant or program.

1.3 Dedicated Installation Staff. Vendor agrees to dedicate qualified personnel in sufficient numbers to guarantee that priority primary care physicians ("PPCPs") go live on the Vendor System within no more than eight (8) months following execution of the applicable license or service agreement. "Priority primary care physicians" shall mean allopathic and osteopathic physicians who are family physicians, general internal medicine physicians, pediatricians or OB-GYNs, practicing in public or critical access hospitals, federal qualified health centers, rural health clinics, or other settings for predominantly uninsured, underinsured or medically underserved populations. Vendor will reimburse the PPCP for the amount of any meaningful use incentive payments which are lost as the result of Vendor's failure to install the Vendor System in a timely manner.

1.4 Commitment to Ohio Employment. Vendor agrees that implementation and support services for the Vendor System will be provided predominantly by personnel located in the State of Ohio.

1.5 Vendor Pricing. Vendor agrees that quoted prices will include the price for a comprehensive system including without limitation all interfaces and that payment terms with PPCPs shall be tied to the achievement of performance milestones, and shall permit PPCPs to defer payment until the PPCP's certification of achievement of meaningful use. Vendor further agrees that price increases for ongoing services and support shall not exceed on an annual basis the lesser of three percent (3%) or the change in the CPI-U.

1.6 Vendor System Support. Vendor agrees to support the Vendor System installed for a minimum of seven (7) years, and that support shall encompass all updates required to permit use of Vendor System in accordance with applicable federal and state laws and regulations, including without limitation the HIPAA, HITECH and Ohio Board of Pharmacy rules.

1.7 Financing Options. Vendor agrees to participate in PPCP financing options, including:

1.7.1 Vendor-issued letter of credit with a financial institution for a loan guarantee program covering multiple Vendor installations, such program to be established with the assistance of the Ohio Treasury Department "linked deposit" program;

1.7.2 Vendor guarantee of individual PPCP loans with financial institutions;

1.7.3 Other Vendor financing options that defer payment of equipment, license, service, support, subscription and other fees, until the provider achieves meaningful use and begins receiving Medicare or Medicaid incentive payments.

1.8. Infringement Indemnity. Vendor will defend and indemnify providers from and against any and all damages, liabilities, costs or expenses (including without limitation reasonable attorneys' fees) arising from any claims of infringement in relation to the Vendor System.

1.9 Source Code Escrow. Vendor will escrow with an independent escrow agent the source code for all versions, releases and updates of the software of the Vendor System.

2. *Role of OHIP*

2.1 Vendor Promotion. OHIP will identify Vendor to PPCPs in Ohio as a preferred vendor of the OHIP REC program and promote Vendor's EHR System among providers in Ohio. If requested by Vendor, OHIP or OHIP's regional partners in the OHIP REC program will provide commercially reasonable efforts to assist Vendor in finalizing the execution of provider contracts with PPCPs.

2.2 PPCP Identification. OHIP and OHIP's regional partners shall identify PPCPs as potential customers of Vendor System by providing Vendor contact information.

2.3 First Line of Support. OHIP's regional partners shall serve as a first line of support for PPCPs with regard to mutually agreed-to non-critical support issues, as identified by Vendor and the regional partner.

2.4 State Law Changes. OHIP and OHIP's regional partners will assist Vendor in identifying new Ohio laws and regulations, or changes to Ohio laws and regulations, applicable to the Vendor System and providers' use of the Vendor System.

3. Administrative Fee

In consideration for the marketing and support services provided by OHIP and its regional partners, Vendor agrees to pay OHIP an administrative fee in the amount of three percent (3%) of the fees collected by Vendor for the Vendor System, including without limitation all Vendor's products and services provided to PPCPs in Ohio during the first five (5) years following the execution of each PPCP contract. Administrative fees shall be paid on a monthly basis within thirty (30) days of Vendor's receipt of payment from or on behalf of the PPCP or any institution financing payment for the PPCP. Vendor agrees to allow OHIP or its designee reasonable access to Vendor's business records to confirm the calculation and payment of administrative fees. This provision shall survive the termination of this Agreement.

4. Confidentiality

4.1 Definition. Each party acknowledges that in the course of performing under this Agreement, it may learn confidential, trade secret, or proprietary information concerning the other party or third parties to whom the other party has an obligation of confidentiality ("Confidential Information"). Without limiting the foregoing, Vendor's Confidential Information shall include non-public information about Vendor's business, products or customers; reports generated by or for Vendor; databases and methods of database creation; software tools for report creation; distribution and retrieval; and associated algorithms, tools, programs, software architecture, and technology. Without limiting the foregoing, OHIP's Confidential Information shall include non-public information regarding OHIP's services, products, contracts, finances, business and customers, and pricing; reports generated by or for OHIP; databases and methods of database creation; health data reporting, analysis, and profiling methods and formats; systems for report creation, distribution and retrieval; and associated algorithms, tools, programs, software, and technology.

4.2 Confidentiality Obligations. Each party agrees that (a) it will use such information only as may be necessary in the course of performing duties, receiving services or exercising rights under this Agreement, (b) it will treat such information as confidential and proprietary, (c) it will not disclose such information orally or in writing to any third party without the prior written consent of the other party, (d) it will take all reasonable precautions to protect the Confidential Information, and (e) it will not otherwise appropriate such information to its own use or to the use of any other person or entity. Without limiting the foregoing, each party agrees to take at least such precautions to protect the other party's confidential and proprietary information as it takes to protect its own confidential and proprietary information. Each party is solely responsible for all use of confidential information by anyone who gains access to the Confidential Information of the other party under such party's authorization. Upon termination or expiration (without renewal) of this Agreement, each party will return to the other party or certify as destroyed all tangible items containing any of the other party's proprietary or confidential information which are held by that party or its employees or contractors. Each party agrees to notify the other party if it becomes aware of any unauthorized use or disclosure of the other party's Confidential Information. Without limiting the foregoing, Vendor and OHIP shall not use the other party's trademarks for any purpose without express written permission from the other party.

4.3 Disclosure to Governmental Body. If either party believes it is required by law or by a subpoena or court order to disclose any of the other party's confidential or proprietary information, it shall promptly notify the other party prior to any disclosure and shall make all reasonable efforts to allow the other party an opportunity to seek a protective order or other judicial relief.

4.4 Exceptions. Nothing in this Agreement shall be construed to restrict disclosure or use of information that (a) was in the possession of or rightfully known by the recipient, without an obligation to maintain its confidentiality, prior to receipt from the other party; (b) is or becomes generally known to the

public without violation of this Agreement; (c) is obtained by the recipient in good faith from a third party having the right to disclose it without an obligation of confidentiality; or (d) is independently developed by the receiving party without the participation of individuals who have had access to the other party's confidential or proprietary information.

4.5 Patient Information. Each party agrees not to disclose or utilize individual patient or medical claim information in any way that would violate any physician-patient confidence or any state or federal laws or regulations. Each party agrees not to access or use patient information without entering into a HIPAA compliant business associate agreement with the applicable covered entity.

5. Limitation of Liability, Insurance and Indemnification

5.1 Limitation of Damages. Each party's liability to the other party for direct damages arising out of this Agreement shall not exceed the greater of \$1,000,000.00 or the amount of administrative fees paid or to be paid by Vendor to OHIP under this Agreement. Under no circumstances will either party be responsible under this Agreement for any indirect, incidental, special or consequential damages resulting from either party's performance or failure to perform under this Agreement. The limitations and disclaimers of this Section shall not apply to (i) Vendor's defense and indemnity obligations pursuant to Section 5.3, (ii) damages resulting from breaches of Article 4, or (iii) personal injury or property damages caused by the gross negligence or reckless conduct of either party or its employees.

5.2 Insurance. For the periods covered by this Agreement, Vendor shall maintain the following types of insurance and shall identify OHIP as an additional insured under each such policy:

5.2.1 Commercial General Liability with minimum limits of liability of \$1,000,000.00 per occurrence/\$3,000,000.00 aggregate.

5.2.2 Professional Errors & Omissions with minimum limits of liability of \$1,000,000.00 per occurrence/\$3,000,000.00 aggregate.

5.2.3 Products Liability with minimum limits of liability of \$1,000,000.00 per occurrence/\$3,000,000.00 aggregate.

5.2.4 Privacy and Security Liability with minimum limits of liability of \$1,000,000.00 per occurrence/\$3,000,000.00 aggregate.

In the event that any of the above policies are maintained as claims made coverage and the coverage is cancelled, suspended or otherwise interrupted for any reason, Vendor shall secure an extended reporting endorsement or tail coverage to provide for continuous coverage with limits of liability as set forth above. Vendor shall provide at least thirty (30) days written notice to OHIP if any of the above-mentioned insurance coverage is limited, cancelled, suspended, interrupted or materially altered in any way. Upon request, Vendor shall provide OHIP with certificates evidencing the above-referenced coverage.

5.3 Indemnification. Vendor agrees to defend, hold harmless and indemnify OHIP and OHIP's regional partners, and their respective officers, directors and employees against and from all third party claims, damages and liabilities arising from Vendor's products, services, and other acts and omissions of Vendor; provided that OHIP gives Vendor prompt, written notice of any such claim, sole control of the defense and settlement of such claim, and all reasonable assistance to defend such claim. Vendor shall not agree to settle the claim without OHIP's written consent, provided that such consent is not unreasonably withheld, conditioned or delayed. Vendor shall have no obligations under this paragraph if such claims, damages and liabilities result from OHIP's breach of this Agreement. This indemnification provision shall survive the termination of this Agreement

6. Term and Termination

6.1 Term. This Agreement commences as of the Effective Date and, unless earlier terminated as provided in this Agreement, continues for any period during which Vendor continues to provide products and/or services to any PPCP who contracted with Vendor during the REC Program. All sections of this Agreement relating to administrative payments (during the designated five year period), confidentiality, indemnification, insurance, limitations of liability, and governing law/venue shall survive termination or expiration of this Agreement. Upon termination or expiration of this Agreement, each party shall return to the other party all copies of the other party's products and documentation, within thirty (30) days after termination.

6.2 Breach. If one party breaches any material provision of this Agreement, the non-breaching party may begin the process to terminate this Agreement by giving written notice of termination to the breaching party. If the breach is capable of being cured and is reasonably cured within thirty (30) days after receipt of the notice, the termination shall not become effective. If the breach is not capable of being cured or is not reasonably cured within 30 days after receipt of the notice, the non-breaching party may terminate this Agreement by delivering a second notice to the breaching party, specifying a termination date not later than thirty (30) days after the expiration of the cure period.

6.3 Termination without Cause. OHIP may terminate this Agreement at any time for any reason upon ninety (90) days prior written notice to the other party.

7. General Provisions

7.1 Entire Agreement. This Agreement constitutes the entire understanding between the parties and supersedes all proposals, communications and agreements between the parties relating to its subject matter. No amendment, change, or waiver of any provision of this Agreement will be binding unless in writing and signed by both parties. In the event one or more of the provisions of this Agreement are found to be invalid, illegal or unenforceable by a court with jurisdiction, the remaining provisions shall continue in full force and effect.

7.2 Compliance. Vendor represents and warrants that there are no suits, claims, investigations, or other proceedings pending or threatened, which might adversely affect its ability to perform its responsibilities under this Agreement. Vendor further warrants that in performing its obligations under this Agreement, Vendor will comply with all applicable laws and regulations.

7.3 Independent Contractors. The parties' relationship to each other is that of independent contractors. Neither party shall be deemed to be, or hold itself out as, a partner, sales agent, employee or joint venture partner of the other party.

7.4 Limitation on Assignments. Neither party may assign or transfer this Agreement or any of the rights or licenses granted under it, without the prior, written consent of the other party, which shall not be unreasonably withheld, provided, however, that no such consent will be required in connection with either party's merger, reorganization or consolidation, or sale of all or substantially all of its assets. Except as provided herein, any attempted assignment without such consent shall be void.

7.5 Notices. Any notices of termination relating to this Agreement shall be in writing and will be sent by certified United States mail, postage prepaid, return receipt requested, or by facsimile transmission or overnight courier service, addressed to the party as set forth above, or at a different address as a party has notified the other party in writing.

7.6 Force Majeure. The obligations of the parties under this Agreement shall be suspended to the extent a party is hindered or prevented from complying therewith because of labor disturbances (including strikes or lockouts), war, acts of God, fires, storms, accidents, governmental regulations, or any other cause whatsoever beyond a party's control.

7.7 Non-Exclusivity. This Agreement is not an exclusive arrangement between Vendor and OHIP. OHIP in its discretion may contract with other vendors of electronic health records to serve as preferred vendors in OHIP's REC program.

7.8 Governing Law. Any claim, dispute, or controversy arising out of or relating to this Agreement shall be governed by and construed under the laws of the State of Ohio. Exclusive venue for any action or legal proceeding arising out of or related to this Agreement shall be in the state and federal courts of Franklin County, Ohio.

7.9 General Representations. Each party represents and warrants that: (i) it is a corporation or limited liability company organized, existing, and in good standing under the laws of the State of Ohio; (ii) the execution of this Agreement and the performance of its duties and responsibilities hereunder will not violate its articles of organization or operating agreement or any other written agreement to which it is a party, or require the consent or approval of any third person or entity; (iii) to its knowledge, after due inquiry, neither it nor any manager, officer, or member of it has been convicted of any act or omission constituting a felony under the laws of the State of Ohio or constituting Medicare or Medicaid fraud or any other offense or violation under Titles XVIII, XIX, or XX of the Social Security Act, 349 Stat. 620 (1935), as amended, or has been excluded, suspended, debarred or rendered ineligible to participate in federal health care programs as defined in 42 USC 1320a-7b(f); and (iv) the execution and delivery of this Agreement and the performance and satisfaction by it of its duties and responsibilities hereunder will have been duly and validly authorized by all necessary action on the part of it, and this Agreement will constitute a valid and legally binding obligation of it enforceable against it in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

	[Vendor]		OHIP
BY:	_____	BY:	_____
TITLE:	_____	TITLE:	_____

Appendix D: Regional Partners and Geographic Distribution of Regions

I. Regional Partners

Name of Regional Lead Partner	Other Partners in the Region	Region	Adjusted PPCP
Akron Regional Hospital Association (ARHA)	Austen Bioinnovation Institute, NEOUCOM, University of Akron, Kent State University, Stark State Technical College, ITT Institute, Public Health Departments, Heartland Behavioral Healthcare, Med Central—Mansfield, Med Central—Shelby, Samaritan Regional Health System, Lodi Community College, 20+ hospitals, including Summa, Boardman, and Aultman, Summa Physicians Inc., other Physican Groups	Ashland, Carroll, Harrison, Holmes, Medina, Portage, Richland Stark, Summit, Tuscarawas, Wayne	1628 PCP -326 EHR 1302 PCP 873 PPCP (67%)
Case Western Reserve University (CWRU)	University Hospitals, Cleveland Clinic, MetroHealth, Sisters of Charity, SW General, Parma Hospital, Kaiser, VA Medical Center, Academy of Medicine of Cleveland & Northern Ohio, Better Health Greater Cleveland, One Community, Care Source, Medical Mutual, Boards of Health, Dept. of Public Health, Community Colleges, OSMA, OHA, CVS, Neighborhood Health Services, ADAMSHS Board, Health Collaborative, Ohio KePro, MSS Consultants	Ashtabula, Cuyahoga, Geauga, Lake, Lorain	3291 PCP -658 EHR 2633 PCP 1765 PPCP (67%)

Central Ohio Health Information Exchange (COHIE)	Central Ohio Hospital Council, Access Health Columbus, Central Ohio Trauma System, Columbus Medical Association, OSU Medical Center, OSU Health Plan, OhioHealth, Mt. Carmel Health System, Nationwide Children's Hospital, Central Ohio Primary Care Physicians, OSU Physicians, Compete Columbus, Medical Group of Ohio, Columbus Chamber of Commerce	Coshocton, Crawford, Delaware, Fayette, Franklin, Hardin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Union	2522 PCP -504 EHR 2018 PCP 1352 PPCP (67%)
Greater Dayton Area Health Information Network (GDAHA)	CCHIE, 20+ Hospitals, ADAMHA Boards, Public Health Agencies, Sinclair Community College	Allen, Auglaize, Darke, Mercer, Miami, Montgomery, Preble, Shelby	1200 PCP -240 EHR 960 PCP 644 PPCP (67%)
Hospital Council of Northwest Ohio (HCNWO)	Academy of Medicine of Toledo and Lucas County, 20+ Hospitals, Arrowhead Behavioral Health, Hospice of Northwest Ohio, Ohio Academy of Family Physicians	Defiance, Erie, Fulton, Hancock, Henry, Huron, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood, Wyandot	1190 PCP -238 EHR 952 PCP 639 PPCP (67%)
NEO HealthForce (NEOHF)	4 Hospitals, Forum Health, Community Action Agency of Columbiana County, Dandridge's Burgundi Manor, Salem Visiting Nurse Association, The Inner Office, Burdman Group, Inc., Children's Center for Science and Technology, Columbiana County Career and Technical Center, Columbiana County JFS, East Ohio AHEC, 7 Technical Schools and Community Colleges, Kent State University, Youngstown State University, Trumbull County JFS, Youngstown-Warren Regional Chamber of Commerce	Columbiana, Jefferson, Mahoning, Trumbull	601PCP -120 EHR 481 PCP 323 PPCP (67%)

Ohio University (OU)	7 Hospitals, Coolville Healthcare Clinic, Fairfield Medical Center, Genesis Healthcare System, Holzer Health Systems, Marietta Healthcare Physicians, Muskingum Valley Health Centers, Physicians Business Office, Southern Ohio Medical Center, University medical Associates Endocrine/Diabetes Center, Ironton-Lawrence Community Action	Athens, Belmont, Fairfield, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton, Washington	752 PCP -150 EHR 602 PCP 404 PPCP (67%)
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II. Geographic Distribution Map by County

<http://ohiponline.org/RECbycounty.pdf>