



CONNECTIVITY AGREEMENT

THIS CONNECTIVITY AGREEMENT (“Agreement”) by and between Surescripts, LLC, a Delaware limited liability company, (“Surescripts”), and County of San Mateo, a California state agency (“San Mateo County” or “County”), on behalf of itself and its Aggregator Affiliates, per the definition of Aggregator Affiliates below (collectively, “Aggregator”) is entered into as of the date of the last signature below (the “Effective Date”). Surescripts and Aggregator are each a “Party” and jointly the “Parties”.

Surescripts and Aggregator agree as follows:

I. DEFINITIONS

- a. “Aggregator Affiliates” means (1) an entity that is owned, managed, or legally controlled, directly or indirectly, by San Mateo County, or (2) an entity which, directly or indirectly is contractually controlled by San Mateo County for the purposes of this Agreement, and for each of (1) and (2), an entity for which San Mateo County has the legal authority to contract on behalf of and bind to the terms and conditions of this Agreement. San Mateo County shall be legally responsible for any and all of the Aggregator Affiliates’ (and their End Users’) actions and inactions to the full extent that San Mateo County would be liable if such actions and inactions were committed by San Mateo County itself and agrees that San Mateo County shall be fully liable for all Aggregator Affiliate and End User obligations hereunder. In the event an Aggregator Affiliate’s status changes so that it does not meet the definition set forth herein, such entity shall no longer be deemed to be an Aggregator Affiliate for purposes of this Agreement; provided, however, that such entity is not absolved of any obligations for Aggregator Affiliates under this Agreement prior to such status change or any covenants set forth in this Agreement.
- b. “Aggregator Data” means any data or information relating to Aggregator, or its services or operations, provided to Surescripts by or on behalf of Aggregator.
- c. “Applicable Law” means any and all applicable federal, state, local, common law, rules, regulations, directives, and guidelines, including but not limited to the Health Insurance Portability and Accountability Act (“HIPAA”) and related regulations; the Health Information Technology for Economic and Clinical Health Act (“HITECH”) and related regulations; the Anti-Kickback provisions of the Social Security Act and related regulations; and the federal Physician Self-Referral Prohibition provisions of the Social Security Act and related regulations.
- d. “Certified Aggregator” means an entity that has contracted with Surescripts to become either a pharmacy aggregator or prescriber aggregator and is designated as such by Surescripts.
- e. “Certified VAR” means an entity that has been designated by Surescripts as a value-added reseller of the Surescripts Services and connectivity to other entities that aggregate prescribers and/or pharmacies.
- f. “Data Source” means all PBM Data Sources and Pharmacy Data Sources and any other third party data providers, such as health plans, that have entered into written agreements with Surescripts, either directly or indirectly, in order to allow access through the Surescripts network to information in its possession.
- g. “End User” means (i) an individual health care provider; or (ii) an individual, located in the United States or a United States territory, that: (1) has been provided instruction by Aggregator regarding the Surescripts Services and (2) if required by Applicable Law to be licensed, registered, or otherwise authorized by a Governmental authority, is properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to perform the applicable

healthcare services. End Users are required to and must certify that they have obtained any and all necessary patient consents and authorizations required by Applicable Law to provide or access any of the Services hereunder. Aggregator shall be legally responsible for any and all of the End Users actions and inactions to the full extent that Aggregator would be liable if such actions and inactions were committed by Aggregator itself.

- h. “Government” or “Governmental” means any United States local, state or federal government or governmental authority.
- i. “Participants” means all Certified Aggregators, Certified VARs, Data Sources, prescribers, health care providers, and facilities, technology vendors, and other entities and individuals that have entered into written agreements with Surescripts, either directly or indirectly, in order to access, provide, or communicate through the Surescripts network.
- j. “Pharmacy Data Source” means a pharmacy, pharmacy chain, or Certified Aggregator that aggregates information on behalf of pharmacies, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession.
- k. “PBM Data Source” means a pharmacy benefit manager (“PBM”), health benefit payor or administrator, or other similar entity which has entered into a written agreement with Surescripts to allow access through the Surescripts network to information in its possession.
- l. “Point of Care” means the place and time that a prescriber or his/her agent is in the act of prescribing a pharmaceutical for a patient.
- m. “Prescribing Decision” means a prescriber’s decision to prescribe a certain pharmaceutical or direct a patient to a certain pharmacy.
- n. “Private Information” means: (i) Nonpublic Personal Information as defined by the Gramm-Leach-Bliley Act; or (ii) any data or information that: (1) relates to an individual, and (2) identifies or can reasonably be believed to form the basis for identifying an individual (such as, but not limited to, an individual’s name, postal address, e-mail address, telephone number, date of birth, Social Security number, driver’s license number, financial account number, or any other unique identifier), in each case, that is provided to Aggregator by Surescripts pursuant to the Agreement. Private Information does not include Protected Health Information (“PHI”) as defined under HIPAA and related regulations, created or received on behalf of, or received from Surescripts.
- o. “Proprietary Information” means information, materials, processes, ideas, and techniques (whether or not reduced to writing) (i) which are not generally known in the relevant industry or trade; (ii) which afford possessors of the information a commercial advantage over others who do not have such information; (iii) which are considered trade secrets under Applicable Law; and/or (iv) which, if utilized or disclosed by a Party receiving such information, would place the Party disclosing such information at a competitive or business disadvantage. (Proprietary Information includes, by way of illustration, but without limitation, any and all information relating to: services provided by each Party; processes therefor; employee and customer information; accounting data; statistical data; development and marketing plans; strategies; forecasts; any and all information and documentation deemed confidential or a trade secret under any federal, state, or local statute or regulation; and the like, whether or not tangibly embodied in a document, model, specimen, computer storage device, or other physical object.) Any documentation provided by Surescripts under this Agreement is Proprietary Information to Surescripts and may not be copied or used in any way other than as specifically authorized in this Agreement.
- p. “Surescripts Data” means any data or information relating to Surescripts, or its services or operations, provided to Aggregator and/or its End Users by or on behalf of Surescripts, including statistics collected by Surescripts regarding transactions processed by the Surescripts network, test data, test cases, configuration information, and problem description and resolution information.
- q. “Surescripts Materials” means the Surescripts Network Operations Guide, the Surescripts Style and Usage Guide, the SSL Certification Subscriber Agreement, Implementation Guides, and other materials that Surescripts provides to Aggregator to enable its participation in the Surescripts network for the Surescripts Services, as such materials may be further developed or modified by Surescripts.

- r. “Surescripts network” means the Surescripts proprietary technology for a secure, nationwide, interoperable health information infrastructure, including Surescripts Materials, interfaces, functionality, and transaction maps made available by Surescripts to Aggregator pursuant to this Agreement, as they may be further modified or developed by Surescripts from time to time.
- s. “Surescripts Network Operations Guide” means the operations guide provided by Surescripts setting forth the responsibilities, expectations, and operating principles for participation in the Surescripts network, as such guide may be further developed or modified by Surescripts from time to time.
- t. “Surescripts Services” or “Services” means those services provided by Surescripts, as more fully set forth in Exhibit 1.
- u. “Treatment” shall have the meaning set forth at 45 C.F.R. § 164.501.

II. IMPLEMENTATION AND USE OF CERTIFIED SOFTWARE

- a. Implementation. Aggregator shall bear all costs for implementation and modification of its software necessary to connect to the Surescripts network. When participating in the Surescripts network, Aggregator shall comply with and conform its software to the Surescripts Materials, including but not limited to, compliance with the Service Levels applicable to Aggregator as set forth in the Network Operations Guide.
- b. Use of Certified Software. Aggregator and End Users must use prescribing software (e.g., physician office management software or clinical software) that has been certified by Surescripts prior to use (or upgrades or new releases thereof that do not materially alter compatibility with the Surescripts network), which certification shall not be unreasonably withheld; provided, however, that Aggregator or an End User may use prescribing software without obtaining Surescripts’ prior certification if the software product and version that End User utilizes has theretofore been certified by Surescripts, and has not subsequent thereto been decertified. A list of certified software is attached hereto as Exhibit 2, and such certified software is deemed compliant with the terms of this Agreement applicable to the software. Surescripts shall provide Aggregator with written notice of any additional software that is certified, and in such case Exhibit 2 shall be deemed amended to include such additional certified software, and any such software shall be deemed compliant with the terms of this Agreement applicable to the software at the time of such notification of certification.
- c. Decertification. Notwithstanding anything herein to the contrary, Surescripts retains the right to decertify Aggregator’s or an End User’s software at any time, by Surescripts’ giving written notice to Aggregator, upon a good faith showing that such software is not compatible with the Surescripts network or the terms and conditions of this Agreement. In the event that Surescripts decertifies any such software, Aggregator shall use its reasonable commercial efforts to alter or modify (or cause Aggregator’s licensor(s) to alter or modify) the software as promptly as possible to bring it into compliance with Surescripts’ requirements, in which case Surescripts may recertify the software. Surescripts may prohibit the use of the Surescripts network on behalf of Aggregator or any End User whose software is not then currently certified by Surescripts. Aggregator shall provide Surescripts with the necessary data in the proper format as described in the most current version of the Surescripts Network Operations Guide to enable Surescripts to properly furnish access to the Surescripts network. Surescripts shall have no obligation to process data that fails to meet the established criteria.
- d. Prohibition on Reconfiguration by Aggregator and End Users. Aggregator shall not (and shall ensure that End Users do not) reconfigure or disable any portion of any software that has been certified by Surescripts.
- e. Surescripts Materials. Aggregator agrees that it shall fully comply with the terms and conditions of the Surescripts Materials. The Surescripts Materials may be amended by Surescripts in its sole discretion so long as such amendments (i) do not impose new material obligations on Aggregator unless (a) such amendments are intended to address patient safety issues or (b) a reasonably sufficient time, in light of the amendment, is provided for Aggregator to come into compliance with the amended Surescripts Materials, and (ii) are applied with respect to all other similarly situated entities connected to the Surescripts Network. Nothing herein shall prohibit Surescripts from (a)

applying new Surescripts Materials to previously uncertified Aggregator applications or new versions of Aggregator applications seeking certification or (b) sunseting old versions of the Surescripts Materials for purposes of migrating from one version of the NCPDP or other applicable standard to another so long as reasonably sufficient notice is provided of such (i.e., 12 – 18 months).

- f. Ongoing Compliance. In the event that Surescripts determines in good faith that Aggregator's software ceases to be compliant with the Surescripts Materials, Surescripts may, in its discretion: (i) provide written notice to Aggregator of such non-compliance; (ii) suspend Services to Aggregator; and (iii) work with Aggregator to bring the software back into compliance. If Aggregator fails to respond in a timely manner regarding such non-compliance, Surescripts may decertify Aggregator's software, in accordance with Section II(c) above. Notwithstanding the foregoing, Surescripts retains the right to immediately suspend access to the Surescripts network and Services, in its sole discretion, in the event that Surescripts perceives there to be (i) a patient safety concern, (ii) a violation or potential violation of Applicable Law; or (iii) an unauthorized use of the Surescripts network; and if such issue is not adequately resolved to Surescripts' satisfaction, to decertify the software in accordance with Section II(c) above.

III. ACCESS TO AND PARTICIPATION IN THE SURESCRIPTS NETWORK

- a. In General. Upon accessing the Surescripts network and for those Services which Aggregator has been certified, Surescripts shall provide the Services as set forth in Exhibit 1 attached hereto and incorporated herein by this reference. Fees, if applicable, for such services are set forth in Exhibit 1 and payable in accordance with Section V of this Agreement.
- b. Service Levels. Surescripts shall provide the Services under this Agreement in accordance with the Service Levels set forth in the Surescripts Network Operations Guide. Surescripts shall have the right to modify the Network Operations Guide from time to time in its sole discretion and in accordance with Section II(e) of this Agreement.
- c. Permitted Uses. Subject to Section II(b) above and in accordance with Applicable Law, Aggregator may access the Surescripts network for the sole purpose of using the Services described on Exhibit 1 to transmit and receive information relating to such Services to and from Participants in the Surescripts network on behalf of itself and End Users, and for testing purposes. Aggregator shall ensure that all such End Users act in a manner consistent with the duties and obligations of Aggregator under this Agreement, its exhibits, and attachments, and all Applicable Law now or hereafter imposed. Aggregator shall request information through the Surescripts network only in accordance with the terms and conditions of this Agreement and only with respect to: (i) PBM Data Sources that have direct contracts with Surescripts; and (ii) Pharmacy Data Sources that have direct or indirect contracts with Surescripts or through a Participant to access the Surescripts network. Aggregator shall not: (i) use the Surescripts network in any manner which would allow the general public access thereto; or (ii) authorize any use of the Surescripts network for the benefit of any person or entity not an End User.
- d. Data Sources Participation. Aggregator acknowledges and agrees that any Data Source, in its sole discretion, may elect not to send or receive messages transmitted to or from Aggregator via the Surescripts network pursuant to this Agreement. Aggregator shall not use the Surescripts network or Surescripts Data to compete with the Data Sources in their primary areas of business.
- e. Message Transmission and Content.
 1. Message Transmission in General. Aggregator shall ensure: (a) that each End User is a duly licensed, registered, and authorized healthcare provider (or is employed by, or subject to the direction and control of, a duly licensed, registered and authorized healthcare provider); and (b) that each End User is identity proofed in accordance with industry standards to Surescripts' reasonable satisfaction, pursuant to standards that Surescripts may issue from time to time. Aggregator shall further ensure that each End User is authenticated in accordance with procedures compliant with a national industry standard recognized by Surescripts in its reasonable discretion.
 2. Commercial Messaging Rules. Aggregator shall comply with the following, referred to as the Commercial Messaging Rules.

A. General Limitations.

- (1) Prescribing Decisions. Aggregator shall not, and shall ensure that End Users do not, (i) encourage a prescriber to prescribe or a patient to use a specific pharmaceutical or specific pharmacy, as compared to other pharmaceuticals or pharmacies; or (ii) use any means, program, or device, or permit any other person to use any means, program, or device, including, but not limited to, advertising, instant messaging, and pop-up ads, to influence or attempt to influence, through economic incentives or otherwise, the Prescribing Decision of a prescriber at the Point of Care if: (a) such means, program, or device (as described above) is triggered by, initiated by, or is in specific response to, the input, selection, and/or act of a prescriber or his/her agent prescribing a pharmaceutical or selecting a pharmacy for a patient; and (b) that prescription shall be delivered via the Surescripts network.
- (2) Diagnostic Decisions. Aggregator shall not, and shall ensure that End Users do not, in conjunction with the Surescripts network, use any means, program, or device, or permit any other person to use any means, program, or device, including, but not limited to, advertising, instant messaging, and pop-up ads, to solicit business or to influence or attempt to influence for commercial purposes (through economic incentives or otherwise) any diagnostic or treatment-related decision of a health care provider. The bona fide professional recommendation of an End User offered to another End User regarding the treatment or diagnosis of a shared patient is not intended to be prohibited by this provision; however, Surescripts shall have sole discretion to determine the bona fide non-commercial and clinical nature of all messages.

B. Exceptions to General Limitations.

- (1) Prescribing Decisions. Notwithstanding the above Section III(e)(2)(A)(1), Aggregator may: (A) show information regarding a payer's formulary and benefit plan design, including patient lowest cost options, on/off tier, prior authorization, step therapy, coverage status, and co-pay information; and/or (B) deliver or have delivered to End Users clinical alerts that are sourced from payers and/or are attributed to generally recognized and reputable sources providing clinical information to the prescriber, even if, in the event of either (A) or (B), such information influences the patient or prescriber's choice of pharmacy or other prescribing decisions. In addition, in the event of either (A) or (B) above, Aggregator shall: (i) allow End Users to access all pharmaceuticals known through generally available sources used in the industry, and all pharmacies, including all retail and mail service pharmacy options available; and (ii) not be designed to preclude a physician or patient from selecting any particular pharmacy or pharmaceutical. Any custom lists created and maintained by End Users within an Aggregator software product, including but not limited to: (i) an individual End User's most often prescribed medication list; (ii) an individual End User's most often used pharmacy list; and/or (iii) an individual End User's most often used SIGs (*i.e.*, instructions for the use of medications), would not be considered a violation of this Section.
- (2) Diagnostic Decisions. Notwithstanding the above Section III(e)(2)(A)(2), Aggregator and End Users may: (A) use the CDM Services to communicate information regarding a patient's health care coverage, including patient lowest cost options, on/off tier, prior authorization, step therapy, coverage status, and co-pay information; and/or (B) deliver or have delivered to health care providers clinical alerts that are sourced from payers and/or are attributed to generally recognized and reputable sources providing clinical information, even if, in the event of either (A) or (B), such information influences the health care provider's treatment decisions.
- (3) Compliance with Law. To the extent that any statute or regulation specifically authorizes delivery of information to an End User, such delivery in compliance with such statute or regulation shall not be deemed a breach of the Commercial Messaging Rules.

- C. Effect of Violation of the Commercial Messaging Rules. Any violation of this Section shall be deemed a material breach of this Agreement, and Surescripts shall have a right of termination under Section VI(c)(2) hereof.
- f. Aggregator Equipment. Aggregator shall obtain any equipment, communication lines, telecommunications equipment, routers, software, and the like, as described in the Surescripts Materials, at Aggregator's sole expense.
- g. Prescriber Directory Information. Aggregator acknowledges that Surescripts has unlimited rights to use all directory and related information on End Users that shall come to reside within the Surescripts network database, whether provided by Aggregator or otherwise, including all root, identity, and location-related information subject to the requirements of Section VII, Data, hereof, if applicable. Aggregator shall identify an administrator or similar person to obtain any applicable training and to assume responsibility for the accuracy and integrity of such information in Surescripts directories for purposes described in this Section. The provisions of this Section III(g) shall survive the expiration or termination, for any reason, of this Agreement.

IV. ADDITIONAL AGGREGATOR RESPONSIBILITIES

- a. Aggregator and End Users.
1. Designation of End Users. Aggregator shall designate an End User as such for purposes of this Agreement (i) only after confirming that such individual or entity meets the definition of an End User set forth in Section I(g) above, and (ii) only subject to ongoing satisfaction of the identity-proofing and other requirements set forth in Section III(e)(1) of this Agreement. With respect to this Agreement, including complying with the terms and conditions of, and obligations within, this Agreement, Aggregator shall be legally responsible for End Users' actions and inactions (and for the consequences of End Users' actions and inactions) to the full extent that Aggregator would be liable if such actions and inactions were committed by Aggregator itself.
 2. Notification to End Users. Aggregator shall notify End Users in writing in advance of the effective date of any expiration or termination of this Agreement that the Surescripts network and Services shall no longer be available to End Users through Aggregator as of that effective date.
 3. Customer Support. Aggregator shall provide all customer support for End Users. Such support shall include, without limitation, taking initial inquiries from locations, diagnosing the nature of any problems, and resolving such problem, where possible, prior to contacting Surescripts to assist in such resolution. Additionally, Aggregator shall provide basic education and training to End Users, their technicians and other staff, to the extent relevant to the Surescripts network and this Agreement, and regular notifications to End Users of updates, changes, and deletions to the Surescripts network affecting such parties.
- b. Patient Consent and Authorizations. Aggregator shall transmit information pursuant to the applicable Surescripts Service in accordance with the Surescripts Materials for the particular Service and in accordance with Applicable Law. Pursuant thereto, Aggregator shall ensure that all patient consents and/or authorizations required by Applicable Law have been obtained and that its End Users have certified to such. Aggregator acknowledges that Data Sources may impose additional privacy and patient consent policies on the delivery of Private Information and/or PHI through the Surescripts network.

V. FEES

- a. Fees for Surescripts Services. Fees for the Surescripts Services are set forth, as applicable, in Exhibit 1. Such fees are current as of the Effective Date, and are subject to change by Surescripts as set forth in Section V(e) and Exhibit 1 of this Agreement. Surescripts will invoice Aggregator on a monthly basis for all fees due to Surescripts. Aggregator agrees to pay Surescripts upon receipt of each monthly invoice, and agrees further to pay a one and one half percent (1.5%) per month service charge on all undisputed invoices that are not paid within forty-five (45) days of receipt.

- b. Disputed Fees. Notwithstanding the foregoing, if Aggregator disputes any charges or amounts on any invoice, and such dispute cannot be resolved promptly through good faith discussions between Aggregator and Surescripts, then Aggregator will pay upon receipt the amount of the invoice less the disputed amount, provided that Aggregator shall diligently proceed to work with Surescripts to resolve any such disputed amount. Any sums withheld pursuant to this paragraph shall not accrue service charges, but if the contested invoice is later determined to be valid in amount, Aggregator shall pay the amount withheld plus a one-and-one-half percent (1.5%) per month service charge calculated retroactive to the date which is thirty (30) days following receipt of the invoice which was originally disputed.
- c. Taxes. If applicable, Aggregator shall be solely responsible for such sales, use, excise, value-added, services, consumption or other tax that is assessed on the provision of any or all of Surescripts Services under this Agreement.
- d. Effect of Failure to Pay. In the event that any invoice is not timely paid as provided herein, Surescripts may, in addition to any other right or remedy that it may have under this Agreement or at law, suspend Aggregator's use of the Surescripts network if Surescripts has not received payment in full within fifteen (15) days of Surescripts' written demand thereof. Aggregator agrees to reimburse Surescripts for all costs and expenses incurred by Surescripts in enforcing collection of any monies due to it under this Agreement.
- e. Fee Increases. On each annual anniversary of the Effective Date, the then-current fees for each of the Surescripts Services provided under this Agreement will automatically increase by the greater of three percent (3%) or the Consumer Price Index, All Urban Consumers (U.S. Cities Average).
- f. Changes in Fees. In addition to the terms of Section V(e) above, Surescripts may add or change fees charged for Surescripts Services under this Agreement by providing Aggregator with ninety (90) days' written notice of such changes, provided that (as detailed in Section VI(c)(3) below), Aggregator may elect to terminate this Agreement by providing Surescripts with written notice of such intent within sixty (60) days of receiving Surescripts' notice of fee changes.
- g. Not to Exceed. During the five (5) year term of the Agreement described in Section VI(a) below, the Parties reasonably believe, based upon Aggregator's representations to Surescripts of its, and its Aggregator Affiliates' and its End Users', anticipated volume and scope of Services' consumption (and transactions to be processed by and through the Services) during such term, that the total Services fees to be billed to, and paid by Aggregator, during the term shall not to exceed Four Million Three Hundred Eighty-Three Thousand Eight Hundred Seventeen Dollars (\$4,383,817) for the Services described in Exhibit 1 as of the Effective Date ("Not To Exceed Amount"). Notwithstanding the foregoing, in the event that Aggregator's, Aggregator's Affiliates' and/or End Users' volume and/or scope of Services consumption and/or transactions processed by and through the Services changes or is amended after the Effective Date of the Agreement, or additional Services are added to the Agreement after the Effective Date of the Agreement, the foregoing Not To Exceed Amount shall not apply. In addition, the foregoing Not To Exceed Amount excludes any third party costs, expenses and taxes.

The Parties acknowledge and agree that (1) it shall be Aggregator's sole responsibility and obligation to monitor and manage the Not To Exceed Amount; (2) Aggregator shall notify Surescripts in writing when the Services fees billed to Aggregator under this Agreement has reached seventy-five (75%) of the Not To Exceed Amount, regardless of when in the five (5) year term of the Agreement such 75% is achieved; and (3) the Parties may mutually agree to increase the Not To Exceed Amount, if appropriate, and if so increased, they will reflect the new Not To Exceed Amount in a written amendment to this Agreement.

VI. TERM AND TERMINATION

- a. Term. This Agreement shall remain in full force and effect for a term of Five (5) years from the Effective Date unless terminated in accordance with the terms and conditions of this Agreement.
- b. Termination by Either Party.
 1. Upon Mutual Written Consent. The Parties hereto may agree at any time to terminate this Agreement upon mutual written consent.
 2. Upon Material Breach. This Agreement may be terminated by either Party in the event that the other Party materially breaches or fails to comply with its obligations or the terms and conditions applicable to such Party hereunder. In the event a non-breaching Party (the “Non-Breaching Party”) wishes to terminate this Agreement for such material breach by the other Party (the “Breaching Party”), it must notify the Breaching Party in writing of such alleged breach and proposed termination and, if such breach is not cured within thirty (30) days of the date the written notice was received by the Breaching Party, this Agreement shall terminate on the thirtieth day. The Non-Breaching Party may withdraw such notice at any time before the end of the thirty (30) day period by giving written notice of such withdrawal received by the Breaching Party prior to the end of the thirty (30) day period.
 3. Following Notice of Fee Changes. Aggregator may elect to terminate this Agreement within sixty (60) days of receiving notice from Surescripts of Surescripts’ intent to change or add fees under this Agreement. Aggregator may elect such termination by providing Surescripts with written notice of its intent to terminate, and such termination will become effective upon the date that Surescripts’ revised fees would have gone into effect.
- c. Termination by Surescripts.
 1. Breach by End Users. Surescripts may terminate use of the Surescripts network (with no cure period) on behalf of a particular End User if: (i) such End User is not duly licensed or authorized under Applicable Law to use Aggregator’s application for the service(s) for which Surescripts has certified the application; or (ii) an act or omission of such End User would (if it were an act or omission of Aggregator) constitute a material breach of this Agreement. Such termination shall be effective upon Surescripts’ delivery of written notice of such act or omission to Aggregator, which notice Aggregator shall forward to the applicable End User within five (5) days of Aggregator’s receipt thereof.
 2. Cessation of Services. In the event that Surescripts no longer offers a Surescripts Service broadly in the marketplace, Surescripts has the right to end such Surescripts Service and terminate the corresponding Exhibit upon thirty (30) days written notice to Aggregator.
- d. Termination for Convenience. Either Party may terminate this Agreement for convenience by providing the other Party with written notice of termination at least ninety (90) days before the effective date of the termination; provided that Aggregator may not terminate this Agreement for convenience until after the third year of the five (5) year term.
- e. Effect of Termination. Upon termination of this Agreement for any reason, Aggregator’s right to access or use the Surescripts network and/or Surescripts Services will immediately cease. Termination of this Agreement shall not terminate Aggregator’s obligations to pay Surescripts for all fees accrued under this Agreement prior to discontinuance of performance by Surescripts due to any such termination.

VII. DATA

- a. Use by Surescripts. Subject to compliance with all Applicable Law (including, without limitation, all laws regarding the protection of PHI) and the terms of the Business Associate Agreement entered into by and between the Parties (the “Business Associate Agreement”), Surescripts shall be entitled to use and disclose information received from Aggregator or End Users for the purpose of Surescripts’ business, including, without limitation, its proper management and administration and the Surescripts Services. The provisions of this Section VII(a) shall survive the expiration or termination, for any reason, of this Agreement.

- b. Use by Aggregator. Aggregator shall not make any use or disclosure of any data or information provided by Data Sources to Aggregator by or through the Surescripts network except for the specific purposes identified on Exhibit 1 and as expressly authorized in this Agreement and permitted by the Business Associate Agreement. Additionally, Aggregator shall not attempt to capture, open, examine, modify, add commercial or other messages to, repackage, distribute, license, sell or make any commercial use of any data or information provided by any Data Source to Aggregator by or through the Surescripts network other than as specifically permitted under this Agreement. Aggregator shall engage in no act or omission which would alter the content of, interfere with, modify, or delay (i) the transmission of any data or information provided by the Data Sources which is communicated through the Surescripts network or (ii) the incoming or outgoing transmission or receipt of any message sent through the Surescripts network. Aggregator acknowledges and agrees that any uses by Aggregator of message data transmitted hereunder (or any rights claimed Aggregator in such data) shall arise solely from Aggregator's written contracts with, ownership (or control), or operation of, as applicable, End Users, and applicable patient consents and authorizations. Nothing in this Agreement is intended to restrict use of data or information provided by Data Sources and obtained or sent through the Surescripts network once such data or information has become a part of a patient's permanent record or otherwise restrict or modify Aggregator's rights and obligations to access, share, and use its own Protected Health Information.

VIII. PRIVACY AND SECURITY

- a. General. The Parties acknowledge that messages transmitted via the Surescripts network for the Services may contain Private Information and/or PHI. Furthermore, some but not all Participants in the Surescripts network are either Covered Entities or Business Associates of Covered Entities, as those terms are defined in the HIPAA regulations. To support the privacy, confidentiality, and security of the messages transmitted via the Surescripts network, Aggregator agrees to comply with Applicable Law, including all applicable HIPAA regulations, as well as the Business Associate Agreement. In the event of any conflict or inconsistency between this Agreement and the Business Associate Agreement regarding the use or disclosure of PHI, the terms of the Business Associate Agreement shall apply.
- b. Safeguarding Data. Aggregator shall establish and maintain safeguards against the destruction, loss, or alteration of Surescripts Data or Participant data that are no less rigorous than those maintained by Aggregator for its own information of a similar nature, but no less than reasonable safeguards. Aggregator shall have in place appropriate administrative, technical, and physical safeguards to protect the privacy of Private Information and PHI. Aggregator shall reasonably safeguard Private Information and PHI from any intentional or unintentional use or disclosure that is in violation of Applicable Law, and limit incidental uses or disclosures made pursuant to otherwise permitted or required disclosures.

IX. COMMUNICATIONS

- a. Marketing and Public Relations. Neither party may disclose the existence of this Agreement in any marketing or public communications, including, but not limited to, issuing press releases and/or communicating with the media, without the prior written approval of the other party's marketing and corporate communications department.

X. PROPRIETARY INFORMATION

- a. In General. All Proprietary Information disclosed by either Party to the other in connection with this Agreement shall be protected by the recipient Party from disclosure to others. To the extent Proprietary Information disclosed under this Agreement meets the definition of Confidential Information set forth in that certain "Mutual Nondisclosure Agreement" entered into by and between Surescripts and Aggregator dated December 15, 2023 (hereafter, the "NDA"), such Proprietary Information shall be subject to the terms of the NDA.

- b. Protection of Proprietary Information. Surescripts and Aggregator acknowledge that all Proprietary Information disclosed by either Party to the other Party in connection with the Surescripts network, including, without limitation, the terms of this Agreement, or which comes to the attention of one of the Parties, its employees, officers and agents during the provision of the Surescripts network, constitutes a valuable asset. Therefore, Surescripts and Aggregator each agree to hold such information in confidence and shall not, except in the performance of the duties under this Agreement or with the express prior written consent of the other Party, disclose or permit access to any such information to any person, firm or corporation other than persons, firms or corporations authorized by that Party, and Surescripts and Aggregator shall cause their officers, employees, agents and representatives to take such action as shall be necessary or advisable to preserve and protect the confidentiality of such information.
- c. Publicly Available Information. Surescripts and Aggregator's obligations and agreements under this Section X shall not apply to any information supplied that: (i) was known to either Party prior to the disclosure by the other; (ii) is or becomes generally available to the public other than by breach of this Agreement; (iii) otherwise becomes lawfully available on a non-confidential basis from a third party who is not under an obligation of confidence to either Party; (iv) is independently developed by the receiving Party (so long as the development of such information is not based on, or is not the result of, obtaining such Proprietary Information of the other Party; or (v) is disclosed pursuant to a requirement or request of a court or other Governmental authority or a requirement of Applicable Law.
- d. California Public Records Act. Notwithstanding the terms of Sections X(a) – (c), Surescripts recognizes that Aggregator is subject to the California Public Records Act ("PRA"), Government Code §§ 7920.000 et seq. Surescripts will work with Aggregator to provide necessary information to facilitate Aggregator's timely compliance with respect to any legally required disclosure subject to a PRA request that involves Surescripts' Proprietary Information. If Aggregator receives a PRA request to disclose Surescripts Proprietary Information, including but not limited to a copy of this Agreement, a copy of any other agreements between the Parties, or any documents which contain Surescripts's Proprietary Information, Aggregator will give Surescripts (i) written notice of, and a copy of, such PRA request promptly upon its receipt of such PRA request, as well as, (ii) records that Aggregator intends to make available in response to such PRA request at least ten (10) calendar days prior to the applicable statutory deadline to which Aggregator is required to produce records responsive to such PRA request so that Surescripts may review the requested records. Surescripts may request Aggregator to withhold, or redact those portions of, such records as Surescripts asserts are confidential or exempt from disclosure as provided under the PRA or other applicable law. Prior to any required disclosure, Aggregator and Surescripts will discuss Aggregator's proposed response and, at any time after becoming aware of a PRA request, Surescripts may seek a protective order. Aggregator will reasonably cooperate with Surescripts's efforts to protect any Proprietary Information against disclosure, provided that in no event will Aggregator be required to initiate legal action to avoid disclosure.

If a requestor seeks to obtain the redacted Surescripts' Proprietary Information through a court proceeding or other means, Aggregator will promptly notify Surescripts allowing Surescripts reasonable time to oppose such efforts and/or request. If Aggregator is informed at any time that it is or will be required to disclose such Surescripts Proprietary Information by binding court order, the Aggregator may disclose such information pursuant to the requirements of the statute and such binding court order; unless Surescripts notifies Aggregator that it intends to seek a stay of such court order, then not until Surescripts's time to seek such stay has expired or the stay is finally denied). In the event Surescripts does timely file to seek a protective order, only following the final judgment in such action, or earlier with Surescripts's written consent or if Surescripts's time to obtain such protective order has expired, may Aggregator disclose such Surescripts' Proprietary Information as required by the PRA. In any court proceeding to restrict disclosure of Surescripts' Proprietary Information pursuant to a PRA request, Surescripts will not unreasonably withhold its consent if Aggregator seeks to excuse itself from such proceeding, provided such excusal does not limit Surescripts's ability to seek, assert, or enforce a protective order.

- e. Survival. The provisions of this Section X shall survive termination of this Agreement for any reason.

XI. REPRESENTATIONS, WARRANTIES, AND COVENANTS

a. By Surescripts.

1. Surescripts network.

A. In General. The Surescripts network is provided “as is” and without warranties, except as set forth in Section XI(a)(1)(B) below. ALL OTHER WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO THE SURESCRIPTS NETWORK ARE HEREBY DISCLAIMED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. Surescripts does not warrant that the Surescripts network will meet Aggregator’s requirements or that they will operate without interruption or be error free.

B. Exceptions. Surescripts hereby represents and warrants to Aggregator that the Surescripts network will perform substantially as described in its written documentation.

2. Surescripts Services. Surescripts agrees to use commercially reasonable efforts at all times to provide prompt and efficient service and to maintain its own equipment, proprietary systems and programs; Surescripts, however makes no warranties or representations regarding the Surescripts network except as specifically stated in Sections XI(a)(1)(B) and Section XI(a)(2). Surescripts shall use due care in processing all work submitted to it by Aggregator and agrees that it will, at its expense, use commercially reasonable efforts to correct, as promptly as practicable, any errors to the extent that such errors are due to the malfunction of Surescripts computers, operating systems, or programs or errors by Surescripts employees or agents. Correction shall be limited to identifying errors and retransmitting the message or messages affected by any errors. Surescripts shall not be responsible in any manner for errors or failures of proprietary systems and programs of third parties, nor shall Surescripts be liable for errors or failures of Aggregator's software or operational systems not caused by the Surescripts network. Should there be any failure in performance or errors or omissions with respect to the information being transmitted, Surescripts responsibility shall be limited to using commercially reasonable efforts to correct such failure in performance or errors or omissions.

THE WARRANTIES SET FORTH IN THIS SECTION XI ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, AND AGGREGATOR HEREBY WAIVES ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR USE FOR A PARTICULAR PURPOSE.

b. By Aggregator.

1. In General. Aggregator represents and warrants to Surescripts that: (i) it has the full corporate power and authority to enter into this Agreement and to perform its obligations hereunder; (ii) it is duly authorized to execute and deliver this Agreement and has all necessary licenses, authorizations and approvals to perform its obligations as set forth herein; (iii) the execution, delivery and performance of this Agreement does not conflict with any agreement, instrument or understanding to which it is a party or may be bound nor does it violate any law or regulation of any court, governmental body or administrative or other agency; (iv) Aggregator shall be in compliance with all Applicable Laws; and (v) Aggregator and End Users shall use the Surescripts network and Surescripts Services in accordance with the terms of this Agreement and all Applicable Laws.

2. Prescriber Authorizations. Aggregator represents and warrants to Surescripts that it has obtained all necessary authorizations from End Users required for Surescripts to use all information provided by Aggregator and End Users.

3. Maintaining PHI within United States of America. Aggregator represents and warrants and covenants that it has not in the past, does not currently, and covenants that it will not in the future, physically or electronically send or store PHI or any other individually identifiable information outside of the United States of America.

4. Consistency with Surescripts Representations and Warranties. Aggregator shall make no representations or warranties regarding the Surescripts network that are inconsistent with the representations and warranties provided by Surescripts hereunder.

XII. DISCLAIMERS AND CERTAIN ASSOCIATED RESPONSIBILITIES

- a. In General. All disclaimers set forth throughout this Agreement, including, but not limited to those contained in Sections XI, XII, and XIII of this Agreement shall survive termination or expiration of this Agreement.
- b. Availability of Data Sources. Surescripts makes no representation or warranty regarding the availability through the Surescripts network of any particular Data Source or other Participant in the Surescripts network. At any time, Data Sources or other Participants in the Surescripts network may be added to or deleted from the Surescripts network or may limit Aggregator access to their data, such changes may occur without prior notice to Aggregator.
- c. Limitations of the Surescripts network. Surescripts uses available technology to match patient identities in order to provide the Surescripts Services in accordance with this Agreement and attached Exhibits. Because patient information is maintained in multiple places, not all of which are accessible to Surescripts, and because not all patient information is kept in a standard fashion or is regularly updated, it is possible that false matches may occur or that there may be errors or omissions in the information provided by Surescripts from Data Sources pursuant to the Services. Therefore, it is the responsibility of any treating physician or other health care provider or facility (not the responsibility of Surescripts) to verify such information through other means with each patient and/or the patient's representatives before such information is relied upon or utilized in diagnosing or treating the patient. Surescripts is not a health plan, health care provider or prescriber. Surescripts does not and cannot independently verify or review the information transmitted through the Surescripts network for accuracy or completeness. Pursuant to the foregoing, Aggregator acknowledges (on its own behalf and on behalf of all End Users) that the information provided by Surescripts from Data Sources may not be complete or accurate, and that neither Surescripts nor any Data Source provides any representations or warranties with respect to the accuracy or completeness of such information. Aggregator hereby releases and holds harmless, and shall cause each End User to release and hold harmless, Surescripts and the Data Sources from any liability, cause of action, or claim related to the completeness or lack thereof of such information. In addition, Aggregator shall ensure that each End User confirms the accuracy of all information obtained through the Surescripts network with his/her/its patient prior to providing any medical services based thereon, and that the End User shall use his/her/it professional judgment in the provision of care. Aggregator and Surescripts agree that the Data Sources shall be third-party beneficiaries to this Section XII(c).
- d. No Substitution for Written Prescription or Documentation. The Surescripts network is not intended to serve as a replacement for: (i) a written prescription where not approved as such by the appropriate Governmental authorities or where such written prescription is required for record keeping purposes; or (ii) applicable prescription documentation. Use of the Surescripts network is not a substitute for a health care provider's standard practice or professional judgment. Any decision with regard to the appropriateness of treatment, or the validity or reliability of information, is the sole responsibility of a patient's health care provider.

XIII. INDEMNIFICATION

a. Indemnification

1. **Mutual Indemnification.** Except to the extent arising from the gross negligence or willful misconduct of the Indemnified Party (defined below), each Party (the “Indemnifying Party”) shall indemnify and defend the other Party (the “Indemnified Party”) from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, and costs and expenses (including but not limited to reasonable attorney’s fees and costs) arising from, or in connection with, or based on allegations of third-party claimants of any claims for any breach of this Agreement or violation of Applicable Law by the Indemnifying Party. Further, the Indemnifying Party shall hold the Indemnified Party harmless for any claims that arise out of or relate to any breach of this Agreement by the Indemnifying Party.
2. **Indemnification of Data Sources.** Aggregator agrees to indemnify, defend and hold harmless the Data Sources and their affiliates, officers, directors, employees, agents, successors and assigns from and against any and all actual or threatened losses, liabilities, damages, and claims, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties) arising from, or in connection with, or based on allegations of third-party claimants of any claims for any breach by Aggregator or End Users of any confidentiality or privacy obligations or any misuse of data and/or systems provided by Surescripts to Aggregator or End Users.
3. **Indemnification Related to California Public Records Act Disclosures.** Surescripts shall indemnify and defend, Aggregator from any third party costs (including reasonable attorney’s fees) and third party damages finally determined to be owed to the requestor related to a valid PRA request that are directly and proximately caused by Aggregator as a result of Aggregator not disclosing, at Surescripts’s request, any document or portion thereof containing Surescripts’ Proprietary Information, to the extent (1) it was later confirmed by valid court order that such Proprietary Information should have been disclosed to the requestor under such PRA request; and (2) such costs and damages are incurred by the requestor during the period of beginning when Aggregator refuses to disclose such document or portion thereof at Surescripts’s request until the time that the earliest of (a) Surescripts directs Aggregator to release such Proprietary Information or portion thereof, (b) a court order directs the release of the applicable Proprietary Information, or, (c) such costs and damages otherwise cease to be incurred; provided however, that the following conditions were met: (i) Aggregator promptly (1) notified Surescripts in writing of (a) the PRA request and the requestor’s claim, and (b) all attempts to compel production of such Surescripts Proprietary Information, and (2) Aggregator promptly provides Surescripts with the information reasonably required for defense of the requestor’s claim, and grants Surescripts exclusive control over the defense and settlement of the claim, and (ii) Aggregator has not, as detailed above in this paragraph, without Surescripts’s express written consent or a valid court order (except where Surescripts has sought a stay of such court order, then not until Surescripts’s time to seek such stay has expired or the stay is finally denied), disclosed to any third party, including the requestor under the applicable PRA request, such Surescripts Proprietary Information that Surescripts has requested not to be disclosed - as contemplated in Section X. subsection d. (California Public Records Act), above.

- b. **Limitation of Liability.** Except as otherwise provided in this Agreement and Section 13.4 of the Business Associate Agreement executed herewith, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available at law or in equity. EXCEPT WITH RESPECT TO INDEMNIFICATION OBLIGATIONS, TO THE FULLEST EXTENT NOT PROHIBITED BY APPLICABLE LAW, NEITHER PARTY SHALL, IN ANY EVENT, BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY, LOST PROFITS OR SIMILAR DAMAGES, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY

OF SUCH LOSS OR DAMAGE. Each Party shall use all reasonable efforts to mitigate damages for which the other Party is responsible.

- c. Force Majeure. Neither Party shall be liable or deemed in default for failure to fulfill any obligation under this Agreement due to causes beyond its reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, electrical power failures, telecommunication or internet backbone outages, failure of an internet access provider or other similar causes beyond the Parties' control, and neither Party shall be liable for losses, expenses or damages, ordinary, special or consequential, resulting directly or indirectly from such causes.
- d. Subcontractor. If Surescripts failure to provide the Surescripts network is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both Surescripts and the subcontractor, Surescripts shall not be liable unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit Surescripts to fulfill its obligations hereunder.
- e. Survival. The provisions of this Section XIII shall survive any termination or expiration of this Agreement.

XIV. INSURANCE

- a. General Requirements. Each Party agrees to maintain insurance in amounts sufficient to support their obligations under this Agreement during the term of the Agreement. Either Party may request certificates of insurance and the other Party will promptly respond to such request. These certificates shall specify that thirty (30) days' notice must be given to the other Party of any cancellation of the policy.
- b. Workers' Compensation and Employer's Liability Insurance. Each Party shall have in effect during the term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage.
- c. Liability Insurance. Surescripts agrees to maintain during the term of this Agreement commercial general liability insurance, cyber liability insurance, and professional liability / errors & omissions insurance. Such insurance coverages shall be for each occurrence (and in the aggregate where noted) and shall not be less than the amounts specified below:

General Liability	\$1,000,000 (\$2,000,000 aggregate)
Professional Cyber Tech E&O	\$5,000,000

- d. County and its elected and appointed officers may be, upon request, named as additional insureds on Surescripts' certificate of insurance with respect to its General Liability insurance coverage.

XV. GENERAL PROVISIONS

- a. Record Retention and Audit Rights. Each Party shall maintain data and records relating to the Services and to the use of the Surescripts network by Aggregator and End Users during the term of this Agreement and for a period of five (5) years after the effective date of any termination or expiration of this Agreement, or for such longer time as is required by Applicable Law. Each Party shall permit the other Party to access, inspect, and audit such data and records for the purpose of verifying fees, adherence to Service Levels or compliance with other terms and conditions of this Agreement. Any such inspection or audit may be performed following reasonable prior written notice, but not more often than twice in any twelve (12) month period. All expenses of any such inspection or audit shall be paid by the Party requesting such inspection or audit, including the internal personnel costs of the other Party associated with providing access to the requested data and records.
- b. Access to Records upon Request by Secretary of Health and Human Services or Comptroller General. To the extent Section 952 of the Omnibus Reconciliation Act of 1980 (Public Law 96-499) is found to be applicable to this Agreement, and within a reasonable timeframe after receipt

of a written request from the Secretary of Health and Human Services made within four (4) years of the furnishing of Services under this Agreement, Surescripts agrees to make available to the Secretary of Health and Human Services and/or the Comptroller General of the United States, or their duly authorized representatives access to this Agreement and to Surescripts's directly relevant books, documents, and records necessary to verify the costs incurred by Aggregator for the Services performed under this Agreement, in accordance with procedures established by applicable regulations implementing Section 952 of the Omnibus Reconciliation Act of 1980 (Public Law 96-499). Further, in the event Surescripts carries out any duties of this Agreement through a subcontract with a "Related Organization," as defined below, the value of which is \$10,000.00 or more over a 12-month period, such subcontract must contain a clause to the effect that the Related Organization will, for a period of four (4) years after the subcontracted Services were furnished, make available, upon receipt of a written request, to the Secretary of Health and Human Services and/or to the Comptroller General, or their duly authorized representative, the directly relevant books, documents and records of the Related Organization that are necessary to verify the nature and extent of the costs incurred by the Aggregator with respect to the Services provided by Surescripts to Aggregator. As used herein, "Related Organization" means that Surescripts is, to a significant extent, associated or affiliated with, owns, or is owned by, or has control of or is controlled by, the organization furnishing the services, facilities or supplies.

- c. Unless otherwise expressly stated herein or agreed to by a Party in writing, no attorney-client, accountant-client, or other legal privilege will be deemed to have been waived by either Party by virtue of entering into this Agreement.
- d. No Third-Party Beneficiaries. Except for the fact that Data Sources are third-party beneficiaries pursuant to Sections III(c), IV(b), XII(c), and XIII(a)(2) of this Agreement, nothing in this Agreement shall be deemed to create any third-party beneficiary rights. Pursuant thereto, End Users will not be deemed to be third-party beneficiaries to this Agreement.
- e. Compliance with Applicable Law. Each Party shall perform its obligations under this Agreement in a manner that complies with Applicable Law. The Parties shall take such action as is necessary to amend this Agreement from time to time in order for each Party to comply with the requirements of Applicable Law.
- f. Notices. Except as otherwise provided in this Agreement, notices required to be given pursuant to this Agreement shall be addressed to the appropriate Party as provided below and shall be effective: (i) on the date of delivery if given in writing and hand delivered; (ii) on the date received, if sent by overnight courier with written proof of receipt, or by First Class United States Mail with postage prepaid and return receipt received; (iii) on the date confirmation is received if sent via facsimile with printed confirmation from the receiving Party; or (iv) the date sent by electronic mail (if an email address is provided below) so long as the sending Party does not receive a message in return that the electronic message is undeliverable. Refusal to accept delivery will be deemed receipt. A Party may change its notice address for purposes of this Agreement by giving written notice to the other Party.

If to Aggregator: San Mateo County Health
Attn: Thomas Collins,
Address: 801 Gateway Blvd, 2nd Floor (HLT416)
South San Francisco, CA 94080
E-Mail: tcollins@smcgov.org

With a Copy to: County Attorney's Office
400 County Center, 6th Floor
Redwood City, CA 94063
Facsimile: 650/363-4034

If to Surescripts: Surescripts, LLC
Attn: Legal Department
2550 South Clark St., 10th Floor

Arlington, VA 22202

or such other address as the Party may designate using the procedure in this subsection.

- g. Governing Law. The validity, construction and enforcement of this Agreement shall be determined in accordance with the laws of the State of California, without reference to its conflicts of laws principles.
- h. Limitations. Neither Party may institute an action in any form arising out of or in connection with this Agreement more than two (2) years after the cause of action has arisen, or in the case of nonpayment, more than two (2) years from the date of last payment or promise to pay, except that this limitation does not apply to any action for the payment of taxes.
- i. Severability and No Waiver. If any part of this Agreement shall be held to be void or unenforceable, such part will be treated as severable, leaving valid the remainder of this Agreement notwithstanding the part or parts found to be void or unenforceable as long as the commercial goals of the Agreement may be reasonably met. The failure of either Party to require the performance of any item or obligation of this Agreement, or the waiver by either Party of any breach of this Agreement, shall not act as a bar to subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- j. Entire Agreement. This Agreement is the entire agreement between the Parties with regard to the subject matter of this Agreement, and supersedes and incorporates all prior or contemporaneous representations, understandings, or agreements. As of the Effective Date of this Agreement, the Parties expressly terminate any and all pre-existing agreements that may continue to be in effect at such time entitled "Prescriber Connectivity Agreement," "Prescriber Aggregator Master Agreement," or "Technology Vendor Agreement," or any previous versions of the "Connectivity Agreement." Notwithstanding the foregoing sentence, except with respect to disclosures expressly permitted by this Agreement, this Agreement shall not be construed to limit in any way the protections granted by the Non-Disclosure Agreement between the Parties. Neither Party may assign this Agreement, except that either Party may assign its rights and obligations hereunder to an acquirer of all or substantially all of its business or assets, provided that the assigning Party (1) provides the non-assigning Party with advance written notice of the assignment, and (2) remains liable for all of its obligations under the Agreement. This Agreement may not be modified or amended except by an agreement in writing signed by both of the Parties hereto, except that: (i) fees for the Services may be modified as set forth herein; and (ii) Surescripts may provide Aggregator with a notice describing amendments to this Agreement to add new services, which amendments will be binding upon Aggregator if Aggregator utilizes such services after the effective date of such amendment set forth in the Surescripts notice. Each Party represents that the individual signing below on behalf of the Party has the authorization to bind the Party indicated to this Agreement. Any purchase order delivered in connection herewith shall be binding for informational purposes only as to the types of products and services ordered and fees therefore, other terms and provisions on or attached to any purchase order will be void to the extent they are inconsistent with or in addition to the provisions of this Agreement.
- k. Headings. The heading of any section or subsection contained in this Agreement is for convenience only and shall not be deemed a part of this Agreement or a representation as to the contents of the same.
- l. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

IN THE EVENT A BUSINESS ASSOCIATE AGREEMENT IS NOT IN EFFECT BETWEEN THE PARTIES AT THE TIME THIS AGREEMENT IS FULLY EXECUTED, OR AN EXISTING BUSINESS ASSOCIATE AGREEMENT BETWEEN THE PARTIES PREDATES SEPTEMBER 1, 2013, THEN THE BUSINESS ASSOCIATE AGREEMENT POSTED ON SURESCRIPTS' WEBSITE (<https://surescripts.com/business-associate-agreement>) AS OF THE EFFECTIVE DATE OF THIS AGREEMENT SHALL GOVERN THE PARTIES' RESPECTIVE OBLIGATIONS

UNDER HIPAA AND HITECH, UNTIL SUCH TIME AS THE PARTIES NEGOTIATE AND EXECUTE A NEW BUSINESS ASSOCIATE AGREEMENT.

THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT INCLUDING ANY EXHIBITS, ATTACHMENTS, OR SCHEDULES HERETO ARE PART OF THIS AGREEMENT AND INCORPORATED HEREIN BY REFERENCE. BY SIGNING THIS AGREEMENT, AGGREGATOR ACKNOWLEDGES HAVING READ AND UNDERSTOOD THIS AGREEMENT, INCLUDING ALL TERMS AND CONDITIONS. AGGREGATOR AND SURESCRIPTS ACKNOWLEDGE AND AGREE TO BE BOUND BY THE TERMS HEREOF.

IF NOT SIGNED AND DELIVERED BY AGGREGATOR TO SURESCRIPTS BEFORE EXPIRATION OF THE ELECTRONIC SIGNATURE ENVELOPE IN EFFECT, THEN ANY SURESCRIPTS SIGNATURE APPLIED TO THIS AGREEMENT AND THE AGREEMENT SHALL BE VOID, AB INITIO.

* * *

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures.

SURESCRIPTS, LLC

By: *Jim Evans*

Name: Jim Evans

Title: Chief Growth Officer

Date: 4/17/2024

COUNTY OF SAN MATEO

By: /s2/

President, Board of Supervisor, San Mateo County of San Mateo

Date: /d2/

ATTEST:

By: /s3/

Clerk of Said Board

EXHIBIT 1
SURESCRIPTS SERVICES

This Exhibit 1 includes the various subsections of Exhibit 1 (Exhibit 1-A, Exhibit 1-B, etc.).

Surescripts shall provide the services described herein (the “Services”) to Aggregator in accordance with the terms and conditions of the Agreement and this Exhibit 1.

EXHIBIT 1-A

SURESRIPTS CORE SERVICES

The “Surescripts Core Services” includes the Prescription Routing Service and the Medication History and Benefit Services – Ambulatory, set forth in Sections II and III of this Exhibit. The Surescripts Core Services may be accessed only by End Users that are individual physicians, nurse practitioners, physician assistants, or other clinical or administrative personnel that are properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to issue prescription orders (“Prescriber End Users”) and only through the Aggregator software that has been certified by Surescripts for the Surescripts Core Services. Aggregator shall be legally responsible for any and all of the Prescriber End Users’ actions and inactions to the full extent that Aggregator would be liable if such actions and inactions were committed by Aggregator itself.

I. General Provision Applicable to the Surescripts Core Services.

The following are applicable to the Surescripts Core Services provided hereunder:

- a. Foundation Infrastructure. Foundation infrastructure including interface specifications, transaction routing infrastructure, Participant-management services, and error management services.
- b. Patient Identification Services. Patient identification services in which Surescripts uses membership information provided by Data Sources to build a Master Patient Index (“MPI”) database. Surescripts utilizes a search process with basic demographic information submitted by Aggregator or Prescriber End Users to identify the patient in Surescripts’ MPI. Service Levels for all services described hereunder are set forth in the Surescripts Network Operations Guide.
- c. Encryption-Related Services. Encryption-related services, including network level encryption which is employed by Surescripts for all transactions through the Surescripts network, which must be determined between the Participants to a transaction and for which they are solely responsible.

II. Surescripts Prescription Routing Services.

The Surescripts Prescription Routing Services are designed to allow Prescriber End Users to transmit Prescription Routing Messages, including new and renewal prescriptions (as well as prescription cancellations and prescription change requests), to participating pharmacies of the patient’s choosing, including mail order pharmacies. A “Prescription Routing Message” means the transmission of an electronic prescription representation, in the format and with the content required for processing through the Surescripts network, of: (i) a prescription drug order issued by a duly licensed practitioner (such as a physician, nurse practitioner or physician’s assistant); (ii) a request for a refill order issued by a pharmacy; (iii) any other message type supported by the NCPDP SCRIPT standard; or (iv) other message types mutually determined between the Parties.

- a. Description of Services. The following additional services are applicable to the Prescription Routing Services.
 1. NCPDP SCRIPT Transaction Services. NCPDP SCRIPT transaction services, including routing a standard NCPDP SCRIPT new prescription transaction, a standard NCPDP SCRIPT prescription refill/renewal request transaction, a standard NCPDP SCRIPT prescription change request transaction, a standard NCPDP SCRIPT prescription fill status transaction, or a standard NCPDP SCRIPT prescription cancel transaction, from the Prescriber End User’s office to a connected pharmacy, selected by the Prescriber End User and patient, via the Surescripts network.
 2. Transmission by Surescripts. Transmit Prescription Routing Messages from Aggregator to intended pharmacy recipients (through applicable intermediaries), and from such entities to Aggregator via pre-determined message protocol and transmissions edits.
 3. Confirmation by Surescripts. Confirm from Prescription Routing Messages that electronic prescription orders originate from locations registered with Surescripts for electronic

prescriptions and confirm, to the extent practicable, that Prescriber End Users are authorized to transmit such Messages.

4. Facsimile Services in the Event of a Communication Failure to Pharmacy Participants and Format Monitoring. In the event of a temporary/transient communications failure between Surescripts and a pharmacy Participant to receive Prescription Routing Messages through the Surescripts network in the normal course of Surescripts operations, Surescripts shall send Prescription Faxes (defined to mean NCPDP SCRIPT messages) in the standard Surescripts computer-generated prescription fax format during such temporary/transient communications failure to such pharmacies. Surescripts will monitor and support specific fax format requirements as specified by the regulatory requirements within each state where prescriptions are transmitted via this Service.
- b. Aggregator Elections. Aggregator has the right to elect not to use the Surescripts network to transmit prescriptions to a particular pharmacy chain or PBM, provided that Aggregator must elect to delete the entire pharmacy chain and all pharmacies owned or controlled by such chain, or the entire PBM and all associated health plans under the PBM. By way of example only, Aggregator may delete WalMart in its entirety, but not certain (i.e., less than all) WalMart pharmacies. Surescripts will take reasonable steps to terminate the connection in the Surescripts network between Prescriber End Users and the applicable pharmacy chain or PBM deleted pursuant such election no earlier than thirty (30) days following such notice and no later than ninety (90) days following such notice.

III. Medication History and Benefit Services – Ambulatory.

The Surescripts Medication History and Prescription Benefit Services – Ambulatory are designed to allow Prescriber End Users to access benefit and other information only in connection with and in conjunction with the treatment of a specific patient in a scheduled visit or walk-in outpatient visit or another specific treatment event.

- a. Description of Services. The following additional services are applicable to the Medication History and Prescription Benefit Services – Ambulatory.
 1. Formulary Distribution Services. Formulary distribution services, which allow real-time request or downloading of formularies and basic benefit coverage information if available. The formulary information is organized by the Data Sources and contains identifiers which should allow linking of information to a particular patient referenced in an eligibility transaction. Aggregator will develop their information systems in order to support an end-to-end SCRIPT-based interface with Surescripts that can access and utilize formulary distribution services. In the event that NCPDP defines a specific SCRIPT standard, Aggregator shall develop their information systems to support such end-to-end SCRIPT interface.
 2. Patient Visit/Treatment Event Services. The following services are available only, and Aggregator and Prescriber End Users shall not attempt to access these services except, in connection with and in conjunction with the treatment of a specific patient in a scheduled or walk-in outpatient visit or another specific outpatient treatment event. Aggregator and its Prescriber End Users shall not access or attempt to access these services for an inpatient or other acute service or for any institutional service.
 - A. Eligibility Status Transaction. Eligibility status transaction allows Prescriber End Users to match a patient to his/her pharmacy benefit through a request/response transaction based on X12 270/271 transaction standards.
 - B. Medication History Transaction. Medication history transaction allows Prescriber End User to request medication history for a specific patient utilizing the National Council for Prescription Drug Programs (“NCPDP”) transaction segment syntax then implemented by Surescripts.
 - C. Formulary Coverage Status Transaction. Formulary coverage status transaction allows Prescriber End Users to use information on the eligibility status transaction response to request formulary and coverage status for a specific drug for a specific

patient utilizing the NCPDP transaction segment syntax then implemented by Surescripts.

IV. Fees Associated With the Surescripts Core Services.

In addition to fees addressed elsewhere in the Agreement, the following fees shall apply to the Surescripts Core Services:

- a. Staging Fee. Upon execution of this Agreement, Aggregator shall pay to Surescripts a staging fee of one thousand fifteen thousand dollars (\$15,000) (the “Staging Fee”). In return for the Staging Fee, Surescripts shall provide Aggregator with access to Surescripts’ automated testing suite and staging environment as appropriate during the implementation process. If Aggregator does not pay the Staging Fee promptly, Surescripts shall be entitled, among, and not to the exclusion of, any other remedies, not to provide access to the automated testing suite and staging environment until Aggregator pays the Staging Fee.

EXHIBIT 1-B

MEDICATION HISTORY FOR RECONCILIATION SERVICES

The Surescripts Medication History for Reconciliation Services are designed to allow authorized healthcare providers and their authorized agents in the hospital setting to electronically access, in real time, a patient's ambulatory medication history, including but not limited to, information from PBMs and retail pharmacies for the purpose of prescription medication reconciliation. The Surescripts Medication History for Reconciliation Services may be accessed only by End Users that are hospitals or health systems that are properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to perform prescription medication reconciliation ("Medication History End Users") and only through Aggregator software that has been certified by Surescripts for the Surescripts Medication History for Reconciliation Services.

Prior to any use of the Medication History for Reconciliation Services, Aggregator and Medication History End Users shall ensure that all appropriate consents and authorizations have been obtained to allow for any exchange of Private Information and/or PHI as required by Applicable Law and that such consents allow disclosure of all elements of data to be exchanged, whether or not Aggregator or the Medication History End User has specifically requested or intends to use all such data elements.

- I. Description of Services. The following additional services are applicable to the Medication History for Reconciliation Services.
 - a. Medication History Profile Provision. Provision of a medication history profile for which Aggregator or Medication History End Users shall utilize an X12 270 (Eligibility) request (including providing institutional or individual NPI numbers in such request as required by Surescripts) to trigger a patient lookup in the MPI. If the patient is matched in the MPI, Surescripts shall request patient medication history from the Data Sources and formats and send such profile based on information received from the Data Sources for the matched patient in the NCPDP Medication History Response (RXHRES).
 - b. Patient Visit/Treatment Event Services. Aggregator and its Medication History End Users shall not attempt to access these services except, in connection with and in conjunction with the treatment of a specific patient in conjunction with a patient event in the acute care setting.
- II. Fees for Medication History for Reconciliation.
 - a. Per-Bed Fee. For each hospital receiving Medication History for Reconciliation Services through Aggregator (a "Participating Hospital"), upon the first transaction live in the production environment, Aggregator shall pay Surescripts a monthly fee (the "Monthly Fee") based on an annualized rate of One Hundred Dollars (\$100.00) multiplied by the number of licensed beds in each such Participating Hospital (the "Annualized Rate"). The Monthly Fee shall be calculated as one twelfth (1/12) of One Hundred Dollars (\$100.00) multiplied by the number of licensed beds for each Participating Hospital, based on Surescripts' knowledge, as of the first (1st) day of the respective month.

All invoices must be paid by Aggregator in accordance with the terms of the Agreement. Recognizing that invoices always follow the previous month's fee, the Parties agree that following any termination of the Medication History for Reconciliation Services, Aggregator shall receive an invoice for, and pay, the last month's Monthly Fee after the termination date. Such obligation shall survive termination of the Medication History for Reconciliation Services and the termination of the Agreement. Should any due dates set forth in this Section II, "Fees for Medication History for Reconciliation Services," not be a generally recognized business day, the due date shall be the next generally recognized business day.

At least annually or at the request of Surescripts, Aggregator shall identify each Participating Hospital(s) and the number of hospital licensed beds in each such hospital (each bed count provided by Participating Hospital is hereinafter referred to as a "Report"). In the event of a disagreement between the Parties regarding the bed count, Surescripts and Aggregator agree that the authority for determining the correct number of beds for each Participating Hospital shall be the website

www.ahd.com or www.definitivehc.com (the “Bed Count Authority”). In the event that the Bed Count Authority ceases to be published, or Surescripts reasonably concludes that the Bed Count Authority is no longer providing the most accurate readily available means of establishing the number of beds per Participating Hospital, the Parties shall mutually agree on another source on which to rely for bed count information.

At its sole discretion, Surescripts may periodically audit past Reports that were delivered to Surescripts within the preceding twenty-four (24) months. Surescripts may verify bed count information by referring to the Bed Count Authority, and it may verify the existence of Participating Hospitals by referring to its own records (or other reliable sources). Surescripts may invoice Aggregator or credit Aggregator, as appropriate, to the extent of any discrepancy discovered by an audit. Any such adjustment invoice or credit by Surescripts shall be accompanied by an explanatory analysis delivered to Aggregator. The obligations of Aggregator regarding any audit of past Reports shall survive termination of the Medication History for Reconciliation Services and termination of the Agreement.

- b. Overage Fee. For each Participating Hospital, any transactions that exceed thirty (30) Medication History requests per-bed per month shall be billed, in addition to the Monthly Fee, a transaction fee of One Dollar (\$1.00) per transaction (the “Transaction Fee”). The Transaction Fee shall apply for each transaction for which Surescripts responds with either (i) a patient found and claims reported and data available, or (ii) a patient found and no claims reported and no data available. No payment is due to Surescripts for any transaction resulting in a patient not found response. Surescripts shall invoice Aggregator for the Transaction Fees applicable for each Participating Hospital concurrently with the Monthly Fee.

EXHIBIT 1-C
FAX GATEWAY SERVICE

In addition to the fax services provided free of charge to Aggregator as set forth in Section II(a)(4) of Exhibit 1-A, Surescripts provides the following Fax Gateway Services, solely in conjunction with the Surescripts Core Services, in accordance with the following terms and conditions. The Surescripts Fax Gateway Services may be accessed only by End Users that are individual physicians, nurse practitioners, physician assistants, or other clinical or administrative personnel that are properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to issue prescription orders (“Fax Gateway End Users”) and only through Aggregator software that has been certified by Surescripts for the Surescripts Fax Gateway Services. Surescripts and Aggregator agree that Surescripts may terminate the Fax Gateway Services (without terminating the Agreement) at any time upon written notice to Aggregator.

- I. Fax Gateway Service to Pharmacies Not Participating in the Surescripts network. Surescripts shall send prescription faxes in the standard Surescripts prescription fax format to pharmacies not activated by Surescripts to receive electronic Prescription Routing Messages through the Surescripts network, so long as such pharmacies are licensed under Applicable Law and are registered with NCPDP.
- II. Fees. No fees shall be paid or payable to Surescripts for the provision of the Fax Gateway Services. Notwithstanding anything to the contrary in the Agreement, Surescripts shall have the right to modify the fees at any time upon not less than ninety (90) days prior written notice to Aggregator.

EXHIBIT 1-D PHARMACY ROUTING SERVICES

- I. Pharmacy Routing Services. Subject to the terms and conditions of the Agreement, Surescripts shall provide the Pharmacy Routing Services, as follows:
- a. Services. The Pharmacy Routing Services may be accessed only by End Users that are individual pharmacists that are properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to fill prescription orders (“Pharmacy End Users”) and only through Aggregator software that has been certified by Surescripts for the Pharmacy Routing Services. Surescripts shall transmit prescription routing messages from Aggregator to intended prescriber recipients (through applicable intermediaries), and from such persons/entities to Aggregator. Message protocol and transmissions edits shall be in pre-determined format. Surescripts reserves the right to impose additional charges for translation or mapping services. Surescripts shall confirm from prescription routing messages that electronic prescription orders originate from locations registered with Surescripts for electronic prescriptions and confirm, to the extent practicable, that Pharmacy End Users are authorized to transmit such messages.
 - b. Additional Responsibilities. Surescripts shall:
 - i. Designate a person to act as a resource for Aggregator contact.
 - ii. Provide access to the Surescripts network on a twenty-four (24) hour per day, seven (7) day per week basis, subject to the provisions of Surescripts Network Operations Guide.
 - iii. Provide to Aggregator documentation that Surescripts determines shall be needed with regard to the Surescripts network.
 - iv. Maintain a help desk for network support issues in accordance with Surescripts Support Protocol set forth in the Network Operations Guide.
 - v. Coordinate with Aggregator to establish reasonable direct connectivity (frame relay or leased line) to Aggregator’s single location.
 - vi. Provide an internet-based tool for registering Pharmacy End Users, upon development and implementation by Surescripts.
 - vii. Provide limited web-based tools for transaction query and reporting, upon development and implementation by Surescripts.
 - c. Aggregator Responsibilities. In addition to its obligations under the Agreement, Aggregator shall:
 - i. Provide a resource for contact with Surescripts.
 - ii. Provide an electronic listing of all Pharmacy End User locations with all demographic information in the format specified by Surescripts.
 - iii. Complete Surescripts registration process, including timely submission of all applicable registration forms for all Pharmacy End Users.
 - iv. Transmit prescription routing messages received from Pharmacy End Users to Surescripts (and transmit prescription routing messages received from Surescripts to Pharmacy End Users), in the pre-established format to the extent that Aggregator elects to use the Surescripts network.
 - v. Invoke Aggregator-specific business rules for accessing the Surescripts network as mutually agreed upon between Surescripts and Aggregator.
 - vi. Provide at least weekly notification to Pharmacy End Users of any updates, changes and deletions to the Surescripts network affecting such Pharmacy End Users.
- II. Fees Associated with the Pharmacy Routing Services.
- a. Transaction Message Charges: Aggregator agrees to pay the following fee per message, whether transmitted electronically or via facsimile, if necessary, for the Pharmacy Routing Services provided hereunder:

Message Type	Associated Charge Per Message
New Prescriptions	\$0.065
Refill Requests	No Charge
Associated Refill Responses	\$0.065
RxChange Requests	No Charge
Associated RxChange Responses	No Charge
Error Messages	No Charge
Status Messages	No Charge
CancelRx Requests	No Charge
CancelRx Responses	No Charge
RxTransfer Request	No Charge
RxTransfer Response	No Charge
RxTransfer Confirm	No Charge
NewRx Request	No Charge
NewRx Response	No Charge
RxFill	No Charge

- b. Start-Up and Connectivity: Upon execution of the Agreement, Aggregator shall pay to Surescripts a start-up fee of ten thousand dollars (\$10,000) (the “Pharmacy Start-Up Fee”). In return for the Pharmacy Start-Up Fee, Surescripts shall provide Aggregator with access to Surescripts’ automated testing suite and testing environment as appropriate during the implementation process. If Aggregator does not pay the start-up fee promptly, Surescripts shall be entitled, among, and not to the exclusion of, any other remedies, not to provide access to the automated testing suite and staging environment until such time as Aggregator pays the Pharmacy Start-Up Fee.

EXHIBIT 1-E

CLINICAL DIRECT MESSAGING SERVICES

The Surescripts Clinical Direct Messaging Services (the “CDM Services”) provide a common platform allowing health care providers to exchange messages with one another in a secure manner. The CDM Services may only be accessed by End Users that are individual physicians, nurse practitioners, physician assistants, or other clinical or administrative personnel that are properly and duly licensed, registered, or otherwise authorized with the appropriate Governmental authority to provide health care services (“CDM End Users”) and only through the Aggregator software that has been certified by Surescripts for the CDM Services. Aggregator shall be legally responsible for any and all of the CDM End Users’ actions and inactions to the full extent that Aggregator would be liable if such actions and inactions were committed by Aggregator itself.

- I. Description of Services. Surescripts shall provide Aggregator and CDM End Users with access to the CDM Services for the purpose of exchanging Clinical Messages (defined below) with any authorized participant in the Surescripts network. Aggregator shall not (and shall ensure that CDM End Users do not) use the CDM Services for any other purpose.

a. Clinical Messages.

1. The term “Clinical Message” means a message delivered to or from an authorized participant on the Surescripts network that:
 - A. contains clinical or administrative information about a specific patient used for health care payment, treatment, or operations; and
 - B. is not structured messages except to the extent necessary to transmit an attachment and as necessary for address fields; and
 - C. is not limited to a specific message type or use case; and
 - D. does not require message type or use case-specific workflow integration into the electronic health record.
2. Clinical Messages shall be compatible with or transported in accordance with one or more of the 2014 Office of the National Coordinator (“ONC”) Certification Criteria transport standards under 45 C.F.R. § 170.202 (or future transport standard, if later promulgated). Use of the CDM Services enables a CDM End User to transmit messages using the software and in accordance with the required transport standards, where applicable. Enabling a CDM End User, as described above, does not ensure or otherwise guarantee that the CDM End User will meet the programmatic requirements for the CDM incentive program, other than as set forth above.

II. Fees.

- a. Activation Fees. Aggregator shall pay a one-time fee of Fifteen Thousand Dollars (\$15,000.00) for the first instance of the software payable upon execution of this Agreement, and Fifteen Thousand Dollars (\$15,000.00) for each additional instance payable at the time Aggregator requests activation for an additional instance (the “Activation Fee”). In exchange for the Activation Fee, Surescripts will assign an integration team to provide the following activation services to assist Aggregator with preparing for production activation authorization for connectivity to the CDM Services: assistance with establishing network connectivity in both staging and production environments; configuring, connecting and loading users into the directory; message validation testing; and production support by the assigned integration team for up to ten (10) business days after Aggregator’s production “go-live” date, after which time support will be provided by Surescripts’ regular customer support staff. Aggregator shall load directory information for all CDM End Users that are physicians, nurse practitioners, physician assistants, or other clinical personnel into Surescripts’ provider directory prior to such CDM End Users accessing the CDM Services.
- b. Per Bed. For access to the CDM Services, for each hospital receiving the CDM Services through Aggregator (a “Participating Hospital”), Aggregator shall pay Surescripts a monthly fee (the “Monthly Fee”) based on an annualized rate of Fifty Dollars (\$50.00) multiplied by the number of staffed beds in each such Participating Hospital. The Monthly Fee shall be calculated as one twelfth (1/12) of Fifty

Dollars (\$50.00) multiplied by the number of staffed beds for each Participating Hospital, based on Surescripts' knowledge, as of the first (1st) day of the respective month.

All invoices must be paid by Aggregator in accordance with the terms of the Agreement. Recognizing that invoices always follow the previous month's fee, the parties agree that following any termination of the CDM Services, Aggregator shall receive an invoice for, and pay, the last month's Monthly Fee after the termination date. Such obligation shall survive termination of the CDM Services and the termination of the Agreement. Should any due dates set forth in this Section not be a generally recognized business day, the due date shall be the next generally recognized business day.

At least annually or at the request of Surescripts, Aggregator shall identify each Participating Hospital(s) and the number of hospital staffed beds in each such hospital (each bed count provided by Participating Hospital is hereinafter referred to as a "Report"). In the event of a disagreement between the parties regarding the bed count, Surescripts and Aggregator agree that the authority for determining the correct number of beds for each Participating Hospital shall be the website www.ahd.com or www.definitivehc.com (the "Bed Count Authority"). In the event that the Bed Count Authority ceases to be published, or Surescripts reasonably concludes that the Bed Count Authority is no longer providing the most accurate readily available means of establishing the number of beds per Participating Hospital, the parties shall mutually agree on another source on which to rely for bed count information. At its sole discretion, Surescripts may periodically audit past Reports that were delivered to Surescripts within the preceding twenty four (24) months. Surescripts may verify bed count information by referring to the Bed Count Authority, and it may verify the existence of Participating Hospitals by referring to its own records (or other reliable sources). Surescripts may invoice Aggregator or credit Aggregator, as appropriate, to the extent of any discrepancy discovered by an audit. Any such adjustment invoice or credit by Surescripts shall be accompanied by an explanatory analysis delivered to Aggregator. The obligations of Aggregator regarding any audit of past Reports shall survive termination of the CDM Services and termination of the Agreement.

EXHIBIT 1-F

ELECTRONIC PRIOR AUTHORIZATION SERVICE

This Exhibit describes the Electronic Prior Authorization (“EPA”) Service and sets out additional terms and conditions applicable to such Services.

The EPA Service is a series of real-time messages based on the National Council for Prescription Drug Programs (“NCPDP”) electronic prior authorization transaction standards. Each transaction supports a particular step in the prior authorization process that electronically supports the exchange of information necessary to facilitate the completion of a prescription under the patient’s pharmacy benefit. The EPA Service includes the following real-time transactions listed below (or, alternatively, Surescripts’ interface functionality provided to EHR vendors in response to a PA Initiation Request and PAInitiation Response):

- PAInitiationRequest and PAInitiationResponse;
- PARquest and PAResponse;
- PAAppealRequest and PAAppealResponse;
- PACancelRequest and PACancelResponse; and
- PACancelRequest and PACancelResponse (collectively referred to as the “EPA Messages”).

The EPA Service will only communicate with a PBM, health plan, or other PA processor who has been certified by Surescripts to transact on the Surescripts network for the EPA Service.

I. Electronic Prior Authorization.

a. Services. The EPA Service includes:

1. Foundation Infrastructure. Foundation infrastructure, including interface specifications, transaction routing infrastructure, participant management services and error management services.
2. Patient Identification Services. Patient identification services in which Surescripts uses membership information provided by pharmacy benefit manager participants to build a Master Patient Index (“MPI”) database. Surescripts utilizes a search process with basic demographic information submitted by the requestor to identify the patient in Surescripts’ MPI.
3. Encryption Related Services. Encryption related services, including network level encryption which is employed by Surescripts for all transactions through the Surescripts network as further detailed in the Surescripts Materials.

b. Implementation Services. Implementation of the EPA Service with Aggregator’s software is intended to include the following services: (i) Staging environment setup; and (ii) Production environment setup.

c. Use of EPA. Aggregator must use its best efforts to ensure that End Users only initiate the EPA Messages when the selected pharmaceutical requires a prior authorization for that patient. Surescripts will monitor and audit for Aggregator the ratio of PAInitiationRequests to PAInitiationResponses where the PBM response is “no PA is needed” in a given month (the “PA Ratio”). If the Surescripts’ compliance team determines, in its sole discretion, that Aggregator has not sufficiently prevented unnecessary EPA Messages, Surescripts will notify Aggregator in writing of Surescripts’ audit and research results. Thereafter, Aggregator must resolve the problem within 90 days following receipt of the written notification. If Aggregator fails to do so, in Surescripts’ discretion, the Aggregator may be prohibited from using the EPA Service until the issue is resolved to Surescripts’ reasonable satisfaction.

- II. Third Party Processor. Surescripts may contract with third-party providers to deliver to Aggregator supplemental services as part of the EPA Service offering. Such supplemental services may include, but are not limited to, (i) the option to access additional prior authorization forms, including a library of PDF prior authorization forms and traditional and electronic faxing capabilities as a method of communicating with PBMs that are not otherwise participating in the EPA Service, (ii) the provision of physician training and EPA processing assistance via phone, or (iii) such other services as Surescripts deems appropriate to enhance the EPA Service (the “Supplemental PA Service”). The Supplemental PA Service is provided “as is” to Aggregator. All warranties are disclaimed by Surescripts as it relates to the Supplemental PA Services. In addition, Surescripts sole liability to Aggregator and End Users for claims of any type arising from the use of the Supplemental PA Services shall be to use commercially reasonable efforts to correct any errors or omissions in the Supplemental PA Services as soon as possible after Surescripts’ discovery of any such error or omission or written notification to Surescripts thereof by Aggregator.
- III. Fees. No fees shall be paid or payable to Surescripts for the provision of the EPA Service or the Supplemental PA Service. Notwithstanding anything to the contrary in the Agreement, Surescripts shall have the right to modify the fees at any time upon not less than ninety (90) days prior written notice to Aggregator.

EXHIBIT 1-G

MEDICATION HISTORY FOR POPULATIONS SERVICES

The Surescripts Medication History for Populations Services are designed to allow healthcare providers in any health care setting to electronically access a patient's medication history data to identify high-risk and medium-risk individuals in a patient panel and, as applicable, providing care management (including, but not limited to, identifying gaps in care and performing adherence monitoring) to individuals in such patient panel ("Medication History for Populations Services").

Prior to any use of the Medication History for Populations Services, Aggregator shall ensure that all appropriate consents and authorizations have been obtained to allow for any exchange of PHI as required by Applicable Law and that such consents allow disclosure of all elements of data to be exchanged, whether or not Aggregator has specifically requested or intends to use all such data elements.

For purposes of clarity, the Medication History for Populations Services do not require access to the Surescripts network.

- I. Services. The following additional terms and conditions are applicable to the Medication History for Populations Services.
 - a. Foundation Infrastructure. Foundation infrastructure, including interface specifications, transaction routing infrastructure, provider management services and error management services.
 - b. Patient Identification Services. Patient identification services in which Surescripts uses membership information provided by pharmacy benefit managers and patient information from retail pharmacies to build a Master Patient Index ("MPI") database. Surescripts utilizes a search process with basic demographic information submitted by the requestor to identify the patient in Surescripts' MPI.
 - c. Prescription History Profile. Provision of a "Prescription History Profile" for a patient is triggered by Surescripts' receipt of a patient panel list from Aggregator at a secure location within the Surescripts' environment. Each panel shall include the following fields: first name, last name, gender, date of birth, zip code, Organizational NPI, and Organization name. Surescripts performs a patient lookup in the Surescripts' MPI for each patient on Aggregator's panel list. If patients are matched in the MPI, Surescripts requests patient prescription history from the pharmacy benefit managers and retail pharmacies for the twelve (12) month period immediately preceding the request and formats and sends the Prescription History Profiles based on information received from the pharmacy benefit managers and retail pharmacies for all matched patients in a single Med History Response file based on the NCPDP standard. There is no limit on the number of patients in a panel or the number of panels.
 - d. Implementation. Surescripts shall provide Aggregator with the following: (i) general education related to the Medication History for Populations Services, (ii) access to the Surescripts Materials (and any future updates thereto) related to the Medication History for Populations Services, and (iii) access to Surescripts' testing services in order to complete the Surescripts certification process as pertains to the Medication History for Populations Services, as applicable. In addition, Surescripts shall assign an Implementation Project Manager ("IPM"), who shall work with Aggregator's project team, providing support during the analysis, development, testing, certification, production configuration, and warranty phases of Aggregator's implementation.
- II. Restrictions.
 - a. Treatment Relationship. Aggregator may only request a Prescription History Profile on behalf of a healthcare provider who is currently providing treatment services to the applicable patient and may only use the resulting Prescription History Profile for that patient's treatment.
 - b. Separation from Pharmacy Activities. In the event that Aggregator has pharmacy operations, Aggregator shall maintain all data and information provided by the Data Sources on a partitioned

server on the non-pharmacy side of an internal firewall that is separated or “walled off” from all other pharmacy activities.

III. Fees.

a. Definitions.

- i. “Go-Live Date” means the date of Aggregator’s first transaction live in the production environment.
 - ii. “Unique Life” means an individual patient listed on a panel by Aggregator and submitted to Surescripts for the purposes of the Medication History for Populations Services.
 - iii. “Successful Medication History Response” means any transaction for which Surescripts responds with either (i) a patient found and medication history reported and data available or (ii) a patient found and no medication history reported and no data available.
- b. Per Patient Response Fee. Beginning on the Go-Live Date, Aggregator shall pay to Surescripts a Per Patient Response Fee (defined below) for the Medication History for Populations Service. The “Per Patient Response Fee” shall equal the amount set forth in the table below per Unique Life for each Successful Medication History Response. The Per Patient Response Fee shall be invoiced monthly, and payable in accordance with the terms of the Agreement.

Tier	Number of Unique Lives in the applicable billing month	Per Patient Response Fee
Tier 1	500,000 or fewer	Flat annual fee of \$75,000
Tier 2	For each Unique Life greater than 500,000	\$0.17 per response

- c. Changes. Notwithstanding anything to the contrary in the Agreement, Surescripts shall have the right to modify the fees or the fee structure at any time upon not less than ninety (90) days prior written notice to Aggregator.

EXHIBIT 1-H

REAL TIME PRESCRIPTION BENEFIT SERVICE

The Real Time Prescription Benefit Service provides real-time, patient-specific benefit and drug information inside the electronic prescribing workflow. The data provided through the Real Time Prescription Benefit Service informs the prescriber of the patient-specific prescription benefit information for the selected drug. This may include point in-time patient-specific estimated cost, alternative drug options, dispensing channel options, and formulary information. Real Time Prescription Benefit Service data is displayed prior to a new prescription being issued to inform the prescriber and the patient of the specific estimated out-of-pocket cost for the selected therapy. The Real Time Prescription Benefit Service will only communicate with a Data Source who has been certified by Surescripts to transact on the Surescripts network for the specific Real Time Prescription Benefit Service.

- I. Services. The Real Time Prescription Benefit Service offered hereunder includes:
 - a. Foundation Infrastructure. Foundation infrastructure, including RTPB specifications, transaction routing infrastructure, participant management services and error management services.
 - b. Patient Identification Services. Patient identification services in which Surescripts uses membership information provided by pharmacy benefit manager participants to build a Master Patient Index (“MPI”) database. Surescripts utilizes a search process with basic demographic information submitted by the requestor to identify the patient in Surescripts’ MPI.
 - c. Encryption Related Services. Encryption related services, including network level encryption which is employed by Surescripts for all transactions through the Surescripts network as further detailed in the Surescripts Materials.
 - d. RTPB Message-Related Services.
 1. **Benefit Request:** The Benefit Request message is used to request patient-specific estimated cost and benefit information. The message content and endpoint dictates whether patient-specific estimated cost and benefit information is returned in the benefit response.
 2. **Benefit Response:** The Benefit Response message returns patient-specific estimated cost and benefit information, or the response may return errors (e.g., Patient Not Found, Unknown Formulary ID). The information contained in the benefit response is dictated by the benefit request workflow and content.
- II. Implementation. Surescripts shall provide Aggregator with the following: (i) general education related to Real Time Prescription Benefit, (ii) access to the Surescripts Materials (and any future updates thereto) related to Surescripts’ Real Time Prescription Benefit, and (iii) access to Surescripts’ testing services in order to complete the Surescripts implementation process as pertains to Real Time Prescription Benefit. In addition, Surescripts shall assign an Implementation Project Manager (“IPM”), who shall work with Aggregator’s project team, providing support during the analysis, development and testing phases of Aggregator’s implementation.
- III. Fees. No fees shall be paid or payable to Surescripts for the provision of the Real Time Prescription Benefit. Notwithstanding anything to the contrary in the Agreement, Surescripts shall have the right to modify the fees at any time upon not less than ninety (90) days prior written notice to Aggregator.

EXHIBIT 2
LIST OF CERTIFIED SOFTWARE

EpicCare:	2014, 2015, 2017, 2018, 2019, May 2020 (NewRxRequest), August 2020 (RxFill)
Haiku/Canto for iOS:	2014, 2015, 2017, 2018, 2019, August 2020 > E-Prescribing Routing-August 2022
Haiku for Android:	2014, 2015, 2017, 2018, 2019, August 2020 > E-Prescribing Routing-August 2022
Rover:	August 2020 > E-Prescribing Routing under Haiku re-certification > Routing-
August 2022	
Inpatient:	2014, 2015, 2017, 2018, 2019, May 2020 (NewRxRequest), August 2020 (RxFill)
ASAP:	2014, 2015, 2017, 2018, 2019, May 2020 (NewRxRequest), August 2020 (RxFill)
Willow Ambulatory:	2014, 2015, 2017, 2018, 2019 > E-Prescribing Routing-August 2022
Willow Home Infusion:	February 2021 > E-Prescribing Routing-July 2022