AMENDMENT NO. 38
Soarian ePrescribing

This Amendment No. 38 (this "Amendment", also identified internally by Cerner as Amendment 1-4AOXKI1) is made as of the __ day of _____, 2016 (the "Amendment Effective Date") between CERNER HEALTH SERVICES, INC., a Delaware corporation having its principal office located at 51 Valley Stream Parkway, Malvern, Pennsylvania 19355 ("Cerner"), and the COUNTY OF SAN MATEO, including the County's SAN MATEO MEDICAL CENTER (collectively "Customer" or "Client", with both of those terms having the same meaning as the term "Customer" in the original Agreement and in Amendment 22), having principal offices at 400 County Center, Redwood City, California, 94063, and at 222 West 39th Avenue, San Mateo, California, 94403.

Customer and Cerner are parties to an Agreement dated as of September 23, 2003, as amended ("Agreement"). Customer and Cerner now agree to amend the Agreement to add ePrescribing services as follows:

1. ePRESCRIBING Service.

    1.1. **Grant Of Access**. Acting as Customer's Application Service Provider ("ASP"), Cerner grants Customer access to ePrescribing for the fees listed below throughout the Support Term under the Agreement.

Services

	Monthly Service Fee*
ePrescribing – Medication History	$525

*The Monthly Service Fee provides unlimited use of Medication History, so long as Customer has no more than 70 total aggregate Acute Care beds. The Monthly Service Fee is subject to the CPI-based fee adjustment provisions of the Agreement.

	Minimum # of Providers	Minimum Monthly eScripting Service Fee**
ePrescribing - eScripting	100	$ 2,875.00

**The Monthly eScripting Service Fee is based on the actual number of unique provider numbers associated with a medication order/charge in accordance with the chart below and for not less than the minimum number of providers listed above:

- First 100 providers (1-100) **$2,875.00 / per month**
- Each additional provider beyond 100 and up to a total of 250 providers (i.e. numbers 101-250) @ **$23.75/provider per month**
- Each additional provider beyond 250 and up to a total of 400 providers (i.e. numbers 251-400) @ **$19.16/provider per month**
- Each additional provider over 400 providers (i.e. numbers 401 and above) @ **$14.16/provider**

On the Amendment Effective Date, Customer's current Network/WAN configuration is adequate to support the ePrescribing Services provided for in this Amendment. Professional Service fees are not included in the Medication History fee or the eScripting Monthly Service fee. The Monthly eScripting Service Fee is subject to the CPI-based fee adjustment provisions of the Agreement.

    Customer shall be responsible for obtaining any additional equipment necessary to operate ePrescribing and for the payment of any additional costs (including but not limited to equipment, installation and support) which are necessary to implement ePrescribing. However, no additional equipment is necessary for workstations that already work with Soarian. Cerner need not deliver an Application or Service before its General Availability Date.

1.2. **ePrescribing Service Description**. ePrescribing enables the importation of patient medication history in order to facilitate home medication collection. The eScripting component of ePrescribing will perform the following functions:

- Identify eligible medication insurance plans for patients
- Identify formulary coverage within each identified medication insurance plan, displaying alternatives where available
- Support the ability to select a retail pharmacy to send electronic prescriptions based on patient preference
- Support ability to send new prescriptions to mail order pharmacies.

The Monthly Medication History Fee for ePrescribing includes Hosting, Support and Software. Billing occurs monthly. The Monthly eScripting Service Fee is based on actual Customer transactional usage (number of unique provider numbers per month as described in Section 1.1 above). The Monthly eScripting Service Fee commences no later than First Productive Use, which is the date on which live data is first processed through an Application or service and used in Customer's business operations.

1.3. **Independence of Deliverables**. Customer acknowledges that the Delivery, Acceptance and use of ePrescribing and its Deliverables are independent of any other Deliverables under the Agreement. In all cases, the time period for Customer to perform acceptance testing as described in Section 5 of Exhibit A of the Agreement will be the time period specified in the applicable mutually-agreed Project Workplan rather than the sixty (60) day period mentioned in that Section 5, so long as a period for acceptance testing is specified in that Project Workplan.

1.4. **ePrescribing Support**. Support for the Prescribing features shall be provided in accordance with the Cerner Support Program as described in Exhibit B of Amendment No. 22 to the Agreement throughout the Support Term.

1.5. **ePrescribing Delivery**. Customer will be deemed to have taken Delivery of ePrescribing upon the earlier of: (a) the date on which Customer is able to send or receive data via ePrescribing without any material problems in actual clinical use (i.e., upon First Productive Use by Customer of ePrescribing) or (b) within twelve (12) months after the Amendment Effective Date, except this twelve month timeframe will be extended to the extent of any Cerner-caused delays in First Productive Use of ePrescribing.

1.6. **Monthly ePrescribing Fees**. Customer agrees to begin paying the Monthly ePrescribing Fees on the earlier of First Productive Use of ePrescribing or the first anniversary of the ePrescribing Delivery Date, except this one-year timeframe will be extended to the extent of any Cerner-caused delays in First Productive Use.

1.7. **ePrescribing Response Time Commitment**. The ePrescribing service contains components that use non-Cerner applications or networks in support of the service. Cerner makes no response time commitment or warranties with respect to ePrescribing for these non-Cerner components which include the routing of prescriptions to retail pharmacies, and the query/response for medication history or payer benefits information using the SureScripts network.   Cerner will warrant response time for any ePrescribing components that are also components of any Cerner Applications covered under the Soarian ASP Response Time Warranty of the Agreement.

1.8. **Special Terms**. The ePrescribing service contains Third Party Software provided by Surescripts. Surescripts requires that the following terms be included in Cerner customer agreements for ePrescribing.

1.8.1. **Surescripts Contracted Parties**.   The list of the pharmacies, pharmacy chains, Surescripts certified pharmacy aggregators, and Surescripts certified VARs that have contracted with Surescripts to connect to the Surescripts network ("Surescripts Contract Parties") is available at the following URL: **http://www.surescripts.com/locate-e-subscribers/find-e-prescribing-pharmacies.aspx.**

1.8.1.1. **Use Limited to Surescripts Data Sources**. Customer shall only use the Surescripts network to send, receive, and/or process the ePrescribing services described in this Amendment ("ePrescribing Services") on behalf of its customers with respect to (i) Pharmacy Benefit Managers, health benefit payors or administrators, or similar entities that have direct contracts with Surescripts; and (ii) pharmacies that have direct or indirect contracts with Surescripts or through a Surescripts contracted party to access the Surescripts network. Customer acknowledges and agrees that any of the entities described in clauses (i) and (ii) above (collectively, "Data Sources"), in its sole discretion, may elect not to receive prescriptions and other messages pursuant to this Amendment.

1.8.1.2. Termination of ePrescribing Services and Network Use. Cerner may terminate the ePrescribing services and Customer's use of the Surescripts network (i) if Customer is not duly licensed or authorized to issue prescription orders or otherwise send and/or receive the ePrescribing Services, or (ii) if Customer otherwise breaches this Amendment or the Agreement. Prior to any termination Cerner will provide Customer with written notice of the breach and allow Customer reasonable time to cure.

1.8.1.3. Use of Surescripts Network. Customer shall not use the Surescripts network or any data or information relating to Surescripts or the ePrescribing services provided to Customer ("Surescripts Data") to compete with the Data Sources described in clause (i) of Section 1.8.1.1. above (Pharmacy Benefit Managers, health benefit payors or administrators, or similar entities that have direct contracts with Surescripts) in their primary areas of business.

1.8.1.4. Directory Information. Customer acknowledges that Surescripts shall own all directory and related information on Customer that shall come to reside within the Surescripts network database, whether provided by Cerner or otherwise, including all root, identity, and location-related information, solely for purposes of fulfilling Surescript's obligations under its agreement with Cerner.

1.8.1.5. Patient Consent or Authorization. Customer hereby certifies that it will only request information pursuant to the ePrescribing Services for a patient of Customer, and in connection with each such request, Customer further certifies that it is requesting such information for the purpose of providing direct health care services to a patient of Customer and has obtained patient consents or authorizations as required by applicable law or Surescripts.

1.8.1.6. No Public Access or Access by Other Persons. Customer 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 other than Customer's end users.

1.8.1.7. Commercial Messaging Rules. Subject to the exceptions described below in this subsection, Customer shall not 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, as defined below, of a prescriber at the point of care, as defined below, if (i) 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 (ii) that prescription will be delivered via the Surescripts network. "Prescribing decision" means a prescriber's decision to prescribe a certain pharmaceutical or direct the patient to a certain pharmacy. "Point of care" shall mean the time that a prescriber or his/her agent is in the act of prescribing a pharmaceutical for a patient. The foregoing shall not, however, prohibit the use of Application or service functionality made available by Cerner that (A) shows 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 copay information, and/or (B) delivers or has delivered to Customer 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. Any custom lists created and maintained by Customer within a Cerner software product, including but not limited to (i) Customer's most often prescribed medication lists, (ii) Customer's most often used pharmacy list, (iii) Customer's most often used SIGs (i.e., instructions for the use of medications), would not be considered a violation of this paragraph. However, nothing in this Section 1.8.1.7 shall prevent Customer from using a third-party decision support tool or other information to help the patient fulfil the appropriate prescription so long as neither the Customer nor provider obtains any financial benefit and that tool or other information is sourced from payers and/or are attributed to generally recognized and reputable sources providing clinical information to the prescriber.

1.8.1.8. Surescripts Network Feedback. Customer acknowledges that the Surescripts network has been developed and will continue to be improved through an open and collaborative process that includes the incorporation by Surescripts of improvements suggested by participants in the Surescripts network. Accordingly, if Customer provides any ideas, advice, recommendations, evaluations, representations of needs, proposals, improvements, or the like relating to the Surescripts network ("Surescripts Network Feedback"), Customer hereby irrevocably and unconditionally grants and assigns, and shall grant and assign, to Surescripts all right, title and interest, including all intellectual property rights, in and to all such Surescripts Network Feedback.

1.8.1.9. Disclaimers. Cerner and Surescripts do not warrant that the Surescripts network will meet Customer's requirements or that it will operate without interruption or be error free. Surescripts uses available technology to match patient identities in order to provide physicians with patients' prescription drug benefit information and prescription drug

records in order to provide prescribers with patient's prescription benefit and prescription history information. 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 prescription benefit and/or prescription history information. Therefore, any treating physician or other health care provider or facility should verify prescription benefit or prescription history information with each patient and/or the patient's representatives before such information is relied upon or utilized in diagnosing or treating the patient. Neither Cerner nor Surescripts is a health plan, health care provider or prescriber. Surescripts and Cerner do not and cannot independently verify or review the information transmitted through the Surescripts network for accuracy or completeness. Surescripts and Cerner make 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 Customer's access to their data, and such changes may occur without prior notice to Customer.

1.8.1.10. **Warranties**. Cerner hereby represents and warrants to Customer that: (i) the Surescripts network will perform substantially as described in its written documentation, with connectivity by means of SSL or, if agreed to by Cerner and Surescripts in their sole discretion, by means of VPN; and (ii) the Surescripts network does not, and will not, infringe or misappropriate any patent, copyright, trade secret, proprietary information or other intellectual property right of any third party. 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.

1.8.1.11. **Efforts by Cerner**. Cerner shall use due care in processing all work submitted to it by Customer and agrees that it will, at its expense, correct, as promptly as practicable, any errors to the extent that such errors are due to the malfunction of Cerner or Surescripts computers, operating systems, or programs or errors by Cerner or Surescripts employees or agents. Correction shall be limited to identifying errors and retransmitting the message or messages affected by any errors. Neither Cerner nor Surescripts shall be responsible in any manner for errors or failures of proprietary systems and programs of third parties. Should there be any failure in performance or errors or omissions with respect to the information being transmitted, Cerner responsibility shall be limited to using commercially reasonable efforts to correct such failure in performance or errors or omissions.

1.8.1.12. **Disclaimers and Limitations of the Surescripts Network**. 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.

1.8.1.13. **Disclosure of Information**. Cerner and Surescripts shall be entitled to disclose information received from Customer for the purpose of (and only to the extent necessary for) operating their respective businesses and providing the ePrescribing Services, including sharing Customer data with other Data Sources to the extent necessary to fulfill the terms and conditions of this Amendment and the Agreement, but only in accordance with all applicable law, or pursuant to a valid order issued by a duly authorized court or government authority.

2. Professional Services. Customer engages Cerner to perform the professional services described in the Statement of Work attached to this Amendment as Attachment 1. The professional service fees summarized below reflect a discount on Cerner current Professional Services rates for eligible services. The discount is only valid if Cerner is performing all of the services described in that Statement of Work. The discount is valid for the entire project provided Customer permits Cerner to commence the engagement within twelve (12) months after the Amendment Effective Date; otherwise, Cerner then-current Professional Service rates shall apply. The Professional Services Bid is net of all discounts and no other discounts apply.

2.1. Time and Materials Services. Cerner shall bill and Customer shall pay monthly as incurred the professional service fees for the time and materials services identified in the Statement of Work referenced above. Such fees shall be based on the actual hours of services performed. The estimated professional services fees for those services are summarized in the table below (but fees will be paid on an actual time and materials basis rather than on the estimate). Customer's prior written approval is required for any professional services that will exceed the estimated hours below, and absent such authorization, Cerner shall have no obligation to perform services in excess of the estimate.

Travel and living expenses are not included in the below fees and will be invoiced as incurred in accordance with the terms and conditions of the Agreement. For budgetary purposes only the associated travel and living expenses are estimated at $2,400. All travel and living expenses are subject to the Agreement's not to exceed amount.

Services	Estimated Hours	Estimated Fee
Professional Services	311	$41,463
Total	**311**	**$41,463**

3. GENERAL.

3.1   As required by 42 CFR 1001.952(g) and (h), Customer must, where applicable, fully and accurately report any discounts or credits or other financial concessions described in the Agreement or this Amendment, in the applicable cost reporting mechanism or claim for payment filed with U.S. Department of Health and Human Services ("DHHS") or a state agency, and, upon request from the applicable agency, must provide the information contained in the Agreement or this Amendment regarding any discounts, credits, or other financial concessions to DHHS or the state agency.

3.2   This Amendment supersedes any contrary or inconsistent provisions of the Agreement and any prior amendments. No provisions of any Customer purchase order shall apply. As amended, the Agreement shall remain in full force and effect.

3.3   This Amendment increases the not to exceed amounts listed in Section 16 of Amendment 22 as follows: Services July 1, 2012 through December 31, 2020 (Excluding Optional Services) the maximum costs to Customer not to exceed amount is increased by $237,515.36 for a new Fourth Period Not to Exceed Amount of $23,919,354.17, recognizing that this amount only accounts for the minimum of 100 providers (and Customer having 100 acute care beds) as described in Section 1.1 above. If these 100 provider and/or 100 acute care bed amounts are exceeded such that this additional amount is insufficient, the not to exceed amount must be amended in order for any amounts above the applicable, then-current not to exceed amount to be due.

IN WITNESS WHEREOF, the parties hereto do hereby execute this Amendment as of the Amendment Effective Date.

COUNTY OF SAN MATEO AND SAN MATEO MEDICAL CENTER

By: _____
(signature)

_____
(type or print)

Title: President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

CERNER HEALTH SERVICES, INC.

By: _____

Teresa Waller

Title: Sr Director, Contract Management

This section defines the service deliverables (Scope) for the services set forth in this Cerner Amendment.

Solution Summary

This Sales Order outlines the professional services that have been purchased and that are associated with the Applications listed below.

Application Services

- Cerner Soarian Clinicals

Phasing Summary

Application/Service
Phase 1 - 2 Month Duration
Cerner Soarian Clinicals

Corporate Model

Client, in accordance with Cerner protocols will have a defined corporate model prior to the start of the implementation. Cerner scope and pricing is based on utilization of Cerner corporate model standards. Deviations will result in increased duration and /or an increase in professional services fees. Throughout the implementation process, Cerner will utilize a corporate design approach consisting of enterprise level decisions required for an integrated health system. Client will adjust their process flows to support the newly established corporate model in such a way that they are compatible with Cerner defined workflow architecture. Cerner requires representation from each entity during the initial implementation to define model values for the enterprise including:

- Allowable values and common components standardization
- Master file data standardization
- Workflow standardization
- Reporting standardization

Professional Services Scope

Standard Services

Cerner and Client will utilize the following scope for the implementation:

Soarian Solutions

Status Reports

On a periodic basis during the term of this engagement, Cerner may provide Client with then-current status reports of completed and/or in-progress tasks and deliverables. Client shall have 10 business days from initial receipt of each report to review and advise Cerner via email or other writing of its agreement or any discrepancies with the report (and any noted discrepancy, to be valid, must be accompanied by adequate information and documentation to substantiate Client's position). For each reported task/deliverable, the report shall be deemed accurate and complete for that reported task/deliverable and, if referenced as complete in the report, that task/deliverable shall be deemed and treated as mutually "signed-off" and accepted, provided that (1) Client indicates it is in agreement with the report, or (2) Cerner does not receive a timely and valid written discrepancy with respect to that task/deliverable. With respect to any noted discrepancies, Client will timely cooperate with Cerner in resolving those discrepancies. Written discrepancies, to be valid, must be directed to the applicable Project Manager and to other Cerner personnel assigned to the project, as appropriate.

Rules of Engagement

The features/functionality that will be deployed pursuant to the Sales Order are limited to those expressly set forth in the Sales Order or otherwise specified in the methodology documentation at time of contract signing.

The work listed below is in the order of its' first occurrence in the implementation for the application. Work may be revisited multiple times throughout the duration of the implementation. Beginning and completing work out of order for the application may negatively impact the timeline of the implementation and could impose risks that may increase costs and/or duration of the project.

Cerner will provide support throughout the implementation regarding Soarian specific concepts and values that Client is responsible for providing.

Cerner will be responsible for build activities specified below based on Client provided values utilizing existing Cerner system feature / functionality as defined in Cerner product documentation in a net new environment. Client will be responsible for build activities for add-on solutions except as outlined in this document.

Master file maintenance will transition to Client post unit testing, assuming Client has completed the Cerner required education specified in the Sales Order in a net new environment. Client master file maintenance updates post unit testing and before First Productive Use must be reviewed and approved by the Cerner project team to ensure data integrity prior to entry in the system in a net new environment.

Client is solely responsible to evaluate and update their downstream systems based on impacts related to master file changes to Cerner or non-Cerner systems not included in this Sales Order.

Cerner Soarian Clinicals

Base Add On Feature Services

Feature and Work	Resp
ePrecribing	
Enable import of medication history by configuring application and security authorization	CHS
Set up patient history consent prompt in Client hospital information system	CHS
Configure prescription printing using Client's defined state and local requirements	CHS
INVISION Patient Management pathways to integrate request for medication history data complete	CHS
Modify preferences for eScripting	CHS
Register staff and assign prescriber identifiers	CHS
Establish process and policies for electronic prescribing of new discharge medications as part of the discharge reconciliation workflow for Emergency Department (ED) or inpatient visits	CHS
Perform end user training	C
Perform integrated testing	C

Project Assumptions

General Assumptions

The following General Assumptions frame the scope and work associated with the implementation. These assumptions are not intended to be a definitive list of tasks or responsibilities, but rather include key obligations required to support the mutually agreed upon scope.

- San Mateo Medical Center will provide an environment that supports the project team's work through completion of the project. This may include, but is not limited to, dedicated team conference room(s), separate desks for Cerner on-site consultants, telephone access, internet and network access, system access and sign-on and administrative support as appropriate
- Cerner and Client will mutually agree to the timing and scheduling of required Cerner education to support the implementation process
- San Mateo Medical Center will re-engineer or re-design current state during the implementation process outside of Cerner recommendations for what is required for the software implementation. Depending on the scope of these changes, Cerner estimated work effort and the duration of this project could be negatively impacted
- San Mateo Medical Center will use current Third Party Software suppliers unless being replaced by a Cerner system included in this agreement

Client Staffing Requirements

Client will be responsible for providing the appropriate resources to complete the engagement as recommended in the estimates below. Client agrees that its assigned personnel shall have the appropriate time commitment to the project, knowledge of the Facility, subject matter expertise, software training, and the appropriate skill sets as outlined in the Roles and Responsibilities document in order to complete the implementation within the stated duration. Additionally Client personnel are responsible to communicate business needs, complete analysis, design, configuration and testing and shall develop training materials, conduct user training and provide maintenance and ongoing system support starting with Application delivery. Additional details about resource assignment, resource tasks and resource work effort are in the Project Workplan, if applicable. FTE calculations are based on 2000 hours per year and the average duration of the install.

Cerner Soarian Clinicals	Hours	FTEs
Application Analysis - Clinicals	48	.14
Integration/Conversions	12	.04
Operational Support - Clinicals	24	.07
Average install duration: 2 months		