



AGREEMENT FOR ACCESS - EPICCARE LINK

THIS AGREEMENT (Agreement) is made and entered into by and between the Chickasaw Nation, a federally recognized, self-governing, and sovereign American Indian nation, by and through its Department of Health, of 1921 Stonecipher Boulevard, Ada, Oklahoma 74820, (Nation) and [CONTRACTOR NAME], Tax ID Number/Social Security Number: [TAX ID # OR SSN], of [CONTRACTOR ADDRESS] and Phone Number: [CONTRACTOR PHONE #] (Contractor) for the purpose of granting _____ (Contractor) secure access to Nation’s electronic database of patient information through EpicCare link software (“Service/Services”) as described herein and incorporated into this Agreement.

WHEREAS, Nation has compiled a secure electronic database consisting of clinical information (including progress notes, specialty consults, laboratory and imaging results), member demographics, insurance carrier information, other information regarding patients of Nation, and Proprietary Information of Nation (“Nation’s Data”); and

WHEREAS, Nation has an interest in improving the deliver and coordination of care to patients of Nation by providing the primary care providers of these patients secure electronic access to select portions of their patient’s medical records as contained in the Nation’s Data; and

WHEREAS, Nation as the ability to provide providers secure electronic access to Nation’s Data concerning their patients via a connection to the internet or telephone line through the Service, and Contractor, through its Users, desires to obtain access to Nation’s Data concerning Nation’s patients by utilizing the Services;

NOW THEREFORE, and in consideration of the mutual covenants, promises, agreements, understandings, and conditions contained herein, the parties freely enter this consensual commercial relationship and mutually promise, each to the other, agree, and understand as follows:

- 1) **Access to Nation’s Data.** Upon execution of this Agreement and any other required documents, and approval of all access sites and Users as required herein, Nation will provide Contractor password(s) and information to allow it to access the Nation’s Data relating to Nation’s patients and also provide limited training on the Nation’s System.
- 2) **Definitions.**
 - a. **Authorized Agent or Representative** means an individual who has the legal authority to legally obligate the primary care physician practice seeking to access Nation’s Data under this agreement. This individual may be the practice owner, a partner or officer of the

business entity, or otherwise be approved and designated by the leadership of the primary care practice as someone who can sign documents legally binding the practice.

- b. **Confidential Patient Information** means individually identifiable health information regarding patients stored in the Nation's Data and accessed through the Service, including clinical information such as progress notes, specialty consults, laboratory and imaging results, and patient demographic and insurance information. This information is protected by various applicable state and federal privacy laws and regulations, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA).
- c. **Nation's Data** means the Confidential Patient Information and Proprietary Information contained in a secure electronic database owned by Nation regarding patients of Nation.
- d. **Proprietary Information** is the information relating to Nations internal business affairs, including information regarding products, pricing; personnel data; vendor information; financial data and other competitively sensitive information that maintains as confidential. If such information is already made available in the public domain, then such information is not Proprietary information. All Proprietary Information is confidential and may not be used for any purpose other than treatment without the advanced written consent of Nation. Proprietary information includes this Agreement and any Nation forms or documents.
- e. **User Agreement:** Prior to being granted access to Nation's Data, a User must complete and agree to the terms of use as laid out in the User Agreement. The User Agreement is accessible online and must be agreed to prior to accessing the Nation's Service.
- f. **Service** means the software that provides a secure method of communication, which enables Users to view Confidential Patient Information concerning Nation's Contracted Provider patients as contained in the Nation's Data.
- g. **User** means the Contractor and/or an individual employee of the Contractor who is authorized by the Contractor to obtain access to the Nation's Data utilizing the Service and who has accepted the User Agreement.

- 3) **Period of Performance.** This Agreement shall commence on the date last executed below and shall terminate on the Termination Date of 12/31/2027.
- 4) **Termination.** This Agreement will terminate on the Termination Date unless terminated by either party for any reason upon thirty days' written notice delivered to the other party. Nation retains the right to unilaterally terminate access, in its discretion, without advance notice. Any unauthorized use of Nation's Data will be considered a breach of this Agreement and grounds for immediate termination of this Agreement. Upon termination of this Agreement, Partner agrees to ensure that it's Users discontinues accessing the Nation's Data.
- 5) **Permitted Use.** Nation's Data shall be used only for purposes related to treatment of Contractor's patients. Contractor agrees that it and all of its users will comply with all applicable laws and regulations related to the use of Nation's Data.
- 6) **Prohibited Use.** Contractor agrees it will not access or use the Nation's Data for any purpose other than those set forth in this Agreement as permitted uses. If Nation determines that Contractor has accessed or used Nation's Data in a prohibited or unlawful matter, Nation may

unilaterally terminate all access and seek any other such relief as appropriate. Specifically, Contractor may not:

- (a) Sell, disclose to any third party, transfer to any third party, or otherwise permit or facilitate third-party access to the Nation's Data;
- (b) Transmit in any way Nation's Data obtained through the Service for any purpose other than those listed in this Agreement as Permitted Use;
- (c) Use any of Nation's Data with the intent to negatively impact the competitive advantage of Nation in the marketplace;
- (d) Use or disclose the Nation's Data other than as permitted by this Agreement.

7) Confidentiality. In the course of this Agreement, the parties recognize the Contractor may come in contact with or become familiar with information which CNDH may consider confidential. This information may include, but is not limited to, information pertaining to all patient health information. The Contractor agrees to keep all such information confidential and not to discuss or divulge it to anyone other than the appropriate personnel or their designees within the Chickasaw Nation.

This Agreement is to be performed in accordance with the requirements and provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191, as amended), the HITECH Act of 2009 (P.L. 111-5, as amended), the Privacy Act (P.L. 93-579, as amended) and all applicable laws and regulations.

8) Obligations of Contractor: Contractor agrees to:

- a. Report to the Technical Liaison any unauthorized use or disclosure of any portion of Nations Data of which Contractor becomes aware;
- b. Advise patients requesting amendments to their medical records that the Contractor does not have the authorization or the ability to alter their PHI and that any amendments or corrections to it must be accomplished by contacting Nation directly;
- c. Take appropriate precautions to ensure that patients, visitors, or unauthorized personnel will not be able to see the computer screens during access to Nations Data;
- d. Make its internal practices, books, and records relating to the use and disclosure of PHI or Nations Data available to Nation and, after notice, to the Secretary of Health and Human Services for the purposes of determining Nation's compliance with privacy regulations; Document Contractor's disclosures of Nation's Data for treatment purposes or as otherwise permitted by this Agreement and provide this documentation to Nation if requested; If it receives a request for disclosure of Nation's Data from a court or governmental agency, Contractor will immediately notify the Technical Liaison prior to any disclosure, in order to allow Nation the opportunity to seek the appropriate protective order to protect Nations Data.

9) Contractors Responsibilities:

- a) **Equipment and Supplies.** Partner is solely responsible for the costs of the equipment, maintenance, and supplies required for access to and use of the Nation's Data through

the Service. Such costs include, but are not limited to, cost of acquisition, installation, operation and maintenance of personal computers and printers; costs related to wiring, hardware, software, phone charges, and Internet access services; and costs of ongoing equipment and supply upgrades.

b) Identification of Users. Prior to obtaining access, Contractor will provide a written list to the Technical Liaison identifying the Users who will be authorized by Contractor to access Nation's Data. All Users of Contractor must agree to the User Agreement prior to accessing the Nation's Data.

c) Access of Users. Contractor agrees that it will ensure that only Users access Nation's Data pursuant to this Agreement, and that it will take appropriate steps to discontinue a User's access in the event it determines that the User improperly accessed or used Nation's Data, or shared passwords with an individual not identified as a User in violation of law or this Agreement or the User Agreement, and notify the Technical Liaison of same. If additional Users are desired, or if a User needs to be removed for any reason, Partner will contact the Technical Liaison and send any requested changes in writing to effect those changes.

d) Ensure Appropriate Use of Service. Contractor agrees to ensure that its Users agree the User Agreement and access the Nation's Data in accordance with the terms of this Agreement, and the User Agreement. Partner agrees it will not change or alter the Service software in any way, and, in the event it suspects any problems related to unauthorized data alteration or destruction, to instruct its Users to immediately discontinue using the Service and report the problem to the Technical Liaison.

10) Representative. Julie Kiker, Director of Health Information, is the Nation's "Designated Representative" of this Agreement and shall oversee the Agreement throughout its term. All requests, issues or concerns related to the Agreement shall be directed to the Designated Representative. All written correspondence to the Designated Representative shall be mailed to the Notice Address, as set forth below. The Nation may unilaterally change the Designated Representative without modification of this Agreement by providing written notice, as provided for herein, to Contractor.

11) Technical Liaison. Health Information Management is the Nation's "Technical Liaison" of this Agreement and shall oversee the Agreement throughout its term and is the department or individual employed by Nation who should be contacted by a User or Contractor to report certain events or problems as required by this Agreement. The Nation may unilaterally change the Technical Liaison without modification of this Agreement by providing written notice, as provided for herein, to Contractor.

12) Deliverables. "Deliverables" shall include but are not limited to all documents, reproductions, articles, records, reports, software, and data, etc., related to or arising from the performance of the Agreement and used by Contractor during the course of this Agreement. All Deliverables shall become the property of the Nation and shall be submitted to the Designated Representative within ten (10) days following the receipt of the written notice of termination or the Termination Date, whichever is sooner. Contractor agrees to waive any ownership interest of any kind in and to said source materials and further agrees to protect Nation's ownership and copyright in said materials. Failure to deliver the Deliverables within ten days of the termination or the

Termination Date shall result in Contractor being liable to the Nation for all costs expended by Nation in recovering the Deliverables from their locations.

- 13) Standards.** Contractor shall perform its duties under this Agreement to the best of its abilities and in accordance with such standards of professional ethics and practice as are applicable during the term of this Agreement. Contractor shall comply with all applicable laws, ordinances, rules, regulations, and requirements of and orders of all federal, tribal, state and municipal governments, or orders of any court of competent jurisdiction, which relate to Contractor's performance of duties under this Agreement.
- 14) Status of Contractor.** Contractor and Contractor's agents and employees are independent contractors providing services for Nation and are not employees of the Nation. Nothing herein shall be construed to create an employer-employee relationship between the parties hereto.
- 15) Insurance.** Contractor shall provide any required professional insurance, loss payable insurance, or any other insurance applicable to Contractor's services hereunder. Upon request, Contractor will provide a Certificate of Insurance naming the Chickasaw Nation as a loss payee.
- 16) Assignment.** This Agreement may not be performed by another party or assigned to another party without the written consent of Nation. It is further understood and agreed that this Agreement shall be binding upon both parties' assigns, successors, heirs, trustees, and personal representatives.
- 17) Conflicts of Interest.** Contractor is free to enter into this Agreement and warrants that Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner with the performance of Contractor's duties or services required under this Agreement.
- 18) Third Party Beneficiaries.** This Agreement is not intended to confer any right or benefit upon, or permit enforcement of any provision by, anyone other than the parties to this Agreement.
- 19) Time.** For purposes of this Agreement, time is of the essence.
- 20) Indemnification.** Contractor shall indemnify and hold harmless Nation, its officers, employees, and agents, including any of its entities, from and against any and all liability, claims, suits, demands, losses, damages, costs, expenses or legal fees caused by, arising out of, or resulting from any negligent or willful act or omission of Contractor, or its employees or agents, incurred in activities arising out of this Agreement, to the extent proximately caused by the negligent or willful acts or omissions of Contractor, or its employees or agents.
- 21) Non-disparagement.** Contractor may discuss non-confidential aspects of Contractor's experience with the Nation, however, Contractor shall not in any shape, form or fashion whatsoever, make any disparaging remarks of any sort or otherwise communicate any disparaging information about the Chickasaw Nation or the Nation's employees, officers or agents in their professional capacities herein to any third party, including but not limited to statements on social or any other media. Further, Contractor agrees to take no action of any nature which is intended, or would reasonably be expected, to harm the Nation or its reputation or which would reflect or reasonably lead to unfavorable publicity to the Nation.
- 22) Confidentiality.** Nation and Contractor agree that the terms and conditions of this Agreement are confidential, proprietary, and material to each party's interests, business and affairs. Each party agrees to maintain confidentiality of the terms and conditions thereof, provided that information contained herein may be used by each party's respective employees, officers, and

professional advisors only to the extent necessary for the purpose of performing or enforcing this Agreement, provided further that this clause shall not limit the obligations of the Nation arising under the Chickasaw Nation Code or applicable federal law.

- 23) Chickasaw Law.** The Chickasaw Nation is a sovereign American Indian nation. Contractor shall abide by the laws of the Chickasaw Nation while performing its obligations under this Agreement on Chickasaw Nation property including the Chickasaw Nation's prohibition on cannabis. If Contractor and/or Contractor's employees violates any criminal offense of the Chickasaw Nation related to, or while performing, Contractor's obligations under this Agreement, then the Nation may terminate this Agreement, regardless of whether or not the Chickasaw Nation has jurisdiction to criminally prosecute such act.
- 24) Severability.** If any provision contained in this Agreement is held to be invalid, illegal, or unenforceable, then the legality and enforceability of the remaining provisions shall not be affected or impaired thereby. The invalid, illegal, or unenforceable provision shall be ineffective only to the extent of such invalidity, illegality, or unenforceability.
- 25) Survivability.** All covenants, warranties, and representations made by the parties shall survive the termination of this Agreement. In addition, the following terms shall survive termination of this Agreement: Non-Disparagement, Insurance, Indemnification, Confidentiality, Governing Law, Sovereign Immunity.
- 26) Force Majeure.** Neither party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such party, including, but not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civic disturbance or disobedience, strike, or sabotage of either party's facilities.
- 27) Cumulative Remedies.** The rights and remedies provided by this Agreement are cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.
- 28) Waiver.** No waiver by either party of any provision of this Agreement shall be deemed a waiver of any other provision of the Agreement or of any subsequent breach of the same or any other provision. A party's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of the party's consent to or approval of any subsequent acts.
- 29) Governing Law.** The parties will use their best efforts to amicably resolve any dispute arising hereunder. This Agreement shall be governed by the laws, guidelines, resolutions, and ordinances of the Chickasaw Nation. State law shall not be applicable nor shall disputes be subject to any authority outside the Nation. By entering this Agreement, Contractor is affirmatively entering a consensual commercial relationship with the Nation subject to the regulation and jurisdiction of the Nation. Contractor affirmatively consents to the exclusive jurisdiction of the Chickasaw Nation's courts for all purposes relevant to this Agreement and the terms stated herein.
- 30) Sovereign Immunity.** The Nation does not waive its sovereign immunity by entering into this Agreement and expressly retains all immunities and defenses available to it as a sovereign pursuant to all applicable law, including those made available to the Nation's officers, employees and agents. Nothing in this Agreement shall be construed to waive the sovereign rights or

immunities of the Chickasaw Nation. The parties agree that any ambiguity in this Agreement as to sovereign immunity shall be construed in favor of sovereign immunity.

- 31) Background Investigation.** By entering into this Agreement, the undersigned Contractor does hereby represent and warrant that Contractor, or its employees or agents, has disclosed any criminal convictions or criminal history, which may prevent Contractor, or its employees or agents, from performing services under this Agreement. If reasonably requested by Nation, Contractor hereby agrees that Contractor, or Contractor’s employees or agents, will submit to a criminal background investigation and provide all information necessary to its completion.
- 32) Notices.** All notices, requests and other communications by or to a party hereto shall be in writing and shall be given to respective address as set forth on page one of this Agreement (Notice Address).
- 33) Construction.** This Agreement has been negotiated and prepared by the parties and their respective counsel, and no provision of this Agreement shall be construed against any party hereto by reason of such party’s being deemed to have drafted or structured such provisions.
- 34) Entireties and Amendments.** This Agreement, including any properly notated exhibits, schedules, or addenda attached hereto and incorporated herein, constitutes the final and complete understanding and agreement of the parties with respect to its subject matter. All prior agreements and understandings are merged herein and there are no unwritten oral agreements between the parties. This Agreement may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. This Agreement cannot be modified, amended, or extended unless agreed upon in writing and signed by the parties.
- 35) Location of Execution.** This Agreement is deemed executed in Indian Country.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officer on the date last written below.

CONTRACTOR:

_____ Date: _____
 [Name, Title]
 [Organization]

NATION:

_____ Date: _____
 Julie Kiker,
 Health Information Management,
 The Chickasaw Nation