



BOARD OF SUPERVISORS AGENDA ITEM REPORT (BOSAIR)

\*All fields are required. Enter N/A if not applicable. For number fields, enter 0 if not applicable.\*

Record Number: PO GMI PO2500014607

Award Type: Contract

Is a Board Meeting Date Requested? Yes

Requested Board Meeting Date: 12/02/2025

Signature Only:

NO

Procurement Director Award / Delegated Award: • N/A

Supplier / Customer / Grantor / Subrecipient: Tucson Medical Center

Project Title / Description: American Rescue Plan Act (ARPA) Amendment to the Tucson Medical Center (TMC) contract for the Digital Infrastructure Project (Medical Record at Pima County Health Department)

Purpose: This amendment is to append the required Participation Agreement for use of the EPIC medical record at Pima County Health Department, a requirement for implementation of the medical record / digital infrastructure project detailed in the initial ARPA agreement between Pima County and Tucson Medical Center. This is a no cost amendment - the amendment solely specifies requirements for use of the medical record amongst the parties. The Pima County Board of Supervisors approved the use of ARPA funds for the implementation of this medical record.

Procurement Method: N/A

Program Goals/Predicted Outcomes: The implementation of this medical record will ensure that the County can provide quality clinical care across its Pima County Health Departments Clinics.

Public Benefit and Impact: The implementation of this medical record enhances the County's ability to collaborate with medical and clinical partners through improved data transfers that improve patient outcomes and connection to services.

Budget Pillar • Improve the quality of life

Support of Prosperity Initiative: • 4. Increase Health Coverage and Reduce Medical Debt

Provide information that explains Improved medical record can aid in enrollment gaps, ensure that there are continued

TO: COB, 11/20/25 (1) NOV20'25PM0409PO

VERSION: 1

PAGES: 34

how this activity supports the selected Prosperity Initiatives

opportunities to enroll uninsured patients into appropriate insurance or public insurance plans.

Metrics Available to Measure Performance:

Full implementation of the approved Medical Record at all Pima County Health Department clinics.

Retroactive:

NO

### Amendment / Revised Award Information

Record Number: PO GMI PO2500014607

Document Type: PO

Department Code: GMI

Contract Number: PO2500014607

Amendment Number: 02

Commencement Date: 12/02/2025

Termination Date: 12/31/2026

Is the Termination Date new?

NO

Classification: Expense

Adjust Level: No change

Prior Contract Number (If Applicable): CT\_24\*230

Amount This Amendment:

\$0.00

Funding Source(s) required: Direct fund allocation from United States Treasury - American Rescue Plan Act (ARPA)

Funding from General Fund?

NO

Contract is fully or partially funded with Federal Funds?

YES

If Yes, is the Contract to a supplier or subrecipient? Subrecipient

Enter CFDA # 21.027

and FAIN # SLFRP0180

Associated AmpliFund Grant Record ID# 69989

Advantage Initial GTAW# (If Applicable): N/A

Department: GMI

Name: Alejandra Ruiz

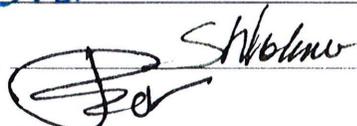
Telephone: 5207244287

Add GMI Department Signatures

Yes

GMI Director:  Date: 11/19/2025

Department Director Signature:  Date: 11/19/2025

Deputy County Administrator Signature:  Date: 11-19-25

County Administrator Signature:  Date: 11/19/2025

**Pima County Department of Grants Management and Innovation**

**Project: TMC Emergency Room Enhancements**

**Subrecipient name and address:**

**Tucson Medical Center  
5301 E. Grant Road  
Tucson, AZ 85712**

**Contract No.: PO2500014607 (FKA CT\_24\*230)**

**Contract Amendment No.: 2**

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<b>Orig. Contract Term:</b> 03/18/2021 – 12/31/2026	<b>Orig. Amount:</b>	\$6,300,000.00
<b>Termination Date Prior Amendment:</b> 12/31/2026	<b>Prior Amendments Amount:</b>	\$180,000.00
<b>Termination Date This Amendment:</b> 12/31/2026	<b>This Amendment Amount:</b>	\$0
	<b>Revised Total Amount:</b>	\$6,480,000.00

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**SECOND AMENDMENT TO FEDERAL FINANCIAL ASSISTANCE SUBRECIPIENT AGREEMENT**

The parties agree to amend the above-referenced agreement as follows:

**1. Background and Purpose.**

1.1. **Background.** On December 19, 2023, County and Subrecipient entered into the above referenced agreement to provide TMC Emergency Room Enhancements. On December 17, 2024, County and Subrecipient entered into the Subaward Amendment to add \$180,000 for the purchase of a billing module and maintenance for the first year of the TMC Epic System electronic medical record.

1.2. **Purpose.** The parties wish to add an Addendum with respect to the Pima County Health Department's participation in Subrecipient's community health data sharing network as contemplated in the Scope of Services.

**2. Addendum.** The parties agree to add a Department Support Agreement (34 pages), attached as **Exhibit F**, to the Agreement.

**3. Heat Injury and Illness Prevention and Safety Plan.** Pursuant to Pima County Procurement Code 11.40.030, Contractor hereby warrants that if Contractor's employees perform work in an outdoor environment under this Contract, Contractor will keep on file a written Heat Injury and Illness Prevention and Safety Plan. At County's request, Contractor will provide a copy of this plan and documentation of heat safety and mitigation efforts implemented by Contractor to prevent heat-related illnesses and injuries in the workplace. Contractor will post a copy of the Heat Injury and Illness Prevention and Safety Plan where it is accessible to employees. Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract complies with this provision.

All other provisions of the agreement not specifically changed by this Amendment remain in effect and are binding upon the parties.

This agreement may be executed in counterparts, each of which, when taken together, will constitute one original agreement.

**PIMA COUNTY**

**SUBRECIPIENT**

\_\_\_\_\_  
Chair, Board of Supervisors

\_\_\_\_\_  
Authorized Officer Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

**ATTEST**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

APPROVED AS TO FORM



\_\_\_\_\_  
Deputy County Attorney

**Jonathan Pinkney**

\_\_\_\_\_  
Print DCA Name

11/19/25  
Date

APPROVED AS TO CONTENT



\_\_\_\_\_  
Department Head

\_\_\_\_\_  
Date

11/19/2025

**Exhibit F (34 pages)**  
**DEPARTMENT SUPPORT AGREEMENT**  
**TUCSON MEDICAL CENTER AND PIMA COUNTY HEALTH DEPARTMENT**

This Department Support Agreement (this “Agreement”) by and between Tucson Medical Center (“TMC”) and Pima County on behalf of the Pima County Health Department (the “Department”) is made and entered into effective as of the Amendment Effective Date (“Effective Date”). Capitalized terms not defined in this Agreement shall have the definitions set forth in the Subrecipient Agreement, and if undefined in the Subrecipient Agreement, then in TMC HealthCare’s policies regarding access to, use of, and security involving TMC applications, including electronic medical records like Epic (the “Support Services Policies”), which policies are incorporated into this Agreement by reference.

**RECITALS**

- A. TMC operates a licensed hospital serving the residents of the communities in its service area by providing or arranging to provide health care services.
- B. The Department desires to contract for certain services under this Agreement to support its provision of health care services to the residents of the communities in the TMC service area, as set out in one or more Addenda to this Agreement.
- C. TMC has the resources and expertise to provide the Services, and desires to provide services under this Agreement.
- D. Effective March 18, 2021, TMC and the Department entered into a Federal Financial Assistance Subrecipient Agreement (the “Subrecipient Agreement”), pursuant to which TMC, through the Department, obtained access to certain federal award project funds related to the American Rescue Plan Act – Coronavirus State & Local Fiscal Recovery Funds.

**AGREEMENT**

The Parties agree:

- 1. NOTICE.** Notices or communications given under this Agreement shall be provided in writing by (i) personal delivery; or (ii) commercial delivery service or registered or certified postage prepaid mail to the address set forth in this Agreement, or at such other addresses and to such other persons as the recipient may from time to time designate by notice given as described in this Section 1. Such notices or communications will be deemed given (i) upon receipt if by personal delivery; (ii) upon delivery if by a commercial delivery service; or (iii) three business days after deposit in the United

States mail if sent by registered or certified postage prepaid mail.

TMC: Tucson Medical Center  
5301 East Grant Road  
Tucson, AZ 85712  
Attn: Chief Information Officer & Chief Health Information Officer  
Attn: Legal Department

Department: Pima County Health Department  
3950 S. Country Club Rd.  
Tucson, AZ 85714

**2. DEPARTMENT SUPPORT SERVICES.** TMC will provide services to the Department in accordance with any Addendum attached to this Agreement (the “Services”). The Services may be changed at any time by execution of a new or revised Addendum by TMC and the Department. TMC may arrange to provide Services through an Affiliate. This Agreement is not intended to limit the ability of any party to this Agreement to obtain services from any third party.

**3. COMPENSATION.**

3.1. Department Support Services Fee. The Department shall pay TMC for the Services as set forth in the applicable Addendum to this Agreement.

**4. ALLOCATION OF LIABILITY; INDEMNIFICATION.**

4.1. Allocation of Liability. In the event of a liability claim from a patient or other third party, TMC and the Department shall each be responsible for their respective *pro rata* share of liability, as established by compromise, arbitration or litigation. Where TMC, a TMC Affiliate or any TMCH Personnel, and the Department, a Department Affiliate, any Department Personnel or any employees, agents or representatives of an Affiliate of the Department participated in the liability-causing event, TMC and the Department shall each contribute to the common liability a *pro rata* share based upon their relative degree of fault as established by compromise, arbitration or litigation.

4.2. Indemnification. Notwithstanding anything to the contrary in this Agreement, this Section 4.2 shall only apply to the extent permitted by law. Additional indemnification provisions may be set forth in an Addendum to this Agreement. In the event of any conflict or inconsistency between such additional provisions and this Section 4.2, the additional provisions set forth in an Addendum shall govern. For purposes of this Section 4.2:

“Claims” consist of claims, demands, assessments, judgments, damages, losses, actions (including professional malpractice actions), penalties, fines, liabilities, encumbrances, or liens

of whatever kind or nature asserted against the Indemnified Party that arise out of, in connection with or otherwise results from any act or omission of the Indemnifying Party, its officers, agents, or employees in connection with this Agreement.

“Expenses” consist of costs and expenses of investigation and defense of any Claim, whether or not such Claim is ultimately defeated, including but not limited to, reasonable attorneys' fees and disbursements.

Claims and Expenses do not include (i) any loss of profit, business, reputation, contracts, revenues or anticipated savings or (ii) claims, demands, assessments, judgments, damages, losses, actions (including professional malpractice actions), penalties, fines, liabilities, encumbrances, or liens of whatever kind or nature asserted against the Indemnified Party that arise out of, in connection with or otherwise results from any act or omission of the Indemnified Party, its officers, agents, or employees.

- (a) Notwithstanding Section 4.1 of this Agreement, TMC or the Department (in such capacity, the “Indemnifying Party”) shall defend, indemnify, and hold the other (in such capacity, the “Indemnified Party”), including the Indemnified Party’s members, directors, officers, agents or employees, harmless from and against any and all Claims and Expenses, whether or not covered by the Indemnified Party’s insurance policies or plans. Upon notice from the Indemnified Party, the Indemnifying Party shall, at its expense, resist and defend any Claim.
- (b) Indemnification shall be available under this Section 4.2 provided that the Indemnified Party gives the Indemnifying Party prompt, written notice of any Claim against the Indemnified Party’s and all reasonable assistance to defend such Claim. The Indemnifying Party shall have no obligations under this Section 4.2 if such Claim results from the (i) Indemnified Party's breach of this Agreement or (ii) gross misconduct or an intentional violation of Applicable Law by the Indemnified Party.
- (c) The Indemnifying Party shall have the right to exercise sole control over the defense and settlement of any Claim for which indemnification or defense is sought, including the sole right to select defense counsel and to direct the defense or settlement of any such Claim; provided that the Indemnifying Party shall not enter into any non-monetary settlement or admit fault or liability on the Indemnified Party’s behalf without the prior written consent of the Indemnified Party, which consent shall not be unreasonably withheld or delayed. In the event a Claim is or may be asserted, the Indemnified Party shall have the right to select and to obtain representation by separate legal counsel. If the Indemnified Party exercises such right, all costs, expenses, and risks incurred by the Indemnified Party for such separate legal counsel shall be borne by the Indemnified Party.

The Indemnifying Party shall be responsible for any settlement of a Claim entered into with its advance written consent. The Indemnifying Party shall have no obligation to indemnify the

Indemnified Party, and the Indemnified Party shall waive any claim to indemnification by the Indemnifying Party, in the event the Indemnified Party enters into a settlement or any other agreement resolving a Claim without the advance written consent of the Indemnifying Party.

- (d) The indemnification set forth in this Section 4.2 shall not be deemed to waive or limit any other rights, and shall not be interpreted or applied to restrict either TMC or the Department from pursuing either a right to indemnity and/or a right to contribution as a matter of Arizona law and not as a result of a right of contract indemnity.

4.3. Survival of Obligations. The obligations contained in this Section 4 shall continue in full force and effect notwithstanding the termination of this Agreement.

**5. TERM AND TERMINATION.** Additional term and termination provisions may be set forth in an Addendum to this Agreement. In the event of any conflict or inconsistency between such additional provisions and this Section 5, the additional provisions set forth in an Addendum shall govern. Notwithstanding any other provision of this Agreement, this Agreement shall not terminate while any Addendum remains in effect.

5.1. Term; Renewal. The “Term” of this Agreement shall begin on the Effective Date and end on December 15, 2026.

5.2. Termination Without Cause. This Agreement may be terminated at any time by either of the parties without cause by giving the other party at least 90 calendar days prior written notice, or upon mutual agreement of the parties.

An Addendum to this Agreement may be terminated at any time by either of the parties without cause by giving the other party at least 90 calendar days prior written notice, or upon mutual agreement of the parties.

This Agreement may be terminated without cause as set forth in TMC’s Support Services Policies.

5.3. Termination of this Agreement for Cause. Notwithstanding anything in this Agreement to the contrary, either party may terminate this Agreement for cause upon ten business days prior written notice to the other party (the “Breaching Party”), if the Breaching Party breaches any material term or condition of this Agreement or commits a material violation of the Support Services Policies, unless the Breaching Party cures such material breach or material violation to the notifying party’s reasonable satisfaction within such ten business day period. The notice of breach or violation under this Section 5.3 shall specify with reasonable particularity the nature and extent of the material breach or material violation.

If the material breach or material violation described in the notice is not reasonably susceptible

of remedy, or is not remedied within ten business days, this Agreement shall be terminated for cause as of the effective date set forth in the notice.

In the event it is not possible for the Breaching Party to remedy a declared breach or violation within ten business days for reasons beyond its reasonable control, the Breaching Party will make such disclosure in its response and the parties agree to meet in good faith to determine whether an exception to the terms of this Section 5.3 is appropriate.

(a) Either party may terminate this Agreement immediately for cause, without regard to the requirements for notice and opportunity for cure set forth above, upon such party's termination for cause of any other agreement between the Department and TMC or an Affiliate of TMC.

(b) This Agreement may be terminated immediately for cause, without regard to the requirements for notice and opportunity for cure set forth above, as set forth in the Support Services Policies.

(c) Cancellation for Conflict of Interest. This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

5.4. Termination of an Addendum for Cause. Notwithstanding anything in this Agreement to the contrary, either party may terminate an Addendum to this Agreement for cause upon ten business days prior written notice to the other party (the "Breaching Party"), if the Breaching Party breaches any material term or condition of the Addendum, unless the Breaching Party cures such material breach the notifying party's reasonable satisfaction within such ten business day period. The notice of breach or violation under this Section 5.4 shall specify with reasonable particularity the nature and extent of the material breach or material violation.

If the material breach described in the notice is not reasonably susceptible of remedy, or is not remedied within ten business days, the Addendum shall be terminated for cause as of the effective date set forth in the notice.

In the event it is not possible for the Breaching Party to remedy a declared breach within ten business days for reasons beyond its reasonable control, the Breaching Party will make such disclosure in its response and the parties agree to meet in good faith to determine whether an exception to the terms of this Section 5.4 is appropriate.

5.5. Waiver. A waiver by TMC or the Department of a breach of any provision of this Agreement or material violation of any provision of the Support Services Policies shall not operate as, or be construed to be, a waiver of any prior, concurrent or subsequent breach or material

violation of the same or similar provision. No breach of this Agreement or material violation of the Support Services Policies shall be considered waived by TMC or the Department unless such waiver is given in writing.

- 5.6. Force Majeure. Neither TMC nor the Department shall be liable or be deemed in breach of this Agreement or in material violation of the Support Services Policies for any failure or delay of performance which results, directly or indirectly, from acts of God, acts of terrorism, natural disaster, civil or military authority, public disturbance, accidents, fires or any other cause beyond the reasonable control of TMC or the Department, as appropriate.
- 5.7. Post-Termination Obligations. The termination or expiration of this Agreement shall not relieve either party of any obligation pursuant to this Agreement (including the Support Services Policies) which is intended to survive the termination or expiration of this Agreement including without limitation the Department's obligation to compensate TMC for Services provided prior to termination or expiration of this Agreement.

Other Term and Termination provisions may be set forth in an Addendum to this Agreement. In the event of any conflict or inconsistency between such other provisions and this Section 5, the provisions set forth in the Addendum shall govern.

**6. SUPPORT SERVICES POLICIES.** The Department agrees to enter into this Agreement upon the terms and subject to the conditions set forth in this Agreement and the Support Services Policies, which are incorporated into this Agreement by reference. The Department acknowledges that the terms and conditions set forth in this Agreement and the Support Services Policies extend to and include its Department Personnel.

- 6.1. Support Services Policies. TMCH shall make the Support Services Policies reasonably available to the Department, whether in person (*e.g.*, at TMCH's principal executive office), by electronic means (*e.g.*, on TMCH's intranet) or otherwise. The Department acknowledges that it has had an opportunity to review a copy of the Support Services Policies in effect as of the Effective Date. The Department and its Department Personnel shall be subject to, comply with, and adhere to the Support Services Policies as adopted and amended by TMCH from time to time.
- 6.2. Amendment of Support Services Policies. The Department acknowledges that TMCH may amend the Support Services Policies from time to time as set forth below:
  - (a) Except as set forth in Section 6.2(b) of this Agreement, TMCH shall notify the Department in writing of any new or materially modified Support Services Policies no fewer than 60 calendar days prior to the effective date of such new or modified Support Services Policies, unless a shorter notice period is required to comply with Applicable Law (the "Notice Period"). The Department may file a written objection to such amendment with TMCH within

ten business days of receiving notice of the amendment. In the event the Department files a timely written objection, TMCII and the Department shall attempt in good faith to renegotiate the provision at issue to their mutual satisfaction within 20 business days of such objection.

In the event TMCII and the Department are not able to mutually agree on modification of the provision at issue, the Department may terminate this Agreement without cause by giving written notice to TMCII before the expiration of the Notice Period that it finds the proposed amendment unacceptable, which notice shall terminate this Agreement as of 90 calendar days following the end of the Notice Period. The disputed amendment to the Policies shall be waived with respect to the Department prior to the termination of this Agreement.

(b) Notwithstanding the provisions of Section 6.2(a) of this Agreement, TMCII may make technical or other non-material or non-substantive changes to the Support Services Policies without notifying the Department.

- 6.3. Priority. In the event of a conflict between the following documents, the following order of priority shall apply (listed from highest priority to lowest priority): the Subrecipient Agreement, then this Agreement, then the Provider Services Policies, then all other policies, procedures, or practices of TMCII or of the Department.
- 6.4. Waiver of Support Services Policies. TMC or the Department may request a waiver of any provision of the Support Services Policies from the other. Such request shall be submitted by the requesting party in writing and shall specify the waiver sought by the requesting party in reasonable detail. The other party shall respond to the request in writing within ten business days, and may waive any provision of the Support Services Policies in its sole discretion. No provision of the Support Services Policies shall be considered waived unless such waiver is given in writing.
- 6.5. TEHCA Exchange; Qualified Health Information Network Terms of Participation. The Participant/Subparticipant Terms of Participation (“ToP”), as those terms appear in the Support Services Policies, are incorporated into this Agreement and apply to the Department in its use of the QIIN (as “QIIN” is defined in the ToP). The Department agrees to abide by the ToP. The Department must ensure that the ToP is included, directly or by reference, in a legally enforceable contract in which the Department binds any Participants or Subparticipants (as “Participants” and “Subparticipants” are defined in the ToP) without modification.

## 7. **GENERAL PROVISIONS.**

- 7.1. No Breach. TMC and the Department each represent and warrant that the terms of this Agreement do not and will not breach any agreement to keep in confidence proprietary information, knowledge or data acquired by either of them in confidence or in trust prior to

the Effective Date, and neither TMC nor the Department will disclose to the other, or induce the other to use, any confidential or proprietary information or material belonging to third parties.

- 7.2. Entire Agreement. This Agreement, the Subrecipient Agreement, and the Support Services Policies, including any amendments and any exhibits or addenda specifically referenced herein or therein, constitute the entire agreement between TMC and the Department regarding the subject matter hereof and supersedes all prior or contemporaneous discussions, representations, correspondence, offer letters, memoranda, and agreements, whether oral or written, pertaining thereto.
- 7.3. Amendments. Except as contemplated by Section 6.2 of this Agreement, this Agreement (including the Support Services Policies) may be amended only by a written instrument signed by TMC and the Department.
- 7.4. Remedies. The remedies provided to TMC and the Department by this Agreement are not exclusive or exhaustive, but are cumulative of each other and in addition to any other remedies TMC and the Department may have. All legal and equitable remedies, including injunction, are available to enforce the provisions of this Agreement, including the Support Services Policies. TMC and the Department acknowledge that a remedy at law for any breach of this Agreement, including any material violation of the Support Services Policies, may be inadequate, and they each hereby acknowledge that, in addition to all other relief that may be available, the non-breaching party may be entitled, without the necessity of posting a bond of cash or otherwise, to injunctive relief in case of any such breach or material violation.

If the scope of any provision of this Agreement or the Support Services Policies is too broad to permit enforcement of such provision to its full extent, then such provision shall be enforced to the maximum extent permitted by law, and TMC and the Department hereby agree that such scope may be modified accordingly in any proceeding brought to enforce such provision.

- 7.5. Attorney Fees. If any party brings an action against another party to enforce any provision of this Agreement (including the Support Services Policies), the prevailing party, in addition to other relief awarded by a court or arbitrator, shall be entitled to recover from the other party its court costs and reasonable attorney's fees incurred in such action.
- 7.6. Non-Solicitation. The parties have devoted a considerable amount of time, effort, and expense to contract for and train their respective employees, who comprise valuable assets of the parties. The parties will have access to each other's personnel base, and acknowledge that solicitation of the other's employees to leave employment or the hiring of the other's employees would be highly damaging to the other party.

Consequently, during the Term of this Agreement and for one year following the termination or expiration of this Agreement (the “Non-Solicitation Period”), neither party shall solicit, recruit, or offer to employ, directly or indirectly, any person who is or was an employee of the other party at any time during the Non-Solicitation Period, unless such employee has not been employed by the other party for at least 90 calendar days, or assist any other person, firm, corporation or entity in doing so or attempting to do so, without first obtaining the consent of the other party, which consent may be withheld in the sole discretion of the employer.

Publication of a general solicitation, whether on the internet or otherwise, for an open position and an offer of employment resulting from a response to such a solicitation shall not be regarded as a violation of this Section 7.6. This Section 7.6 shall not apply against the party that terminates this Agreement for cause.

- 7.7 Set-Off. In the event either party (in such capacity, the “Withholding Party”) has made a good faith determination that it is owed an amount from the other party, the Withholding Party shall notify the other party of such determination in writing, and may suspend payment on an amount otherwise due under this Agreement, up to such amount determined to be owed to the Withholding Party. The parties shall meet and confer on the resolution of the amount owed. Upon mutual agreement within 30 days as to the amount owed, the amount of the suspended payment shall be applied to the amount owed. In the event mutual agreement is not reached within 30 days, the dispute resolution process set forth in the Support Services Policies shall be used to resolve the dispute.
- 7.7. Representation. By executing this Agreement, TMC and the Department acknowledge that each of them (i) has been represented, or had the opportunity to be represented, by independent counsel, (ii) has had the opportunity to review and consider the terms of this Agreement and the Support Services Policies, (iii) enter into it on equal footing, having freely negotiated its terms, and (iv) are familiar with, understand, and accept the extent and implications of their agreement.

**DEPARTMENT SUPPORT AGREEMENT  
TUCSON MEDICAL CENTER AND PIMA COUNTY HEALTH DEPARTMENT**

**EHR Program Addendum**

This EHR Program Addendum (this “Addendum”) to the Department Support Agreement dated as of the Effective Date (the “Agreement”) by and between Tucson Medical Center, an Affiliate of TMC HealthCare (“TMC” or the “Service Provider”) and Pima County Health Department (the “Department”) is made and entered into effective as of date of latest signature (the “Addendum Effective Date”).

**RECITALS**

- A. The widespread adoption of electronic health record (“EHR”) technology in all areas of patient care within TMC’s hospital and healthcare facilities, and the offices of Department Providers will further the goal of clinically integrated, high quality, efficient, and cost-effective health care services for the community.
- B. TMC has elected to increase access to its licensed EHR solution (*i.e.*, Epic and other third-party software implemented at a TMC or Department location), defined as the “System”.
- C. Deployment of the System by the Department will allow an interoperable and integrated technological foundation to improve direct patient care, patient relations, professional billing, clinical and financial reporting, and access to databases and business solutions to improve day-to-day operations across the care continuum within the community.
- D. TMC, in full compliance with Applicable Law, and solely to promote the provision of efficient and effective healthcare services to its patients and the community it serves, is able to provide the System to the Department through its EHR Program Master Agreement with Epic Systems Corporation;
- E. The Department desires to use the System as its electronic medical records system for the delivery of patient care services, and to gain access to medical records, data, and clinical support tools available through the System;
- F. The Department has had an opportunity to examine the System’s base and optional components, support services, and cost, and acknowledges the potential benefits for the Department’s delivery of patient care services;
- G. TMC and the Department desire to enter into this Addendum regarding the grant of access to certain software and the provision of related services by TMC to the Department, which consists of providing access to the System and related support services (the “Services”), and TMC has the

resources and expertise to provide the Services, and desires to provide Services under this Agreement; and

H. TMC and Department, in full compliance with Applicable Law, and with the intent to promote interoperability in the manner requested by Department, have mutually agreed to the terms and conditions of this Agreement, and will not engage in practices that are likely to interfere with the access, exchange or use of electronic health information (“EHII”), unless such practices are required by Applicable Law or are covered by an exception set forth in the Information Blocking Rule. TMC and the Department acknowledge and agree that this Addendum does not violate the Information Blocking Rule nor does it require the parties to engage in any practice that would violate the Information Blocking Rule.

**1. Definitions.** Terms used in this Addendum are defined in Exhibit A or within the Addendum.

**2. TMC’s Duties & Responsibilities.**

2.1 Services Provided. TMC will provide the Services set forth below, including access to the System. Access to the System is provided to the Department either through license agreements between TMC and the System Vendors or through a separate agreement directly between the Department and System Vendors. In the event of any conflict between the terms of this Addendum and the terms of any separate agreement with System Vendors, this Addendum shall control, unless both parties agree in writing that the separate agreement will control.

(a) Services. TMC shall provide Services to the Department as determined by TMC and set forth in the Statement of Work (the “SOW”) for System installation and related support services.

(b) Training Services. All training by relevant staff will be completed prior to TMC granting access to Authorized Users.

(c) Support Services. TMC shall furnish to the Department the following Support Services at no additional cost for the continuing use of the System commencing with the Addendum Effective Date:

(1) Help desk, call triage, and emergency on-call support for the System, limited to initial contact and triage for Third-Party Applications;

(2) System analyst support, not to exceed ten hours per location per month of system analyst support to cover troubleshooting workflow and other issues, minor training of existing users on the System, adjustment of base reports, and optimization of System use.

(3) Routine software updates and error corrections for the System on the same schedule as TMC provides for its own EHR.

(d) Business Continuity Reports. In the event of a period of downtime, TMC will make Business Continuity Access Reports (“BCA”) available to the Department in a reasonable time upon written request.

(e) Availability, Maintenance and Upgrades. TMC will use reasonable efforts, or cause its System Vendors to use reasonable efforts, to make the Services available to Department during Department’s normal business hours; provided, however, and the Department acknowledges and agrees that TMC may take down the System, suspend Services, and/or degrade System performance temporarily for scheduled and unscheduled maintenance and upgrades. There may be instances where the System or Services may be unavailable in response to a risk of harm to a patient or other person, or in response to a security risk.

(f) EHR Usage Subscription. TMC grants to the Department a non-exclusive, nontransferable, revocable, limited right (the “Subscription”) to access and use the System subject to the limitations and the permitted uses set forth in this Addendum. This Subscription is subject to the Department’s material compliance with the Agreement, this Addendum, TMC’s IS policies, procedures, and guidelines, and the terms of any supporting/existing usage agreements. The Department does not have any right to receive a copy of System software in any form and does not have a right to receive source code. To the extent TMC’s license or rights in any software are subject to an agreement or grant from any third party, the license and rights received by the Department are derived from, expressly subordinate to, and limited to TMC’s license and rights received from such third party. If, for any reason TMC’s license or right provided by a third party is limited or terminated, the rights of the Department shall also be limited or terminated.

(g) Rights. TMC represents and warrants that it has the right to provide the Subscription to the System and to provide the Services to the Department. All rights in patents, copyrights, trademarks, and trade secrets encompassed in the System or its related products will remain in TMC or its licensor(s), as applicable. The Department does not obtain any rights in the System, documentation of the System training tools, or other administrative tools used by TMC to administer the System except the limited right to use the System as provided herein and in the attached Exhibits to this Addendum.

2.2 System Security. TMC shall implement reasonable security measures with respect to the System, Services, and the Department’s and other User Data. TMC has adopted and implemented security measures set out in TMC’s IS policies, procedures, and guidelines, which are available to the Department upon request.

2.3 IS policies, procedures, and guidelines. TMC will develop and maintain an administrative

infrastructure that will permit TMC to manage and support the System. In furtherance of the foregoing, TMC has adopted, and shall continue to adopt and modify from time to time, the IS policies, procedures, and guidelines (i) that determine how information is maintained, accessed, and shared, and (ii) that effectively implement operation of the System and related Services in compliance with Applicable Law, and (iii) outlining specific information relating to the Department's use of the System, including its Authorized Users, security requirements, data use and restrictions, and technical information. TMC shall make the IS policies, procedures, and guidelines reasonably available to the Department, whether in person (*e.g.*, at TMC's IS Department), by electronic means or otherwise. The Department acknowledges that it has received and has had an opportunity to review a copy of the IS policies, procedures, and guidelines in effect as of the Effective Date.

TMC may add new IS policies, procedures, and guidelines or amend or repeal and replace TMC's IS policies, procedures and guidelines as it deems necessary. TMC shall notify the Department of any such change, although the notice requirements in this Addendum shall not apply to such notice. Any such change shall be binding upon TMC and the Department, as of the effective date of the change.

#### 2.4 Excluded Hardware, Infrastructure, and Non-Covered Services.

(a) Desktop hardware, printers, scanners, and other equipment other than the TMC Managed Equipment (the "Department Hardware") are not provided by TMC as part of this Addendum and are therefore excluded from the scope of this Addendum. Communications equipment and services other than the TMC Managed Equipment (the "Infrastructure") are not provided by TMC as part of this Addendum and are therefore excluded from the scope of this Addendum. TMC will work with the Department's vendors to resolve issues caused by such Department Hardware or Infrastructure, but TMC is not responsible for suspensions or interruptions in service or use caused by such Department Hardware or Infrastructure.

(b) Non-covered services including report development, new employee and refresher training, and process review/optimization consulting, are available to the Department and may be provided to the Department pursuant to a separate SOW.

### **3. Department Duties & Responsibilities.**

3.1 Qualifications. The Department shall comply with the Agreement, including the Support Services Policies.

3.2 License. The Department will assure, at all times, that the majority of Department Providers shall maintain all applicable licenses and registrations. Each Authorized User shall complete an Authorized User use statement or other user agreement as may be required and fully comply with the terms therein.

- 3.3 Notice of Provider and/or Staffing Changes. The Department shall promptly notify TMC in writing of Provider and/or staffing changes affecting the status of the Department's Authorized Users.
- 3.4 Representations and Warranties. The Department represents and warrants as follows:
- (a) Access to the System is necessary and not duplicative of or equivalent to other items or services that the Department uses or has the right to use.
  - (b) The Department has not and will not make System access or the terms on which such access is provided a condition of doing business with TMC.
  - (c) Any information provided by the Department in connection with its application to receive System access is accurate and complete.
  - (d) The Department will not take any action to limit or restrict the use, compatibility or interoperability of the System with any other electronic prescribing or electronic health records systems.
  - (e) The Department will not restrict or take any action to limit the right or ability to use the System for any patient.
  - (f) The Department will use the System predominantly to create, maintain, transmit or receive electronic health records.
  - (g) The Department has trained its workforce in the requirements of Applicable Law governing the confidentiality, privacy, and security of and access to health information, including without limitation requirements imposed under HIPAA and the Information Blocking Rule.
- 3.5 Appointment of Primary Contact. The Department shall designate either the Department's administrator, the Department's IT administrator or a similar qualified primary contact (the "Department Primary Contact") to represent the Department on issues that arise under this Addendum.
- (a) The Department Primary Contact will function as the coordinator for each Department site during installation preparation; go-live events; ongoing System update/enhancement activities; system support requests/troubleshooting activities; and optimization assessments.
  - (b) The Department Primary Contact will serve as the point person for TMC-directed communications regarding changes to IS Policies and Procedures, education alerts and other critical notices, and will be responsible for assuring that information reaches the Department's

Authorized Users.

- 3.6 Department Data. The Department shall use reasonable efforts to ensure that all data it provides to the System is accurate, free from serious error, and complete.
- 3.7 The Department's Grant of License. Subject to limitations on the use of Information and in accordance with the terms of this Addendum and TMC's IS Policies and Procedures the Department grants to TMC a perpetual, no cost, worldwide, non-exclusive, royalty-free, right and license (the "Department License") to (i) permit other Authorized Users of the System to access and use all Department Clinical Data provided pursuant to this Addendum for purposes permitted or required by Applicable Law, (ii) use such Information to carry out the System Administrator duties under this Addendum, and (iii) otherwise as TMC determines necessary and appropriate to carry out its obligations under Applicable Law. The License granted in this Section shall survive termination, expiration, non- renewal or rescission of this Addendum.
- 3.8 The Department's System Security. The Department shall implement reasonable security measures with respect to the System and Services. The Department shall also adopt and implement, at a minimum, the security measures provided in TMC's IS Policies and Procedures. The Department is solely responsible for Department Personnel's access and use of the System.
- 3.9 Security of Information. The Department will maintain the security and confidentiality of the Information and protect it from loss or destruction. The Department will take all appropriate actions to ensure that adequate technical, physical, and administrative security measures are in place and utilized so as to prevent the unauthorized use of or access to, or the disclosure, loss or destruction of the Information. In the event the Department discovers, or suspects, unauthorized use of or access to any Information via the System, it will immediately notify TMC.
- 3.10 Health Information Exchange (HIE) and System Access. The System is designed to provide Authorized Users with access to System clinical data as part of patient care activities at other healthcare provider entities using commercially available Health Information Exchanges (HIE), and other health information interoperability methods and technologies. The Department acknowledges and agrees that Department Clinical Data will likely be disclosed to other HIE participants pursuant to the terms of such HIE program for the purpose of providing patient care and any other legally permissible or required purposes for which the HIE program can support the exchange of health information in compliance with Applicable Law. Such HIE participation is consistent with and designed to comply with the Promoting Interoperability program requirements adopted by CMS and the Office of the National Coordinator for Health Information Technology of the Department of Health and Human Services; all in a manner that provides strict compliance with all applicable security and

confidentiality requirements.

- 3.11 Compliance with User Documentation; IS Policies, Procedures, and Guidelines. The Department and its Authorized Users will at all times access and use the System strictly in accordance with (i) the User Documentation, (ii) TMC's IS policies, procedures, and guidelines, and (iii) all other policies, procedures, standards and rules established and amended from time to time by TMC with regard to access to and use of the System. In no event will the Department or any Department Personnel use the System to access Protected Health Information for any purpose other than those purposes for which use of such Protected Health Information by the Department or such Department Personnel, and disclosure of such Protected Health Information to the Department or Department Personnel by TMC, is permitted by HIPAA and other applicable laws.

The Department accepts sole responsibility for:

- (a) The accuracy, completeness, and integrity of the Information that the Department inputs into the System;
  - (b) The programming, procedures, and communication lines established and used by the Department for purposes of Internet-based or remote access to the System;
  - (c) All medical judgments and advice made and provided by the Department using the System and the Systems' data processing results;
  - (d) Maintaining and updating the list of the Department's Authorized Users; and
  - (e) All other uses of the System by the Department and Department Personnel.
- 3.12 System Requirements. The Department will obtain and maintain, at its own expense, the hardware, software, and telecommunications network configuration necessary to meet the System Requirements, including third-party licenses, the Department's computer operating system, and any necessary browser or network software required to facilitate the Department's access to the System and/or any print, scanning or storage functions at the Department's site(s). Such hardware, software, and connectivity shall conform to the System Requirements or other communication with the Department on such specifications. As part of the Department's obligation to provide hardware, software, and connectivity under this Section 3.13, the Department shall be responsible for ensuring that all of the Department Hardware that interfaces with the System is properly configured and maintained, including but not limited to the operating system, web browser(s), Internet connectivity, and anti-virus programs. If the Department chooses to purchase software or hardware not consistent with the foregoing specifications, TMC shall not be responsible for or otherwise liable in the event such software or hardware prevents or otherwise adversely impacts the Department's access

to, and use of, the System, or TMC's provision of Services to the Department.

- 3.13 Epic and Third-Party Software, Hardware, and/or Services. If software or hardware is required to operate the System that requires the Department to enter into separate subscription, licensing, purchase, or other agreements with third-party vendors or which may be open source, the Department shall not enter into such agreements until disclosed to and approved by TMC. TMC shall provide consultation and may offer options to inform the Department regarding software or hardware required to operate the System, and such consultation will not unreasonably delay or prolong the approval process.
- 3.14 Use, Infringement, Copyright, and Prohibited Uses. The Department's use of the System in full compliance with TMC's IS Policies and Procedures and the CCIS Handbook will not violate any intellectual property right or license addendum with any third party or infringe on the rights of any third party. Except as specifically provided herein, the Department shall not, without TMC's prior written consent, copy any portion of the System operating on the Department's equipment. The Department shall notify TMC of all System problems which come to the Department's attention, and hereby assigns to TMC all rights, title, and interest to any improvements or enhancements arising from any action taken by TMC in response to the Department's notice, together with all property rights therein, including without limitation, all patent, copyright, trade secret, mask work, trademark, moral right, or other intellectual property rights created or derived from such processes. The Department shall not market, sell, distribute, sublicense, modify, change, reverse assemble, reverse compile, reverse engineer, translate, reproduce, dispose of, rent, lease, or otherwise display, disclose, transfer, make available, use, or permit use of any portion of the System except as expressly permitted in this Addendum.
4. **Compensation.** The fees and charges set out in Exhibit C will apply.
5. **Mutual Duties and Responsibilities.**
  - 5.1 Ownership. TMC, its successors in interest, or third parties under contract with TMC, will retain all right, title, and interest in and to the System. The Department shall not challenge ownership of the software or any intellectual property therein by TMC or its licensors. The Department has no right, title or interest in the System other than the rights and interests set forth in this Addendum. TMC retains all other rights to the System and all the components thereof. The Department shall not obtain any rights to the System except for the limited rights to use the System expressly granted by this Addendum or TMC's IS Policies and Procedures. The Department will retain all right, title, and interest in and to Department Clinical Data and Department Management Data entered into the System by or on behalf of the Department under this Addendum. As Department Clinical Data and Department Management Data entered into the System becomes part of TMC's EHR, TMC will not delete Department

Clinical Data and Department Management Data, but will provide the Department with access to Department Clinical Data and Department Management Data and permit the Department to make and retain copies of the Department Clinical Data and Department Management Data pursuant to this Addendum.

- 5.2 Limitations on Use of Information. Data, including without limitation, Information provided by the Department hereunder shall not be used for a purpose other than as permitted under this Addendum. This limitation does not apply to (i) a party's use of its own Information or (ii) a party's future use of clinical data (including Department Clinical Data and Non-Department Clinical Data) accessed or exchanged for a purpose permitted under this Addendum, provided that party's future use of that data is permitted or required under Applicable Law.
- 5.3 Security Breach Notice. The Department shall promptly disclose to TMC in writing any breach in security in the Department's systems, whether internal or external, which could affect the security of the Information or the System, and will take appropriate remedial action to ensure that the same type of breach does not recur. TMC shall promptly disclose to the Department in writing any breach in security in TMC's systems, whether internal or external, which could affect the security of the Department Clinical Data or Department Management Data, and will take appropriate remedial action to ensure that the same type of breach does not recur.
- 5.4 Authorized User Notice. The Department shall immediately disclose to TMC in writing when an Authorized User is no longer employed by or under contract with the Department.
- 5.5 Release of Information Request. In the event the Department or TMC receives a release of information request with regard to patients common to TMC and the Department, the Department shall, as required by Applicable Law, provide access to one or more Designated Record Sets. TMC shall, as required by Applicable Law, provide access in one or more Designated Record Sets maintained by or for TMC as long as the information is maintained by TMC or by a Business Associate on behalf of TMC. The Department and TMC shall each bear their respective costs and expenses associated with release of information requests for patients common to TMC and the Department. The Department and TMC, as appropriate, shall inform the person requesting the release of information in a cover letter that there may be other records maintained by the other so that the person requesting the release of information may be fully advised of the extent of their medical record content.
- 5.6 No Information Blocking. The Department and TMC will not engage in any practices that violate the Information Blocking Rule in connection with the System and Services covered by this Addendum.

**6. Indemnity.**

6.1 Department Indemnity. For purposes of this Addendum, the Department (in its capacity as the “Indemnifying Party” under Section 4 of the Agreement) shall to the extent permitted by law defend, indemnify, and hold harmless TMC (in its capacity as the “Indemnified Party” under Section 4 of the Agreement) for “Claims” and “Expenses” under Section 4 of the Agreement to the extent arising out of:

- (a) Inappropriate or unauthorized use, operation of, or access to, the System by the Department or Department Personnel;
- (b) Any impermissible use or disclosure of the Information by the Department or Department Personnel;
- (c) Any breach of this Addendum by the Department or Department Personnel or the Department’s performance or failure to perform its obligations hereunder;
- (d) The negligence, recklessness, or willful misconduct of the Department or Department Personnel;
- (e) Any unauthorized action or omission of the Department or Department Personnel;
- (f) Any breach or alleged breach by the Department or Department Personnel of Applicable Law relating to the gathering, transmission, processing, use, receipt, reporting, disclosure, maintenance, storage, and other treatment of confidential patient information, including, but not limited to, HIPAA and the Information Blocking Rule;
- (g) Any claim of infringement of patents, trademarks, industrial designs, copyrights, or other intellectual property rights if such claim shall be due to the Department’s or Department Personnel’s negligence, recklessness or willful misconduct, or by reason of any alteration, modification, adjustment or use of the System, User Documentation or other materials provided by TMC; or
- (h) A taxing jurisdiction’s refusal to recognize any of the Department’s exemption certificates or the Department’s failure to properly obtain or maintain such certificates.

6.2 TMC Indemnity. For purposes of this Addendum, TMC (in its capacity as the “Indemnifying Party” under Section 4 of the Agreement) shall defend, indemnify, and hold the Department (in its capacity as the “Indemnified Party” under Section 4 of the Agreement) for “Claims” and “Expenses” under Section 4 of the Agreement arising out of:

- (a) Any claim that the System, or any Software or Data Products owned by TMC, infringes a United States patent or United States copyright;
- (b) TMC’s breach of this Addendum;

- (c) The negligence, recklessness, or willful misconduct of TMC;
- (d) Any unauthorized action or omission of TMC; or
- (e) Any breach or alleged breach by TMC of Applicable Law relating to the gathering, transmission, processing, use, receipt, reporting, disclosure, maintenance, storage, and other treatment of confidential patient information, including, but not limited to, HIPAA and the Information Blocking Rule.

6.3 System Vendor Indemnification. The Department acknowledges that TMC may have similar rights of indemnity under its System Agreements with System Vendors and related software or data products that may extend to cover the Department. In such cases TMC will attempt to arrange for the Department's inclusion under such indemnity provisions directly and the provisions of this Section 6.3 shall apply to the indemnifying party as though TMC were the indemnifying party.

## 7. **WARRANTY, WARRANTY DISCLAIMER; LIMITATION OF LIABILITY.**

7.1 Warranty. TMC warrants that the System will perform substantially in accordance with the applicable User Documentation for the System. Following implementation, if the System fails to perform in accordance with the User Documentation, the Department shall notify TMC in writing of the functionality at issue, and TMC shall repair or replace the System. TMC will use its best efforts which may include obtaining cooperation of the Department which will not be unreasonably delayed, to resolve the functionality at issue. If TMC is unable to resolve, repair or replace the functionality at issue within 90 of notice from the Department, TMC may request additional time from Department to resolve, repair or replace the functionality at issue. If after exhausting its best efforts TMC is unable to resolve, repair or replace the functionality at issue, then upon the Department's request TMC will refund the unearned fees and charges the Department paid for the System (if any), and the license to use such Software shall be deemed to be terminated under Section 9.2, Termination for Cause below. These warranties are void if the Department violates any Department Responsibilities set out in this Addendum or commits any act or omission that would be grounds for Indemnity as set out in Section 6, or uses the System in any manner that is not allowed under this Addendum, or otherwise allows unauthorized persons to use the System.

7.2 Disclaimer of Warranties. EXCEPT AS SET FORTH ABOVE IN SECTION 7.1, THE PRACTICE EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE SYSTEM AND SERVICES IS AT PRACTICE'S SOLE RISK AND THAT THE SYSTEM AND SERVICES ARE BEING PROVIDED "AS IS." TMC MAKES NO WARRANTIES THAT THE SERVICES OR SYSTEM WILL BE UNINTERRUPTED OR MEET THE PRACTICE'S REQUIREMENTS. TMC HAS NOT MADE, AND THE PRACTICE HAS NOT RECEIVED, ANY EXPRESS OR IMPLIED WARRANTIES OR

REPRESENTATIONS, INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ALL SUCH WARRANTIES ARE HEREBY EXCLUDED.

7.3 Limitation of Liability.

(a) EXCEPT AS SET FORTH ABOVE IN SECTION 7.1, THE LIABILITY OF TMC AND ITS AFFILIATES, PREDECESSORS AND SUCCESSORS IN INTEREST, AND ANY ENTITY WHICH HAS AN OWNERSHIP OR CONTROLLING INTEREST IN TMC OR IN WHICH TMC HAS AN OWNERSHIP OR CONTROLLING INTEREST, INCLUDING ALL DIRECTORS, OFFICERS, AGENTS, EMPLOYEES, LICENSORS OR SUBCONTRACTORS OF THE FOREGOING (COLLECTIVELY, THE "TMC ENTITIES"), FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS ADDENDUM WILL BE LIMITED TO AND WILL NOT EXCEED, FOR ALL CLAIMS, ACTIONS, AND CAUSES OF ACTION OF EVERY KIND AND NATURE, THE TOTAL AMOUNT PAID BY THE PRACTICE PURSUANT TO THIS ADDENDUM DURING THE MONTH IN WHICH SUCH CLAIM, ACTION, OR CAUSE OF ACTION AROSE.

(b) IN NO EVENT WILL THE MEASURE OF DAMAGES PAYABLE BY THE TMC ENTITIES, NOR WILL THE TMC ENTITIES BE LIABLE TO THE PRACTICE FOR, ANY AMOUNTS FOR LOSS OF DATA, LOSS OF INCOME, PROFIT, OR SAVINGS, OR INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, EVEN IF THE TMC ENTITIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE, AND ALL SUCH DAMAGES ARE EXPRESSLY DISCLAIMED.

(c) THE FOREGOING TERMS OF THIS SECTION SHALL APPLY REGARDLESS OF THE FORM OF ACTION THAT IMPOSES LIABILITY, WHETHER IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE.

(d) Notwithstanding anything to the contrary in this Section 7.3, the foregoing limitations on liability shall not apply to Claims (i) resulting from the gross negligence or knowing and intentional misconduct by any of the TMC Entities, or (ii) alleging the infringement or misappropriation by TMC of any intellectual property rights of a third party.

7.4 Carrier Lines. The Department acknowledges that access to the System is provided over various facilities and communications lines and information will be transmitted over local exchange and Internet backbone carrier lines and through routers, switches, and other devices (collectively "carrier lines") that are owned, maintained, and serviced by third-party carriers, utilities and Internet service providers, all of which are beyond TMC's control. TMC assumes

no liability for or relating to the integrity, privacy, security, confidentiality or use of any information while it is transmitted on the carrier lines, or any delay, failure, interruption, interception, loss, transmission or corruption of any data or other information attributable to transmission on the carrier lines. Use of the carrier lines is solely at the Department's risk and is subject to Applicable Law.

- 7.5 Unauthorized Access; Validation of Data; Lost or Corrupt Data. TMC is not responsible for unauthorized access to the Department's transmission facilities or equipment by individuals or entities using the System or for unauthorized access to, or alteration, theft or destruction of the Department's data files, programs, procedures or information through the System, whether by accident, fraudulent means or devices, or any other method. The Department is solely responsible for validating the accuracy of all output and reports and protecting the Department's data and programs from loss by implementing appropriate security measures. The Department waives any damages occasioned by lost or corrupt data, incorrect reports, or incorrect data files resulting from programming error, operator error, equipment or software malfunction, security violations, the use of third-party software or otherwise. TMC is not responsible for the content of any information transmitted or received through TMC's provision of the Services.
- 7.6 Inaccurate Data. Notwithstanding any other provision of this Addendum, TMC shall have no responsibility for or liability related to the accuracy, content, currency, completeness, content or delivery of any data provided by the Department.
- 7.7 Patient Care. Notwithstanding any other provision of this Addendum, the Department and the Department's Authorized Users shall be solely responsible for all decisions and actions taken or not taken involving patient care, utilization management, and quality management for their respective patients and clients resulting from or in any way related to the use of the System or the Services or the data made available thereby. The Department and its Authorized Users shall not have any recourse against, and each shall waive, any claims against TMC and System Vendors for any loss, damage, claim or cost relating to or resulting from its own use or misuse of the System and/or the Services or the data made available thereby.
- 8. Confidentiality.** The following provisions regarding confidentiality supplement, and do not replace, the Confidentiality and HIPAA Compliance provisions of the Support Services Policies.
- 8.1 Non-Clinical TMC Information. The Department will permit access to proprietary and confidential non-clinical (*e.g.*, business and financial) information of TMC, Epic Systems Corporation ("Epic") or any other vendor under contract with TMC only by Department Personnel or third parties under a duty of confidentiality to the Department who need such access as part of their duties on behalf of the Department.
- 8.2 Non-Clinical Department Information. TMC will permit access to proprietary and

confidential non-clinical (*e.g.*, business and financial) information of the Department or any other vendor under contract with the Department only by TMC/H Personnel or third parties under a duty of confidentiality to TMC who need such access in order to perform their duties on behalf of TMC and the Department.

- 8.3 Patient Information and Consent. Each party agrees to comply with all legal, regulatory, professional, and ethical requirements applicable to that party's use and disclosure of patient Information maintained in the System. The Department will be responsible to administer its use of the System, to abide by TMC's IS Policies and Procedures, including but without limitation, honoring any patient opt-out or limitation on use of Information; and the Department will advise TMC immediately in the event Information it includes within the System is subject to any limitations on use. Each party agrees to report promptly to the other party any material breach of the confidentiality of patient Information in the System (*i.e.*, a breach that is not an incidental disclosure permitted under 45 CFR 164.502(a)(1)(iii)).

## **9. Term and Termination.**

- 9.1 Term. The "Term" of this Addendum shall commence upon the Addendum Effective Date and continue thereafter until the earlier of (a) one year from the Go-Live Date; and (b) termination of this Agreement.
- 9.2 Termination for Cause. In addition to the terms set forth elsewhere in this Addendum including the termination language in Section 4 of Exhibit C, Fees and Charges, either party may terminate this Addendum in the event the other party breaches any material obligation within this Addendum and fails to cure such breach within 30 calendar days after the breaching party's receipt of notice of the breach, or in the event a cure within such period is not possible, the breaching party fails to provide a commitment to a written and detailed plan of corrective action containing prompt timelines that is reasonably acceptable to the other party.
- 9.3 Termination by TMC for Certain Department Conduct. If the Department's conduct is causing, or in TMC's reasonable opinion will cause, TMC to breach any contract with a System Vendor and the Department fails to cure such breach within ten business days after the Department's receipt of notice of the breach, or in the event a cure within such period is not possible, the Department fails to provide a commitment to a written and detailed plan of corrective action containing prompt timelines that is reasonably acceptable by TMC, TMC may, upon written notice to the Department, terminate this Addendum or take other reasonable steps necessary to avoid such breach.
- 9.4 Termination of a System Agreement. In the event of termination, expiration or non-renewal of a System Agreement, TMC may terminate this Addendum upon the earlier of (i) the termination, expiration or non-renewal of such System Agreement or (ii) not less than 270 calendar days after providing written notice to the Department, without penalty or liability to

TMC as a result of such termination. TMC shall provide the Department of written notice of the termination, expiration or non-renewal of such System Agreement as early as practicable. In the event of termination, expiration or non-renewal of a license granted to TMC under a System Agreement, or termination, expiration, or non-renewal of TMC's right to grant a license to the Department hereunder, TMC may immediately terminate this Addendum or the applicable license by written notice to the Department without penalty or liability to TMC as a result of such termination. In the event maintenance and support services are no longer provided to TMC under a System Agreement, TMC shall not be obligated to provide such services under this Addendum.

9.5 Effect of Termination, and Early Termination Fee. Upon termination of this Addendum, neither party will have any further rights or obligations hereunder except for (i) obligations accruing prior to the date of termination and (ii) obligations, promises or covenants contained herein that are expressly made to survive termination or expiration of this Addendum. Upon termination of this Addendum, the Department's right to use the System and Services shall immediately terminate except for view-only access as set out in Section 9.6. Upon termination, TMC shall invoice the Department for, and the Department agrees to pay TMC (i) all financial obligations accruing prior to the date of termination and (ii) the Early Termination Fee set out in Exhibit C, if applicable.

9.6 Transition Assistance/Exit Strategy. Upon termination of this Addendum, to the extent TMC continues to have the right to do so after such termination or expiration, TMC shall provide the Department with view-only access to the Department's Information for an agreed upon time frame up to a maximum period of 180 calendar days. In addition, TMC will provide the Department with a password-encrypted CD or DVD media containing the Department management data and patient demographic and clinical data in an industry standard format.

9.7 Survival Provisions. The following provisions of this Addendum shall survive any termination, expiration, or non-renewal of this Addendum: Section 2.1(f) (Rights); Section 3.09 (Security of Information); Section 3.14 (Use, Infringement, Copyright and Prohibited Uses); Section 5.1 (Ownership); Section 5.2 (Limitations of Use of Information) Section 6 Indemnity; Section 7.1, 7.2, and 7.3 (Warranty, Warranty Disclaimer, Limitation of Liability), Section 8 (Confidentiality), Section 9.5 (Effect of Termination), Section 9.7 (Survival Provisions), and as set out in the Support Services Policies.

Other Term and Termination provisions may be set forth in the Department Support Agreement. In the event of any conflict or inconsistency between such other provisions and this Section 9, the provisions set forth in this Addendum shall govern.

9.8 Content and Manner Fulfillment. TMC and the Department acknowledge that they have reached mutually agreeable terms to fulfill the Department's request, in the manner requested,

for access, exchange of use of Information in connection with the System and Services.

- 9.9 Cancellation for Conflict of Interest. This Addendum is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Addendum by reference.

**DEPARTMENT SUPPORT AGREEMENT  
TUCSON MEDICAL CENTER AND PIMA COUNTY HEALTH DEPARTMENT**

**EHR Program Addendum**

**Definitions**

The following capitalized terms will be defined as follows:

**Authorized User.** The Department and those individual persons designated and authorized by the Department to access and use the System on behalf of the Department, as more fully described in this Addendum who execute a Remote Access Agreement.

**Business Associate or “BA”.** “Business Associate” or “BA” shall have the meaning it has in HIPAA. For the responsibilities of TMC under this Addendum that are business associate services (as defined in 45 CFR 160.103), TMC is a BA of the Department. (Provisions for Notification of Breach also covered by HITECH Act, 42 USC 17932).

**Department Clinical Data.** Individually identifiable information that (a) relates to the past, present, or future physical or mental health or condition of a patient of the Department, (b) relates to the provision of health care to a patient of the Department, and (c) is entered into the System by Department Personnel. A patient of the Department is any patient who has received healthcare services from the Department or is scheduled for a healthcare-related appointment with the Department.

**Department Management Data.** The Department’s business, financial, and administrative data entered into the System by the Department and all reports, analyses, and other results using only such information.

**Department Primary Contact.** This designee is a member of the Department’s staff assigned to coordinate installation, Department operation, and on-going support interaction with TMC for the use of the System.

**Department System Agreements.** The agreements between and among the Department and the System Vendors wherein the Department is directly granted the right to use the Third Party Application portions of the System.

**Designated Record Set.** A group of records maintained by or for a covered entity that may include patient medical and billing records; the enrollment, payment, claims, adjudication, and cases or medical management record systems maintained by or for a health plan; or information used in whole or in part to make care-related decisions.

**EHR.** Electronic Health Record, also known as Electronic Medical Record or EMR.

**Electronic Health Information or “EHI”.** The electronic protected health information (ePHI) in a designated record set (as defined in the Health Insurance Portability and Accountability Act (HIPAA) regulations) regardless of whether the records are used or maintained by or for a covered entity.

**Go-Live Date.** The date the System is fully installed, tested, and ready for use by the Department for actual clinical encounters.

**Handbook.** Also known as CCIS Handbook (refer to Section 2.3). TMC’s IS Policies and Procedures controlling how information is maintained, accessed, and shared to effectively implement operation of the System and related Services in compliance with laws and regulations.

**Implementation Date.** The date specified in Exhibit B for the completion of the installation and set-up of the System. The Implementation Date is an estimate and is subject to change based on features to be added to the system, the Department’s diligence in assisting in setup, and other circumstances whether foreseen or unforeseen.

**Implementation Fee.** The financial cost to the Department for services provided by TMC and/or its agents relative to installation and set-up of the System, as set forth in Exhibit B.

**Information.** Generally, all Non-Department Clinical Data, Department Management Data, and Department Clinical Data that is maintained in the System.

**Information Blocking Rule.** The Information Blocking Rule collectively refers 42 U.S.C. § 300jj-52 and its implementing regulations located at 45 C.F.R. Part 171.

**IS.** TMC’s Information Systems department.

**IS Policies and Procedures.** TMC’s Information Systems policies and procedures created and maintained to promote the operation of the System.

**Non-Department Clinical Data.** Individually identifiable information that (a) relates to the past, present, or future physical or mental health or condition of a patient of a non-Department entity, (b) relates to the provision of health care to a patient of a non-Department entity, and (c) is entered into the System by non-Department Personnel. A patient of a non-Department entity is any patient who has received services at an entity other than the Department or is scheduled for an appointment at an entity other than the Department.

**Remote Access Agreement.** An Agreement setting out the conditions of use of the System for Authorized Users.

**Services.** Services provided by TMC under this Addendum.

**Subscription.** The monthly fee paid by the Department to have access to the System.

**System.** The software described in this Addendum, to include all software and components but excluding data and information.

**System Administrator.** A TMC designee who performs regular systems monitoring and is responsible for developing and maintaining relevant procedures and standards with regard to the System.

**System Agreements.** The TMC System Agreements and System Vendors under which TMC is authorized to provide Department with the rights granted by the Addendum with regard to the System and any associated agreements between the Department and the System Vendor where in Department is directly granted rights to use portions of the System.

**System Vendors.** The organizations which have entered into System Agreements with the Department or TMC associated with the supply of the software and related components for the System.

**System Requirements.** Hardware, software, and telecommunications network configuration standards identified by TMC as essential for accessing the System; as such standards may be revised by TMC from time to time.

**TMC Managed Equipment.** Equipment that is owned and maintained by TMC that may include software and devices deemed necessary by TMC to operate the System.

**User Documentation.** The written reference manuals, guidelines, training materials, and procedures relating to the Department's access to and use of the System pursuant to this Addendum, which will be made available to the Department by TMC or the System Vendor, along with other training materials provided to Authorized Users in connection with the System.

DEPARTMENT SUPPORT AGREEMENT  
TUCSON MEDICAL CENTER AND PIMA COUNTY HEALTH DEPARTMENT

EHR Program Addendum

Installation Statement of Work

1. **Epic EHR Components configured and installed on behalf of the Department.**
  - A. **Implementation Date**
    - December 8, 2025 or a later date if Effective Date is later than December 4, 2025
    - Failure to complete implementation by the Implementation Date will not constitute a material breach of this Agreement.
  - B. **Core Components**
    - Ambulatory ClinDoc – Clinical Patient Record, Documentation, Electronic orders.
    - Master Person Index
    - Patient Scheduling and Registration
    - Professional Billing and Claims / Revenue Cycle
    - Release of Information
    - Mobile Applications for Physicians – Haiku / Canto
    - Patient Web Portal and Mobile App – MyChart
    - External Department Web Portal
    - Document Scanning
    - Self-service Check-in Software\*
    - Reporting and Analytics Base Reports
  - B. **Integration Points**
    - Third-party Claims Clearinghouse Integration\*
    - Labcorp and Sonora Quest Orders / Results interfaces
    - Surescripts eRx
    - Health Information Exchange: Epic, DIRECT, eHealthExchange, Healthway and HealthCurrent HIE.
    - Center for Disease Detection

\* The Department is responsible for contracting with Clearinghouse. Currently available integration options include Waystar and Availity.

**C. Specialties configured and installed using Epic standard content and workflow**

- Primary Care
- Immunizations
- Behavioral Health
- Sexually Transmitted Infection Testing
- Reproductive Health
- Tuberculosis Testing and Treatment

**D. Physicians and Advanced Practice Professional configured**

- 8 Physicians and Advanced Practice Professionals

**2. Office locations configured and installed**

<b>Name</b>	<b>Address</b>
Theresa Lee Public Health Clinic	1493 W. Commerce Court, Tucson, AZ 85745
Pima County Northwest Service Center	1010 W. Miracle Mile, Tucson, AZ 85705
East Clinic	6920 E. Broadway Blvd, Suite E, Tucson, AZ 85710
Tuberculosis Clinic	2980 E. Ajo Way, Tucson, AZ 85713

DEPARTMENT SUPPORT AGREEMENT  
TUCSON MEDICAL CENTER AND PIMA COUNTY HEALTH DEPARTMENT

EHR Program Addendum

Fees & Charges

1. **Subrecipient Agreement.** Compensation and payment, including but not limited to invoicing, for Subrecipient Agreement-paid Services will be governed by the terms of the Subrecipient Agreement, which terms will take priority over the terms of this Agreement. Any funds paid under this Agreement that are not paid pursuant to or by funds stemming from the Subrecipient Agreement will be governed by the terms of this Agreement.

2. **Invoicing.** Unless otherwise stated in this Agreement, invoices under this Agreement shall be paid within 30 calendar days of the invoice date.

3. **Fees.**

3.1 Implementation Fees. The Department is responsible for an Implementation Fee for the System in the amount of \$760,565.00, which Implementation Fee the Department shall pay to TMC in one lump within 30 calendar days of the invoice date from TMC, which invoice TMC may send at any time on or after the Effective Date.

3.2 Total Monthly Subscription Fee. The Department shall pay a total monthly subscription fee of \$1,812.17 per Provider per month (the "Total Monthly Subscription Fee"), subject to change as the amount charged to TMC under the System Agreements change. The Total Monthly Subscription Fee will be calculated on a monthly basis and invoiced after the month of service based on the number of Department Providers who accessed the System, as described in Section 3.4 of this Exhibit C.

3.3 Intentionally Omitted.

3.4 Schedule of Department Providers. The Department shall provide prompt written notice to TMC of the number of Department Providers, including if any Department Providers are leaving the Department. Irrespective of the number of Department Providers of which the Department notifies or has notified TMC, TMC shall assess and charge the Total Monthly Subscription Fee based upon the number of Department Providers who access the System during each month.

3.5 Change to Total Monthly Subscription Fee. In the event of a change in the amounts charged to TMC under the System Agreements, the Total Monthly Subscription Fee will automatically adjust commensurately effective as of the date of such change in the amounts charged to TMC under the System Agreements. TMC shall provide the Department with prompt written notice of any changes

the Total Monthly Subscription Fee due to a change in the amounts charged to TMC under the System Agreements.

**4. Costs for Additional TMC Goods and Services.** The Department shall pay costs for all goods or services provided by TMC at the Department's request that are not specified in the Installation Statement of Work, or covered by the Total Monthly Subscription Fee. Such goods or services shall be charged according to TMC's then-current fee schedule, or if no fee schedule covers such goods or services, then at rates or prices agreed upon by the parties in advance and consistent with Fair Market Value.

**5. Additional Training.** TMC will provide additional and/or post-installation training services to the Department's Authorized Users, including newly hired Authorized Users, at TMC's then-current rates. Rate schedule available upon request.

**6. Out-of-Pocket Expenses and Travel.** If included in the Statement Of Work, and the Department's office is located outside a 25-mile radius of TMC's location at 5301 East Grant Road, Tucson, Arizona, 85712 the Department will pay TMC all actual and reasonable out-of-pocket expenses incurred by TMC in the performance of the Services, including mileage expenses which will be reimbursed to TMC by the Department at the then-current Internal Revenue Service (IRS) mileage rate. TMC will invoice the Department monthly for expenses and mileage incurred during the previous month.

**7. Non-Covered Costs.** Costs incurred for the following items, the need for which may be determined as part of the process described in Section 2.4 of the Addendum, are not included in the scope of this Addendum, and shall be the sole responsibility of the Department. The terms and cost of any purchase, payment, or use shall be solely between the Department and a third-party vendor:

- Third Party Applications selected for use by the Department.
- Department Hardware and Infrastructure described in Section 2.4 of the Addendum additions.
- The cost of other modifications to the Department location(s) or facilities.
- Any cost, charge, fee, or expense of a third-party vendor for products and services the Department may incur to access and use the System which are not included in the Services or equipment provided by TMC under the Addendum.

**8. Taxes.** All costs for services provided pursuant to this Addendum by TMC shall be exclusive of all taxes and the Department shall pay any tax that TMC may be required to collect or pay (excluding unrelated business income taxes or similar taxes) that are imposed upon the sale or delivery of items and services provided by TMC.

**9. Payments.** The Department shall direct all payments to TMC at the following address:

TMC HealthCare - Financial Services  
P.O. Box 31990  
Tucson, AZ 85751

**10. Payment and Late Charges.** TMC will invoice the Department on a monthly basis. The Department shall pay invoices in full upon receipt. Payments not made within 30 days after receipt of an invoice shall be deemed late and subject to interest commencing on the 31st day after receipt of invoice. The rate of interest for late invoices shall be the lesser of (a) a rate of 1.5% per month; and (b) the maximum rate allowable under applicable law. For purposes of this Section 10, invoices are deemed received by Department as of the earlier of electronic delivery or the fourth business day after mailing.

**11. Suspension of Service.** Failure to pay amounts invoiced within 90 calendar days may result in suspension or termination of the Department's access to the System and/or use of the Services upon ten business days' prior notice. During any period of suspension, TMC shall allow "read only" access to existing data in the System for the purpose of providing necessary care to patients.

**12. Total Monthly Subscription Fee Increases.** Upon not less than 90 calendar days advance written notice to the Department, and not more often than once in any 12-month period, TMC may increase the Total Monthly Subscription fees in an amount not to exceed 3% of the current rate to offset any cost increases incurred by TMC (other than increases in the amounts charged TMC under the System Agreements). The Department will have 30 calendar days from receipt of TMC'S notice of any such fee increase to notify TMC in writing that the Department wishes to cancel this Addendum due to the proposed fee increase, and thereby terminating this Addendum as of the date such fee increase is scheduled to be imposed. In the event the Department does not notify TMC of its plan to terminate this Addendum due to such fee increase, the proposed fee increase will become effective on the date set forth in TMC's written notice.

**13. EHR Incentive Payments.** TMC and the Department agree that if, as a result of the Department's implementation of the System under this Addendum, incentive payments are available under established programs, then the Department may apply for and obtain such payments directly from the appropriate governmental source and TMC will provide reasonable assistance in facilitating the process. The Department is solely responsible for determining eligibility in any Medicare and Medicaid EHR incentive payment program and in fulfilling all obligations under such programs in order to be eligible for incentive payments thereunder. Notwithstanding anything to the contrary in this Addendum, in the event the Department is deemed ineligible for incentive payments by the appropriate governmental source, and such ineligibility is the direct result of the System not providing the functionality to allow the Department to qualify to receive the incentive payments, then the Department may immediately terminate this Addendum upon written notice to TMC, without any

liability or penalty as a result of such termination.