

NantHealth DeviceConX End User License Agreement

THE FOLLOWING LICENSE TERMS AND CONDITIONS (THE “LICENSE”) ARE AND SHALL BE APPLICABLE WITH RESPECT TO THE NANTHEALTH DEVICECONX FAMILY OF PRODUCTS PROVIDED TO YOU (THE “CUSTOMER”) BY ALTERA (“RESELLER”). THIS LICENSE IS INCORPORATED AND A PART OF CUSTOMER’S AGREEMENT WITH RESELLER (THE “AGREEMENT”). CUSTOMER ACKNOWLEDGES THAT NANT HEALTH, LLC (“NANTHEALTH”) IS A THIRD PARTY BENEFICIARY OF SUCH AGREEMENT IN RELATION TO THE NANTHEALTH PRODUCTS AND, IN ADDITION TO THIS LICENSE, IS ENTITLED TO ENFORCE ITS TERMS DIRECTLY.

BY INSTALLING, ACCESSING OR USING THE NANTHEALTH PRODUCTS, CUSTOMER AGREES TO BE BOUND BY THE TERMS OF THIS LICENSE WITH RESPECT THERETO. IF YOU DO NOT AGREE TO ALL OF THE TERMS SET FORTH HEREIN, THEN DO NOT INSTALL, ACCESS OR USE THE NANTHEALTH PRODUCTS.

I. DEFINITIONS. Capitalized terms used herein shall be defined as follows:

1.1 “Hardware” shall mean the medical device hardware and/or hardware adaptor(s) as specified in the Order Form, to be supplied or otherwise procured by Reseller or Customer for use in conjunction with the NantHealth Products for their intended purpose. For avoidance of doubt, the Hardware is not supplied by NantHealth.

1.2 “NantHealth Product(s)” means the NantHealth proprietary computer software and/or hardware distributed by Reseller specified in the Order Form, regardless of format or media, for which Customer is granted a license hereunder, and the related written user documentation, instructions, guides and subsequent updates, regardless of form or media.

1.3 “Order Form” shall mean the order schedule, order form, purchase order, scope of work, statement of work, agreement or other document that identifies Customers’ order/agreement to purchase any NantHealth Product (or bundled solution that includes a NantHealth Product) or any services related thereto, which document is executed, accepted or otherwise agreed to by Customer and Reseller.

1.4 “Support Services” means regular ongoing support services with respect to NantHealth software under NantHealth’s then-current standard support terms, a current copy of which is included in Schedule A attached hereto.

II. LICENSE; SUPPORT SERVICES.

2.1 License Granted.

(a) NantHealth hereby grants to Customer a nonexclusive, nontransferable, non-assignable license to use the NantHealth Product(s) while this License is in effect solely for Customer’s own internal data processing operations and facilities/locations specified in the applicable Order Form, and solely for the specific NantHealth Product(s)/Hardware configuration(s) and bedside medical device integration appliance(s) and/or licensed beds designated on the Order Form.

(b) The NantHealth Product(s) shall only be used with the Hardware and will not be separated from the Hardware. The

NantHealth Product(s) shall not be used by Customer to provide outsourcer or service bureau services to anyone. Customer shall not copy, modify, encumber, translate, create derivative works based upon, transfer or provide access to any of the NantHealth Product(s) to any third party, or use the NantHealth Product(s) in whole or in part, except as expressly provided for in this License. Customer shall not cause or permit the reverse engineering, disassembly, or decompilation of the NantHealth Product(s). The NantHealth software is licensed to Customer, not sold, and NantHealth retains all ownership interests in and to same. All rights not expressly granted herein are reserved by NantHealth.

(c) Customer may make up to three (3) copies of the NantHealth software for archival or backup purposes. All archival and backup copies of the NantHealth software are subject to the provisions of the License, and all titles, trademarks, and copyright and restricted rights notices shall be reproduced in such copies.

(d) Customer acknowledges and agrees that integration/use of the NantHealth Products with Hardware for which NantHealth has not yet developed a software driver/interface shall be subject to and conditioned on (i) payment of a development fee for the development of such driver/interface and (ii) NantHealth’s receipt of applicable technical materials from Customer relating to such Hardware.

(e) Notwithstanding any other provision in this License or the Agreement, Customer hereby grants NantHealth the right to gather, retrieve, compile, store, retain, use, sell, license, transfer or otherwise exploit all “non-personally identifiable data” transferred by the Products for research, quality control, product development and refinement, commercial and other purposes as determined by NantHealth. As used herein, “non-personally identifiable data” is any data element or collection of data elements that, by itself, cannot be associated with a specific individual.

2.2 Acceptance. Each NantHealth Product shall be deemed accepted upon the earlier of (i) the applicable date provided in the Agreement; (ii) fifteen (15) days following implementation, unless Customer informs NantHealth during such period that it does not conform in all material respects with the applicable documentation and such issue remains uncorrected or (iii) Customer’s use of the NantHealth Product for any non-testing, production activity.

2.3 Annual Verification Statement, Inspection and Audit. If requested by NantHealth and at least on an annual basis, Customer shall furnish NantHealth with a signed statement verifying that the NantHealth Product(s) are being used as described in this License and the Agreement within the scope of the license purchased by such Customer and listing the facility locations and type of any and all bedside medical devices and other hardware in connection with which the NantHealth Product(s) is used. NantHealth shall have the right, during normal business hours, to inspect and audit Customer's use of the Products to verify that the Customer's use of the NantHealth Products has not exceeded the scope of the Customer's rights with respect thereto as specified herein and in the applicable Order Form and Agreement. NantHealth may also install one or more software applications on Customer's computer systems for purposes of conducting such inspection and audit.

2.4 Support Services. In exchange for payment of the applicable annual support fees, provided that Customer is not otherwise in breach of the License or the Agreement, Licensor will provide to Customer Support Services during the annual support term commencing on the Order Form date and ending on the anniversary date thereof. NantHealth may discontinue providing annual support after the third annual support term by informing Customer at least ninety (90) days prior to the expiration of the then-current support term. In the event that Customer elects not to renew Support Services for an additional annual support term and later desires to reinstate Support Services, NantHealth may require payment of a reinstatement fee in an amount equal to the annual support fees that would have been payable for the time period in which Customer was not enrolled for Support Services (in addition to payment in full of the then current annual support fee) as a condition precedent to reinstatement of Support Services.

III. LIMITED WARRANTY; LIMITATION OF LIABILITY.

3.1 Limited Warranty. For a period of thirty (30) days from the Order Date (the "Warranty Period"), NantHealth warrants (1) that the NantHealth Product(s), under normal use, will perform in accordance with specifications contained in the applicable documentation, and (2) that the media containing the NantHealth Product(s) provided by NantHealth, if any, are free from substantial defects in materials and workmanship. NantHealth's obligation and liabilities for a breach under this Section 3.1 is expressly and exclusively limited to repair or replacement of the defective NantHealth Product, or at the option of NantHealth, to provide a refund of the license fees or purchase price paid for same.

3.2 Disclaimer of Warranties. NANTHEALTH MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, AND DISCLAIMS ANY IMPLIED WARRANTIES, WITH RESPECT TO THE NANTHEALTH PRODUCT(S), THE HARDWARE OR THE SUPPORT SERVICES, INCLUDING, WITHOUT

LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANSHIP, TITLE OR NONINFRINGEMENT. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE NANTHEALTH PRODUCT(S) IS ONLY A DATA TRANSFER APPLICATION AND DOES

NOT CONTROL ANY MEDICAL DEVICES. THE NANTHEALTH PRODUCT(S) ARE NOT INTENDED TO BE USED IN CONNECTION WITH ACTIVE PATIENT MONITORING OR MEASUREMENT OF PATIENT HEALTH DATA AND IS NOT INTENDED TO FUNCTION AS, OR REPLACE MEDICAL TREATMENT, EXAMINATION, DIAGNOSIS, LIFE SUPPORT OR OTHER PATIENT MONITORING PRACTICES, PROCEDURES OR DEVICES,

OR ANY MEDICAL SERVICES. CUSTOMER UNDERSTANDS THAT NO GUARANTEE WHATSOEVER IS GIVEN REGARDING THE RELIABILITY AND CORRECTNESS OF THE DATA PRESENTED ON OR VIA THE HARDWARE AND/OR THE NANTHEALTH PRODUCT(S). UNDER NO CIRCUMSTANCES SHOULD CUSTOMER RELY SOLELY OR PARTIALLY ON THE INFORMATION PRESENTED ON OR VIA THE HARDWARE AND/OR THE NANTHEALTH PRODUCT(S), ON THE DISPLAY, IN THE DATABASE OR IN THE REPORTS, TO PERFORM THERAPEUTIC OR DIAGNOSTIC PROCEDURES OR ACTIONS, TO MAKE DIAGNOSES, OR TO TAKE ANY OTHER DECISION OR CONSEQUENTIAL ACTION. IT IS THE COMPLETE RESPONSIBILITY OF THE CUSTOMER TO MAKE CORRECT USE OF THE INFORMATION PROVIDED AND TO VERIFY ITS CORRECTNESS COMPARED WITH THE MEDICAL DEVICE DATA AND/OR ACTUAL PATIENT DATA.

3.3 Limitation of Liability. IN NO EVENT SHALL NANTHEALTH BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOSS OF USE, LOSS OF DATA, BUSINESS INTERRUPTION OR LOST PROFITS, ARISING FROM OR IN CONNECTION WITH THIS LICENSE OR THE AGREEMENT, OR THE USE OF THE NANTHEALTH PRODUCT(S) OR THE HARDWARE OR THE PROVISION OF SUPPORT SERVICES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IN NO EVENT SHALL NANTHEALTH HAVE ANY LIABILITY TO CUSTOMER FOR ANY CLAIM ARISING IN CONNECTION WITH THIS LICENSE OR THE AGREEMENT OR INSTALLATION OR USE OF THE NANTHEALTH PRODUCT(S).

3.4 Termination. The License to use the NantHealth Product(s) shall terminate in the event of termination of the Agreement, and may be terminated by either party upon thirty (30) days' prior written notice to the other party in the event that the other party materially breaches any of the provisions of the License (including these terms) if such breach is not cured within such

thirty (30) day period. Reseller or NantHealth may also terminate the License immediately by providing notice to Customer in the event that: Customer files a petition in bankruptcy; a petition in bankruptcy is filed against Customer; an assignment for the benefit of Customers' creditors or a composition is undertaken by Customer; an interim order for winding up of Customer is applied for or made; a receiver or administrator is appointed over any of the assets or operations of Customer; or if Customer admits of evidences an inability to pay its debts as they come due.

3.5 Actions Upon Termination. Upon termination of the License for any reason, Customer shall immediately cease using, and shall return and deliver to NantHealth the NantHealth Product(s) and any copies or portions thereof, in any form and recorded on any medium or device.

IV. OTHER TERMS.

4.1 Confidential Information. The NantHealth Product(s) source code and object code, documentation and proprietary information related thereto constitutes confidential information ("Confidential Information"). Customer shall at all times maintain the confidentiality of the Confidential Information except as may be otherwise required by applicable law or court order. Customer shall not make any Confidential Information available in any form to any third party or to Confidential Information for any purpose.

4.2 Severability. In the event any provision of this License is held to be invalid or unenforceable, the remaining provisions of this License will remain in full force and effect.

4.3 Waiver. The waiver by either party of any default or breach of this License shall not constitute a waiver of any other or subsequent default or breach.

4.4 Amendments. This License may not be modified or amended except in writing signed by a duly authorized representative of each party.

4.5 Sublicensing; Assignment. Customer shall not grant any sublicense, security interest or any other interest with respect to the license granted to Customer hereunder to any third party, or sell, transfer or assign any right or obligation hereunder, without the prior written consent of NantHealth in each instance. Any attempted assignment in violation of this provision shall be void and shall constitute a material breach of this License.

Schedule A to NantHealth License Support Services Terms

1. Access Methods. Customer's designated contacts may request Support Services via telephone, Internet, fax, electronic mail, or posted mail.

2. Availability. NantHealth will provide support and maintenance remotely via electronic means, and Customer agrees to provide remote access to the NantHealth software and Hardware at Customer's designated installation location to NantHealth's service location. NantHealth will also provide telephone support to Customer from NantHealth's service location, including assistance in identifying, verifying and resolving problems in the use and operation of the NantHealth software. Use of telephone assistance services shall be limited to Customer's designated information systems or information management personnel. Telephone assistance shall be available via 1-866-202-2124 seven (7) days a week, twenty-four (24) hours per day. Failure to contact Customer because Customer is unavailable (e.g., phone busy, no answer, in a meeting, or out of the office) does not constitute NantHealth's noncompliance with its obligations.

3. Severity Level Determination. Customer will notify NantHealth of the impact and severity level of reported issues. The severity levels are defined as follows:

Critical: Critical Level is defined as production problems have occurred with respect to the applicable NantHealth software where one or more processes or programs are not functioning or otherwise are unavailable, including, but not limited to, have experienced abnormal termination and these problems must be resolved before Customer can continue with normal business operations. NantHealth will acknowledge the call within thirty (30) minutes. NantHealth will undertake commercially reasonable efforts to restore operational functionality.

Serious: Serious Level is defined as production problems have occurred with respect to the applicable NantHealth software where: (1) specific functions do not materially conform to documentation; (2) specific transaction scenarios give invalid or unexpected results and a work around is feasible; (3) configuration does not conform to the defined environment; or (4) one or more processes of test system problems fail, and implementation of the test systems is time sensitive. NantHealth will acknowledge the trouble call within in thirty (30) minutes and will undertake commercially reasonable efforts to restore operational functionality.

Moderate: Moderate Level is defined as production problems have occurred with respect to the applicable NantHealth software that (1) do not inhibit operations but impede its regular flow; or (2) have temporary solutions available while permanent solutions are found and implemented. NantHealth will acknowledge Customer's call within one (1) hour and NantHealth will undertake commercially reasonable efforts to restore operational functionality.

Minor/Non-Critical: Cosmetic production system problems, general test system problems and other minor, non-critical issues. NantHealth will respond and use its commercially reasonable efforts to restore operational functionality with respect to minor items in coordination with Customer as to timing for loading of fixes to avoid creating new issues.

For all Serious/Moderate/Minor issues NantHealth will work with customer to install patch solutions in the most appropriate time frames.

4. Incident Tracking And Resolution. Each reported item is tracked through NantHealth's "Support Data Base System," which includes a narrative description of the item, its priority, and ultimate resolution (as it becomes known.) In most cases, supporting information and documentation is required. NantHealth will guide and assist the Customer to the information required for researching the item, along with appropriate methods for obtaining the required data. NantHealth will provide assistance in testing solutions to problems and will advise as to the appropriate testing and back-out procedures to be used. Resolution does not necessarily imply "fix," but at least a workaround. NantHealth may release the correction as part of the next scheduled release.

5. Updates; Upgrade Policy. As a part of the Support Services, Customer shall, upon request, be provided with Updates to the NantHealth software that are generally made available to NantHealth's software customers receiving annual Support Services. "Updates" include any bug-fixes and minor releases (i.e., releases in which the version number following the decimal point changes). NantHealth will also provide Customer with documentation changes and additions in the form of inserts and/or addenda to the applicable documentation accompanying the updated software. Any module, release or product that NantHealth elects to separately price and license is not included as part of the Support Services. New products, new or alternate operating environments, or translation of the software into a language other than English is also excluded. Such new products, operating environments or translations shall be available only upon negotiation of separate fees, terms and conditions.

6. Reproducing Defects. Customer will work closely with NantHealth to provide reproducible results for any defect reported.

NantHealth may not be able to effectuate any patch or workaround if the defect cannot be reproduced. NantHealth will send someone on site, at Customer's expense, only if NantHealth is unable to remedy the problem by remote access or other means and determines that an onsite visit is necessary.

7. Version Support Policy. Support Services will only be available for the current release of the NantHealth software and the previous sequential release by NantHealth. Thus, for example, if the current release is 3.2, support will be available for versions 3.1 and 3.2. Corrections of failures in the NantHealth software will be made to the then-generally-available release of the NantHealth software.

8. Exclusions. Unless previously approved by NantHealth in writing, NantHealth shall have no obligation to support: (i) altered or damaged NantHealth Products or any portion of the NantHealth Products incorporated with or into other software or hardware unless expressly approved by NantHealth in writing; (ii) software that is not the then current release or immediately previous sequential release; (iii) problems caused by Customer's negligence, abuse, misuse or misapplication, use of the NantHealth Products other than as specified in NantHealth's documentation or other causes beyond the reasonable control of NantHealth; or (iv) software installed on any Hardware that is not supplied and supported by NantHealth. Unless expressly approved by NantHealth in writing, NantHealth shall have no liability to Customer for any changes in Customer's Hardware which may be necessary to use any NantHealth Product due to a workaround or maintenance release. Hardware support, if applicable, shall consist of providing assistance in identifying problems with the use and operation of the NantHealth hardware for which the Customer has purchased support services, but does not include repair or replacement after the applicable warranty period. Out of warranty hardware units that do not operate shall be replaced by Customer with new units either from Customer's replacement stock or by purchasing additional units from the Reseller or NantHealth.

NantHealth has no maintenance or support obligations with respect to the medical devices or any other Hardware. Customer agrees to maintain current (daily) backup of databases and programs to be used when necessary to restore data/programming to current status after any of Hardware or NantHealth Products are repaired. NantHealth is not responsible for any data backup or restoration services.

Customer understands that the annual support fee is for Support Services performed remotely from NantHealth support facilities to Customer personnel located at the designated Customer location, and does not include charges associated with relocation or reinstallation of the NantHealth Products or Hardware at any other location, or any retraining charges, all of which are additional.

THESE TERMS AND CONDITIONS CONSTITUTE A SERVICE CONTRACT AND NOT A WARRANTY. ALL NANTHEALTH PRODUCTS RELATED HERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN LICENSE. THIS ATTACHMENT IS AN ADDITIONAL PART OF THE LICENSE AND DOES NOT CHANGE OR SUPERSEDE ANY TERM OF THE LICENSE EXCEPT TO THE EXTENT UNAMBIGUOUSLY CONTRARY THERETO.