ELECTRONIC MEDICAL RECORD SYSTEM ACCESS AGREEMENT

This Electronic Medical Record System Access Agreement (this “Agreement”), effective as of [INSERT DATE] (the “Effective Date”), is entered into by and among Yale-New Haven Health Services Corporation, a tax-exempt Connecticut nonstock corporation (“YNHHSC”), [SELECT HOSPITAL], a tax-exempt Connecticut nonstock corporation (“Hospital”) and [INSERT PRACTICE NAME] an individual, partnership or professional medical corporation (“Practice”) that owns and operates a physician medical practice. YNHHSC, Hospital and Practice are sometimes referred to in this Agreement individually as a “Party” and, collectively, as the “Parties”.

RECORDS

A. The Parties desire to facilitate the widespread adoption of electronic medical record technology by health care providers providing medical care and treatment to individuals residing in the Parties’ communities in order to enhance and improve the efficiency, effectiveness, quality and clinical integration of care provided to such individuals.

B. In furtherance of Hospital’s goals of improving and enhancing the medical care provided to individuals residing in its community, Hospital desires to cooperate with physicians and medical groups such as the Practice in implementing, consistent with applicable law, the use of certain common electronic medical record and other technology and support services used in the provision of patient care.

C. YNHHSC currently utilizes and has access to certain electronic medical record technology and other technology and support services, including the EMR System (as defined below) pursuant to a License and Support Agreement by and among YNHHSC, Yale University and Epic Systems Corporation dated as of July 15, 2010, as supplemented and/or amended from time to time (the “Epic Agreement”).

D. Hospital desires to arrange for YNHHSC to provide to Practice, on behalf of Hospital, and Practice desires to obtain and implement, pursuant to the terms and conditions of this Agreement, access to the EMR Software and Support Services (each as defined below) (collectively, the “EMR System”) in order to allow the Parties to freely exchange and share, in accordance with applicable law, detailed clinical data in an effort to improve patient care, integrate patient care services at all levels of delivery, and enhance patient satisfaction and outcomes.

NOW, THEREFORE, the Parties agree as follows:

1. **EMR System**.

   1.1 **Provision of EMR System.** Hospital shall cause YNHHSC, during the term of this Agreement, to provide to Practice, at each of the locations set forth in Exhibit 1.1 (each a “Practice Location” and collectively the “Practice Locations”), access to the electronic medical record software (“EMR Software”) and the related support services (“Support Services”) set forth in Exhibit 1.1, upon the terms and subject to the conditions set forth in this Agreement. In the event that (a) the Parties collectively agree that YNHHSC shall provide to Practice any
additional software or services related to the EMR System that is not specifically set forth on Exhibit 1.1 (including any enhancements or upgrades), or (b) YNHHSC determines, upon the recommendations of Epic or other vendors of third party components of the EMR System, that any such additional software or services are necessary or appropriate for the effective operation of the EMR Software or provision of the Support Services, then such additional software (“Additional Software”) or services (“Additional Services”) must be set forth in a written amendment to this Agreement specifying such Additional Software and/or Additional Services and the amount of the additional payment for such Additional Software and/or Additional Services as determined pursuant to Section 2.3 below.

1.2 **EMR System Availability and Functions.**

(a) YNHHSC shall use reasonable efforts to ensure that the EMR Software is accessible without interruption, except during any scheduled down time or other maintenance or interruptions necessary or appropriate for the operation or maintenance of the EMR Software or the provision of the Support Services, or caused by conditions outside of YNHHSC’s reasonable control. YNHHSC shall have no responsibility for ensuring the operation or functionality of any Practice Equipment (as defined in Section 1.5) or for providing Support Services with respect to Practice Equipment that does not meet the requirements set forth in Exhibit 1.5, or on which Practice has installed additional third party software that degrades the functionality or performance of the EMR Software.

(b) YNHHSC may, from time to time, change the functionality or components of the EMR Software or manner of provision of the Support Services in order to improve the EMR System or create efficiencies in the EMR System for YNHHSC’s affiliated entities. If such changes could reasonably be expected to have a material impact upon Practice’s use of the EMR Software, YNHHSC shall notify Practice and Hospital of such changes. In the event that such changes have a material adverse impact upon Practice’s use of the EMR Software, YNHHSC shall use the same level of effort to mitigate such material adverse impact as it would use for its own affiliated facilities and physician practices. If YNHHSC cannot mitigate such material adverse impact to the reasonable satisfaction of Practice within thirty (30) days after the implementation of such changes, then Practice may terminate this Agreement upon thirty (30) days prior written notice to YNHHSC and Hospital. Upon receipt of such notice, if YNHHSC mitigates the material adverse impact to the reasonable satisfaction of Practice prior to the effective date of termination, Practice’s notice of termination will be deemed rescinded and this Agreement will remain in full force and effect.

1.3 **Medical Providers & Authorized Users.**

(a) Practice shall ensure that only those medical providers, including, without limitation, physicians, dentists, nurse practitioners, certified nurse anesthetists, midwives, audiologists, nutritionists, dieticians, occupational therapists, optometrists, physical therapists, physician assistants, podiatrists, psychologists, social workers, speech therapists and surgical technicians (each a “Medical Provider”) and those registered nurses, licensed practical nurses, medical assistants, and other administrative staff employed by or contracting with Practice are authorized by Practice to use and access the EMR Software (each, together with Medical Providers, an “Authorized User” and, collectively, the “Authorized Users”). As of the
Effective Date, Practice’s Authorized Users are listed in Exhibit 1.3(a). Practice shall notify YNHHSC and Hospital immediately of any additions, deletions or other modifications of the Authorized Users. Practice hereby represents, and shall continue to warrant, that the list of Authorized Users includes all physicians and allied health providers employed by or contracting with Practice. Notwithstanding the foregoing, Hospital shall have the right to reject an Authorized User or suspend or terminate an Authorized User’s access to the EMR Software or receipt of Support Services pursuant to Section 1.10 of this Agreement.

(b) Practice shall ensure that each Authorized User: (i) executes an acknowledgement in the form attached to this Agreement as Exhibit 1.3(b) agreeing to be bound by the terms and conditions set forth in this Agreement; (ii) participates in all mandatory training programs provided by YNHHSC under this Agreement and demonstrates the required level of proficiency with the EMR System set forth in any written training plan; and (iii) does not share or otherwise disclose his or her login information or access to the EMR Software with any other individual or entity. In addition, Practice shall ensure that any Authorized User that is a physician or allied health professional shall, in addition to the other requirements set forth in this Section 1.3, at all times during the term of this Agreement: (1) have and maintain an unrestricted license and/or certification, as applicable, to practice medicine in the State of Connecticut, or the State of New York as applicable to physicians or allied health professionals providing services at Practice locations within the State of New York; (2) never have been charged or convicted of a felony, a misdemeanor involving fraud, dishonesty, controlled substances or moral turpitude, or any crime relevant to the provision of medical services or the practice of medicine; (3) never have been excluded, suspended or otherwise ineligible to participate in the Medicare or Medicaid programs, or any other federal health care program, as defined at 42 U.S.C. § 1320a-7b(f) (“Federal Health Care Program”); (4) be and remain a member in good standing of the medical staff, in any of its defined categories, of Hospital; and (5) discontinue his/her use of any legacy medical records software or paper records for recording new patient encounters upon completion of the implementation of the EMR System, and proficiently utilize the EMR System thereafter.

1.4 Grant of Access to EMR Software. Practice and the Authorized Users shall have a nontransferable, non-exclusive and limited right to access the EMR Software for use solely in the provision of medical care and treatment to patients of Practice and/or the Authorized Users, upon the terms and subject to the conditions set forth in this Agreement. Practice shall be responsible for all use of the EMR Software by Authorized Users, and shall ensure that only the Authorized Users use or access the EMR Software or receive Support Services during the term of this Agreement except as otherwise approved in writing by YNHHSC and Hospital.

1.5 Other Software and Hardware. Except for those items and services specifically set forth on Exhibit 1.1, Practice shall be solely responsible for obtaining and maintaining at its sole cost and expense, all equipment (including hardware), software, network and/or platform capabilities, and any other items or services necessary for utilizing or accessing the EMR Software (collectively, “Practice Equipment”), which Practice Equipment must satisfy the minimum requirements set forth in Exhibit 1.5 attached to this Agreement. Practice shall ensure that any Practice Equipment used by Practice or any Authorized Users to access or use the EMR Software includes approved up-to-date anti-viral software listed in Exhibit 1.5 to prevent viruses from reaching the YNHHSC Networks. Practice acknowledges and agrees that the
Practice Equipment is necessary in order for Practice and Authorized Users to access and use the EMR Software and must be obtained separately by Practice and/or the Authorized Users. Practice further acknowledges and agrees that such Practice Equipment is not the subject of this Agreement, and YNHHSC shall not be responsible for the procurement, installation or maintenance of any Practice Equipment.

1.6 Implementation. Prior to implementation of the EMR Software, Practice shall complete a Practice Epic Readiness Survey ("Readiness Survey"), provided by YNHHSC. After reviewing the completed Readiness Survey, YNHHSC shall make recommendations to Practice and schedule with Practice an implementation start date ("Implementation Start Date"), and a target date when the installation will be completed and the Practice can commence its use of the EMR System (the "Live Date"). The Implementation Start Date and the order of implementations within the community will be determined by YNHHSC in a manner that does not take into consideration the volume or value of referrals between Hospital and any physician or physician practice. At least one hundred twenty (120) days prior to the Implementation Start Date, Practice must certify its readiness for the installation of the EMR Software to YNHHSC ("Readiness Date"). If the foregoing certification is not received by YNHHSC within such timeframe, YNHHSC may re-schedule the Implementation Start Date and the Live Date.

1.7 Practice Personnel. Practice shall designate a full-time employee of Practice to serve as the project leader (the "Project Leader") who will work in conjunction with the Hospital and YNHHSC implementation team as the primary Practice contact, and will coordinate and assist Hospital and YNHHSC in implementing and maintaining the EMR Software. Additionally, Practice shall designate a full-time physician ("Physician Sponsor") and a full-time administrative employee ("Super-User") to ensure that the EMR Software is utilized in a manner consistent with this Agreement, and the Health System Rules (as defined in Section 1.9), and to assist other physicians and staff with day-to-day questions, issues, and user education. Practice shall provide YNHHSC with the names and contact information of each individual described in this section and notify YNHHSC of any changes of such information. If Practice does not employ any physicians or administrative staff on a full-time basis, upon YNHHSC’s consent, which may not be unreasonably withheld, Practice may designate one or more part-time employees for each of the roles of Project Leader, Physician Sponsor, and Super-User, provided that Practice ensures the availability of a Project Leader at all times throughout the implementation of the EMR Software, and the availability of a Physician Sponsor and Super-User at all times during a Practice location’s business hours.

1.8 YNHHSC Access. Practice shall provide YNHHSC reasonable access to its facilities, personnel and equipment (including Practice Equipment), and the EMR Software, as may be necessary or appropriate for YNHHSC to provide the EMR System to Practice pursuant to this Agreement. YNHHSC shall provide advance written notice to Practice of any access that YNHHSC requires outside of Practice’s normal business hours, and shall make reasonable efforts to schedule any access pursuant to this Section 1.8 in a manner that minimizes interference with the conduct of Practice’s business.

1.9 Compliance with Health System Rules. Practice shall, and shall ensure that each Authorized User shall, comply with all policies, procedures, and rules applicable to the provision or use of the EMR System, including, without limitation all policies, procedures and
rules relating to training, registration, quality and integrity of registration, access to patient records within the EMR System, and the privacy or security of information and technology received or utilized in connection with the EMR System, in each case as may be adopted or amended by Hospital or YNHHSC from time to time (“Health System Rules”).

1.10 **Rejection, Suspension, & Termination of Access to EMR System.** Practice acknowledges and agrees that Practice’s access to and use of the EMR Software and YNHHSC’s provision of access to the EMR Software is conditioned upon each Authorized User’s compliance with Health System Rules and applicable law, and subject to various licensing agreements and restrictions, including, without limitation the Epic Agreement. YNHHSC may immediately suspend Practice’s access, or suspend or terminate any Authorized User’s access, to the EMR Software and/or the Support Services if: (i) YNHHSC reasonably suspects that Practice or such Authorized User has used the EMR System for any illegal or other purpose that is prohibited by Health System Rules or not expressly permitted under this Agreement, (ii) Practice or such Authorized User fails to satisfy any of the material terms or conditions set forth in this Agreement or the Epic Agreement and does not cure such breach within thirty (30) days after receiving notice from YNHHSC of such breach, or (iii) Practice’s or such Authorized User’s use of or access to the EMR System interferes with YNHHSC’s ability to provide the EMR System or maintain any of YNHHSC’s internal networks or software or technology (collectively, “YNHHSC Networks”). Within five (5) business days of YNHHSC’s suspension or termination of an Authorized User or Practice, representatives of YNHHSC, Hospital, and Practice shall discuss a resolution to the underlying cause of suspension or termination that is satisfactory to YNHHSC and Hospital, and may also discuss the potential reinstatement of such Authorized User’s or Practice’s access to the EMR Software or Support Services. Notwithstanding the foregoing, any reinstatement of such Authorized User’s or Practice’s access to the EMR Software or Support Services will be determined in YNHHSC’s reasonable discretion. Practice shall ensure that any Authorized User that is rejected, suspended or terminated by YNHHSC pursuant to this Agreement does not access or use the EMR Software or otherwise receive any Support Services while such termination or suspension is in effect, as applicable. With respect to an Authorized User that is suspended or terminated by YNHHSC pursuant to this Agreement does not access or use the EMR Software or otherwise receive any Support Services while such termination or suspension is in effect, as applicable. With respect to an Authorized User that is suspended or terminated by YNHHSC, pursuant to this Section, the removal of such Authorized User from Exhibit 1.3(a) is not to be construed as a breach of Practice’s warranty under Section 1.3(a) of this Agreement.

2. **Practice Payments.** Practice shall pay to Hospital the following payments for the provision of the EMR System to Practice (collectively, “Practice Payments”):

2.1 **Implementation Payment.** Prior to the Implementation Start Date, Practice shall pay to Hospital a one-time fee per Medical Provider for the EMR System license fees and implementation of the EMR System in the installments and amounts set forth in Exhibit 2 to this Agreement (“Implementation Payment”).

2.2 **Support Services Payments.** On the Live Date, Practice shall pay Hospital an amount equal to six (6) times the monthly fees set forth in Exhibit 2 to this Agreement for the provision of the Support Services (“Software/Support Payments”). After the Live Date, Hospital shall invoice Practice for the Software/Support Payments in advance on a quarterly basis, and Practice shall pay all invoices within thirty (30) days of receipt. In the event that Practice fails to make Software/Support Payments in compliance with the EHR Exceptions (as defined in Section
14.5), YNHHSC will suspend Practice’s use and access to the EMR System until such time as all outstanding Software/Support Payments have been made.

2.3 **Additional Software or Services.**

(a) In the event that YNHHSC, upon request by Hospital or Practice, provides Practice access to any Additional Software (other than an Update, as that term is defined in Exhibit 1.1) for which an amendment or addendum to the Epic agreement is not required, Practice shall first pay Hospital for any applicable costs associated with the Additional Software, which shall be disclosed by YNHHSC to Practice in advance.

(b) In the event that YNHHSC, upon request by Hospital or Practice, provides any Additional Software to Practice for which an amendment or addendum to this Agreement or the Epic Agreement is required, and Hospital and Practice mutually agree to the provision of such Additional Software and the associated costs, Practice shall, within fifteen (15) days of receiving an undisputed invoice from Hospital for such Additional Software, pay to Hospital the amount set forth in such invoice.

(c) In the event that Practice requests Additional Services that are not included within this Agreement, then, upon request by Hospital, YNHHSC shall furnish such Additional Services to Practice, provided, however that the parties agree to the scope of such Additional Services in advance, and provided further that Practice agrees to pay YNHHSC an hourly rate of One Hundred Fifty Dollars ($150.00) per hour (“Additional Services Rate”), subject to annual adjustment as set forth in paragraph (d) below, for the provision of such Additional Services and reimburse YNHHSC for the costs of any necessary materials. Notwithstanding the foregoing, YNHHSC may refuse to perform any requests for Additional Services if, in its sole discretion, YNHHSC determines that such Additional Services will undermine the core functionality of the EMR System, or without reason.

(d) On each annual anniversary of the Effective Date, YNHHSC may increase the Additional Services Rate, to reflect Fair Market Value (as defined below), or by 3%, whichever is greater. For the purposes of this Agreement, “Fair Market Value” means the value in arms-length transactions, consistent at the time with compensation that has been included in comparable bona fide service agreements with comparable terms, where the price or compensation has not been determined in any manner that takes into account the volume or value of anticipated or actual referrals.

2.4 **Increases Due to Third Party Increases.** Practice understands and acknowledges that the maximum allowable subsidy for EMR Software permitted under the EHR Exceptions (as defined in Section 14.5) that the Hospital can provide to Practice is an amount equal to 85% of the aggregate cost to YNHHSC of providing the EMR Software and Support Services to Practice. In recognition of the foregoing, Practice hereby agrees that Hospital is entitled, at any time and without prior notice, to pass through, without mark-up, to Practice, and to other practices utilizing the EMR System on an equitable basis: (i) any volume-based usage fees associated with improvements to the EMR System; (ii) any increases in communications tariffs related to the EMR Services, including, without limitation, government imposed access...
fees, service provider imposed fees, and (iii) any increases in fees resulting from changes in regulation or statute, or other similar fees assessed against Hospital or YNHHSC.

3. **Hospital Payments.** Hospital shall pay to YNHHSC the designated amounts set forth in Exhibit 2 to this Agreement (the “Hospital Payment”) for the EMR System license fees and implementation of the EMR System, the provision of the Support Services and the provision of any Additional Services.

4. **Conditions to YNHHSC Obligations.** YNHHSC’s obligation to provide the EMR System shall be contingent upon Practice’s and Hospital’s continuous compliance with the terms and conditions of this Agreement (including timely payment of all payments due and payable under this Agreement).

5. **YNHHSC Representations and Warranties.** YNHHSC represents and warrants that it has all requisite power and authority, and has taken all corporate action necessary, to execute and deliver this Agreement and to provide the EMR System to Practice on behalf of Hospital.

6. **Hospital Representations and Warranties.** Hospital represents and warrants that it has all requisite power and authority, and has taken all corporate action necessary, to execute and deliver this Agreement and to arrange for YNHHSC’s provision of the EMR System to Practice pursuant to this Agreement.

7. **Practice Representations and Warranties.** Practice represents and warrants that: (a) the EMR System and any Additional Software or Additional Services are not technologically or functionally equivalent to any technology or services currently owned or leased by Practice or any Authorized User; (b) neither Practice nor any Authorized User has any existing arrangement with any other person or entity for the provision of electronic medical record technology or services that are technologically or functionally equivalent to the EMR System and any Additional Software or Additional Services to be provided to Practice pursuant to this Agreement; (c) neither Practice nor any Authorized User has terminated or allowed to expire any such arrangement in anticipation of or preparation for entering into this Agreement; and (d) neither Practice nor any Authorized User has ever been suspended, excluded or otherwise ineligible to participate in any federal health care program, including the Medicare or Medicaid programs.

8. **Practice Covenants.** Practice: (a) shall not, and shall ensure that any other person or entity shall not, take any action that would limit or restrict the use, compatibility or “interoperability” of the EMR Software (as such term is defined by the Centers for Medicare & Medicaid Services (“CMS”) in the implementing regulations and commentary to 42 U.S.C. § 1395nn); (b) shall not, and shall ensure that each Authorized User shall not, disassemble, decompile, reverse engineer, copy, modify, create or add interfaces to, transcribe, store, translate, sell, lease, authorize other individuals or entities other than Authorized Users to access, or otherwise transfer or distribute any or all of the EMR Software (including any documentation provided in connection with the EMR Software or Support Services or any software applications used in whole or in part to utilize or access the EMR Software; (c) shall not, and shall ensure that any Authorized User shall not, differentiate or discriminate in the use of the EMR System on the
basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history of any patient, in violation of any applicable state, federal or local law or regulation; (d) shall comply, and shall cause each Authorized User to comply, with all applicable terms and conditions of the Epic Agreement, as modified or amended from time to time and communicated to Practice; and (e) shall permit Hospital access to the electronic medical records created by Practice or Authorized Users using the EMR Software.

9. **YNHHSC Networks Monitoring.** YNHHSC may, but shall not be obligated to, monitor Practice’s and/or Authorized Users’ access to or use of YNHHSC Networks in connection with Practice’s and/or Authorized Users’ use of the EMR Software. In the event that YNHHSC determines, in its sole and absolute discretion, that Practice’s access to or use of YNHHSC Networks and/or the EMR Software is degrading the performance of YNHHSC Networks or the EMR Software, YNHHSC shall be permitted to take reasonable steps to restore such performance levels.

10. **Compliance Audits.** Hospital may, but shall not be obligated to, perform audits and other investigations from time to time of Practice’s and Authorized Users’ compliance with the terms and conditions of this Agreement (including the laws set forth in Section 25 below). Practice shall permit and cooperate with Hospital, and shall cause Authorized Users to permit and cooperate with Hospital, in performing any such audits or investigations to ensure Practice’s and Authorized Users’ ongoing compliance with the terms and conditions of this Agreement (including the laws set forth in Section 25 below).

11. **Disclaimer.** Neither YNHHSC nor Hospital make any warranties, either express or implied, as to the EMR System, any Additional Software or Additional Services, any Practice Equipment, or any other items or services provided under or otherwise used in connection with such EMR System or this agreement, including, but not limited to the Support Services, the EMR Software, the software documentation, any third-party software and hardware, or any other matter whatsoever, and disclaims all express and implied warranties, including all express or implied warranties regarding the condition, merchantability, fitness for any particular purpose or non-infringement of the EMR System, the practice equipment or any items or services provided under or otherwise used in connection with such EMR System or this Agreement. Neither YNHHSC nor Hospital warrant that any items or services provided pursuant to this Agreement or any other items or services required to be provided or provided by Practice or the Practice Equipment will (a) meet Practice’s business requirements or will operate in a particular computer environment, (b) be accurate or error free, (c) be uninterrupted or error free, or (d) that any errors can be corrected. Notwithstanding the foregoing, YNHHSC shall pass through to Practice, to the extent permissible under the Epic Agreement, any assignable or transferable warranty provided by Epic, including, without limitation: (i) that the EMR Software will substantially perform in accordance with the published specifications for such EMR Software; (ii) that Epic is the lawful owner of the EMR Software; and (iii) that the EMR Software satisfies the definition of “Certified EHR Technology,” as that term is set forth in The Health Information Technology for Economic and Clinical Health Act (“HITECH Act”).

12. **Limitation on Liability.** Neither YNHHSC nor Hospital shall have any liability for any damages whatsoever (including loss of profits or loss of goodwill) resulting from, arising
out of or in connection with the use or inability to use or the performance or non-performance of the EMR System or any items or services provided under or in connection with such EMR System or this Agreement or the Practice Equipment, even if it has been advised of the possibility of such damages or should have known of the possibility of such damages, and whether such liability is based on contract, tort, negligence, strict liability, products liability or otherwise. Practice agrees that YNHHSC’s and Hospital’s aggregate liability for damages arising under this agreement, regardless of the form of action and irrespective of fault or negligence, shall in no event exceed an amount equal to the aggregate Practice Payments made by Practice under this Agreement during the immediately preceding 12-month period. The limitations of liability and disclaimers of warranty stated in this Agreement form an essential basis of the bargain between the parties.

13. Practice Responsibility for Medical Decisions and Data Input. Practice and Authorized Users acknowledge and agree that the provision of the EMR System is not intended to and shall not be deemed in any way to eliminate, replace or substitute for, in whole or in part, the medical judgment of Practice or Authorized Users or the analysis or treatment of any patient’s medical condition. Practice shall have sole and exclusive responsibility for any medical decisions made or actions taken by Practice, Authorized Users, or any other employees, independent contractors or other personnel of Practice or any Authorized User with respect to a patient’s medical care and treatment, and for the accuracy, completeness or appropriateness of any diagnostic, clinical or medical information of a patient provided by, used or stored in connection with the EMR System.

14. Term and Termination.

14.1 Term. This Agreement shall be effective upon the Effective Date, and shall continue until the date that is five (5) years from the Effective Date (the “Expiration Date”), unless earlier terminated in accordance with this Agreement. YNHHSC shall provide Practice with the amounts of all applicable fees due under any renewal term of this agreement at least one hundred twenty (120) days prior to the Expiration Date, or each annual anniversary of the Expiration Date. Unless terminated earlier in accordance with this Agreement, on the Expiration Date, and on each annual anniversary of the Expiration Date thereafter, this Agreement shall automatically renew for an additional term of one (1) year, unless and until either party gives the other party written notice of its intention not to renew this Agreement at least ninety (90) days prior to the Expiration Date or subsequent annual anniversary date, as applicable.

14.2 Termination by YNHHSC. YNHHSC may terminate this Agreement immediately upon the occurrence of any one or more of the following events: (a) any breach by Practice of this Agreement to the extent such breach is not cured to the reasonable satisfaction of YNHHSC within thirty (30) days after written notice of such breach is provided to Practice by YNHHSC; (b) any breach by Hospital of this Agreement to the extent such breach is not cured to the reasonable satisfaction of YNHHSC within thirty (30) days after written notice of such breach is provided to Hospital by YNHHSC; (c) Practice is suspended, excluded or otherwise ineligible to participate in any federal health care program, including Medicare and Medicaid; (d) any event, occurrence or circumstance that would make any of the representations of Practice contained herein untrue, make it materially more difficult or impossible for a Party to comply with its covenants set forth herein, cause the arrangements covered hereunder not to comply with
the EHR Exceptions (as defined in Section 14.5) as determined by legal counsel for YNHHSC, or cause the protections afforded under the EHR Exceptions to no longer be legally effective as determined by legal counsel for YNHHSC; (e) any termination or expiration of the Epic Agreement; or (f) a Change in Control of the Practice. For purposes of this Agreement a “Change in Control of the Practice” shall mean (i) the sale, transfer or other disposition, whether in a single transaction or series of related transactions, of all or substantially all of the assets of Practice; (ii) the merger, consolidation or other reorganization of Practice if, immediately following such merger, consolidation or reorganization, a majority or controlling interest in the issued and outstanding voting securities or interests of the surviving, consolidated or reorganized entity are held by persons other than those holding voting securities or interests of Practice as of the Effective Date; or (iii) the sale or issuance of voting securities or interests of Practice, whether in a single transaction or series of related transactions, if, immediately following such transaction or series of related transactions, a majority or controlling interest in the issued and outstanding voting securities or interests of Practice are held by persons other than those holding voting securities or interests of Practice as of the Effective Date, except as otherwise approved in advance by YNHHSC.

14.3 Termination by Hospital. Hospital may terminate this Agreement immediately upon the occurrence of any one or more of the following events: (a) any breach by Practice of this Agreement to the extent such breach is not cured to the reasonable satisfaction of Hospital within thirty (30) days after written notice of such breach is provided to Practice by Hospital; (b) any breach by YNHHSC of this Agreement to the extent such breach is not cured to the reasonable satisfaction of Hospital within thirty (30) days after written notice of such breach is provided to YNHHSC by Hospital; (c) Practice is suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program; (d) any event, occurrence or circumstance that would make any of the representations of Practice contained herein untrue, make it materially more difficult or impossible for a Party to comply with its covenants set forth herein, cause the arrangements covered hereunder not to comply with the EHR Exceptions (as defined in Section 14.5) as determined by legal counsel for YNHHSC, or cause the protections afforded under the EHR Exceptions to no longer be legally effective as determined by legal counsel for Hospital; or (e) a Change in Control of the Practice.

14.4 Termination by Practice. Practice may terminate this Agreement: (a) upon ten days written notice to YNHHSC and Hospital in the event that the Live Date (as defined in Section 1.6) does not occur within sixty (60) days of the scheduled Live Date, provided that Practice has complied with all of its obligations under Section 1.6 of this Agreement; (b) immediately upon breach of this Agreement by YNHHSC or Hospital to the extent such breach is not cured to the satisfaction of Hospital within thirty (30) days after written notice of such breach is provided to YNHHSC or Hospital, as applicable; (c) upon elimination of all Medical Providers from the list of Authorized Users in Exhibit 1.3(a) as a result of death or permanent disability; (d) pursuant to Section 1.2; or (e) pursuant to Section 14.5.

14.5 Termination Upon Sunset of EHR Exceptions. The Parties acknowledge and agree that, as of the date of this Agreement, the electronic health record exception to the Stark Law (as defined in Section 14.6) codified at C.F.R. § 411.357(w) and the safe harbor to the Anti-Kickback Law (as defined in Section 14.6) codified at 42 C.F.R. § 1001.952(x) (collectively, the “EHR Exceptions”) are scheduled to “sunset” as of December 31, 2013 (the
“Sunset Date”), and will have no further force or effect after the Sunset Date unless amended or otherwise extended by the federal government. In the event that the EHR Exceptions do in fact “sunset” as currently codified in the Stark Law and the Anti-Kickback Law, Practice may either (i) terminate this Agreement effective as of the Sunset Date; or (ii) in the event Practice desires to continue having access to the EMR Software and receive the Support Services after the Sunset Date, Practice shall execute an amendment to this Agreement, effective on or before the Sunset Date, allowing Practice to continue receiving the EMR System for the remaining term of the Agreement subject to Practice’s payment of 100% of the then-current aggregate cost to YNHHSC of providing the EMR Software and Support Services and compliance with the terms and conditions set forth in this Agreement.

14.6 Termination or Modification in the Event of Government Action. In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Parties, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action. If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if any Party determines in good faith that compliance with the Government Action is impossible or infeasible, such Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Parties. For the purposes of this Section, “Government Action” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to any Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following: (a) revocation or threat of revocation of the status of any license, certification or accreditation granted to YNHHSC, Hospital, Practice or any Affiliate; (b) revocation or threat of revocation of the federal, state or local tax-exempt status of YNHHSC, Hospital, Practice or any Affiliate, or their respective tax-exempt financial obligations; (c) prohibit or restrict the ability of YNHHSC, Hospital, Practice or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations; (d) violation of or threat of prosecution under 42 U.S.C. § 1320a-7b(b) (the “Anti-Kickback Law”), 42 U.S.C. § 1395nn (the “Stark Law”) or any comparable state law governing kickbacks, bribes, rebates or patient referrals if either Practice or any Authorized User referred patients to YNHHSC, Hospital or any Affiliate; (e) violation by any Party of, or threat of prosecution of any Party under, any law, regulation, rule or procedure applicable to such Party; (f) prohibit YNHHSC, Hospital, Practice or any Affiliate from submitting claims or materially reducing the reimbursement received by YNHHSC, Hospital, Practice or any Affiliate for services provided to patients referred by Practice or an Authorized User; (g) subject YNHHSC, Hospital, Practice, an Authorized User, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code § 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement. For purposes of this Agreement, “Affiliate” shall mean any entity that, directly or indirectly, controls, is controlled by, or is under common control with YNHHSC or Hospital.
14.7 **Effect of Termination or Expiration.** In the event of any expiration or termination of this Agreement for any reason, (i) all rights granted under this Agreement will immediately terminate; and (ii) all obligations of YNHHSC and Hospital, except for those set forth in Section 14.8, shall immediately cease. Notwithstanding the foregoing, upon expiration or termination of this Agreement, Practice shall, and shall ensure that all Authorized Users shall, (a) immediately cease all use of the EMR Software, (b) return to YNHHSC all copies of the EMR Software and any other software, training materials or other documentation or materials provided by YNHHSC in connection with this Agreement or the EMR System within thirty (30) days following such expiration or termination, and (c) permanently remove all EMR Software from Practice’s and Authorized Users’ equipment within thirty (30) days following such expiration or termination.

14.8 **Data Transition upon Termination.** Upon termination of this Agreement and upon receipt of written notice from Practice within one hundred twenty (120) days of the effective date of termination, YNHHSC shall provide Practice with an encrypted, password-protected disc (or discs) containing certain information extracted from the EMR Software that includes patient visits/encounters conducted by Practice (“Exported Records”) in PDF format. YNHHSC shall also provide Practice with an index of Exported Records that includes the name of each patient (hyperlinked to his/her Exported Records) and the encounter date. YNHHSC shall provide the foregoing disc(s) containing Exported Records to Practice within three (3) business days of its receipt of such a request from Practice. YNHHSC shall cooperate with Practice to explore options for exporting patient specific EMR data to another system, provided that Practice agrees to accept such export in a format provided by YNHHSC, and to compensate YNHHSC for any conversion costs identified by YNHHSC prior to such export. If Practice uses Resolute Patient Accounting component, then YNHHSC shall provide Practice with limited read-only access to data sufficient to allow Practice to manage its accounts receivable for a period of time not to exceed twelve (12) months from the effective date of termination. YNHHSC may permit Practice continued use of a fully functional Resolute Patient Accounting component for a period not to exceed twelve (12) months only if Practice agrees in advance to pay YNHHSC one hundred percent (100%) of YNHHSC’s aggregate costs of providing the Resolute Patient Accounting Component to Practice during such time.

15. **Ownership.** The Parties acknowledge and agree that this Agreement does not grant to Hospital, Practice or any Authorized User any ownership interest or other intellectual property rights in the EMR System, and that any copy, modification, revision, enhancement, adaptation, translation or derivative work of or created by the EMR System, and any patent rights, copyrights, trade secret rights, trademark rights, and all other proprietary rights, worldwide, shall be governed by the Epic Agreement.

16. **Tax Implications.** Practice acknowledges and agrees that neither YNHHSC nor Hospital has made any representation to Practice with respect to the tax implications of the transactions contemplated by this Agreement, and that statements made by YNHHSC, Hospital or their respective agents, employees, representatives or attorneys shall not be relied upon by Practice and shall not be interpreted or construed as tax advice to Practice, and that Practice shall seek any tax advice from its own tax advisors.
17. **Indemnification.**

(a) YNHHSC shall indemnify, defend and hold harmless Practice, Hospital and their respective officers, directors, shareholders, agents, and employees (collectively “Non-YNHHSC Indemnitees”) from and against claims (including reimbursement of all reasonable attorney fees and costs incurred in defending claims) by a third party asserted against any Non-YNHHSC Indemnitees that arise from or are in any way related to YNHHSC’s gross negligence or intentional misconduct in connection with YNHHSC’s performance under this Agreement;

(b) Hospital shall indemnify, defend and hold harmless Practice, YNHHSC and their respective officers, directors, shareholders, agents, and employees (collectively “Non-Hospital Indemnitees”) from and against claims (including reimbursement of all reasonable attorney fees and costs incurred in defending claims) by a third party asserted against any Non-Hospital Indemnitees that arise from or are in any way related to Hospital’s gross negligence or intentional misconduct in connection with Hospital’s performance under this Agreement;

(c) Practice shall indemnify, defend and hold harmless YNHHSC, Hospital and their respective officers, directors, shareholders, agents, and employees (collectively, “Non-Practice Indemnitees”) from and against any and all claims (including reimbursement of all reasonable attorney fees and costs incurred in defending claims) by a third party (including patients) asserted against any Non-Practice Indemnitees (including any claims asserted by Epic against YNHHSC, Hospital or any Affiliate) that arise from or are in any way related to Practice’s gross negligence, intentional misconduct, breach of any of the terms and conditions set forth in this Agreement, inappropriate use of the EMR System by Practice, any Authorized User, or any person other than an Authorized User that Practice permits or reasonably fails to prevent from accessing the EMR Software in accordance with this Agreement.

18. **HIPAA Compliance.** The Parties agree to be bound by the terms and conditions of the Business Associate Agreement attached to this Agreement as Exhibit 18 (the “BA Agreement”). On or before the Live Date, Practice shall amend its Notice of Privacy Practices to include provisions that are either provided by or approved by YNHHSC and Hospital in order to notify patients regarding the use and disclosure of their protected health information in the EMR System.

19. **YNHHSC’s Confidential Information.**

(a) “YNHHSC’s Confidential Information” shall mean and include this Agreement, the Epic Agreement, the EMR Software, and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services (including the EMR System) of YNHHSC or any YNHHSC Affiliate that YNHHSC discloses or otherwise makes available in any manner to Hospital, Practice or any Authorized User, or to which Hospital, Practice or any Authorized User may gain access under this Agreement, or which Hospital, Practice or any Authorized User knows or has reason to know is confidential information of YNHHSC or any YNHHSC Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information is confidential. By way of example, but not limitation, YNHHSC’s Confidential Information includes any and all know-how, processes, trade secrets,
manuals, confidential reports, procedures and methods of YNHHSC, any YNHHSC’s patient’s individually identifiable health information (as defined under the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and all rules and regulations promulgated thereunder ("HIPAA"), and any information, records and proceedings of YNHHSC and/or other YNHHSC committees or bodies charged with the evaluation and improvement of the quality of care. YNHHSC’s Confidential Information also includes proprietary or confidential information of any third party that may be in YNHHSC’s or any YNHHSC Affiliate’s possession.

(b) YNHHSC’s Confidential Information shall be and remain the sole property of YNHHSC. Hospital and Practice shall not, and shall ensure that their respective employees, independent contractors or other personnel (including, with respect to Practice, the Authorized Users) (collectively, “Non-YNHHSC Agents”) do not use any of YNHHSC’s Confidential Information for any purpose not expressly permitted by this Agreement, or disclose YNHHSC’s Confidential Information to any person or entity without the prior written consent of YNHHSC. Hospital and Practice shall cause each of their respective Non-YNHHSC Agents to protect YNHHSC’s Confidential Information from unauthorized use, access, or disclosure in the same manner as Hospital or Practice, as applicable, protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

(c) Hospital, Practice and each Non-YNHHSC Agent shall return to YNHHSC all of YNHHSC’s Confidential Information and all copies thereof in Hospital’s, Practice’s or such Non-YNHHSC Agent’s possession or control, and permanently erase all electronic copies of YNHHSC’s Confidential Information, promptly upon the written request of YNHHSC, or the termination or expiration of this Agreement. None of Hospital, Practice nor any Non-YNHHSC Agent shall copy, duplicate or reproduce any of YNHHSC’s Confidential Information without the prior written consent of YNHHSC.

(d) This Section 19 shall survive the expiration or termination of this Agreement.

20. Hospital’s Confidential Information.

(a) “Hospital’s Confidential Information” shall mean and include this Agreement, and any information related to the past, current or proposed operations, business or strategic plans, financial statements or reports, technology or services of Hospital or any Hospital Affiliate that Hospital discloses or otherwise makes available in any manner to YNHHSC, Practice or any Authorized User, or to which YNHHSC, Practice or any Authorized User may gain access under this Agreement, or which YNHHSC, Practice or any Authorized User knows or has reason to know is confidential information of Hospital or any Hospital Affiliate; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information is confidential. By way of example, but not limitation, Hospital’s Confidential Information includes any and all know-how, processes, trade secrets, manuals, confidential reports, procedures and methods of Hospital, any Hospital’s patient’s individually identifiable health information (as defined under HIPAA), and any information, records and proceedings of Hospital and/or other Hospital committees or bodies charged with the evaluation and improvement of the quality of care. Hospital’s Confidential Information also includes proprietary or confidential information of any third party that may be in Hospital’s or any Hospital Affiliate’s possession.
(b) Hospital’s Confidential Information shall be and remain the sole property of Hospital. YNHHSC and Practice shall not, and shall ensure that their respective employees, independent contractors or other personnel (including, with respect to Practice, Authorized Users) (collectively, “Non-Hospital Agents”) do not, use any of Hospital’s Confidential Information for any purpose not expressly permitted by this Agreement, or disclose Hospital’s Confidential Information to any person or entity without the prior written consent of Hospital. YNHHSC and Practice shall cause each of their respective Non-Hospital Agents to protect Hospital’s Confidential Information from unauthorized use, access, or disclosure in the same manner as YNHHSC or Practice, as applicable, protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

(c) Hospital, Practice and each Non-Hospital Agent shall return to Hospital all of Hospital’s Confidential Information and all copies thereof in Hospital’s, Practice’s or such Non-Hospital Agent’s possession or control, and permanently erase all electronic copies of Hospital’s Confidential Information, promptly upon the written request of Hospital, or the termination or expiration of this Agreement. None of YNHHSC, Practice nor any Non-Hospital Agent shall copy, duplicate or reproduce any of Hospital’s Confidential Information without the prior written consent of Hospital.

(d) This Section 20 shall survive the expiration or termination of this Agreement.

21. Practice’s Confidential Information,

(a) “Practice’s Confidential Information” shall mean and include this Agreement and any information related to the past, current or proposed operations, financial statements or reports, or services of Practice that Practice discloses or otherwise makes available in any manner to YNHHSC, Hospital or any Affiliate, or to which YNHHSC, Hospital or any Affiliate may gain access in the performance of its obligations under this Agreement, or which YNHHSC, Hospital or any Affiliate knows or has reason to know is confidential information of Practice; whether such information is disclosed orally, visually or in writing, and whether or not bearing any legend or marking indicating that such information is confidential, any information, records and proceedings of Practice and/or other Practice committees or bodies charged with the evaluation and improvement of the quality of care.

(b) Practice’s Confidential Information shall be and remain the sole property of Practice. Neither YNHHSC nor Hospital shall use any of Practice’s Confidential Information for any purpose not expressly permitted by this Agreement, or disclose Practice’s Confidential Information to any person or entity without the prior written consent of Practice. YNHHSC and Hospital shall protect Practice’s Confidential Information from unauthorized use, access, or disclosure in the same manner as YNHHSC or Hospital, as applicable, protects its own confidential or proprietary information of a similar nature and with no less than reasonable care.

(c) YNHHSC and Hospital shall return to Practice all of Practice’s Confidential Information and all copies thereof in YNHHSC’s or Hospital’s possession or control promptly upon the written request of Practice, or the termination or expiration of this Agreement. Except in the performance of its obligations under this Agreement, YNHHSC and Hospital shall not
duplicate or reproduce any of Practice’s Confidential Information without the prior written consent of Practice.

(d) This Section 21 shall survive the expiration or termination of this Agreement.

22. **Access to Financial & Clinical Data.** Except as necessary to maintain and support the EMR Software, without Practice’s express consent, neither YNHHSC nor Hospital shall access any of Practice’s proprietary financial information that may be present within the EMR System database by virtue of Practice’s implementation of the EMR System. YNHHSC and Hospital shall implement reasonable protections within the EMR System to prevent such access. Practice understands and agrees that its use of the EMR System provides all YHHSC affiliates, and all community physicians who have entered into an agreement substantially similar to this Agreement, with access to clinical patient information in an integrated electronic medical record pursuant to Health System Rules, and that nothing in this Agreement is to be construed to restrict YNHHSC or Hospital from accessing or utilizing patient health information that will be available to users of the EMR System pursuant to Health System Rules.

23. **Compelled Disclosures.** Notwithstanding anything else in this Agreement to the contrary, to the extent required by applicable law or by lawful order or requirement of a court or governmental authority having competent jurisdiction over a Party, a Party (the “Disclosing Party”) may disclose the Confidential Information of another Party (the “Non-Disclosing Party”) in accordance with such applicable law, order or requirement; provided, however, that, the Disclosing Party shall: (a) as soon as possible after becoming aware of the requirement to disclose such Confidential Information and prior to disclosing such Confidential Information, notify the Non-Disclosing Party of the proposed disclosure; (b) use reasonable efforts not to release such Confidential Information pending the outcome of any measures taken by the Non-Disclosing Party to contest, otherwise oppose, or seek to limit such disclosure by the Disclosing Party and any subsequent disclosure or use of the Confidential Information that may result from such disclosure; and (c) cooperate with the Non-Disclosing Party regarding such measures. Notwithstanding any compelled disclosure by a Disclosing Party pursuant to this Section 23, such compelled disclosure shall not otherwise affect such Disclosing Party’s obligations under this Agreement with respect to Confidential Information so disclosed.

24. **Referrals.** Practice and each Authorized User may refer patients to any hospital or other health care facility or provider deemed by Practice or such Authorized User qualified to deliver medical services to any particular patient. Nothing in this Agreement is intended to require or induce Practice or any Authorized User to refer patients to YNHHSC, Hospital or any Affiliate.

25. **Entire Agreement; Amendment.** This Agreement constitutes the entire understanding relating to the subject matter hereof between the Parties. This Agreement may not be amended except in a writing duly executed by the Parties.

26. **Compliance with Law.** YNHHSC, Hospital, and Practice shall continuously comply, and Practice shall ensure that all Authorized Users continuously comply with: (a) the EHR Exceptions; (b) HIPAA, the Health Information Technology for Economic and Clinical Health Act (Title XIII of Division A and Title IV of Division B of the American Recovery and
Reinvestment Act of 2009) and the regulations promulgated therefor, and any Connecticut privacy and security laws and regulations applicable to YNHHSC, Hospital, Practice, or any Authorized User, in each case, as modified or amended from time to time; (c) the Health System Rules; and (d) any other laws applicable to the provision or use of the EMR System.

27. **Independent Contractors.** The Parties are and shall at all times be independent contractors with respect to the performance of their respective obligations under this Agreement. Nothing in this Agreement shall be construed to create an employer/employee, lease or joint venture relationship between or among any of the Parties or between YNHHSC or Hospital and any Authorized User.

28. **Limitation on Actions.** Except for actions related to the collection of payment, or actions related to indemnification under Section 17 of this Agreement, any cause of action with respect to this Agreement must be commenced within two (2) years after the occurrence of the event or circumstance giving rise to such cause of action or such cause of action shall be barred.

29. **Waiver of Breach.** The waiver by any Party of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach or violation of this Agreement.

30. **Governing Law.** This Agreement shall be governed in all respects by the laws of the State of Connecticut, without regard to its conflict of laws principles that might make the law of some other jurisdiction applicable.

31. **Severability.** In the event that any provision of this Agreement is found to be invalid, void or unenforceable, the validity or enforceability of any other provision shall not be affected.

32. **Assignment; Successors and Assigns.** This Agreement may not be assigned by Practice without the prior written consent of YNHHSC and Hospital. The provisions of this Agreement and obligations arising hereunder will extend to, be binding upon and inure to the benefit of the Parties and their respective assigns and successors in interest.

33. **Notices.** Any notice or other communication required by this Agreement to be in writing shall be deemed given when delivered either personally or by registered or certified mail, return receipt requested, or delivered by a reputable courier or delivery service, such as Federal Express, which can provide confirmation of delivery to the address most recently used by the receiving Party in its ordinary course business dealings with the sending Party in accordance with this Agreement (e.g., the address where invoices are sent, and checks submitted).

34. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

35. **Cooperation.** Each Party will cooperate with the other in every commercially reasonable respect to permit each Party to perform its obligations under this Agreement.
36. **Dispute Resolution.** The Parties agree to informally meet and attempt in good faith to resolve any disputes or controversy arising out of or relating to this Agreement within thirty (30) days of written notice to the breaching Party. After such meeting(s), should the Parties fail to resolve their differences, the Parties agree to resolve such dispute through binding arbitration, except where the law specifically forbids the use of arbitration as a final and binding remedy. The arbitration will be conducted exclusively under the rules of the Judicial Arbitration and Mediation Services (“JAMS”). The arbitration will take place in New Haven County, Connecticut. All decisions will be based on a preponderance of the evidence, and the Evidence Code of Connecticut will govern in the proceedings. This provision will not prohibit any Party from seeking injunctive relief pending the outcome of the arbitration or an order confirming or vacating the award in a court of competent jurisdiction. Each Party will bear its own attorney’s fees and costs, regardless of who prevails in the arbitration. This provision shall survive the termination of this Agreement.

37. **Force Majeure.** No Party shall be responsible for delays resulting from acts not contemplated by the provisions hereof that are beyond the reasonable control of such Party, including acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, power failures, earthquakes, and other disasters or other events of the same kind; provided, however, that any such acts shall in no event suspend, excuse or otherwise limit Practice’s obligation to make timely Practice Payments in accordance with this Agreement or Hospital’s obligation to make timely Hospital Payments in accordance with this Agreement.

38. **Master List.** The Parties acknowledge that this Agreement, together with any other contracts between YNHHSC and either Hospital or Practice will be included on the master list of physician contracts maintained by YNHHSC, and that this Agreement, together with any other contracts between Hospital and either YNHHSC or Practice will be included on the master list of physician contracts maintained by Hospital.

39. **Disclosure of Interests.** In order to enable YNHHSC and/or Hospital to respond in a timely manner to any information disclosure request pursuant to 42 C.F.R. § 411.361, Practice shall, promptly upon request by YNHHSC or Hospital (but in no event later than five (5) business days after such request), provide to YNHHSC or Hospital, as applicable, the name and NPIN of each physician-shareholder or physician-partner of Practice, as applicable, and each physician (or any immediate family member of any physician) receiving compensation from Practice, along with such other information as may be necessary or appropriate to enable YNHHSC or Hospital, as applicable, to respond in a timely manner to any such disclosure request. This Section shall not impose on or transfer to YNHHSC or Hospital any disclosure or reporting requirements or obligations of Practice or any Authorized User under any governmental program. Practice and each Authorized User shall have the sole responsibility to fulfill any such federal and/or state reporting requirements or obligations.

40. **Physician Compensation Arrangements.** Practice represents and warrants that the compensation paid or to be paid by Practice to any physician (or any immediate family member of any physician) is and will at all times be fair market value for services and items actually provided by any such physician (or immediate family member of such physician), not taking into account the value or volume of referrals or other business generated by such physician for
YNHHSC, Hospital or any Affiliate, and that Practice has and will at all times maintain a written agreement with each non-employed physician (and each non-employed immediate family member of any physician) receiving compensation from Practice.

[Signature Page Follows]
IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

YALE-NEW HAVEN HEALTH SERVICES CORPORATION

By: ______________________________

(print name): _________________________

Title: ________________________________

Date: ________________________________

HOSPITAL

By: ________________________________

(print name): _________________________

Title: ________________________________

Date: ________________________________

PRACTICE

By: ________________________________

(print name): _________________________

Title: ________________________________

Date: ________________________________
A. Practice Location(s)

[ENTER LIST OF PRACTICE LOCATIONS AND ADDRESSES]

B. EMR System Components

<table>
<thead>
<tr>
<th>Standard Applications:</th>
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<tbody>
<tr>
<td>EpicCare Ambulatory EMR</td>
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<tr>
<td>Cadence Scheduling</td>
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<tr>
<td>Prelude Registration</td>
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<tr>
<td>Resolute Professional Billing</td>
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<tr>
<td>e-Prescriptions via SureScripts</td>
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<tr>
<td>Medical lab interfaces with Quest and LabCorp</td>
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<td>CCI/LCD Edits</td>
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<td>Electronic Eligibility Checking</td>
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<td>Electronic claims clearinghouse</td>
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<tr>
<td>Standard reporting</td>
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<tr>
<td>MyChart Patient Portal</td>
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C. Support Services

1. Definitions. As used to describe the Support Services, the following terms have the meanings ascribed below:

   “Priority 1 Error” means a problem or series of problems that leaves the EMR Software or material program functionality unusable or severely impacts normal processing, access to a patient’s medical record, or documentation of a patient encounter.

   “Priority 2 Error” means a problem or series of problems that causes serious disruption of a major business function and which cannot be temporarily solved by a workaround.

   “Reasonable Efforts” means, with respect to a Priority 1 Error, that YNHHSC will respond to Practice within four (4) hours of receiving a call, and with respect to a Priority 2 Error, that YNHHSC will respond to Practice within twenty-four (24) hours if the call is received during normal business hours, and by the end of the next business day if the call is received during weekends and holidays.

   “Update” means a release or version of the EMR Software containing functional enhancements, extensions, error corrections or fixes if such release or version is generally made available free of charge under the Epic Agreement.

2. Technical Support. YNHHSC shall provide Practice with telephone and email access to YNHHSC’s support staff twenty-four hours per day, seven days per week (24/7) to answer
questions and assist in resolving problems regarding the use of the EMR Software. YNHHSC shall provide technical support on-site at a Practice Location as determined necessary by Practice and YNHHSC.

3. **Training.** YNHHSC shall provide training to Authorized Users regarding the use of the EMR Software at mutually agreed upon times and dates in accordance with a written training plan.

4. **Error Correction.** YNHHSC shall use Reasonable Efforts to correct or provide a workaround for a reproducible error that causes the EMR Software to (i) fail to operate, (ii) generate error messages or (iii) generate errors in automatic data creation or calculations, provided that such error is reported to YNHHSC by Practice in a manner that describes such error in detail and includes the conditions under which the error occurs (“Error”). YNHHSC shall have no obligation to provide corrections or workarounds if the Error is caused in whole or in part by persons other than YNHHSC including, without limitation, Epic, Practice’s network service provider or Practice’s use of the EMR Software in association with operating environments, software, and platforms other than those specified in the Agreement.

5. **Errors Attributable to Practice Equipment.** After using Reasonable Efforts, if YNHHSC determines that an Error is attributable to a failure with the Practice Equipment or Practice’s network infrastructure, Practice will be responsible for the replacement or repair of such Practice Equipment or network infrastructure. If YNHHSC arranged for or facilitated Practice’s purchase of the failed Practice Equipment, YNHHSC shall assist Practice in obtaining replacements or repairs pursuant to any applicable warranty provided by the third-party vendor of such Practice Equipment. Under no circumstances will YNHHSC be responsible for replacing any Practice Equipment.

6. **EMR Software Updates.** YNHHSC shall make available to Practice certain Updates to the EMR Software as may be made generally available to by Epic and implemented by YNHHSC and Hospital during the term of this Agreement.

7. **EMR Software Personalization and Customization.** YNHHSC may provide certain personalization of the EMR Software to Practice, including, for purposes of example only, the addition of certain data elements to existing reports. YNHHSC may also provide certain customizations of the EMR Software to Practice that it makes generally available to all medical practices utilizing the EMR System. Requests for extensive personalization or practice-specific customizations by Practice will be considered requests Additional Services under Section 2.3 of this Agreement.

8. **Third Party Per-Transaction Fees.** Any “per-transaction” or other operational fees charged by third-party vendors, including, without limitation, real-time eligibility services and clearinghouses, are not included in the Software/Support Payments and are the financial responsibility of Practice.
Exhibit 1.3(a)

Authorized Users

[ENTER LIST OF AUTHORIZED USERS]
Exhibit 1.3(b)

Form of Authorized User Acknowledgment Form &

Agreement to be Bound

In order to induce Yale-New Haven Health Services Corporation, a tax-exempt Connecticut nonstock corporation, and [HOSPITAL], a tax-exempt Connecticut nonstock corporation, to enter into the Electronic Medical Record System Access Agreement with [PRACTICE] ("Practice") effective as of [AGREEMENT EFFECTIVE DATE] (the “Agreement”), as well as for other valuable consideration, the receipt of which is hereby acknowledged, I agree to be personally bound by the terms and conditions set forth in the Agreement (but only as such Agreement applies to the undersigned as an Authorized User and only with respect to the undersigned’s own conduct).

Dated as of [INSERT DATE].

Signature: __________________________

Print Name: __________________________
Exhibit 1.5

Practice Equipment Requirements

Minimum Hardware Requirements

- Processor: Intel Core 2 Duo or Quad E8400
- Memory: 4 GB RAM
- Video Device: 20” Widescreen aspect ratio monitor (1680x1050 resolution)
- Disk: 7200 RPM hard drive w/ at least 20 GB of free space available
- Network: 100 Mbps Network Interface Card
- Operating System: Microsoft Windows 7 Professional x64

Supported Printers/Scanners

- LaserJet printers (PCL 5 Universal Driver Compatible with Citrix)
- Eltron Zebra (label printer)
- Scanners: USB TWAIN compatible

Network Requirements

All bandwidth requirements are measured by the number of concurrent Citrix sessions (users accessing Epic at the same time). Internet service providers must meet minimal bandwidth requirements in order for the EMR to function correctly (at least 100 kbs allocated per session). The EMR is the only application calculated to run on the minimum bandwidth requirements.

<table>
<thead>
<tr>
<th>Number of concurrent Citrix sessions</th>
<th>Type of service</th>
<th>Minimum Bandwidth</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - 5</td>
<td>Business grade Cable or Elite business grade DSL service</td>
<td>3 Megs download 512 kbs upload</td>
</tr>
<tr>
<td>6 - 10</td>
<td>High speed business cable or Managed Service (T1, Metro Ethernet or OPT-E-Man)</td>
<td>4 Megs</td>
</tr>
<tr>
<td>11- 20</td>
<td>Managed Service (Metro Ethernet or OPT-E-Man)</td>
<td>8 Megs</td>
</tr>
<tr>
<td>21 - 50</td>
<td>Managed Service (Metro Ethernet or OPT-E-Man)</td>
<td>20 Megs</td>
</tr>
<tr>
<td>51 - 100</td>
<td>Managed Service (Metro Ethernet or OPT-E-Man)</td>
<td>50+ Megs</td>
</tr>
</tbody>
</table>

- Secondary Circuit (*recommended*) - Business Class DSL or Business Class Cable Modem
- Must be managed switch (not a hub)
- Wireless: 54 b/g/a - must support A band and WPA security
- UPS: 20 - 30 minutes

Telecom closet with Cat5e wiring for network drops. No split pairs, one wire per device. Drops must be installed in wall with standard wall plates.

**Required Anti-Virus Software**

- Symantec End Point (Antivirus/ Malware Protection)

**Required Third Party Components**

- Guardian Edge Hard disk encryption
- SCCM Cal
- Remote desktop Cal
- VMware Player (specified by YNHHS)
- Virtualization software (specified by YNHHS)
Exhibit 2

Practice Payments

See Attached.
THIS BUSINESS ASSOCIATE AGREEMENT (this “Agreement”) is made as of the date set forth below (the “Effective Date”), by and between the entity described below as the Provider (“Provider”) and the entity described below as the Business Associate (“Business Associate”), each individually a “Party” and together the “Parties.”

A. **Purpose.** The purpose of this Agreement is to comply with the Business Associate requirements of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and implementing regulations, 45 C.F.R. parts 142 and 160-164, as may be amended, including the Privacy Rule and the Security Rule (together, the “Rules”). Unless otherwise defined in this Agreement, capitalized terms have the meanings given in the above-referenced HIPAA statute and regulations.

B. **Relationship.** Provider and Business Associate have entered into a relationship under which Business Associate may receive, use, obtain, access or create Protected Health Information (“PHI”) from or on behalf of Provider in the course of providing services (the “Services”) for Provider. As provided in the Rules, PHI shall include, when applicable, Electronic Protected Health Information (“EPHI”). Business Associate acknowledges that effective February 17, 2010 or such later date specified by the federal Department of Health and Human Services (HHS), Business Associate has direct compliance obligations under the Rules, and is bound to comply with all requirements of the Rules made applicable to business associates pursuant to the Health Information Technology for Economic and Clinical Health Act (HITECH Act), Pub. L. No. 111-5, Title XIII.

Accordingly, in consideration of the receipt of good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Permitted Uses and Disclosures.** Business Associate may use and/or disclose PHI only as permitted or required by this Agreement or as otherwise Required by Law. Business Associate may disclose PHI to, and permit the use of PHI by, its employees, contractors, agents, or other representatives only to the extent directly related to and necessary for the performance of the Services. Disclosure of PHI to and use of PHI by subcontractors, agents and other representatives is also subject to Section 4 below. When requesting PHI from Provider Business Associate will request no more than the Limited Data Set, unless such limitation is not practicable for the purposes of providing the Services, in which case Business Associate will request only the minimum PHI necessary to perform the Services. Business Associate will not use or disclose PHI in a manner (i) inconsistent with Provider’s obligations or Business Associate’s obligations under the Rules, or (ii) that would violate the Rules if disclosed or used in such a manner by Provider.

2. **Safeguards for the Protection of PHI.** Business Associate will implement and maintain commercially appropriate security safeguards to ensure that PHI obtained by or on behalf of Provider is not used or disclosed by Business Associate in violation of this Agreement.
Such safeguards shall be designed to protect the confidentiality and integrity of such PHI obtained, accessed or created from or on behalf of Provider. Security measures maintained by Business Associate shall include administrative, physical, and technical security safeguards as necessary to protect such PHI, including such safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all EPHI that it creates, receives, maintains, or transmits on behalf of Provider, all in accordance with the Rules. Upon request by Provider, Business Associate shall provide a written description of such safeguards.

3. Reporting and Mitigating the Effect of Unauthorized Uses and Disclosures.

3.1 If Business Associate has knowledge of any use or disclosure of PHI not provided for by this Agreement or of any security incident, then Business Associate will immediately notify Provider in accordance with Paragraph 10.5 unless notification in accordance with Paragraph 3.2 below is required. Business Associate will establish and implement procedures and other reasonable mitigation efforts for mitigating, to the greatest extent possible, any harmful effects arising from any improper use and/or disclosure of PHI.

3.2 Business Associate will comply with Section 13402 of the HITECH Act and implementing regulations, 45 CFR Part 164, Subpart D, as may be amended (collectively, the “Breach Notification Rules”), as of the date by which business associates are required to comply with the Breach Notification Rules. Business Associate shall report to Provider any breach of unsecured PHI, as defined in guidance issued by HHS, within five (5) days of completing its risk assessment and concluding that a breach has occurred, and shall provide all information regarding such breaches and the risk assessment conducted by Business Associate as is reasonably requested by Provider, in order to meet Provider’s obligations under the Breach Notification Rules; provided, however, that if Business Associate is also an agent of Provider then Business Associate shall report to Provider any incident that may give rise to a reportable breach within five (5) days of discovery of such incident. Business Associate will reimburse Provider for all reasonable expenses Provider incurs in notifying Individuals of a breach caused by Business Associate or its subcontractors or agents.

4. Subcontractors, Agents, and Representatives – Use and Disclosure of PHI. Business Associate will require any subcontractor, agent, or other representative that is authorized to receive, use, or have access to PHI obtained from or created by Business Associate on behalf of the Provider, to agree, in writing, to adhere to the same restrictions, conditions and requirements regarding the use and/or disclosure of PHI and safeguarding of PHI that apply to Business Associate under this Agreement.

5. Individual Rights. Under the Privacy Rule, the Individual whose PHI is used or maintained has specific rights regarding the PHI. Accordingly, Business Associate will comply with the following Individual rights requirements as applicable to PHI used or maintained by Business Associate:

5.1 Right of Access. Business Associate agrees to provide access to PHI, at the request of Provider and in the time and manner designated by Provider, to Provider or, as directed, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524.
5.2 Right of Amendment. Business Associate agrees to make any amendment(s) to PHI that Provider directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Provider or an Individual, and in the time and manner designated by Provider.

5.3 Right to Accounting of Disclosures. Business Associate agrees to document such disclosures of PHI as would be required for Provider to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528 and to forward a copy of such documentation of each such disclosure to Provider no later than ten (10) business days following Provider’s request for such documentation. Business Associate agrees to provide to Provider or an Individual, in the time and manner designated by Provider, such further information as may be requested by Provider in order to permit Provider to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. To the extent Business Associate makes any disclosures on behalf of Provider through an electronic health record as defined in Section 13400 of the HITECH Act, Business Associate agrees to document all such disclosures of PHI as required under the HITECH Act and any implementing regulations, and to provide an accounting of disclosures directly to an Individual upon request by such Individual. Business Associate’s obligation to document disclosures made through an electronic health record and provide an accounting of such disclosures directly to Individuals upon request shall be effective as of the date by which business associates are required to comply with Section 13405(c) of the HITECH Act or such later date specified by the Secretary of HHS.

6. Use and Disclosure for Business Associate’s Purposes.

6.1 Use. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

6.2 Disclosure. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided the disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will remain confidential and be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached.

7. Audit, Inspection and Enforcement by Provider. With reasonable notice, Provider may audit Business Associate to monitor compliance with this Agreement. Business Associate will promptly correct any violation of this Agreement found by Provider and will certify in writing that the correction has been made. Provider’s failure to detect any unsatisfactory practice does not constitute acceptance of the practice or a waiver of Provider’s enforcement rights under this Agreement. Business Associate will make its internal practices, books, records, and policies and procedures relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Provider, available to the federal Department of Health and Human Services (“HHS”), the Office for Civil Rights (“OCR”), or their agents or to Provider for purposes of monitoring compliance with HIPAA.
8. **Term and Termination.**

8.1 **Term and Termination.** This Agreement will become effective on the Effective Date. Unless terminated sooner pursuant to this Section 8, this Agreement shall remain in effect for the duration of all Services provided by Business Associate and for so long as Business Associate shall remain in possession of any PHI received from, or created or received by Business Associate on behalf of Provider, unless Provider has agreed in accordance with Paragraph 8.2 that it is infeasible to return or destroy all PHI. Provider may immediately terminate this Agreement if Provider determines that Business Associate has breached a material term of this Agreement. Provider may also report the material breach to the Secretary of HHS or OCR.

8.2 **Effect of Termination.** Upon termination of this Agreement, Business Associate will recover any PHI relating to the Agreement in the possession of its subcontractors, agents, or representatives. Business Associate will return to Provider or destroy all such PHI plus all other PHI relating to the Agreement in its possession, and will retain no copies. If Business Associate believes that it is not feasible to return or destroy the PHI as described above, Business Associate shall notify Provider in writing. The notification shall include: (i) a statement that Business Associate has determined that it is infeasible to return or destroy the PHI in its possession, and (ii) the specific reasons for such determination. If Provider agrees in its sole discretion that Business Associate cannot feasibly return or destroy the PHI, Business Associate will ensure that any and all protections, requirements and restrictions contained in this Agreement will be extended to any PHI retained after the termination of the Agreement, and that any further uses and/or disclosures will be limited to the purposes that make the return or destruction of the PHI infeasible.

9. **Indemnification.** Except to the extent (i) payable from the proceeds of insurances carried by Provider, or (ii) that this provision would have the effect of reducing or eliminating any insurance coverage that otherwise would be available to pay damages suffered by Provider, Business Associate agrees to hold harmless and indemnify Provider, and its officers, directors, employees and agents, from and against any loss, suit, claim, action, damage, obligation, demand, liability, penalty, fine, judgment, verdict, settlement, cost or expense (including without limitation reasonable attorneys’ and other consultants’ fees and court costs) arising out of or relating to any breach of this Agreement by Business Associate, any violation of the Rules by Business Associate or otherwise related to the acts or omissions of Business Associate or its subcontractors or agents.

10. **Miscellaneous.**

10.1 **Survival.** The respective rights and obligations of the Parties under Sections 7 (Audit and Inspection Rights), 8.2 (Effect of Termination), and 10 (Miscellaneous) will survive termination of the Agreement indefinitely.

10.2 **Amendments; Waiver.** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. It may not be modified, nor will any provision be waived or amended, except in a writing duly signed by authorized representatives of the Parties or as specified in Paragraph 10.3 below. A waiver with respect to one event will not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.
10.3. **Compliance with Privacy and Security Rules.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Provider to comply with HIPAA and the Rules. To the extent HIPAA and the Rules are revised, this Agreement shall be deemed automatically amended to the extent necessary to comply with such revisions, upon notice to Business Associate from the Provider.

10.4 **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors and permitted assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.

10.5 **Notices.** Any notice to be given under this Agreement to a Party shall be made via U.S. Mail, commercial courier or hand delivery to such Party at its address given below, and/or via facsimile to the facsimile telephone number listed below, or to such other address or facsimile number as shall hereafter be specified by notice from the Party. Any such notice shall be deemed given when so delivered to or received at the proper address, set forth below the signature of each Party.

10.6 **Independent Contractors.** Except if otherwise agreed to in writing in a separate agreement between Business Associate and Provider for services that give rise to this Agreement, the relationship between Business Associate and Provider is an independent contractor relationship. None of the provisions of this Agreement shall be construed to create an agency, partnership, employer/employee, master/servant or joint venture relationship between the parties.

Signature page follows.
IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be executed in its name and on its behalf as of the first date upon which Services were or are provided by Business Associate on behalf of Provider (the “Effective Date”).

PROVIDER

________________________________________
By:____________________________________
Print Name:______________________________
Title:____________________________
Date:____________________________

Address for Notice:
Yale New Haven Health System
Office of Privacy & Corporate Compliance
2 Howe Street, 2nd Floor
New Haven, CT 06510
Attn: Privacy Officer

BUSINESS ASSOCIATE

________________________________________
By:____________________________________
Print Name:______________________________
Title:____________________________
Date:____________________________

Address for Notice:
[INSERT PRACTICE NAME]
[INSERT ADDRESS]
[INSERT CITY, STATE, ZIP]
Attn: [INSERT CONTACT]