

CENTURA IT APPLICATIONS SUBSCRIBER AGREEMENT - PROVIDER

To enhance our collaborative effort to provide high quality and efficient health care to the communities we serve, the following will help to identify expectations concerning the use of electronic patient care applications and technologies. This Agreement is designed to be comprehensive to avoid the need to sign multiple agreements and to address security, privacy and confidentiality issues. It covers all currently installed Centura clinical and business applications. It also covers wired and wireless networks, hardware such as computers and printers.

Introduction

To promote improved healthcare to the community, Centura Health Corporation (“Centura”) in collaboration with other healthcare community members, has established an internet Portal through which authorized physicians and clinicians may access clinical, operational and financial applications, content and links. These applications include, but are not limited to Portal, PowerChart, the Clinical Information System, RIS/PACS and any like or similar electronic applications, hardware or systems (“Applications”). The terms of participation in the use of these Applications are set forth in this Subscriber Agreement (“Agreement”).

1. LICENSE GRANT

Centura grants you a non-exclusive, non-assignable license to use these Applications, and to use future updates, modifications, enhancements, and new products developed, owned or licensed by Centura or other third parties that are generally available in support of the these Applications. The terms of this Agreement apply only to all the Applications. At this time you will not be charged a fee for use of these. In the future and after written notice to you, Centura may charge a fee for use of any portion or all of the current Applications, or any future updates, modifications, enhancements, and new products. The Applications are licensed by third parties to Centura, and the terms and conditions of the specific licenses granted to Centura control the Agreement and use of the Applications. Centura cannot provide any greater scope of license than that provided by the third party licensor, and the terms and conditions of the underlying third party license control and supercede the Agreement at all times. By signing below and using the Applications, you agree to use the Applications only for their intended purposes and in a manner that will guard against misuse of confidential patient information. For example, you should not risk the confidentiality of patient information by allowing others to use your electronic devices containing clinical information or risk placing the clinical information contained in the Applications in an incorrect patient chart or record.

2. USER SUPPORT OF THE APPLICATIONS

Centura and its hospitals will support the use of the Applications. This support includes continuous 24 hour telephone helpdesk to assist in problems related to access and use. Support of the computer workstation, connectivity to the Internet, printers, Internet browser applications and other applications on the user’s computer or device are not supported by Centura.

3. PROPERTY RIGHTS

The Applications and all other related documentation are proprietary products of Centura and its licensors, subject to copyright, trademark, and other intellectual property laws. Centura grants no transfer of ownership or license in the proprietary products of Centura and its licensors other than that specifically set forth in this Agreement. Notwithstanding the license grant, Centura and its licensors retain all of their ownership and license rights in licensors. Nothing in this Agreement grants you any rights, license or interest with respect to the source code of these applications. You shall not copy, duplicate, reverse engineer, reverse compile, disassemble, record, or otherwise reproduce any part of these Applications, nor attempt to do any of the foregoing. You shall not use these Applications for any purpose except for use and operation for ordinary business purposes within the terms of this Agreement. All records of the transmission of any data as the result of your use of these Applications are the property of Centura and shall remain the property of Centura, even if this Agreement is terminated by either party. Databases accessed through these Applications are the

property of the applicable content owner and applicable laws protects ownership and related rights in the databases. The license granted under this Agreement give you no right to such content and requires that you use the Applications only as intended and within the scope of such grant.

4. COPIES

You shall not make copies of these Applications. Upon termination of this Agreement, you will cease use of these Applications, and delete the data from your file structures. You will not make copies of any user guides and instructional materials and other related documentation except as necessary for use of these Applications within the terms of this Agreement. All copies of user guides or instructional materials and other related documentation are strictly proprietary and confidential and shall not be copied, reproduced or distributed to any non-Centura facility or employee and shall be returned to Centura upon termination of this Agreement.

5. NETWORK SOFTWARE COPYRIGHT NOTICES

You agree not to remove, alter, reproduce, or destroy any proprietary, trademark or copyright markings or notices placed upon or contained within these Applications and any user guides or instructional materials, and other related documentation.

6. TRADEMARKS

You shall acquire no rights of any kind in or to any trademark, trade name, logo or product designation used in connection with these Applications. You shall cease to use the markings, or any similar marking, in any manner on the expiration or other termination of this Agreement.

7. NO WARRANTY

These Applications are licensed to you “AS IS” and without any warranties expressed, implied or statutory. Centura and its licensors do not warrant the accuracy, completeness, noninfringement, title, merchantability or fitness for a particular purpose of these Applications or their use. You recognize and acknowledge that these applications are used as tools to facilitate clinical care and are not intended to be relied upon as a substitute for professional, clinical judgment.

8. LIMITATION OF LIABILITY

Centura and its licensors acknowledge that this Agreement provides you the ability to access information, whether clinical or other, and that Centura and its licensors will not be liable to you or to other third parties for indirect, direct, incidental, consequential, special, punitive, or exemplary damages of any kind as a result of incorrect clinical decision or adverse patient outcome and any breach of any term of this Agreement (including misuse of any application or careless use of electronic devices such as loss of such devices) or with respect to any and all claims arising from or related to the subject matter of this Agreement whether in contract, tort, or otherwise, and Centura’s and its licensors’ aggregate liability arising out of or related to this agreement shall not exceed the total amounts payable by you hereunder, subject to applicable state law. Centura has no responsibility for the content, accuracy, or interpretation of any communication facilitated by use of these Applications or information databases available through these Applications. Centura has no responsibility for any action taken by you, including but not limited to any health care administered by you in reliance of any communication facilitated by use of these Applications or information databases available through these applications. Centura has no responsibility for unauthorized access to or use of these Applications from your electronic devices. Centura has no responsibility for unauthorized disclosure or patient information by anyone accessing or using your computer(s) or facsimile machine(s). Centura has no responsibility for compiling storing, or maintaining patient files of any kind. Centura has no responsibility for obtaining proper patient consents, releases and/or authorizations for you to use these Applications to facilitate electronic communication of confidential patient information.

9. APPLICATIONS ACCESS AND UTILIZATION

You are responsible for providing access to the Internet 24 hours per day, seven days per week. Centura shall have no liability for the performance of such connection to access to these Applications. You agree to follow the instructions and standards for use of these Applications set forth in the learning sessions and documentation and other related documentation.

10. LENGTH OF AGREEMENT

This is a month-to month Agreement. Either party may terminate this Agreement for any reason at the end of any month by notifying the other party in writing by U.S. Mail, courier, or facsimile, or electronic mail. Centura has the right to terminate your access to these Applications immediately if you or anyone using your computer(s), Internet connection or facsimile machine(s) breaches or otherwise fails to honor any obligation hereunder, or if an entity's sponsorship of you terminates.

11. AUTHORIZED COMMUNICATION

You authorize communication of patient identifiable information through use of these Applications from and with any and all individuals and entities that are authorized to use these Applications, and further authorize inclusion of your name or entity in such individuals' and entities' subdirectories. **You acknowledge that these Applications are intended for communication between the sponsoring hospital or facility and its subscribers; that any unintended or unauthorized use by you to communicate confidential patient information may compromise the security of the patient information; and that you will be responsible and liable for any such unauthorized disclosure.**

12. APPLIED TO ALL USERS

The terms of this Agreement apply to each person or entity who accesses these applications on your computer(s) or facsimile machine(s). You shall have responsibility to ensure compliance with the terms of this Agreement by each such user.

13. USER AUTHENTICATION

As a user of these Applications, you will enter the Applications by identifying yourself. Currently, you will have a personal user identification name and password to enter these Applications. Your personal user identification and password may not be shared with any other user. You shall take all reasonable steps necessary to safeguard all assigned passwords including, but not limited to, establishing and enforcing reasonable procedures to ensure that all persons who are assigned passwords maintain their confidentiality and otherwise limit the use of these Applications to prevent unauthorized access and use. In the future, you may be asked to authenticate your identification through other means. These may include biometric identification such as fingerprint, recognition and random password generation keyrings.

14. PATIENT INFORMATION

All patient information accessed via these Applications is absolutely confidential and is never to be viewed by or disclosed to anyone other than authorized persons who have a legitimate need to know the information in accordance with applicable law. Patient information is legally and ethically considered privileged information and is protected by law. You agree to indemnify and hold Centura harmless against any claim or penalty arising as a result of your intentional, reckless or willful misuse of protected health care information or your failure to comply with this Agreement.

15. ASSIGNMENT

Centura may assign part of any rights, duties, and obligations under this Agreement to any Centura affiliate. This Agreement is personal to you, and you may not assign your right or obligations to anyone.

16. MODIFICATION

Centura reserves the right to modify the terms and conditions of the use of these Applications, including, if required by federal law, charges, and to introduce new terms, conditions, and charges. Such modifications and introduction of new terms, conditions, and charges shall become effective only after notice to you. Notice may be by U.S. mail, courier, facsimile, or electronic mail. You agree that your continued use of these Applications after the publication of the notice shall conclusively be deemed to be the acceptance of the modified terms and conditions.

17. NO OBLIGATION TO REFER

The intent and purpose of this Agreement is to promote and facilitate patient care through improved access to timely and comprehensive patient data needed for core delivery of health care. Nothing contained in this Agreement should be construed as an inducement or reward for patient referral. On the contrary, the subscriber under this Agreement has no obligation to refer patients to hospitals of Centura.

18. SEVERABILITY

If any provision of this Agreement is determined to be invalid or unenforceable, such invalidity shall not affect other provision of this Agreement.

19. LIABILITY

You agree that you shall be liable for any and all claims, costs, and expenses, arising from and out of your alleged negligent act(s) or omission(s) and those of your agents or employees, in the performance of your obligations under this Agreement.

Centura shall be liable for any and all claims, costs, and expenses, arising from and out of an alleged negligent act(s) or omission(s) of Centura, its agents or employees, in the performance of its obligations under this Agreement.

20. COMPLIANCE WITH CENTURA HEALTH POLICIES AND PROCEDURES

You agree to use the software in a manner consistent with all applicable provisions of law and other rules and regulations of governmental authorities regarding the licensure, regulation and accreditation of physicians and hospitals and in compliance with all applicable policies, rules and regulations of Centura Health, including but not limited to the "Meditech Clinical Workstations Policy," as they may be amended from time to time.

21. COMPLIANCE WITH FEDERAL AND STATE CONFIDENTIALITY REQUIREMENTS

You acknowledge and agree that all patient records shall be subject to the confidentiality and disclosure provisions of federal and state laws, regulations, and ordinances and agree to maintain the confidentiality of all such records in accordance with such laws. This provision shall survive the termination of this Agreement.

22. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

23. ENTIRE AGREEMENT

This Agreement and its attachments constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements or understandings of the parties relating thereto.

24. COUNTERPARTS

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signature thereto and hereto were upon the same instrument. Signature of this Agreement may be communicated by facsimile transmission. If executed in counterparts, the Agreement shall be effective as if simultaneously executes.

25. MAINTENANCE AND SUPPORT

You understand and acknowledge that support services provided by Centura Health personnel or any IT support personnel may conceivably result in certain programs or functions of your personal computer not functioning properly, and you understand and acknowledge that this result may occur through no fault of the personnel of Centura Health. Knowing and understanding the risk of accepting the support services of personnel of Centura Health, you assume all responsibility and risk for any damage to my personal computer that may result from those services. Furthermore, you agree in advance to release, waive, forever discharge, and covenant not to sue Centura Health, any of its employees, officers, or agents from and against any and all liability for any harm, injury, damage, claims, demands, actions, causes of action, costs, and expenses of any nature that may result from support services you accept for your personal computer.

26. ELECTRONIC SIGNATURE

The undersigned represents and warrants that he/she is the only individual who will use the designated account, personal identification number, and/or password to view patient information, enter orders or clinical information, or otherwise sign documents using an electronic signature.

In signing this subscriber agreement, you acknowledge and represent that you have fully informed yourself of the content of the foregoing waiver of liability by reading it before you sign it, and you understand that you sign this document as your own free act and deed; no oral representations, statements, or inducements, apart from the foregoing written statement, have been made.

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Practice Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Fax Number: _____

Name (Print): _____ Title: _____

CO License #: _____ Last 4 of SS#: _____

Signature: _____ Today's Date: _____

Please return a signed copy of *this page only* to:

Jeanette Elliott \ Trevor Jacques
Mercy Regional Medical Center
970-764-1370 (office) 970-764-3650 (fax) MRMCAccess@centura.org (email)