



VIDI STAR SOFTWARE AS A SERVICE AGREEMENT

This Software Agreement (this “Agreement”) is made effective as of the date of the last signature (the “Effective Date”) between Hitachi Healthcare Americas Corporation (“Provider”) and University of North Texas Health Science Center (“Client”) located at 3500 Camp Bowie, Blvd., Fort Worth, TX 76107.

RECITALS

- A. Provider provides a software solution for the retrieval, viewing and storage of digital diagnostic imaging data and communication systems for the healthcare industry and an associated reporting system through one or more software solution products (the “Solution”).
- B. The Client, through a separate, online process, has or will agree to the terms of the End User License Agreement (the “EULA”) that is presented to such user in connection with accessing the Solution.
- C. To facilitate the use of the Solution by Client, Client desires to retain Provider to provide certain services related to training and support of Client’s use of the Solution (the “Provider Services”), which Provider desires to provide.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises in this Agreement, the parties agree as follows:

1. **Acknowledgement of License.** Client acknowledges and agrees that Client, through one or more users of the Solution, has or will agree to the terms of the EULA that is presented to such user in connection with accessing the Solution, and that the EULA and the terms and conditions therein are binding on Client as a party thereto. The EULA is hereby incorporated into and made a part of this Agreement. The fees associated with the license and rights granted in the EULA are provided for in this Agreement. In the event of any conflict between the terms of this Agreement and the EULA, the terms of this Agreement shall control.
2. **Purchase of Services.** Under the terms and conditions of this Agreement, Client desires to retain Provider to perform the following services (the “Provider Services”):
 - a. **Training.** Provider shall provide training as set forth on the Quote attached hereto as Exhibit B (the “Quote”) during non-holiday weekdays, generally Monday through Friday, at a time mutually agreed to by the parties, subject to payment of the fees set forth on the Quote.
 - b. **Technical Support.** Provider shall provide online technical support for Client’s use of the Solution from 7:00 am to 8:00 pm, Eastern Standard Time, seven days a week, except for holidays as observed by Provider. To receive technical support, Client must comply with and observe all instructions given by Provider from time to time to access and receive such technical support.



3. **Fees and Payment Terms.**

a. **Fees.** Client shall pay Provider the following (collectively, the “Fees”):

(i) the fees for the license and rights granted in the EULA and for the other services billed on a recurring monthly basis as set forth in Exhibit A (“Monthly Fees”);

(ii) a one-time setup fee of \$ 1805.00 (“Setup Fee”). The Setup Fee includes the fees for the VidiStar PACS and Online Reporting System Software setup, VidiStar DICOM Viewer, and any VidiGateway software and/or hardware necessary to implement the Solution; and

(iii) such other fees as are set forth on the Quote.

b. **Payment Terms.** Client’s payment obligation for the Fees shall commence on the date hereof without regard to whether Client has commenced use of the Provider Services or the Solution, or is otherwise prepared to operate the Solution. The Setup Fee shall be paid simultaneous with the execution of this Agreement, and the Provider shall not begin implementing and configuring the Solution until the Provider receives the Client’s Setup Fee payment. Client will be invoiced for all other non-recurring charges, monthly recurring charges, and other charges that may apply.

All Fees are exclusive of any sales or use taxes and other federal, state, municipal or other governmental taxes or levies applicable to the sale or use of Provider Services or Solution hereunder now in force or enacted in the future, all of which Client will be responsible for and shall pay in full. Client will be fully responsible for any charges, costs, expenses, and third party claims that may result from its use of, or access to, the Solution, Provider Services, and other related products and services, unless otherwise set forth in the Quote. Fees will increase no more than 3% annually.

A late payment charge of 1.5% per month of the invoiced amount (and any previously accrued and unpaid late payment charges) will be assessed to the Client for any payment not received within thirty (30) days of the invoice date. Client’s access to the Solution will be temporarily suspended if any payment is sixty (60) days or more past due on any outstanding invoices. In order to have access reactivated, the Client’s account must be current on all outstanding invoice payments.

If Client disputes any invoiced amount, Client must provide Provider written notice of the dispute within thirty (30) calendar days after the invoice date. Client waives the right to dispute any invoices not disputed within the time frame set forth herein. All amounts payable by Client under this Agreement shall be made without setoff or counterclaim and without deduction.

c. **Additional Training.** If Client desires training in excess of that provided on the Quote, Provider will provide Client such training by conducting additional one day classes for up to three Solution users at Client’s site at the then current daily rate charged by Provider for such training class and reimbursement of all reasonable out-of-pocket expenses incurred by Provider



for travel and lodging. As of the Effective Date, the daily rate for a training class is \$1,500, which is subject to change in Provider's discretion.

d. Additional Technical Support. In the event Client contacts Provider for technical support for matters that are not directly related to the Solution, Client shall pay Provider for Provider's time spent on such matter at Provider's then current hourly support rate. As of the Effective Date, the current hourly support rate is \$ 150.00 per hour, which is subject to change at Provider's discretion. Technical support provided by Provider as part of the Provider Services does not include any matter not directly related to the Solution, including, but not limited to the following and for which the Client will be billed in accordance with this Section 2.d. for any work Provider provides on such matters:

- (i) Errors associated with data entry or other matters controlled by or the responsibility of the Client;
- (ii) Hardware configuration issues;
- (iii) Modifications or other re-configuration of Client's network that cause errors with the Solution;
- (iv) Maintenance of or failure to properly maintain Client's network that causes errors with the Solution;
- (v) Problems arising with any hardware, software, or communication services that are not provided by Provider; or
- (vi) Problems arising from any viruses or other malware.

Furthermore, Client understands and agrees that it may not be possible for Provider to identify if the problem is a matter that is covered as part of the technical support obligation under this Agreement until Provider has begun an investigation. Upon Provider determining that a matter is not covered, the Provider will notify Client that such matter is not covered as part of the Provider Services under this Agreement and Client can then elect to discontinue the work and pay for the investigative work performed to that point or Client can elect to have Provider continue the work and pay for all work performed by Provider on such matter, including the investigative work.

e. Software Change Requests.

- (i) Provider will provide three (3) hours of report customization of the Solution's clinical report software if Client provides notice of the request ONLY after having actively used the Solution on a full-time basis during a consecutive thirty (30) day period prior to making the request, but no later than ninety (90) days from the go-live date.
- (ii) Provider will train a designated Client representative to make modifications to the Solution's clinical report software using the template administration function. In the event Provider should be required or requested to make report modifications on behalf of the Client that exceeds the three (3) hours provided in the above sub-section e(i), Client



shall pay Provider for Provider's time spent on such modifications at Provider's then current hourly rate. As of the Effective Date, the current hourly rate for report modifications is \$ 95.00 per hour, which is subject to change at Provider's discretion.

(iii) "Change Request" as used in this Agreement shall mean any deviation from or addition to the standard Solution as offered by Provider at the time of implementation for the Client. Client may make Change Requests by submitting such Change Request to Provider. Prior to commencing work on any Change Request, Provider will provide a scope of work for the submitted Change Request to Client. Upon the mutual agreement of the Provider and Client to the scope of work in writing, Provider will perform the work. Client shall pay Provider for Provider's time spent on performing such Change Request at Provider's then current hourly rate. As of the Effective Date, the current hourly rate for Change Requests is \$ 95.00 per hour, which is subject to change in Provider's discretion.

4. **Required Systems.** Provider is not providing any hardware, software, or communication services as part of the Services. Client is responsible for obtaining all required hardware, software, and connectivity to interface with and communicate to the Solution ("Required Systems") and will obtain all such Required Systems on or before the Effective Date. In the event Provider notifies Client that the cause of any failure of performance of the Solution is the result of a failure of Client to have adequate Required Systems, Client shall promptly remedy such failure. Client is solely responsible for the maintenance of all Required Systems and the associated network on which they operate.

5. **Intellectual Property.** Except as noted in this Section 5, all material of any kind resulting from the Provider Services, including but not limited to the additional reports created for the Solution ("Material"), shall be and remain the sole and exclusive property of Provider, and Client shall have no exclusive rights in or to the use of such Material. If for any reason any Material would be or is considered the property of Client, Client does hereby irrevocably sell, assign and transfer to Provider without additional compensation the entire right, title and interest in and to the Material (including any copyright) and any related or derived benefits. Provider expressly acknowledges and agrees that the images captured and the content of the reports are not the property of Provider and are and remain the property of the Client.

6. **Term and Termination.**

a. **Term.** Unless terminated earlier as provided in Section 6.b., this Agreement shall commence on the Effective Date and shall remain in effect for thirty-six (36) months ("Initial Term"). Upon the expiration of the Initial Term and each Renewal Term, the Agreement shall automatically renew for an additional 12-month term (each a "Renewal Term"), unless either party gives the other party written notice of its intent not to renew at least sixty (60) days prior to the expiration of the then current Initial Term or Renewal Term. At least ninety (90) days prior to each renewal, Provider shall provide Client with any modification to the then current Monthly Fees, if any. If Client objects to such modified Monthly Fees, Client shall give notice of its intent not to renew as provided above. If Client does not give such notice, Client will be deemed to have agreed to and accepted such modified fees for the upcoming Renewal Term.



b. Termination. This Agreement may be terminated at any time as follows:

- i. by either party if the other party or its employees or other agents violate any material provision of this Agreement, and the violation is not remedied within ninety (90) days of the party's receipt of written notice of the violation;
- ii. by either party in the event the other party terminates or suspends its business, becomes subject to any bankruptcy or insolvency proceeding under federal or state statute, or becomes subject to direct control by a trustee or similar authority; or
- iii. by Provider in the event Client has failed to pay any monies due Provider and such failure is not remedied within thirty (30) days of the Client's receipt of written notice of such failure.

c. Effect of Termination. The obligations of the parties in this Agreement which by their nature continue after termination of this Agreement shall survive termination. In the event of termination by Client pursuant to Section 6.b., Client shall pay to Provider a termination fee (not a penalty fee) equal to the minimum monthly charge then applicable multiplied by the number of months remaining on the then current Initial Term or Renewal Term. Upon termination, Client shall immediately cease all use of the Solution and Provider may exercise any rights and capabilities it may have to insure cessation, including but not limited to deactivation or termination of Client's account or access thereto, Client's access to or use of the Solution, or Client's access to or use of the Provider's network or servers. The EULA and all rights granted therein shall terminate simultaneously with the termination or expiration of this Agreement.

7. Confidentiality; HIPAA.

a. Confidentiality. Provider shall hold in confidence all information that has been or may be disclosed to Provider, orally or in writing, by Client, its employees, or agents in connection with the Services. Provider will use any such information only for the benefit and at the direction of Client and, unless it has secured the prior express written consent of Client, will not disclose such information to any third party, except those of Provider's employees and agents who have a genuine need to know such information for the performance of Provider's Services for Client. It is understood that Provider's obligations do not apply to (i) information that Provider can demonstrate by competent proof to have been in Provider's possession prior to Client's disclosure of such information to Provider, (ii) information that is generally available to the public other than as a result of disclosure by or at the direction of Provider, or (iii) information that is furnished to Provider by a third party as a matter of right without restriction on disclosure and that was not received directly or indirectly from Client.

b. HIPAA Compliance. Provider shall comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA"), as applicable to Provider in providing the Solution and Provider Services; provided, however, Client shall be responsible for compliance with the requirements of HIPAA in its collection, entry and access granted to the data entered into the Solution and made available to Provider in providing the



Services. The parties shall execute a business associate agreement in the form attached to the Agreement as Exhibit C and incorporated herein (the "Business Associate Agreement").

8. No Warranty; Limitation of Liability.

a. THE PROVIDER SERVICES AND THE SOLUTION ARE PROVIDED 'AS IS' AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SERVICES OR SOLUTION, AND ALL SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, TITLE, AND INFRINGEMENT ARE EXPRESSLY DISCLAIMED BY PROVIDER. USE OF THE SOLUTION AND THE PROVIDER SERVICES IS AT CLIENT'S SOLE RISK. PROVIDER DOES NOT WARRANT THAT THE SOLUTION OR PROVIDER SERVICES, INCLUDING WITHOUT LIMITATION BACKUP SERVICES, WILL BE UNINTERRUPTED, ERROR FREE OR WITHOUT DELAY, NOR DOES PROVIDER MAKE ANY WARRANTY AS TO ANY RESULTS THAT MAY BE OBTAINED BY USE OF THE PROVIDER SERVICES OR SOLUTION.

b. NEITHER PROVIDER, NOR ITS MANAGERS, MEMBERS, EMPLOYEES, AGENTS, REPRESENTATIVES, PARTNERS, SUPPLIERS, NON-USER CONTENT PROVIDERS, LICENSORS, PARENT, OR AFFILIATES ("RELEASED PARTIES") SHALL BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OF ANY TYPE, LOSS OF REVENUE, DATA, CONTENT, ITEMS, HARDWARE, SOFTWARE, OR INFORMATION, OR ANY INJURY, (HOWEVER ARISING, INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY). THIS LIMITATION APPLIES WHETHER OR NOT ONE OR MORE OF THE RELEASED PARTIES WAS ADVISED, SHOULD HAVE KNOWN OR WAS AWARE OF THE POSSIBILITY OF SUCH LOSS, DAMAGE, OR EXPENSE ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM (i) ANY ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (ii) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, (iii) ANY UNAUTHORIZED ACCESS TO OR USE OF THE SOLUTION, THE PROVIDER'S SECURE SERVERS OR APPLICATION PROGRAMMING INTERFACES, AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (iv) USE OR INABILITY TO USE THE SOLUTION, (v) FAILURE OF PROVIDER OR THE SOLUTION TO PERFORM, (vi) ANY ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, (vii) ANY COMPUTER OR OTHER VIRUS OR OTHER FEATURE DESIGNED TO DAMAGE OR DEGRADE IN ANY MANNER THE PERFORMANCE OF THE SOLUTION OR OTHER DEVICE OR SYSTEM, (viii) ANY COMMUNICATION LINE FAILURE, (ix) ANY THEFT, (x) DESTRUCTION, ALTERATION OF OR MALFUNCTION OF THE SOLUTION, OR (xi) THE DOWNLOADING OF ANY SOFTWARE OWNED OR OPERATED BY PROVIDER OR ANY THIRD PARTY. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. IN NO EVENT SHALL PROVIDER'S TOTAL LIABILITY UNDER THIS



AGREEMENT EXCEED THE TOTAL FEES PAID BY CLIENT TO PROVIDER WITHIN THE PRECEDING TWELVE MONTHS UNDER THIS AGREEMENT.

9. General Provisions.

a. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law or public policy or otherwise illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

b. Entire Agreement; Amendment; Headings. This Agreement (including all attachments hereto and the EULA incorporated herein) constitutes the entire agreement between the parties concerning the subject matter hereof, supersedes all prior oral or written understandings between the parties concerning the subject matter hereof and shall not be contradicted, waived or supplemented by any course of dealing between the parties. This Agreement shall not be amended, nor any provision waived, by usage, custom, practice, oral agreement or any other method except by a writing signed by an authorized representative of both parties. The headings and captions in this Agreement have been inserted for convenience of reference and are not part of this Agreement.

c. Force Majeure. In the event either party is prevented from performing its obligations under this Agreement by circumstances beyond the reasonable control and without the fault or negligence of the party obligated to perform (including, without limitation, strikes or other labor difficulties (except those involving the obligated party), war, governmental requirements or acts of God, failures of the Internet), upon the prompt giving of notice to the other party detailing such *force majeure* event and its anticipated duration, the obligations of the party so prevented (other than the obligation to pay money) shall be excused during such period of delay, and such party shall take whatever reasonable steps are necessary to relieve the effect of such cause as rapidly as possible. The party invoking a *force majeure* event must notify the other party promptly upon the termination of such event. During the period that the performance by one of the parties of its obligations under this Agreement has been suspended by reason of a *force majeure* event, the other party may likewise suspend the performance of all or part of its obligations hereunder to the extent that such suspension is commercially reasonable.

d. No Assignment. Neither party shall assign, subcontract, or otherwise transfer any of its rights to any third party without the prior written consent of the other party.

e. Notice. Any notice under this Agreement must be in writing in English and delivered to the respective addresses of the parties set forth in this Agreement or to such other address as either party may designate by written notice to the other in accordance with this provision. Notice must be provided in any manner reasonable under the circumstances and shall be deemed to be given on the date received; provided, however, any notice sent by nationally (or internationally, if applicable) recognized overnight courier service shall be deemed to be received on the date delivery is first attempted.



If to Client:
University of North Texas Health Science
Center
855 Montgomery St.
Fort Worth, TX 76104
[Redacted]

If to Provider:
Hitachi Healthcare Americas Corporation
PO Box 8539
Greenville, SC 29604-8539
[Redacted]

f. Governing Law. This Agreement shall be governed by the laws of the State of South Carolina, without regard to its conflict of laws principles. The parties hereby consent to the exclusive jurisdiction of and venue in the federal and/or state courts located in Greenville County, South Carolina.

g. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

h. Status as Independent Contractor. Provider and Client are contractors independent of one another and neither party's employees will be considered employees of the other party for any purpose. This Agreement does not create a joint venture or partnership.

i. Construction. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.

j. Negotiated Document. The parties acknowledge that this is a negotiated document. No party to this Agreement shall be deemed to be the drafter of it and any construction of its terms shall be without regard to any rules of construction concerning the drafter.

k. No Third Party Beneficiaries. This Agreement is intended to inure only to the benefit of the parties to this Agreement. This Agreement is not intended to create, nor shall be deemed or construed to create, any rights in any third parties.

l. Counterparts. The parties may execute this Agreement in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument, and, without limitation, may deliver executed copies by fax or other electronic means, including email delivery of a PDF.

m. Waiver. No waiver by either party of any breach by the other party of any of the provisions of this Agreement shall be deemed a waiver of any preceding or succeeding breach of the same or any other provisions hereof. No such waiver shall be effective unless in writing and then only to the extent expressly set forth in writing.

n. Survival of Terms. Any terms of this Agreement that by their nature extend beyond the termination of this Agreement remain in effect until fulfilled.



o. Assignment. Neither party may assign this Agreement or its rights and obligations hereunder without the consent of the other party. This Agreement inures to the benefit of, and is binding upon, the successors and permitted assigns of the parties hereto.

p. Authority. Each person signing this Agreement covenants that he or she is duly authorized by all necessary and appropriate corporate actions to execute this Agreement.

q. Attorneys' Fees. If any litigation shall ever occur between the parties arising from or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs from the non-prevailing party. This includes, without limitation, the recovery of any reasonable attorneys' fees and costs incurred in addressing violations of this Agreement prior to litigation.

Signature Page Follows



IN WITNESS WHEREOF, Provider and Client have caused their duly authorized representatives to execute this Agreement effective as of the date first above written.

SEE ATTACHED UNT HEALTH SCIENCE CENTER ADDENDUM
FOR ADDITIONAL TERMS AND CONDITIONS

HITACHI HEALTHCARE AMERICAS

**UNIVERSITY OF NORTH TEXAS HEALTH
SCIENCE CENTER**

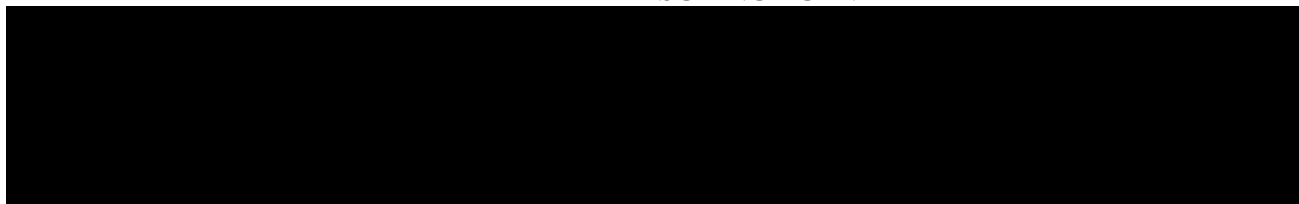




EXHIBIT A

Monthly Fees

I. Monthly Fees for Access and Use of the Solution

On the last day of each month Client shall be invoiced the Monthly Fee for that month, which fee is **\$500.00** per month.

II. Monthly Fees for Referring Physician Portal - Optional

On the last day of each month Client shall be invoiced the Monthly Fee for the VidiStar Referring Physician Portal, which fee is \$100.00.

III. Monthly Fees for Data Mining & Analytics Software – purchased

On the last day of each month Client shall be invoiced the Monthly Fee for the VidiStar Data Mining & Analytics Software, which fee is **\$50.00**.

NOTE: All Monthly Fees are subject to revision prior to the renewal of the Agreement as set forth in Section 3 of the Agreement.



EXHIBIT B

HITACHI
Inspire the Next

Quote

#2019.2.6.2

Hitachi Healthcare Americas Corporation Dept 781378, P.O. Box 78000, Detroit, MI 48278-1378 Phone: 330-425-1313 Fax: 864.349.2169, HHA VidiStar E-mail: sales@vidistar.com Tax ID No. 34-1619915	Vendor No.	DATE: 3/7/2019
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Bill To: Name: UNTHSC Address: 855 Montgomery St City/State/Zip: Fort Worth, TX 76104 Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]	Ship To: Name: UNTHSC Address: 855 Montgomery St City/State/Zip: Fort Worth, TX 76104 Phone: [REDACTED] Fax: [REDACTED] Email: [REDACTED]
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SALESPERSON	P.O. NUMBER	SHIP DATE	Ship Via	F.O.B.Point	Terms
Melanie Earles	TBA		Direct	Customer clinic	Due upon execution
QUANTITY	Product No.	DESCRIPTION	UNIT PRICE	DISCOUNT	TOTAL PRICE
1	SW01	VidiStar PACS and Patented (US Pat No 8,200,505) Online Reporting System Software; Cloud Set-up Fee.	\$2,500.00	55%	\$1,125.00
1	SW02	VidiStar DICOM Viewer (FDA K083910)	\$500.00	35%	\$325.00
1	SW03	Echo Viewing and Reporting Module	Included		
1	SW04	Vascular Viewing and Reporting Module	Included		
1	SW05	Nuclear Viewing & Reporting Module	Included		
1	SW10	ECG Viewing & Reporting Module	Included		
1		Monthly Minimum Monthly Fee (unlimited Studies)	\$500.00		
1		36-month term			
1	TLSSWG1	VidiGateway DICOM Router per unit	\$650.00	50%	\$325.00
1	TLSSW1	VidiGateway DICOM Gateway Software	\$300.00	50%	\$150.00
1	TR2	Remote Training using TeamViewer (16hrs)	\$650.00	45%	\$357.50
1	TR1	Onsite training per diem plus expenses (Customer/Client responsible for travel/food/lodging expenses)	\$1,500.00	Optional	
1	INT-ECG3	ECG XML interface	\$1,250.00	50%	\$625.00
1	INT4	Bi-directional HL7 EMR Integration	\$3,500.00	50%	\$1,750.00
1		Unlimited Installation on Remote Workstations (Customer may use existing workstations)			
1	REFP1	Referring Physician Portal Monthly Fee	\$100.00	Optional	
1	DMA1	Data Mining and Analytics Software for Accreditation Monthly Fee	\$50.00	Purchased	
1	MT2	Annual Maintenance = Included. Comprised of 24/7 support, software maintenance, upgrades, and updates.			

Please sign and date:

[REDACTED] 5/28/2019
Date

SUBTOTAL \$4,657.50
Sales Tax
Subtotal w/tax **\$4,657.50**

Shipping & Handling \$30.00
TOTAL DUE \$4,687.50

Sales Rep. Melanie Earles Date 3/7/2019

Please Note: This agreement will become effective only upon execution by the sales representative and the customer. Make all checks payable to Hitachi Healthcare Americas Corporation. If you have any questions concerning this invoice, contact us at sales@vidistar.com, or 888.518.7541. If lease agreement, then customer is obliged to pay monthly payment on-line. Customer accepts rights/responsibilities for total payment owed to Hitachi Healthcare Americas Corporation. Customer default in payments will result in the termination of software use but not the customer's obligation to pay remaining amount due.

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this "BAA") is entered into as of that date set forth on the signature page hereto (the "Effective Date"), by and between the University of North Texas Health Science Center ("Covered Entity") and Hitachi Healthcare Americas Corporation ("Business Associate").

RECITALS

WHEREAS, Covered Entity and Business Associate have an existing agreement or are contemplating entering into a business relationship ("Agreement") wherein Covered Entity will make available and/or transfer to Business Associate certain Protected Health Information (defined below) in conjunction with the performance of a function or activity that is being provided by Business Associate to Covered Entity which is confidential and must be afforded special treatment and protection under the Privacy Rule (defined below) and the Security Rule (defined below). In performing under the Agreement, Business Associate will have access to and/or create, receive, maintain, or transmit from or on behalf of Covered Entity certain Protected Health Information that can be used or disclosed only in accordance with this BAA and the HIPAA Rules (defined below).

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Covered Entity and Business Associate agree as follows:

AGREEMENT

1. Definitions. Terms used but not otherwise defined in this section have the same meaning as those ascribed to the terms in the HIPAA Rules, as defined below.
 - 1.1 "Breach" means the acquisition, access, use, or disclosure of Protected Health Information in a manner not permitted by the Privacy Rule which compromises the security or privacy of the Protected Health Information, as described in 45 C.F.R. 164.402.
 - 1.2 "Electronic Protected Health Information" means individually identifiable health information that is transmitted or maintained by electronic media as described in the HIPAA Rules.
 - 1.3 "HHS" means the U.S. Department of Health and Human Services.
 - 1.4 "HIPAA Rules" means the Privacy, Security, Breach Notification, and Enforcement Rules at 45 C.F.R. Parts 160 and 164.
 - 1.5 "Individual" means the person who is the subject of the Protected Health Information, and has the same meaning as the term "individual" is defined by the HIPAA Rules and shall include a personal representative in accordance with 45 C.F.R. 164.502(g).
 - 1.6 "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.
 - 1.7 "Protected Health Information" has the same meaning as the term "protected health information" as described in the HIPAA Rules, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

- 1.8 "Required by Law" has the same meaning as the term "required by law" in the HIPAA Rules.
- 1.9 "Secretary" means the Secretary of HHS or his or her designee.
- 1.10 "Security Rule" means the Standards for the Security of Electronic Protected Health Information, 45 C.F.R., Parts 160 and 164.
- 1.11 "Unsecured Protected Health Information" has the same meaning as the term "Unsecured protected health information" as defined in 45 C.F.R. 164.402.

2. Permitted Uses and Disclosures.

- 2.1 General Uses and Disclosures. Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity, as necessary under the Agreement, if such use or disclosure of Protected Health Information would not violate the Privacy Rule or the Security Rule if done by Covered Entity.
- 2.2 Limits on Uses and Disclosures. Business Associate shall not use or disclose Protected Health Information provided or made available by Covered Entity other than as expressly permitted, or required by, this BAA or Required by Law. Business Associate agrees to make uses and disclosures and requests for Protected Health Information consistent with Covered Entity's minimum necessary policies and procedures. Business Associate may not use or disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific uses and disclosures set forth below.
- 2.3 Use for Management, Administration, and Legal Responsibilities. Business Associate may use Protected Health Information for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities.
- 2.4 Disclosure for Management, Administration, and Legal Responsibilities. Business Associate may disclose Protected Health Information for the proper management and administration of Business Associate or to carry out Business Associate's legal responsibilities, provided that:
 - The disclosure is Required by Law; or
 - Business Associate obtains reasonable assurances from the person to whom the Protected Health Information is disclosed that the Protected Health Information will remain confidential and 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 the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Business Associate Obligations.

- 3.1 Appropriate Safeguards. Business Associate will establish and maintain reasonable and appropriate administrative, physical, and technical safeguards, and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic Protected Health Information, to

prevent use or disclosure of Protected Health Information other than as such use or disclosure is permitted by this BAA.

- 3.2 Reports of Improper Use, Disclosure, or Security Incidents. Business Associate hereby agrees that Business Associate shall report to Covered Entity any:
- Use or disclosure of Protected Health Information not provided for or allowed by this BAA, including breaches of Unsecured Protected Health Information as required at 45 C.F.R. 164.410; or
 - Security incidents in regard to the Electronic Protected Health Information of which Business Associate becomes aware.
- 3.3 Subcontractors and Agents. Business Associate will ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits Protected Health Information on behalf of the Business Associate agrees to:
- The same restrictions and conditions that apply to Business Associate in this BAA to such Protected Health Information; and
 - Implement reasonable and appropriate safeguards to protect the Electronic Protected Health Information.
- 3.4 Right of Access to Protected Health Information. Business Associate hereby agrees to provide access to Protected Health Information in a designated record set (if applicable and as defined in the HIPAA Rules) to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. 164.524, at the written request of Covered Entity.
- 3.5 Amendments to Protected Health Information. Business Associate agrees to make any amendment(s) to Protected Health Information in a designated record set, if applicable, that Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526, at the request of Covered Entity or an Individual, and in a reasonable time and manner.
- 3.6 Access to Books and Records. Business Associate agrees to make Business Associate's internal policies, procedures, practices, books, and records relating to the use, disclosure, and safeguarding of Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, for purposes of the Secretary's determining compliance with the Privacy Rule and the Security Rule.
- 3.7 Documentation of Disclosures. Business Associate agrees to document such disclosures of Protected Health Information and information relating to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.
- 3.8 Provide Accounting. Business Associate agrees to provide to Covered Entity or an Individual information collected in accordance with Section 3.7 of this BAA to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.

- 3.9 Notification of Breach. During the term of this BAA, Business Associate shall notify Covered Entity of any Breach of Unsecured Protected Health Information as required by 45 C.F.R. 164.410, without unreasonable delay, but not later than sixty (60) calendar days (except in the case of a delay by law enforcement in accordance with 45 C.F.R. 164.412) after Business Associate discovers such Breach. The notification will include, to the extent possible, the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the Breach, as well as any other information available to Business Associate that Covered Entity is required to include in a notification to the Individual(s) under 45 C.F.R. 164.404(c).
- 3.10 Transfer of Obligation. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, Business Associate must comply with the requirements of Subpart E that apply to the Covered Entity in the performance of such obligation(s);
4. Covered Entity Obligations.
- 4.1 Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices to the extent such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- 4.2 Provide Changes of Authorization or Permission. Covered Entity shall provide, in writing and in a reasonable time and manner, Business Associate with any changes in, or revocation of, authorization or permission by an Individual to use or disclose Protected Health Information, if such changes affect Business Associate's permitted or required uses and disclosures.
- 4.3 Provide Restrictions. Covered Entity shall notify Business Associate, in writing and in a reasonable time and manner, of any restrictions to the use or disclosure of Protected Health Information changing Business Associate's obligations that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522.
- 4.4 Permissible Requests by Covered Entity. Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the HIPAA Rules or this BAA if done by Covered Entity.
5. Term and Termination.
- 5.1 Term. The term of this BAA shall commence as of the Effective Date and shall continue until terminated as provided herein.
- 5.2 Termination of BAA.
- *Termination of Agreement.* This BAA shall terminate upon termination of the Agreement.
 - *Termination for Cause.* Upon Covered Entity's knowledge of a material breach of this BAA by Business Associate, Covered Entity shall provide written notice of such breach to Business Associate and provide an opportunity for Business Associate to cure the breach or end the violation, and if Business Associate does

not cure the breach or end the violation within thirty (30) business days from the date Business Associate receives the written notice referred to above from Covered Entity, Covered Entity may immediately terminate this BAA. Covered Entity may terminate this BAA immediately without opportunity for cure if Business Associate and Covered Entity agree that cure is not reasonably possible.

- *Special Termination.* In the event that any federal, state, or local law or regulation currently existing or hereinafter enacted, or any final or non-appealable construction or interpretation of such law or regulation (whether federal, state, or local) or enforcement of such laws or regulations hereinafter occurs that makes performance of this BAA impossible or illegal, the parties mutually agree to enter into negotiations to modify this BAA to make substantial performance of this BAA possible. However, should the parties be unable to agree upon an appropriate modification to comply with such requirements following thirty (30) days of good faith negotiations, either party may give written notice to immediately terminate this BAA.

5.3 Obligations of Business Associate Upon Termination.

- *Return or Destruction.* Upon termination of this BAA for any reason, Business Associate hereby agrees to return all Protected Health Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, or, to the extent authorized by Covered Entity, destroy such Protected Health Information. Business Associate shall retain no copies of the Protected Health Information, except as provided herein.
- *Retention.* Except as otherwise limited in this BAA, in the event that Business Associate determines that returning or destroying the Protected Health Information is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction of the Protected Health Information not feasible. Upon mutual agreement of the parties that return or destruction of Protected Health Information is not feasible, Business Associate shall extend the protections of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction not feasible, for so long as Business Associate maintains such Protected Health Information.

5.4 Survival. The obligations of Business Associate under this Section shall survive the termination of this BAA.

6. Indemnification. Business Associate shall indemnify and hold harmless Covered Entity against any claims, liabilities, damages, and expenses, including reasonable attorneys' fees, incurred by Covered Entity for Breach and/or incurred by Covered Entity in defending or compromising actions brought against Covered Entity arising out of, or relating to, the acts or omissions of Business Associate or Business Associate's employees, officers, directors, agents, representatives, sub-contractors or independent contractors in connection with Business Associate's negligent or fraudulent performance of Business Associate's applicable duties under this BAA. This indemnity shall be in proportion to the amount of responsibility found attributable to Business Associate.

7. Miscellaneous.

- 7.1 Survival of Obligations. Except as otherwise limited in this BAA, termination of this BAA shall not relieve either party from fulfilling any obligation under this BAA, or any other BAA between the parties that, at the time of termination, has already accrued to the other party, or which thereafter may accrue with respect to any act or omission that occurred prior to such termination.
- 7.2 Governing Law. This BAA shall be governed by the laws of the State of Texas. Venue for any proceeding related to this BAA shall be in a court of competent jurisdiction in Tarrant County, Texas.
- 7.3 Binding Nature and Assignment. This BAA shall be binding on the parties and the parties successors and permitted assigns, but neither party may assign this BAA without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed, or conditioned.
- 7.4 Notices. Any notice required or permitted to be delivered hereunder shall be deemed to have been given when personally delivered, or if mailed, seventy-two (72) hours after deposit of the same in the United States Mail, postage prepaid, certified, or registered, return receipt requested, properly addressed to the parties hereto at the respective addresses set forth below, or at such other addresses as they shall specify by written notice delivered in accordance herewith:

If to Covered Entity:

University of North Texas Health Science Center
UNT Health
3500 Camp Bowie Blvd.
Fort Worth, TX 76107
Attn: Joanne Mize

If to Business Associate:

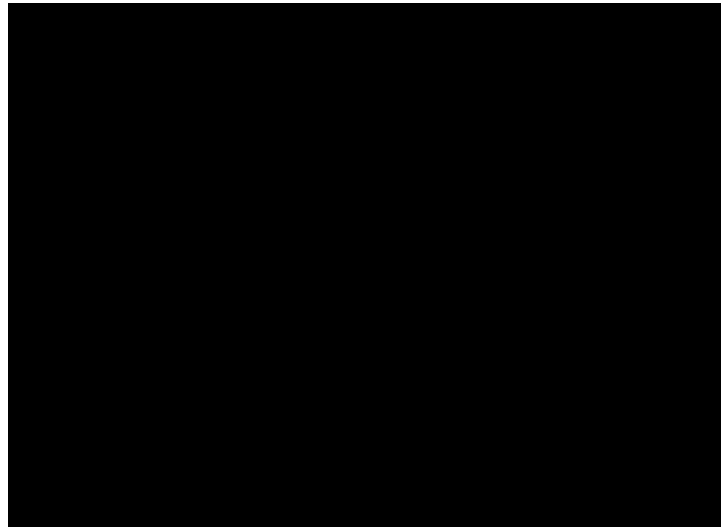
Hitachi Healthcare Americas Division of Informatics
1959 Summit Commerce Park
Twinsburg, Ohio 44087
Attn: Privacy Officer

- 7.5 Cooperation. Both Business Associate and Covered Entity acknowledge that mutual cooperation and assistance is essential to each party's performance under this BAA; therefore, it will be the duty of both parties to make all good faith efforts to fully cooperate in the execution of this BAA.
- 7.6 Headings. The headings of this BAA are inserted for convenience only and are not to be considered in the interpretation of this BAA. They shall not in any way limit the scope or modify the substance or context of any sections of this BAA.
- 7.7 Force Majeure. Neither party shall be liable or be deemed in breach of this BAA for any failure or delay of performance, which results, directly or indirectly, from acts of God, civil, or military authority, public disturbance, accidents, fires, or any other cause beyond the reasonable control of either party, and such nonperformance shall not be grounds for termination.

- 7.8 Regulatory References. A reference in this BAA to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended and for which compliance is required.
- 7.9 Amendment. Except as otherwise limited in this BAA, the parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity (and, if applicable, Business Associate) to comply with the requirements of the HIPAA Rules. No changes in, or additions to, this BAA shall be recognized unless incorporated herein by written amendment by the parties, such amendment(s) to become effective on the date stipulated in such amendment(s). No discharge of obligations arising under this BAA shall be valid unless in writing and executed by the party against whom such discharge is sought to be enforced.
- 7.10 Debarment. Business Associate represents and warrants that Business Associate is not currently or has not at any time been suspended, excluded or debarred from or sanctioned by any federally funded health care program, including, without limitation, Medicare or Medicaid, and Business Associate shall notify the Covered Entity immediately if it becomes aware of any such exclusion, debarment, or sanction.
- 7.11 Interpretation. Any ambiguity in this BAA shall be resolved in favor of a meaning that permits the parties to comply with the HIPAA Rules.

Business Associate and Covered Entity have caused this Business Associate Agreement to be signed and delivered by their duly authorized representatives, effective as of _____ .

UNIVERSITY OF NORTH TEXAS HEALTH
SCIENCE CENTER



HSC Contract # 2019-0651

STANDARD ADDENDUM TO AGREEMENT

Contracts with the University of North Texas Health Science Center at Fort Worth ("University") are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. Payment will be made in accordance with the terms of University's purchase order. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur.

Eligibility to Receive Payment. By entering into and performing under this Agreement, Vendor certifies that under Section 231.006 of the Texas Family Code and under Section 2155.004 of the Texas Government Code, it is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. University is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims against University. Chapter 2260 of the Texas Government Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Government Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Vendor to attempt to resolve any claim for breach of contract against University that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The Agreement is made and entered into, and is performable in whole or in part, in the State of Texas, and venue for any suit filed against University shall be subject to the mandatory venue statute set forth in § 105.151 of the Texas Education Code.

No Excess Obligations. In the event this Agreement spans multiple fiscal years, University's continuing performance under this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Texas State Legislature. If the Legislature fails to appropriate or allot the necessary funds, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act, University shall issue written

notice to Vendor that University may terminate the Agreement without further duty or obligation.

Travel Expenses. In the event the Agreement required University to reimburse Vendor for travel expenses, then reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Delivery. Delivery shall be FOB Destination.

Public Information. University shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to University in an electronic format.

Required Posting of Contracts on Website. Vendor acknowledges and agrees that University is required by Section 2261.253 of the Texas Government Code to post each contract it enters into for the purchase of goods or services from a private vendor on its Internet website, including any terms and conditions otherwise marked confidential and/or proprietary.

Insurance. University, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by University shall, without further requirement, satisfy all general liability insurance obligations of University under the Agreement.

HIPAA. The parties understand and agree that this Agreement may be subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative regulations and/or guidance which have issued or may in the future be issued pursuant to HIPAA, including, but not limited to, the Department of Health and Human Services regulations on privacy and security, and Texas state laws pertaining to medical privacy (collectively, "Privacy Laws"). Vendor agrees to comply with all Privacy Laws that are applicable to this Agreement and to negotiate in good faith to execute any amendment to this Agreement that is required for the terms of this Agreement to comply with applicable Privacy Laws. In the event the parties are unable to agree on the terms of an amendment pursuant to this paragraph

within thirty (30) days of the date the amendment request is delivered by a party to the other, this Agreement may be terminated by either party upon written notice to the other party.

Debarment. Vendor certifies that neither it nor any of its Principals (officers, directors, owners, partners, key employees, principal investigators, researchers or management or supervisory personnel) is presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in this transaction or in any federal grant, benefit, contract or program (including but not limited to Medicare and Medicaid and Federal Health Care Programs) by any Federal department or agency. (See Executive Orders 12549 and 12689, 45 CFR part 76, 48 CFR part 9; 42 USC sect. 1320a-7). Vendor shall notify University within three (3) days of its receipt of an initial sanction notice, notice of proposed sanction or of the commencement of a formal investigation, or the filing of any charges by any governmental regulatory or law enforcement agency that effects this certification.

Israel Non-Boycott Verification. Pursuant to Texas Gov't Code Section 2270.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

Limitations. University is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on University property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will only be binding on University to the extent permitted by the Constitution and the laws of the State of Texas.

VENDOR Hitachi Healthcare Americas Corporation

**UNIVERSITY OF NORTH TEXAS
HEALTH SCIENCE CENTER AT FORT WORTH**



Date: 5/10/2019

Date: _____

HSC Contract # 2019-0651

End User License Agreement

< IMPORTANT >

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MISCELLANEOUS This license is governed by the laws of Japan.