SUBCONTRACT AGREEMENT

This Subcontract Agreement ("Agreement") is entered into effective **[Effective date]** by and between Comagine Health, a Washington non-profit corporation, with offices located at 10700 Meridian Ave N, Suite 300, Seattle, WA 98133 ("Comagine Health"), and **[Subcontractor Legal Name],** a [state and entity type], with offices located at [Subcontractor Address] ("Subcontractor")**.** Comagine Health and Subcontractor may each be referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, Comagine Health has entered into Contract No. K8582 with the Washington State Health Care Authority ("HCA") to serve as the Lead Organization for the Washington Community Information Exchange ("WA CIE") initiative (the "Prime Contract");

WHEREAS, under the Prime Contract, Comagine Health is responsible for procuring and contracting for the technology solution necessary to support the WA CIE initiative;

WHEREAS, Comagine Health conducted a competitive procurement and selected Subcontractor to provide certain technology, implementation, hosting, maintenance, support, and related services for WA CIE;

WHEREAS, Comagine Health desires to engage Subcontractor to perform the services described in this Agreement and its attachments, and Subcontractor desires to provide such services in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, the Parties agree as follows:

AGREEMENT

1. **Statement of Work.** Subcontractor shall provide the technology solution, implementation, hosting, maintenance, support, and related services described in the Statement of Work and Deliverables set forth in **Attachment 1** (collectively, the "Services"), which is incorporated into this Agreement by reference. Subcontractor shall perform the Services in accordance with this Agreement and all applicable attachments incorporated herein.

2. **Period of Performance.** The initial period of performance under this Agreement shall commence on **[Effective Date]** and continue for twenty-four (24) months, unless earlier terminated in accordance with this Agreement. Comagine Health may, at its sole discretion, renew this Agreement

for up to three (3) additional one-year periods, subject to continued funding, satisfactory Subcontractor performance, and the terms of this Agreement. Any renewal shall be exercised by written amendment or other written notice authorized under this Agreement.

3. **Compensation.** Comagine Health shall compensate Subcontractor for Services satisfactorily performed and accepted in accordance with the pricing and payment terms set forth in **Attachment 2 – Pricing and Payment Schedule**. The Agreement uses a combination of firm-fixed-price, fixed recurring, and time-and-materials ("T&M") pricing, as applicable to the Services being performed.

a. **Implementation Services.** Implementation Services shall be compensated on a firm-fixed-price, milestone-based basis in accordance with the implementation milestones, acceptance requirements, and payment schedule set forth in Attachment 2. Each milestone price includes all costs necessary to complete and obtain acceptance of the applicable milestone requirements, except costs expressly identified as separately payable under this Agreement.

b. **Licensing and Subscription Services.** Software licensing and subscription Services shall be compensated at the fixed recurring rates set forth in Attachment 2 based on the applicable authorized-user tier or other pricing basis specified therein.

c. **Ongoing Maintenance, Operations, and Support.** Baseline hosting, maintenance and operations, technical support, system administration, required reporting, training, governance support, and other recurring Services required under the Statement of Work shall be compensated at the fixed recurring rates set forth in Attachment 2.

d. **Time-and-Materials Services.** Enhancements, change requests, additional integrations, and other Services outside the baseline Scope of Work may be performed on a T&M basis only when separately authorized in writing by Comagine Health. T&M Services shall be billed at the applicable hourly rates set forth in Attachment 2 and shall not exceed the amount authorized by Comagine Health. Inclusion of T&M rates or not-to-exceed ("NTE") amounts in Attachment 2 does not constitute a minimum purchase or commitment by Comagine Health.

e. **Maximum Compensation.** Comagine Health shall have no obligation to pay amounts exceeding the applicable fixed prices, recurring rates, or authorized T&M NTE amounts established under this Agreement and Attachment 2, except as authorized through a written amendment or other written Contract modification executed by authorized representatives of the Parties.

4. **Invoicing and Payment.** Subcontractor shall submit invoices for Services performed in accordance with the pricing, payment schedule, milestones, and other requirements set forth in this Agreement and **Attachment 2 – Pricing and Payment Schedule**. Subcontractor may invoice only for Services, milestones, deliverables, recurring charges, and authorized T&M Services that are eligible for payment under this Agreement.

a. **Invoice Requirements.** Each invoice must include, as applicable:
    1. Subcontractor's name and address;
    2. invoice number and invoice date;
    3. applicable billing period;
    4. Comagine Health Agreement or subcontract number and project code;
    5. applicable milestone or deliverable and the amount invoiced;
    6. applicable recurring Services and charges;
    7. for authorized T&M Services, the applicable authorization, labor categories, hours, approved hourly rates, and other supporting detail reasonably required by Comagine Health;
    8. any applicable credits, adjustments, or other amounts due under the Agreement; and
    9. such other supporting documentation reasonably required to verify the invoice.

b. **Acceptance and Eligibility for Payment.** Payment for a milestone or deliverable is subject to Comagine Health's acceptance of the applicable milestone or deliverable in accordance with the Agreement and the Quality Assurance Plan. Payment of an invoice does not constitute acceptance of Services or waive any rights or remedies of Comagine Health.

c. **Invoice Submission.** Invoices shall be submitted electronically to:
    Accounts Payable: AccountsP@comagine.org
    Copy to: [Comagine Health Contract Owner/Project Director and Email]
    Agreement/Subcontract No.: [**]**
    **Project Code: [**]

    Comagine Health may update invoice submission instructions, contacts, or project codes by written notice to Subcontractor without requiring an amendment to this Agreement.

d. **Payment.** Comagine Health shall pay properly submitted, accurate, and undisputed invoices within thirty (30) days after receipt, provided that the applicable Services, milestones, or deliverables have satisfied any acceptance requirements applicable to payment under this Agreement.

e. **Disputed or Deficient Invoices.** Comagine Health may dispute or withhold payment of all or any portion of an invoice that is inaccurate, unsupported, inconsistent with the Agreement, or associated with Services or deliverables that have not satisfied applicable requirements. Comagine Health shall notify Subcontractor of the basis for the dispute or withholding. The Parties shall work in good faith to resolve disputed amounts. Payment of undisputed amounts shall not be unreasonably withheld.

f. **Final Invoice.** Subcontractor shall clearly identify its final invoice as **"Final Invoice"** and submit it, together with all required final reports and supporting documentation, within thirty (30) days following expiration or termination of this Agreement, unless Comagine Health authorizes a different period in writing.

5. **Noncompliant Charges and Repayment.** If Comagine Health determines that an amount paid to Subcontractor was incorrectly invoiced, unsupported, or otherwise not payable under the terms of this Agreement, Subcontractor shall promptly repay such amount to Comagine Health. Comagine Health may, upon written notice to Subcontractor, offset such amount against payments otherwise due to Subcontractor under this Agreement. Subcontractor shall have a reasonable opportunity to provide supporting documentation or otherwise dispute the determination.

6. **Contract Management and Key Personnel**
   a. **Comagine Health Contract Lead.** Comagine Health's primary representative for administration and oversight of the Services is **[Name and Title]**, or such other person as Comagine Health may designate by written notice to Subcontractor ("Comagine Health Contract Lead"). The Comagine Health Contract Lead may provide direction and approvals within the scope of this Agreement but is not authorized to amend this Agreement or otherwise modify its terms unless expressly authorized to do so by Comagine Health.

   b. **Subcontractor Project Lead.** Subcontractor's primary representative responsible for management and performance of the Services is **[Name and Title]** ("Subcontractor Project Lead"). Subcontractor shall not replace the Subcontractor Project Lead without prior written notice to and approval by Comagine Health. Any proposed replacement must have qualifications and experience substantially equivalent to or greater than those of the individual being replaced.

   c. **Key Personnel.** Subcontractor shall provide the Key Personnel identified in **Attachment 1** or otherwise designated as Key Personnel under this Agreement. Subcontractor shall not remove, replace, or materially reduce the participation of Key Personnel without prior written notice to and approval by Comagine Health, except when circumstances

outside Subcontractor’s reasonable control make advance approval impracticable. In such circumstances, Subcontractor shall notify Comagine Health promptly and propose a qualified replacement.

7. **Prime Contract and Flow-Down Requirements**
   a. **Prime Contract.** Subcontractor acknowledges that the Services under this Agreement support Comagine Health's performance of its obligations under Contract No. K8582 with the Washington State Health Care Authority (“HCA”), as amended (the "Prime Contract"). This sample Agreement, as issued with the RFP, references certain Prime Contract requirements but does not attach the Prime Contract. In the final Agreement executed with the successful Offeror, Comagine Health will attach the Prime Contract (including applicable amendments and the exhibits referenced in this Agreement) as an attachment to this Agreement and incorporate it as provided in this Section 7 and Section 27 (Order of Precedence), so that Subcontractor has access to the underlying requirements referenced in this Agreement.

   b. **Applicable Flow-Down Requirements.** Subcontractor shall comply with the provisions of the Prime Contract that are expressly incorporated into this Agreement or identified in this Section 7, to the extent such provisions are applicable to Subcontractor and the Services. A provision of the Prime Contract is incorporated and binding on Subcontractor only if, and only to the extent that: (i) it is expressly referenced or restated in this Agreement; (ii) it governs a subject matter within the scope of the Services Subcontractor is engaged to perform; and (iii) it is capable of being performed by a subcontractor providing technology, implementation, hosting, maintenance, and support services, as distinct from obligations that by their terms apply only to Comagine Health in its capacity as the HCA Lead Organization. Incorporation of the Prime Contract into the final Agreement under Section 7(a) shall not be construed to make every provision of the Prime Contract a direct obligation of Subcontractor where that provision is not applicable to Subcontractor's Services as described in this Section 7(b). Such provisions are incorporated as necessary to enable Comagine Health to satisfy its obligations to HCA under the Prime Contract.

   c. **Interpretation.** Where an incorporated Prime Contract provision refers to HCA, the State, Comagine Health, Contractor, or another party or role, the provision shall be interpreted and applied to this Agreement in a manner consistent with the Parties' respective roles under this Agreement and the purpose of the applicable flow-down requirement.

   d. **Changes to Prime Contract Requirements.** If HCA modifies the Prime Contract or otherwise imposes a new or revised requirement that Comagine Health is required to

flow down to Subcontractor, Comagine Health shall notify Subcontractor of the applicable requirement. The Parties shall execute an amendment to this Agreement when reasonably necessary to incorporate the required change, including any mutually agreed adjustment to the Services, schedule, or compensation resulting from a material change in Subcontractor's obligations.

e. **Funding**. Subcontractor acknowledges that this Agreement and Comagine Health's payment obligations are dependent upon the continued availability and allocation of federal and State funding under the Prime Contract. If funding for the WA CIE program is unavailable, delayed, reduced, or not allocated or allotted, Comagine Health may suspend, reduce, modify, or terminate the affected Services in accordance with this Agreement. Subcontractor shall be entitled to payment for Services satisfactorily performed and accepted through the effective date of any applicable suspension, reduction, or termination, subject to the terms of this Agreement, but shall not be entitled to penalties, lost profits, anticipated revenue, or damages resulting solely from the nonavailability, delay, reduction, or nonallocation of such funding.

f. **Most Favored Customer**. Subcontractor represents that the prices, terms, rates, warranties, and benefits provided to Comagine Health under this Agreement are comparable to or more favorable than those offered by Subcontractor to customers receiving substantially similar services under substantially similar qualifications, requirements, volumes, and circumstances. If, during the term of this Agreement, Subcontractor enters into an arrangement with a substantially similar customer for the same or substantially similar services that, considered as a whole, provides materially more favorable pricing, terms, warranties, or benefits, Subcontractor shall notify Comagine Health and make such more favorable terms available to Comagine Health to the extent applicable to substantially similar Services and circumstances.

g. **Personnel Reference and Suitability Reviews; Employment of HCA and Comagine Health Personnel**. HCA may conduct reference checks of Subcontractor personnel who will have access to Confidential Information and may reject such personnel based on the results of those checks or other relevant information. During the term of this Agreement, Subcontractor shall not knowingly hire or engage, on a full-time, part-time, consulting, or other basis in connection with the Services, any managerial, professional, or technical employee of HCA or Comagine Health who is or has been so employed during the term of the Prime Contract or this Agreement, except a regularly retired employee who has been retired for at least one year, without the applicable party's prior written consent.
h. **Debarment and Suspension**. Subcontractor represents and certifies that it and its principals are not debarred, suspended, proposed for debarment, declared ineligible,

voluntarily excluded, or otherwise prohibited from participation in applicable federal or State government transactions. Subcontractor shall not knowingly engage a lower-tier subcontractor that is so debarred, suspended, or otherwise excluded or ineligible, and shall promptly notify Comagine Health if its status or that of a principal or applicable lower-tier subcontractor changes during the term of this Agreement.

i. **Clean Air Act, Clean Water Act, and Drug-Free Workplace**. To the extent applicable to Subcontractor's performance of the Services, Subcontractor shall comply with the federal Clean Air Act (42 U.S.C. § 7401 et seq.) and the federal Clean Water Act (33 U.S.C. § 1251 et seq.), including applicable standards, orders, and regulations issued under those laws. Subcontractor shall maintain a drug-free workplace consistent with the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8101 et seq.) and shall require employees assigned to the Services to notify Subcontractor of any workplace-related criminal drug statute conviction within five (5) days after such conviction.

j. **Lobbying Activities; Covenant Against Contingent Fees**. Subcontractor shall comply with 31 U.S.C. § 1352 and 45 C.F.R. Part 93 and shall not use funds paid under this Agreement for lobbying activities prohibited by applicable federal or State law or by the Prime Contract. Subcontractor warrants that no person or entity has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or established commercial or selling agencies maintained by Subcontractor for the purpose of securing business.

k. **Access Equity**. To the extent required by HCA under the Prime Contract, Subcontractor shall cooperate with Comagine Health and HCA in complying with applicable Access Equity requirements administered through the State of Washington's business diversity management system under Executive Order 22-01, including registration, confirmation, and reporting requirements applicable to Subcontractor, and shall timely provide Comagine Health and HCA such information and confirmations as are reasonably necessary for Comagine Health to satisfy its Access Equity reporting obligations under the Prime Contract.

l. **Sovereign Immunity; Direct Agreement with HCA or the State**. Nothing in this Agreement shall be construed as a waiver by HCA or the State of Washington of sovereign immunity, immunity under the Eleventh Amendment to the United States Constitution, or any other immunity from suit or liability available by operation of law. Upon expiration or termination of the Prime Contract, Subcontractor shall not prohibit or restrict HCA or the State of Washington from entering into a direct agreement with Subcontractor for the continuation, transition, or replacement of Services, provided that

nothing in this Section requires HCA or the State to enter into such an agreement or requires Subcontractor to accept terms other than those mutually agreed with HCA or the State.

m. **Lower-Tier Subcontractors.** Subcontractor shall include applicable flow-down requirements in its agreements with approved lower-tier subcontractors and third-party service providers performing Services under this Agreement, to the extent required by this Agreement or the applicable flow-down provision. Subcontractor remains responsible for their compliance and performance.

8. **Privacy and Security.**
   a. **General Requirements.** Subcontractor shall maintain appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of information and systems used in connection with the Services. Subcontractor shall comply with all applicable federal and Washington State privacy and security laws and regulations and all privacy, security, and information-safeguard requirements applicable to the Services under this Agreement.

   b. **Contract Security Requirements.** Subcontractor shall comply with the applicable privacy, security, cybersecurity, cloud, data protection, and technology requirements identified in this Agreement, the Statement of Work, the WA CIE System Requirements, the applicable WaTech Contractual Requirements, and this Section. At a minimum, Subcontractor shall comply with the WaTech Security Policies and Standards referenced in the Prime Contract, HIPAA Privacy, Security, and Breach Notification Rules (45 C.F.R. Parts 160 and 164), as updated, and 42 C.F.R. Part 2 and chapter 70.02 RCW (Washington Uniform Health Care Information Act) to the extent applicable to the Services.

   c. **Security Assessment, Audit, and Risk Assessment.** Subcontractor shall cooperate with Comagine Health, HCA, WaTech, the Washington State Office of Cybersecurity, and their authorized representatives in completing all required security and privacy assessments, reviews, questionnaires, testing, remediation, and related activities applicable to the WA CIE solution, and shall reasonably cooperate, at no additional cost to Comagine Health or HCA, with security design reviews, audits, risk assessments, and control assessments required by those authorities. Subcontractor shall provide security reports, attestations, audit reports, SOC 2 Type II reports, and other evidence of controls required under this Agreement or applicable HCA/WaTech requirements, including information regarding security certifications held by Subcontractor or its lower-tier subcontractors. Subcontractor shall not deploy the WA CIE solution into production, connect the solution to production data sources, or permit production users

to access the solution until all required approvals, including any required Authority to Operate (“ATO”), have been obtained.

d. **HIPAA and Business Associate Agreement.** To the extent Subcontractor creates, receives, maintains, or transmits Protected Health Information in performing the Services and is acting as a Business Associate or subcontractor Business Associate as defined by HIPAA, Subcontractor shall comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), the Health Information Technology for Economic and Clinical Health Act (“HITECH”), their implementing regulations, and the Business Associate Agreement (“BAA”) incorporated into this Agreement as Attachment 5.

e. **Security and Privacy Incidents.** Subcontractor shall report and respond to actual or suspected security incidents, privacy incidents, breaches, unauthorized disclosures, and other compromises involving WA CIE data, systems, or Services in accordance with the notification timeframes and other requirements established in this Agreement, the BAA, and applicable HCA and WaTech requirements. Without limiting any shorter notification timeframe specified elsewhere in this Agreement or the BAA, Subcontractor shall notify Comagine Health of a breach of unsecured Protected Health Information without unreasonable delay and in no case later than the earlier of (i) any specific timeframe set forth in the BAA, or (ii) sixty (60) calendar days after discovery of the breach, consistent with 42 U.S.C. § 17932(b) and (d).

f. Washington My Health My Data Act. To the extent Subcontractor collects, processes, shares, or sells any "consumer health data" as defined in chapter 19.373 RCW (the "My Health My Data Act") in connection with the Services that is not otherwise exempt under RCW 19.373.100 (including data that does not constitute Protected Health Information, RCW 70.02 health care information, or 42 C.F.R. Part 2 patient-identifying information), Subcontractor shall: (i) maintain a consumer health data privacy policy satisfying RCW 19.373.020; (ii) restrict access to consumer health data to employees, processors, and contractors who need it to further a purpose for which consent was obtained or to provide a requested product or service, and maintain administrative, technical, and physical safeguards satisfying a reasonable standard of care, consistent with RCW 19.373.050; (iii) not collect or share consumer health data except with valid consumer consent or as strictly necessary to provide a requested product or service, consistent with RCW 19.373.030; and (iv) not sell consumer health data without valid, specific consumer authorization satisfying RCW 19.373.070.

g. Information Blocking. Subcontractor shall not engage in "information blocking" as defined in 42 U.S.C. § 300jj-52 and its implementing regulations, meaning

Subcontractor shall not engage in a practice that, except as required by law or specified by applicable regulation, is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information, where Subcontractor knows or should know that such practice is likely to have that effect. Subcontractor shall design, configure, and operate the WA CIE solution to support authorized access, exchange, and use of electronic health information for treatment and other permitted purposes, including transitions between certified health information technologies, and shall not implement the solution in nonstandard ways likely to substantially increase the complexity or burden of accessing, exchanging, or using electronic health information.

9. **Comagine Health Systems and Account Access.** If necessary for performance of the Services, Comagine Health may, in its discretion, provide authorized Subcontractor personnel with temporary or limited access to Comagine Health accounts, systems, applications, collaboration tools, or other technology resources ("Comagine Health Systems"). Any such access is subject to Comagine Health's applicable access, privacy, security, acceptable-use, and other requirements.

Access shall be limited to specifically authorized individuals and to the systems and information reasonably necessary to perform the Services. Subcontractor shall ensure that its personnel do not share credentials or permit access by unauthorized persons and shall promptly notify Comagine Health when an authorized individual no longer requires access or is reassigned or separated from Subcontractor.

Comagine Health may modify, suspend, or terminate access to Comagine Health Systems at any time when reasonably necessary for security, privacy, compliance, personnel changes, or Contract administration. Upon expiration or termination of this Agreement, or upon Comagine Health's request, Subcontractor shall immediately discontinue use of and access to Comagine Health Systems and comply with applicable account-termination and access-removal requirements.

10. **Confidentiality and Non-Disclosure.**
    a. **Confidential Information.** "Confidential Information" means non-public information disclosed or made available to Subcontractor in connection with this Agreement by or on behalf of Comagine Health, HCA, WA CIE participating organizations, or other authorized WA CIE stakeholders, including business, operational, technical, financial, security, system, data, and other information that is identified as confidential or that reasonably should be understood to be confidential based on its nature or the circumstances of disclosure.

    b. **Use and Disclosure.** Subcontractor shall use Confidential Information solely as necessary to perform its obligations under this Agreement and shall not disclose

Confidential Information to any person or entity except to its personnel, approved subcontractors, and authorized service providers who have a need to know the information for purposes of performing the Services and who are subject to confidentiality obligations at least as protective as those contained in this Agreement.

c. **Protection of Confidential Information.** Subcontractor shall protect Confidential Information using safeguards appropriate to the nature and sensitivity of the information and shall be responsible for any unauthorized use or disclosure of Confidential Information by its personnel, subcontractors, or service providers.

d. **Exclusions.** Confidential Information does not include information that Subcontractor can demonstrate: (i) was lawfully known to Subcontractor without restriction before disclosure; (ii) becomes publicly available through no breach of this Agreement; (iii) is lawfully received from a third party without a duty of confidentiality; or (iv) is independently developed by Subcontractor without use of or reference to the Confidential Information.

e. **Required Disclosure.** If Subcontractor is required by law, regulation, subpoena, court order, or other legal process to disclose Confidential Information, Subcontractor shall, to the extent legally permitted, promptly notify Comagine Health before disclosure and reasonably cooperate with Comagine Health in seeking a protective order or other appropriate protection. Subcontractor shall disclose only the portion of Confidential Information legally required to be disclosed.

f. **Survival.** Subcontractor's obligations under this Section shall survive expiration or termination of this Agreement for so long as the information remains confidential or protected under applicable law or the terms of this Agreement.

11. **Reporting Requirements.** Subcontractor shall prepare and submit all reports, status updates, deliverables, plans, documentation, and other information required under **Attachment 1 – Statement of Work and Deliverables**, the Quality Assurance Plan, and other applicable requirements of this Agreement. Subcontractor shall ensure that required reports and information are complete, accurate, timely, and in the form and manner specified by Comagine Health.

Subcontractor shall also provide such additional information reasonably requested by Comagine Health as necessary for Comagine Health to monitor Subcontractor's performance or satisfy applicable reporting, oversight, audit, or other obligations to HCA under the Prime Contract.

12. **Records, Audit, and Access Requirements.**

a. **Records.** Subcontractor shall maintain complete and accurate books, records, documentation, and other evidence relating to its performance under this Agreement sufficient to demonstrate compliance with the Agreement and to substantiate amounts invoiced to Comagine Health. Such records shall include, as applicable, records supporting performance and acceptance of milestones and deliverables, recurring Services, authorized T&M Services, service levels, required reports, and other Contract requirements.

b. **Access and Audit.** Upon reasonable notice and during normal business hours, and at no additional cost, Subcontractor shall provide Comagine Health, HCA, the Washington State Auditor, and other governmental or authorized representatives having applicable audit or oversight authority access to records relating to this Agreement to the extent necessary to verify Subcontractor's compliance, performance, and invoiced amounts or to satisfy applicable audit, monitoring, or oversight requirements under the Prime Contract. Subcontractor shall reasonably cooperate with such reviews, audits, and examinations and shall accompany Comagine Health or HCA personnel during any examination, inspection, review, or audit. Subcontractor acknowledges that records it prepares, owns, uses, or retains in performing the Services may constitute "public records" subject to disclosure under the Washington Public Records Act, chapter 42.56 RCW, including where Subcontractor is found to act as the functional equivalent of Comagine Health or HCA with respect to those records. Subcontractor shall promptly provide Comagine Health with any record Comagine Health identifies as responsive to a public records request and reasonably cooperate with Comagine Health's and HCA's response to such requests, including with respect to applicable exemptions.

c. Record Retention. Subcontractor shall retain records relating to this Agreement for at least six (6) years following expiration or termination of this Agreement. If any audit, litigation, claim, investigation, or other action involving such records is commenced before the end of the retention period, Subcontractor shall retain the applicable records until final resolution of the matter or expiration of the required retention period, whichever is later.

d. Time-and-Materials Records. For Services authorized on a T&M basis, Subcontractor shall maintain records sufficient to substantiate labor categories, hours worked, applicable contractual rates, authorized expenses or materials, and compliance with the applicable NTE authorization.

e. Lower-Tier Subcontractors. Subcontractor shall ensure that approved lower-tier subcontractors and service providers maintain and provide access to applicable records

to the extent required to enable Subcontractor and Comagine Health to satisfy the requirements of this Section.

13. **Data, Work Product, and Intellectual Property Rights.**
    a. **WA CIE Data.** All data and information provided to, collected by, generated by, or maintained by Subcontractor in connection with the WA CIE program ("WA CIE Data") shall remain the property of HCA, Comagine Health, participating organizations, individuals, or other applicable data owner, as provided by the Prime Contract, applicable agreements, and applicable law. Except as expressly authorized under this Agreement, Subcontractor acquires no ownership interest in WA CIE Data and may use such data only as necessary to perform the Services.

    b. **Subcontractor Pre-Existing Technology.** Subcontractor retains ownership of software, technology, tools, methodologies, processes, know-how, documentation, and other intellectual property developed or acquired by Subcontractor independently of this Agreement and not specifically created for WA CIE ("Subcontractor Technology"). Except as expressly provided in this Agreement, nothing herein transfers ownership of Subcontractor Technology to Comagine Health or HCA.

    c. **WA CIE Work Product.** Ownership of deliverables, configurations, documentation, specifications, custom software, modifications, interfaces, reports, and other work product created specifically for WA CIE ("WA CIE Work Product") shall be determined in accordance with the applicable requirements of the Prime Contract and this Agreement. Subcontractor shall execute and deliver such assignments, licenses, and other documentation reasonably necessary for Comagine Health to provide HCA the ownership, access, and use rights required under the Prime Contract.

    d. **Embedded Subcontractor Technology.** To the extent Subcontractor Technology is incorporated into or necessary to use any WA CIE Work Product or otherwise necessary for the operation, maintenance, transition, or continued use of the WA CIE solution, Subcontractor grants Comagine Health and HCA the license and use rights specified in this Agreement and its applicable attachments sufficient to exercise their rights in the WA CIE Work Product and satisfy applicable requirements of the Prime Contract.

    e. **Third-Party Materials.** Subcontractor shall identify any third-party software, data, documentation, or other intellectual property incorporated into or required for the WA CIE solution and shall obtain and maintain all licenses, permissions, and other rights necessary to provide the Services and permit Comagine Health and HCA to exercise the rights granted under this Agreement.

f. **Publicity and Use of Names.** Subcontractor shall not issue press releases or use the name, trademarks, logos, or other identifying information of Comagine Health, HCA, or the WA CIE program for advertising, publicity, marketing, endorsement, or promotional purposes without the applicable party's prior written consent.

g. **Survival.** The rights and obligations established under this Section that by their nature are intended to continue following expiration or termination of this Agreement shall survive expiration or termination.

14. **Indemnification.**
    a. **General Indemnification.** Subcontractor shall indemnify, defend, and hold harmless Comagine Health and its directors, officers, employees, agents, and representatives from and against third-party claims, actions, damages, losses, liabilities, judgments, costs, and expenses, including reasonable attorneys' fees, arising out of or resulting from: (i) the negligent or wrongful acts or omissions of Subcontractor or its personnel, subcontractors, or agents in performing the Services; (ii) Subcontractor's material breach of its confidentiality, privacy, or security obligations under this Agreement; or (iii) Subcontractor's violation of applicable law in connection with the Services, except to the extent caused by the negligence or wrongful acts of Comagine Health.

    b. **Intellectual Property Indemnification.** Subcontractor shall indemnify, defend, and hold harmless Comagine Health from and against any third-party claim alleging that the technology, software, Services, deliverables, or other materials provided by Subcontractor under this Agreement infringe or misappropriate a third party's patent, copyright, trademark, trade secret, or other intellectual property right.

    If any technology, software, Service, or deliverable becomes, or in Subcontractor's reasonable judgment is likely to become, subject to an infringement or misappropriation claim, Subcontractor shall, at its expense and without materially reducing the functionality of the WA CIE solution: (i) obtain the right for continued use; (ii) modify or replace the affected item so that it is non-infringing; or, if neither option is commercially reasonable, (iii) provide such other remedy as the Parties may mutually agree, without limiting Comagine Health's other rights and remedies under this Agreement.

    c. **Indemnification Procedures.** Comagine Health shall provide Subcontractor reasonable notice of a claim for which indemnification is sought and reasonable cooperation in the defense of the claim. Subcontractor shall not settle any claim in a manner that admits fault or liability on behalf of Comagine Health, imposes non-

monetary obligations on Comagine Health, or materially affects Comagine Health's rights without Comagine Health's prior written consent.

15. **Insurance.** Prior to performing Services under this Agreement, Subcontractor shall, at its own expense, obtain and maintain throughout the term of this Agreement the insurance coverage required by this Section. The insurance requirements are intended to satisfy the applicable insurance requirements flowed down from Comagine Health's Contract No. K8582 with HCA.

a. **Commercial General Liability.** Subcontractor shall maintain Commercial General Liability insurance covering bodily injury, property damage, personal injury, and contractual liability, with limits of not less than **$2,000,000 per occurrence and $4,000,000 general aggregate**.

b. **Workers' Compensation and Employers' Liability.** Subcontractor shall maintain Workers' Compensation and other industrial insurance coverage as required by applicable law, including Title 51 RCW (Industrial Insurance), and Employers' Liability insurance with limits of not less than **$1,000,000 per accident for bodily injury by accident and $1,000,000 per employee for bodily injury by disease**.

c. **Umbrella/Excess Liability.** Subcontractor shall maintain Umbrella or Excess Liability insurance providing excess limits over the applicable primary policies in an amount not less than **$3,000,000**.

d. **Professional Liability/Technology Errors and Omissions.** Subcontractor shall maintain Professional Liability and/or Technology Errors and Omissions insurance appropriate to the Services, with limits of not less than **$1,000,000 per occurrence and $2,000,000 general aggregate**.

e. **Crime Coverage.** Subcontractor shall maintain Crime insurance with limits of not less than **$5,000,000 per occurrence and $10,000,000 aggregate**. At a minimum, such coverage shall include Computer Fraud, Forgery, Money and Securities, and Employee Dishonesty.

f. **Cyber/Privacy Liability.** Subcontractor shall maintain Cybersecurity and Privacy Liability insurance appropriate to the technology, hosting, data, and security risks associated with the WA CIE solution, with limits of not less than **$25,000,000 per occurrence and $50,000,000 general aggregate**. Coverage shall include, as applicable, first-party costs and third-party claims arising from unauthorized access to, use, disclosure, loss, or compromise of data; privacy or security breaches; breach notification and response; forensic investigation; business interruption; network

security failure; cyber-extortion; communications and media liability; fraud prevention, credit monitoring, and identity theft assistance; and regulatory defense, fines, and penalties to the extent insurable by law.

g. **Automobile Liability.** If applicable to the Services, Subcontractor shall maintain Business Automobile Liability insurance covering owned, hired, and non-owned vehicles, with limits of not less than **$1,000,000 per occurrence Combined Single Limit** for bodily injury and property damage.

h. **Extended Coverage.** Professional Liability/Technology Errors and Omissions, Crime, and Cybersecurity and Privacy Liability coverage required under this Section shall be maintained for **six (6) years following expiration or termination of this Agreement** to protect against claims made following expiration or termination.

i. **Additional Insured; Primary Coverage.** Comagine Health, HCA, and the State of Washington, including their applicable officials, agents, and employees, shall be included as additional insureds to the extent required under the applicable policies and this Section. Required coverage shall be primary to any other insurance or self-insurance maintained by Comagine Health, HCA, or the State of Washington, as applicable, and shall include applicable severability of interests or cross-liability provisions. Subcontractor's insurance requirements under this Section 15 are intended to satisfy the insurance requirements applicable to Subcontractor that are flowed down from Section 15 (Insurance) of the Prime Contract, as modified for certain named subcontractors under Prime Contract Amendment 1.

j. **Waiver of Subrogation.** Subcontractor shall obtain waivers of subrogation in favor of Comagine Health, HCA, and the State of Washington to the extent required by the applicable HCA flow-down requirements.

k. **Evidence of Coverage.** Prior to commencement of the Services and upon reasonable request thereafter, Subcontractor shall provide certificates of insurance evidencing the required coverage and, upon request, applicable endorsements. Subcontractor shall provide at least **thirty (30) days' prior notice** of cancellation, nonrenewal, or revocation of required coverage and shall not materially reduce the scope of required coverage without Comagine Health's prior written approval and HCA's prior written approval where required under the Prime Contract.

l. **Lower-Tier Subcontractors.** Subcontractor shall require its approved lower-tier subcontractors and service providers to maintain insurance appropriate to the nature and scope of the services they perform and the associated risks, including any

insurance requirements required to be flowed down under the Prime Contract. Subcontractor remains responsible for the acts, omissions, performance, and compliance of its lower-tier subcontractors and service providers.

m. **Modification or Waiver of Insurance Requirements.** Subcontractor may request a modification or reduction of one or more insurance requirements by submitting the request and supporting rationale to Comagine Health in writing. Comagine Health may approve or deny the request in its discretion, subject to any approval required from HCA under the Prime Contract. Any modification or reduction must be approved by Comagine Health in writing and, where required under the Prime Contract, is subject to HCA's prior written approval. Unless and until such approval is provided, Subcontractor shall maintain the insurance required by this Section.

n. **No Limitation of Liability.** The insurance requirements under this Section do not limit Subcontractor's liabilities or obligations under this Agreement.

16. **Compliance with Laws.** Subcontractor shall, in performing the Services, comply with all applicable federal, state, and local laws, statutes, regulations, codes, and governmental orders, and shall obtain and maintain all licenses, permits, approvals, and authorizations required for its performance of the Services under this Agreement, including without limitation: chapter 42.56 RCW (Public Records Act); chapter 19.02 RCW (Business License Center Act); chapter 49.60 RCW (Washington Law Against Discrimination), including RCW 49.60.530(3); Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and 28 C.F.R. Part 35; chapter 42.52 RCW (Ethics in Public Service); the federal Clean Air Act, 42 U.S.C. § 7401 et seq., and Clean Water Act, 33 U.S.C. § 1251 et seq.; the Drug-Free Workplace Act of 1988, 41 U.S.C. § 8101 et seq.; 31 U.S.C. § 1352 and 45 C.F.R. Part 93 (lobbying restrictions); HIPAA and HITECH and their implementing regulations at 45 C.F.R. Parts 160 and 164; 42 C.F.R. Part 2 and chapter 70.02 RCW (health care information privacy); 45 C.F.R. § 95.617 and 42 C.F.R. Part 433, Subpart C (federal financial participation and related license rights); and the WaTech Security Policies and Standards referenced in the Prime Contract. Subcontractor shall also comply with applicable regulatory and governmental requirements expressly incorporated into or identified in this Agreement, including applicable HCA and State of Washington requirements.

a. **Civil Rights and Equal Employment Opportunity**. Subcontractor shall comply with all applicable federal and State civil rights and equal employment opportunity laws and requirements applicable to its performance under this Agreement, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., and the Washington Law Against Discrimination, chapter 49.60 RCW. Subcontractor shall further comply with: (i) Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. § 793, and its implementing regulations at 41 C.F.R. Part 60-741, regarding nondiscrimination and affirmative action for individuals with

disabilities; and (ii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, 38 U.S.C. § 4212, and its implementing regulations at 41 C.F.R. Part 60-300, regarding nondiscrimination and affirmative action for protected veterans. Subcontractor acknowledges that Comagine Health may update this provision by written notice to reflect a subsequent change in applicable federal or State civil rights or equal employment opportunity law.

17. **Relationship of Parties.** The Parties are independent contractors. Nothing in this Agreement shall be construed to create an employer-employee, agency, partnership, joint venture, fiduciary, or other similar relationship between Comagine Health and Subcontractor. Neither Party has authority to act for, represent, bind, or incur any obligation on behalf of the other Party except as expressly authorized in writing.

Subcontractor is solely responsible for the direction, supervision, compensation, and conduct of its personnel and for all applicable employment-related obligations with respect to such personnel.

18. **Termination.**
    a. **Termination for Convenience by Comagine Health.** Comagine Health may terminate this Agreement, in whole or in part, for convenience upon thirty (30) days' prior written notice to Subcontractor.

    b. **Termination for Cause.** Either Party may terminate this Agreement for a material breach by the other Party if the breaching Party fails to cure the breach within thirty (30) days after receipt of written notice describing the breach; provided, however, that if the breach is not reasonably capable of cure within thirty (30) days, the breaching Party must commence corrective action within that period and diligently pursue the cure to completion. Notwithstanding the foregoing, Comagine Health may terminate this Agreement immediately or on a shorter notice period when permitted under another provision of this Agreement, including where necessary due to a material privacy or security breach, failure to obtain or maintain a required authorization or approval, or other circumstance for which immediate or expedited termination is expressly authorized under this Agreement.

    c. **Effect of Termination.** Upon expiration or termination, Subcontractor shall cease performing terminated Services except as necessary to perform its transition, data return or transfer, security, confidentiality, and other surviving obligations under this Agreement. Comagine Health shall pay Subcontractor for Services satisfactorily performed and accepted through the effective date of termination and for authorized transition Services, subject to applicable credits, offsets, withholding, or other rights

and remedies under this Agreement. Comagine Health shall have no obligation to pay for unperformed Services, lost profits, or anticipated revenue resulting from termination.

d. **Survival.** Expiration or termination shall not affect rights or obligations accrued before the effective date of termination or provisions that by their nature or express terms survive expiration or termination.

19. **Suspension or Termination of Prime Contract.** If HCA suspends, terminates, reduces, or materially modifies the Prime Contract or the WA CIE program, or directs Comagine Health to suspend or discontinue all or any portion of the Services performed by Subcontractor, Comagine Health may suspend, reduce, or terminate the corresponding Services under this Agreement upon written notice to Subcontractor.

Subcontractor shall promptly comply with any such notice and take reasonable steps to minimize costs resulting from the suspension, reduction, or termination. Comagine Health shall compensate Subcontractor for Services satisfactorily performed and accepted through the effective date of the suspension, reduction, or termination and for any transition Services authorized by Comagine Health, subject to the terms of this Agreement.

Any suspension, reduction, or termination under this Section shall not relieve Subcontractor of its applicable transition, data transfer, confidentiality, security, records retention, or other obligations that survive expiration or termination of this Agreement.

20. **Force Majeure.** Neither Party shall be liable for a delay or failure to perform its obligations under this Agreement to the extent caused by an event beyond the Party's reasonable control that could not reasonably have been prevented or avoided through the exercise of reasonable diligence (“Force Majeure Event”). Force Majeure Events may include natural disasters, fire, flood, earthquake, severe weather, epidemic or pandemic, war, terrorism, civil unrest, governmental actions, or widespread interruption of utilities or telecommunications infrastructure.

A Force Majeure Event does not include: (i) financial hardship or changes in market conditions; (ii) failure of Subcontractor's personnel, subcontractors, suppliers, hosting providers, or other third-party service providers unless their failure is itself caused by a qualifying Force Majeure Event; (iii) failure to obtain or maintain licenses, permits, approvals, authorizations, staffing, equipment, or other resources required to perform the Services; or (iv) events that could reasonably have been prevented or mitigated through compliance with Subcontractor's business continuity, disaster recovery, security, backup, redundancy, or other obligations under this Agreement.

The affected Party shall promptly notify the other Party of the Force Majeure Event, use commercially reasonable efforts to mitigate its effects and resume performance, and provide reasonable updates regarding the expected duration and impact. The affected Party's obligations shall be excused only to the extent and for the duration that performance is actually prevented by the Force Majeure Event.

If a Force Majeure Event materially affects the Services for an extended period or materially threatens the continuity or availability of the WA CIE solution, Comagine Health may exercise its applicable suspension, transition, or termination rights under this Agreement.

21. **Subcontractors and Third-Party Service Providers.**
    a. **Approval.** Subcontractor shall not engage or materially change any lower-tier subcontractor or third-party service provider that will: (i) perform a material portion of the Services; (ii) host, store, process, transmit, or have access to WA CIE Data or Confidential Information; (iii) provide material hosting, cloud, security, integration, or other technology services supporting the WA CIE solution; or (iv) otherwise perform functions for which prior approval is required under the Prime Contract, without Comagine Health's prior written approval. Where required under the Prime Contract, such engagement or change shall also be subject to HCA's prior approval.

    b. **Disclosure.** Subcontractor shall identify applicable lower-tier subcontractors and third-party service providers and provide such information regarding their roles, locations, access to data and systems, and services as Comagine Health reasonably requires for security, privacy, contractual, or HCA review and approval.

    c. **Responsibility.** Subcontractor remains fully responsible for the performance, acts, omissions, and compliance of its lower-tier subcontractors and third-party service providers as if such performance, acts, omissions, and compliance were those of Subcontractor. No subcontract or other arrangement shall relieve Subcontractor of any obligation under this Agreement.

    d. **Flow-Down Requirements.** Subcontractor shall ensure that its agreements with approved lower-tier subcontractors and third-party service providers contain all provisions necessary for Subcontractor and Comagine Health to satisfy the applicable requirements of this Agreement and the Prime Contract, including applicable confidentiality, privacy, security, data protection, records retention and access, audit, insurance, intellectual property, transition, and Business Associate Agreement requirements.

e. **No Privity.** Approval by Comagine Health or HCA of any lower-tier subcontractor or third-party service provider does not create a contractual relationship between Comagine Health or HCA and such entity and does not reduce or otherwise affect Subcontractor's obligations under this Agreement.

22. **Transition Assistance and Exit Services**
    a. **Transition Cooperation.** Upon expiration or termination of this Agreement, in whole or in part, or upon Comagine Health's reasonable request in anticipation of such expiration or termination, Subcontractor shall reasonably cooperate with Comagine Health, HCA, and any successor contractor or service provider to facilitate an orderly transition of the Services without unreasonable interruption to WA CIE operations.

    b. **Transition Services.** Subcontractor shall provide the transition assistance required by this Agreement, including the applicable Statement of Work, Deliverable D21 (Knowledge Transfer Plan), Deliverable D22 (System Transition and Continuity Plan), and Quality Assurance Plan. Transition assistance shall include, as applicable, continued operation and support of the Services; transfer or export of WA CIE Data in an agreed, usable format; transfer of applicable configurations, documentation, specifications, interfaces, reports, and other materials that Subcontractor is required or authorized to provide under this Agreement; knowledge transfer; and reasonable cooperation with Comagine Health, HCA, and any successor provider.

    c. **Continued Services.** To the extent required by Comagine Health to satisfy its obligations under the Prime Contract, Subcontractor shall continue providing applicable Services during the transition period for up to **three hundred sixty-five (365) days** following expiration or termination, unless Comagine Health specifies a shorter period. During any transition period, Subcontractor shall continue to meet the applicable requirements and service levels of this Agreement.

    d. **Transition Charges.** Services that are part of Subcontractor's existing transition obligations under this Agreement shall be provided at the applicable prices established under the Agreement. Any additional transition services outside the existing Scope of Work must be authorized in writing by Comagine Health and shall be compensated at the applicable rates established under the Agreement or as otherwise agreed in writing by the Parties. Subcontractor shall not impose additional termination, disengagement, data-export, or similar fees except as expressly provided in the Agreement.

    e. **No Withholding.** Subcontractor shall not withhold WA CIE Data, documentation, configurations, or other materials that Comagine Health or HCA is entitled to receive

under this Agreement because of a payment dispute or other dispute between the Parties.

f. **Proprietary Technology.** Nothing in this Section requires Subcontractor to transfer ownership of its pre-existing or independently developed proprietary technology except to the extent expressly provided in this Agreement. Subcontractor shall, however, provide the licenses, access, documentation, and other rights necessary for Comagine Health and HCA to exercise the transition and continuity rights provided under this Agreement.

g. Assignment to HCA. Upon expiration or termination of this Agreement, HCA shall have the right, in its sole discretion, to require Comagine Health to assign, and Comagine Health shall have the right to assign, this Agreement (or the applicable Statement of Work for System Operations Services) to HCA or to HCA's designee, and Subcontractor consents in advance to any such assignment. Following any such assignment, HCA or its designee shall assume Comagine Health's rights and obligations under this Agreement to the extent assigned, and Subcontractor shall continue to perform the Services for the assignee on the same terms, unless otherwise agreed in writing.

h. **Survival.** Subcontractor's obligations under this Section shall survive expiration or termination of this Agreement for the period necessary to complete the required transition.

23. **Representations and Warranties**
    a. **Authority.** Subcontractor represents and warrants that it has full power and authority to enter into this Agreement and to perform its obligations under the Agreement.

    b. **Professional Performance.** Subcontractor represents and warrants that the Services shall be performed in a professional and workmanlike manner by personnel with the qualifications, skills, and experience appropriate to the Services and in accordance with applicable industry standards and the requirements of this Agreement.

    c. **Conformance.** Subcontractor represents and warrants that the technology solution, Services, deliverables, and other materials provided under this Agreement shall materially conform to the requirements, specifications, documentation, acceptance criteria, and service levels established in this Agreement and its applicable attachments.

    d. **Rights and Licenses.** Subcontractor represents and warrants that it has, and throughout the term of this Agreement will maintain, all rights, licenses, permissions,

and authorizations necessary to provide the Services and to grant Comagine Health and HCA the rights and licenses provided under this Agreement.

e. **Intellectual Property.** Subcontractor represents and warrants that, to its knowledge, the technology solution, Services, deliverables, and materials provided by Subcontractor under this Agreement do not infringe, misappropriate, or otherwise violate the intellectual property rights of any third party. This warranty is in addition to Subcontractor's obligations under the Intellectual Property Indemnification provisions of this Agreement.

f. **Malicious or Surreptitious Code.** Subcontractor represents and warrants that it shall not knowingly introduce into the WA CIE environment any virus, malware, disabling device, malicious code, or other code designed or intended to disrupt, damage, disable, impair, or permit unauthorized access to systems, software, or data. Subcontractor shall maintain commercially reasonable processes designed to prevent and detect such code in connection with the Services.

g. **Compliance.** Subcontractor represents and warrants that its performance of the Services shall comply with applicable laws, regulations, licenses, governmental approvals, and applicable requirements expressly incorporated into this Agreement.

h. **No Conflicting Obligations.** Subcontractor represents and warrants that its execution and performance of this Agreement do not and will not violate any agreement or obligation binding upon Subcontractor that would materially interfere with its ability to perform the Services.

i. **Remedies.** In the event of a breach of warranty, Subcontractor shall promptly correct, repair, replace, or reperform the affected Services or deliverables, as applicable, at no additional cost to Comagine Health. These remedies are in addition to, and do not limit, any other rights or remedies available to Comagine Health under this Agreement.

24. **Service Levels and Performance Remedies.**
    a. **Performance Requirements.** Subcontractor shall perform the Services in accordance with the service levels, performance standards, acceptance requirements, and other performance requirements established in this Agreement and **Attachment 3 – Quality Assurance Plan and Service Levels** (“QAP”).

    b. **Performance Monitoring**. Comagine Health may monitor and evaluate Subcontractor's performance against the requirements of this Agreement and the QAP. Subcontractor shall provide the reports, data, records, and other information reasonably necessary to

verify performance and compliance with applicable service levels and performance requirements.

c. **Corrective Action**. If Subcontractor fails to meet an applicable performance requirement, Comagine Health may require Subcontractor to investigate the cause of the deficiency and submit and implement a Corrective Action Plan in accordance with the QAP.

d. **Performance Remedies.** Failure to satisfy applicable service levels, performance standards, deliverable requirements, or other requirements may result in the performance credits, liquidated damages, payment withholding, recovery of applicable program-related losses, or other remedies specified in the QAP or elsewhere in this Agreement, as applicable.

e. **Coordination of Remedies.** Remedies under the QAP and this Agreement are cumulative except to the extent otherwise expressly provided. Comagine Health shall not obtain duplicative monetary recovery for the same loss or performance failure, and amounts recovered for the same loss shall be appropriately credited.

f. **No Waiver by Acceptance or Payment.** Acceptance of a deliverable or payment of an invoice does not waive a performance deficiency, breach, or other noncompliance that was not reasonably identifiable at the time of acceptance or payment, or otherwise limit Comagine Health's rights under this Agreement.

25. **Change Control**
    a. **Changes to Services.** Either Party may propose a change to the Services, deliverables, technical requirements, schedule, implementation approach, or other requirements under this Agreement. Proposed changes shall be documented and evaluated in accordance with the change-control process established under the Statement of Work or otherwise agreed to by the Parties.

    b. **Impact Assessment.** At Comagine Health's request, Subcontractor shall provide a written assessment of a proposed change, including its anticipated impact on scope, deliverables, schedule, staffing, technology, security, service levels, and compensation, as applicable. Subcontractor shall identify any assumptions, dependencies, or additional costs associated with the proposed change before the change is authorized.

    c. **Authorization.** No change that materially modifies the Scope of Work, compensation, Contract term, deliverables, or other material contractual obligation shall be effective unless authorized in writing by representatives of the Parties with appropriate authority.

Project managers and technical personnel may approve routine operational matters within the existing Scope of Work but may not amend this Agreement or authorize additional compensation unless expressly authorized to do so.

d. **Additional or T&M Services.** Subcontractor shall not perform or invoice Comagine Health for enhancements, change requests, additional integrations, or other Services outside the baseline Scope of Work unless Comagine Health has authorized the work in writing, including any applicable T&M rates and not-to-exceed amount. Subcontractor's performance of unauthorized additional work does not create an obligation for Comagine Health to pay for such work.

e. **Continued Performance.** Unless otherwise directed by Comagine Health, Subcontractor shall continue performing the unaffected portions of the Services while a proposed change is being evaluated or negotiated.

f. **Required Changes.** If a change is required as a result of a change to the Prime Contract, an HCA or WaTech requirement, applicable law or regulation, or another governmental requirement applicable to WA CIE, the Parties shall cooperate in good faith to implement the required change. Any adjustment to compensation or schedule shall be determined in accordance with this Agreement and documented in writing when applicable.

26. **Miscellaneous.**
    a. **Assignment.** Subcontractor shall not assign, delegate, transfer, or otherwise dispose of this Agreement or any material right or obligation under this Agreement without the prior written consent of Comagine Health. Any merger, acquisition, reorganization, sale of substantially all of Subcontractor's assets related to the Services, or other transaction resulting in a change of control of Subcontractor shall be considered an assignment for purposes of this Section. Comagine Health may assign this Agreement to HCA, the State of Washington, a successor Lead Organization, or another entity designated in connection with the transition or continuation of the WA CIE program, to the extent permitted or required under the Prime Contract, upon written notice to Subcontractor.

    b. **Entire Agreement; Amendments.** This Agreement, including all attachments and other documents expressly incorporated by reference, constitutes the entire agreement between the Parties concerning its subject matter and supersedes all prior or contemporaneous oral or written agreements, representations, and understandings concerning such subject matter. Except as otherwise expressly provided in this

Agreement, this Agreement may be amended only by a written instrument executed by authorized representatives of both Parties.

c. **Successors and Permitted Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

d. **Notices.** Any formal notice required or permitted under this Agreement shall be in writing and delivered to the applicable Party at the address or email address specified below. Notice shall be deemed received: (i) when delivered personally; (ii) on the date shown as delivered by a nationally recognized overnight courier; (iii) three (3) Business Days after deposit in the United States mail, certified or registered, return receipt requested, postage prepaid; or (iv) when transmitted by email, provided that the sender does not receive an automated notice of failed delivery.

Either Party may change its designated notice contact or address by providing written notice to the other Party in accordance with this Section. Routine operational communications, project correspondence, invoices, reports, deliverables, and other communications made in the ordinary course of performance do not constitute formal notice under this Section unless expressly identified as such under this Agreement.

Notices to Comagine Health:
Comagine Health
10700 Meridian Ave N., Suite 300
Seattle, WA 98133
Attn: Senior Director, Contracts Administration and Compliance
Email: pgarcia@comagine.org

Notices to Subcontractor:
[Subcontractor Legal Name]
[Address]
Attn: [Title/Name]
Email: [Email]

27. **Order of Precedence.** Each of the documents listed below is incorporated into and made part of this Agreement. In the event of a conflict, inconsistency, or ambiguity among the documents comprising this Agreement, the conflict shall be resolved according to the following order of precedence, with the document listed first controlling:

a. Applicable federal and State laws, regulations, and policies;

b. This Agreement and any amendments executed by authorized representatives of the Parties;

c. **Attachment 5 – Business Associate Agreement,** solely with respect to privacy, security, and Protected Health Information matters within its scope;

d. **Attachment 4** – **Security and Technology Requirements**, solely with respect to security, cybersecurity, data protection, and applicable technology requirements within its scope;

e. **Attachment 1** – **Statement of Work and Deliverables;**

f. **Attachment 3 – Quality Assurance Plan and Service Levels;**

g. **Attachment 2** – **Pricing and Payment Schedule;**

h. Any other attachment or document expressly incorporated into this Agreement;

i. Solely for the final Agreement executed with the successful Offeror (and not for this sample Agreement as issued with the RFP), the Prime Contract, including applicable amendments and the exhibits referenced herein, solely with respect to provisions applicable to Subcontractor and the Services as provided in Section 7(b);

j. The Request for Proposals under which Subcontractor was selected to provide the Services ("RFP"), excluding any RFP provisions superseded by a written amendment issued by Comagine Health prior to proposal submission; and

k. Subcontractor's proposal submitted in response to the RFP, limited to the specific technical approach, Key Personnel, pricing, and other substantive commitments that Comagine Health has expressly accepted and identified as incorporated in writing. No other portion of Subcontractor's proposal is incorporated into or forms part of this Agreement.

A document shall not modify or supplement this Agreement unless it is expressly incorporated by reference under this Section. Any terms, conditions, exceptions, assumptions, qualifications, disclaimers, or other provisions contained in Subcontractor's proposal, quotation, invoice, order acknowledgment, website, click-through or browse-wrap agreement, standard terms of service, marketing or sales materials, or other document shall have no force or effect and shall not modify, supplement, or conflict with this Agreement, regardless of whether such document is

referenced elsewhere in this Agreement or its attachments, unless that specific term, condition, exception, assumption, or other provision is expressly identified and incorporated through a written amendment executed by authorized representatives of both Parties. In the event of any conflict between a provision of Subcontractor's proposal incorporated under this Section and the other documents comprising this Agreement, the other documents shall control.

28. **Dispute Resolution.** The Parties shall attempt in good faith to resolve any dispute, claim, or controversy arising out of or relating to this Agreement through discussions between their designated Contract representatives. If the dispute is not resolved through those discussions, either Party may request escalation to an executive or other senior representative of each Party with authority to resolve the dispute.

If the Parties are unable to resolve the dispute through good-faith escalation, either Party may pursue any remedy available under this Agreement or applicable law in a court of competent jurisdiction in the State of Washington.

Unless Comagine Health directs otherwise or continued performance is not reasonably possible, Subcontractor shall continue performing its undisputed obligations under this Agreement while a dispute is pending. Comagine Health shall continue to pay undisputed amounts properly due under the Agreement.

Nothing in this Section prevents either Party from seeking temporary, preliminary, or other injunctive or equitable relief when necessary to protect its rights, Confidential Information, data, systems, or intellectual property.

29. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its conflict-of-laws principles. Any legal action or proceeding arising out of or relating to this Agreement shall be brought in a court of competent jurisdiction located in **King County, Washington**, and each Party consents to the jurisdiction and venue of such courts. Nothing in this Agreement shall be interpreted to alter the application of Washington law required under the Prime Contract, which provides that actions under the Prime Contract are subject to the exclusive jurisdiction and venue of the Superior Court for Thurston County, Washington.

30. **Non-Waiver.** No waiver of any provision of this Agreement or any breach thereof shall be effective unless made in writing by the waiving Party. A waiver shall apply only to the specific instance for which it is given and shall not constitute a waiver of any subsequent breach or of any other provision of this Agreement. The failure or delay of either Party to exercise any right or remedy under this Agreement shall not constitute a waiver of that right or remedy.

31. **Counterparts and Electronic Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together constitute one and the same Agreement. Signatures delivered electronically, including through an electronic signature platform or in PDF format, shall have the same force and effect as original signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Comagine Health "Comagine Health"	**[Subcontractor Legal Name]** "Subcontractor"
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

DATA SHARING AND BUSINESS ASSOCIATE AGREEMENT

This Data Sharing and Business Associate Agreement ("Attachment" or "DSA/BAA") is incorporated into and made part of the Subcontract Agreement ("Agreement") between Comagine Health ("Comagine") and **[SUBCONTRACTOR LEGAL NAME]** ("Subcontractor").

Comagine has entered into Contract No. K8582 with the Washington State Health Care Authority ("HCA") for the Community Information Exchange ("WA CIE" or "CIE"). In performing Services under the Agreement, Subcontractor may create, receive, maintain, transmit, access, process, store, or otherwise have access to Data, Confidential Information, Personal Information, and Protected Health Information associated with the WA CIE.

This Attachment establishes the requirements governing Subcontractor's access to, use, disclosure, protection, retention, and disposition of such information and incorporates applicable requirements of Exhibit B, Data Sharing and Business Associate Agreement, of Contract No. K8582.

1. DEFINITIONS

Capitalized terms not defined in this Attachment have the meanings assigned to them in the Agreement or applicable law.

1.1 "Authorized User" means an individual authorized by Subcontractor and, where required, Comagine or HCA, to access Data for purposes of performing the Services.

1.2 "Breach" has the meaning assigned under 45 C.F.R. § 164.402 when used in connection with unsecured PHI and includes, where applicable, a Data Breach or other unauthorized acquisition, access, use, or disclosure of Data requiring notification under applicable law or the Prime Contract.

1.3 "Business Associate" has the meaning assigned under HIPAA. For purposes of the HIPAA provisions of this Attachment, Subcontractor is a Business Associate of Comagine to the extent Subcontractor creates, receives, maintains, or transmits PHI on behalf of Comagine in connection with the Services.

1.4 "Confidential Information" includes HCA Data and other information designated or treated as confidential under the Agreement, Prime Contract, applicable HCA or WaTech requirements, or applicable law.

1.5 "Data" means information created, received, maintained, transmitted, accessed, processed, or stored by Subcontractor in connection with the Services, including HCA Data, CIE Data, Confidential Information, Personal Information, and PHI, as applicable.

1.6 "HCA Data" means Data owned by, originating from, received from, or provided on behalf of HCA, including Data created or maintained for HCA in connection with the WA CIE.

1.7 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended by the HITECH Act, and implementing regulations at 45 C.F.R. Parts 160 and 164, as amended.

1.8 "Personal Information" means information relating to an identified or identifiable individual that is protected under applicable federal or State law or applicable HCA requirements.

1.9 "PHI" or "Protected Health Information" has the meaning assigned under HIPAA and includes Electronic Protected Health Information ("ePHI"), as applicable.

1.10 "Prime Contract" means HCA Contract No. K8582 between HCA and Comagine, as amended.

1.11 "Security Incident" means the intentional or unintentional, attempted or successful, unauthorized electronic or physical access, use, disclosure, modification, or destruction of Data or Confidential Information, or interference with system operations.

1.12 "Use" includes the sharing, employment, application, utilization, examination, or analysis of PHI within an entity that maintains such information.

2. PURPOSE AND PERMITTED USE OF DATA

2.1 Limited Purpose. Subcontractor may access, use, maintain, process, transmit, and disclose Data only as necessary to perform the Services under the Agreement and for the

purposes authorized by Comagine and HCA in connection with establishing, implementing, operating, maintaining, supporting, and transitioning the WA CIE technology solution.

2.2 Limited License. To the extent necessary for performance of the Services, Subcontractor is granted a limited, nonexclusive right to access and use HCA Data solely for the purposes authorized under the Agreement. Nothing in this Attachment grants Subcontractor ownership rights in HCA Data or other Data owned by HCA, Comagine, or another person or entity.

2.3 No Discretionary Use. The Agreement does not constitute a release of Data for Subcontractor's discretionary use. Subcontractor shall not use Data for any purpose unrelated to the Services or beyond the scope authorized by Comagine and HCA.

2.4 Artificial Intelligence. Subcontractor shall not use Data with or disclose Data to any artificial intelligence, machine-learning, generative-AI, or similar tool or service except to the extent such use is expressly within the Services and has been authorized in accordance with the Agreement and applicable HCA and Comagine requirements.

2.5 Re-identification. Except as expressly required to perform the Services and authorized by Comagine and HCA, Subcontractor shall not attempt to re-identify individuals from de-identified, aggregated, or otherwise protected Data or attempt to contact individuals identified through such Data.

2.6 Third-Party Disclosure. Subcontractor shall not disclose or provide access to HCA Data to a third party, including a lower-tier subcontractor, hosting provider, cloud provider, or other technology service provider, unless such access is authorized under the Agreement and, where required by the Prime Contract, approved in advance by Comagine and HCA.

2.7 Data Licensing/Use Requirements. Subcontractor's access to and use of Data shall be limited to the data elements, purposes, methods of access, Authorized Users, and other conditions approved by Comagine and HCA. Any applicable Data Licensing Statement or similar HCA authorization incorporated into or issued in connection with the Agreement shall be binding upon Subcontractor.

3. DATA CLASSIFICATION AND SPECIAL DATA REQUIREMENTS

3.1 Data Classification. Subcontractor acknowledges that Data processed through the WA CIE may include Category 3 – Confidential Information and Category 4 – Confidential Information Requiring Special Handling under applicable WaTech data-classification requirements.

3.2 Applicable Requirements. Subcontractor shall protect Data according to the highest classification applicable to the Data and in accordance with the Agreement, this Attachment, applicable HCA and WaTech requirements, and applicable law.

3.3 Substance Use Disorder Information. To the extent Data subject to 42 C.F.R. Part 2 is provided to or accessible by Subcontractor, Subcontractor shall comply with all restrictions on use and redisclosure applicable to such Data under 42 C.F.R. Part 2, as amended.

3.4 Other Specially Protected Information. Subcontractor shall comply with additional federal or State confidentiality, privacy, consent, redisclosure, and handling requirements applicable to particular categories of Data.

4. SECURITY OF DATA

4.1 Security Program. Subcontractor shall establish, maintain, and enforce appropriate administrative, physical, and technical safeguards designed to protect the confidentiality, integrity, and availability of Data and prevent unauthorized access, use, disclosure, modification, destruction, or loss.

4.2 Security Awareness. Subcontractor shall maintain a security awareness and training program applicable to personnel and lower-tier subcontractors whose roles involve Data. Training shall occur at least biennially, or more frequently when required by applicable HCA, WaTech, Comagine, or legal requirements.

Upon reasonable request, Subcontractor shall provide documentation demonstrating compliance with this requirement.

4.3 Access Controls. Subcontractor shall:

a. restrict access to Data to Authorized Users with a legitimate business need;

b. use unique user credentials and appropriate authentication controls;

c. prohibit shared user IDs and passwords for systems containing Confidential Information;

d. promptly modify or terminate access when an Authorized User's duties change or access is no longer required; and

e. maintain processes for periodically reviewing access rights.

4.4 HCA and WaTech Security Requirements. Subcontractor shall comply with the applicable HCA Data Security Requirements, WaTech Security Policies and Standards, and the Security and Technology Requirements incorporated into the Agreement.

4.5 Encryption. HCA Confidential Information shall be encrypted in transit and at rest using encryption standards meeting applicable HCA, WaTech, and NIST requirements.

4.6 Data Segregation. HCA Data shall be segregated or otherwise distinguishable from non-HCA data to the extent necessary to permit identification, protection, return, disposition, and investigation of the Data. Where segregation is not technically feasible, all commingled information shall be protected at the level required for HCA Data.

4.7 Vulnerability and Network Security. Subcontractor shall maintain appropriate network and application security controls, including firewall protections, intrusion detection or equivalent capabilities, vulnerability management, penetration testing, malware protection, and timely security updates and patches, in accordance with applicable HCA, WaTech, and Agreement requirements.

4.8 United States Data Location/Offshoring. Subcontractor shall not directly or indirectly, including through lower-tier subcontractors or service providers, store, process, maintain, transmit, or otherwise make HCA Data accessible outside the United States without prior written approval from Comagine and HCA where required under the Prime Contract.

5. CONFIDENTIALITY AND NON-DISCLOSURE

5.1 Confidentiality. Subcontractor shall not use, publish, transfer, sell, disclose, or otherwise make available Confidential Information except as necessary to perform the Services, as expressly authorized by Comagine and HCA, or as required by law.

5.2 Personnel. Before receiving access to Data, Authorized Users shall be informed of the applicable use restrictions, confidentiality requirements, privacy obligations, and security requirements.

5.3 Confidentiality Obligations. Subcontractor shall ensure that Authorized Users with access to Data are subject to confidentiality and nondisclosure obligations at least as protective as those applicable under the Agreement.

5.4 Documentation. Subcontractor shall maintain documentation of applicable confidentiality obligations for at least six (6) years after an Authorized User's access to Data ends and shall make such documentation available to Comagine and, where required, HCA upon request.

6. LOWER-TIER SUBCONTRACTORS AND THIRD PARTIES

6.1 Approval. Subcontractor shall not permit any lower-tier subcontractor, agent, cloud provider, hosting provider, independent contractor, or other third party to create, receive, maintain, transmit, process, store, or access Data except as permitted under the Agreement and approved by Comagine and HCA where required.

6.2 Flow-Down. Subcontractor shall incorporate into each applicable lower-tier agreement privacy, confidentiality, security, data-use, audit, incident-reporting, return/destruction, and other requirements at least as protective as those applicable to Subcontractor under this Attachment.

6.3 PHI. Any lower-tier entity that creates, receives, maintains, or transmits PHI on behalf of Subcontractor shall enter into a written Business Associate Agreement satisfying HIPAA and containing the restrictions, requirements, and conditions required by this Attachment.

6.4 Responsibility. Subcontractor remains responsible for the performance and compliance of its lower-tier subcontractors, agents, and service providers to the extent provided under the Agreement.

7. AUDIT AND COMPLIANCE REVIEW

7.1 Cooperation. Subcontractor shall cooperate with privacy, security, data-use, and compliance reviews, assessments, and audits reasonably required by Comagine, HCA,

WaTech, or other authorized governmental authorities under the Agreement or Prime Contract.

7.2 Security Audits. Where required by HCA, WaTech, or the Agreement, Subcontractor shall obtain or participate in audits or assessments demonstrating compliance with applicable Data Security and Permissible Use requirements.

7.3 Records Access. During the term of the Agreement and for six (6) years following expiration or termination, Subcontractor shall provide reasonable access to records relevant to determining compliance with this Attachment, subject to the procedures and protections established in the Agreement.

7.4 Government Access. Subcontractor shall make information concerning its use and disclosure of PHI available to the Secretary of the U.S. Department of Health and Human Services as required by HIPAA.

8. SECURITY INCIDENT, DATA BREACH, AND PRIVACY INCIDENT NOTIFICATION

8.1 Initial Notification. Subcontractor shall notify Comagine without unreasonable delay and in no event later than twenty-four (24) hours after discovery of:

a. any actual or suspected Breach;

b. any Security Incident involving Data;

c. any unauthorized acquisition, access, use, disclosure, modification, destruction, loss, or compromise of Data;

d. any impermissible use or disclosure of PHI; or

e. any potential compromise of Data that may require investigation or notification under the Agreement, Prime Contract, or applicable law.

Notification shall be made to:

Comagine Health
Attn: Privacy/Compliance Officer

Email: **compliance@comagine.org**
[Additional incident/security contact, if applicable]

8.2 Initial Information. Subcontractor shall provide all information reasonably available at the time of the initial report. Lack of complete information shall not delay the initial notification.

8.3 Continuing Information. Subcontractor shall promptly provide additional information as it becomes available and shall provide a complete written report within the timeframe reasonably required by Comagine to satisfy HCA, HIPAA, WaTech, and other applicable reporting requirements.

For an incident involving PHI, the report shall include, to the extent known:

a. identification of each individual whose PHI has been or may have been improperly accessed, acquired, used, or disclosed;

b. the nature of the incident, including what occurred, the date of the event and date of discovery;

c. the types of PHI or Data involved;

d. investigative and remedial actions taken or planned;

e. mitigation measures and measures intended to prevent recurrence; and

f. other information reasonably requested by Comagine or HCA.

8.4 Investigation and Cooperation. Subcontractor shall immediately investigate the incident, take reasonable actions to contain and mitigate the incident, preserve relevant evidence, determine root cause, remediate vulnerabilities, and cooperate with Comagine, HCA, WaTech, regulators, and law enforcement as appropriate.

8.5 Notifications. Subcontractor shall not notify affected individuals, regulators, the media, or other third parties regarding an incident involving HCA or CIE Data without coordination with and approval from Comagine and HCA, except to the extent notification is independently required by law. Subcontractor shall provide reasonable cooperation in preparing and delivering required notifications.

8.6 Costs. To the extent caused by Subcontractor's or its lower-tier subcontractor's breach of the Agreement, violation of applicable law, or acts or omissions for which Subcontractor is responsible under the Agreement, Subcontractor shall be responsible for applicable costs associated with investigation, forensics, required notification, call-center services, credit monitoring or identity-theft assistance, mitigation, remediation, and regulatory response, subject to the Agreement.

8.7 Survival. Subcontractor's obligations concerning an incident, Breach, or potential compromise discovered during or after termination shall survive for as long as Subcontractor or its lower-tier entities maintain the affected Data.

9. HIPAA COMPLIANCE

To the extent Subcontractor creates, receives, maintains, or transmits PHI on behalf of Comagine in performing the Services, the following provisions constitute the Parties' Business Associate Agreement under HIPAA.

9.1 Compliance. Business Associate shall perform its duties involving PHI in compliance with HIPAA and all applicable implementing regulations.

9.2 Safeguards. Business Associate shall use appropriate safeguards to prevent the use or disclosure of PHI other than as permitted by this Attachment and shall comply with the applicable requirements of 45 C.F.R. Part 164, Subpart C with respect to ePHI.

9.3 Minimum Necessary. Business Associate shall apply the HIPAA Minimum Necessary standard to uses, disclosures, and requests for PHI where required by HIPAA.

9.4 Permitted Uses and Disclosures. Business Associate may use or disclose PHI only:

a. as necessary to perform the Services;

b. as permitted by this Attachment;

c. as required by law; or

d. as otherwise authorized in writing by Comagine and HCA, where applicable.

Business Associate shall not use or disclose PHI in a manner that would violate 45 C.F.R. Part 164, Subpart E if done by the Covered Entity, except as expressly permitted under HIPAA.

9.5 Management and Administration. Business Associate may use PHI as necessary for its proper management and administration or to carry out its legal responsibilities to the extent permitted by HIPAA.

Business Associate may disclose PHI for such purposes only if the disclosure is required by law or Business Associate obtains reasonable assurances that the recipient will maintain the confidentiality of the PHI, use or further disclose it only as required by law or for the purpose for which it was disclosed, and notify Business Associate of any known breach of confidentiality.

9.6 Impermissible Uses and Disclosures. Business Associate shall report impermissible uses or disclosures of PHI and Security Incidents in accordance with Section 8 of this Attachment.

9.7 Mitigation. Business Associate shall mitigate, to the extent practicable, harmful effects of any use or disclosure of PHI in violation of this Attachment.

9.8 Subcontractors. Business Associate shall ensure that any subcontractor or other entity that creates, receives, maintains, or transmits PHI on its behalf agrees in writing to the same restrictions, conditions, and requirements applicable to Business Associate with respect to such PHI.

9.9 Performance of Covered Entity Obligations. To the extent Business Associate performs an obligation of a Covered Entity under 45 C.F.R. Part 164, Subpart E, Business Associate shall comply with the requirements that apply to the Covered Entity in performing that obligation.

10. INDIVIDUAL HIPAA RIGHTS

10.1 Accounting of Disclosures. Business Associate shall document disclosures of PHI and related information as necessary for Comagine and HCA to satisfy their obligations under 45 C.F.R. § 164.528.

Upon request, Business Associate shall provide the required information to Comagine within ten (10) business days, or sooner if reasonably necessary for Comagine or HCA to comply with applicable law.

10.2 Access. Business Associate shall make PHI maintained in a Designated Record Set available to Comagine as necessary to satisfy applicable obligations under 45 C.F.R. § 164.524.

Unless a shorter period is reasonably required, Business Associate shall provide requested information to Comagine within ten (10) business days.

10.3 Amendment. Business Associate shall make amendments to PHI maintained in a Designated Record Set as directed by Comagine or as necessary to satisfy applicable obligations under 45 C.F.R. § 164.526.

10.4 Direct Individual Requests. If Business Associate receives directly from an Individual a request concerning access, amendment, restriction, accounting, or another HIPAA right involving PHI maintained under the Agreement, Business Associate shall promptly notify Comagine and coordinate the response with Comagine unless otherwise required by law.

11. HIPAA COMPLAINTS AND REGULATORY ACTIONS

Business Associate shall notify Comagine within five (5) business days of receiving notice of any material complaint, investigation, enforcement action, or compliance action initiated by the U.S. Department of Health and Human Services Office for Civil Rights or another regulatory authority relating to PHI maintained or processed under the Agreement.

Business Associate shall reasonably cooperate with Comagine and HCA regarding such matter and keep Comagine informed of material developments and the outcome.

12. FAILURE TO COMPLY AND TERMINATION

12.1 Cure. If Comagine becomes aware of a pattern or practice by Business Associate that constitutes a material violation of this Attachment, Comagine may require Business Associate to cure the violation within a reasonable period specified by Comagine.

12.2 Lower-Tier Violations. If Business Associate becomes aware of a material pattern or practice by a lower-tier entity that violates the privacy or security requirements applicable to that entity, Business Associate shall take reasonable steps to cure the violation and, if such steps are unsuccessful, terminate the applicable arrangement where feasible.

12.3 Termination. A material violation of this Attachment may constitute grounds for suspension or termination under the Agreement, including expedited termination where permitted by the Agreement and reasonably necessary to protect Data or satisfy Comagine's obligations to HCA.

13. DATA RETENTION, RETURN, AND DISPOSITION

13.1 Retention. Subcontractor shall retain Data only for as long as necessary to perform the Services or as required by the Agreement, Prime Contract, applicable retention requirements, or law.

13.2 Return or Destruction. Upon Comagine's request, expiration or termination of the Agreement, or when Data is no longer required for performance of the Services, Subcontractor shall return or securely destroy Data as directed by Comagine and consistent with applicable HCA requirements.

13.3 Destruction Standard. HCA Confidential Information shall be erased, destroyed, and rendered unrecoverable in accordance with applicable HCA and WaTech requirements and, at a minimum, applicable NIST SP 800-88 media sanitization standards.

Unless otherwise directed by Comagine or HCA, required destruction shall be completed within thirty (30) days after the applicable disposition requirement.

13.4 Certification. Upon request, Subcontractor shall provide Comagine a written certification identifying the Data destroyed or returned, date and method of disposition, and individual responsible for the disposition. Comagine may provide the certification to HCA.

13.5 Retained PHI. If Business Associate is legally required to retain PHI following expiration or termination:

a. Business Associate shall retain only the PHI necessary for the applicable legal or administrative purpose;

b. Business Associate shall continue to protect the retained PHI under this Attachment;

c. Business Associate shall not use or disclose the retained PHI except for the purpose requiring retention or as required by law; and

d. Business Associate shall return or destroy the PHI when retention is no longer required.

14. DERIVATIVE DATA PRODUCTS AND EXTERNAL DISCLOSURE

14.1 External Data Products. Subcontractor shall not publicly release or disclose externally any report, analysis, dataset, visualization, or other Data product derived from HCA Data except as authorized under the Agreement and approved by Comagine and HCA where required.

14.2 Small Numbers. When applicable, Subcontractor shall comply with the HCA Small Numbers Standard and other applicable HCA Data Release and Publishing Standards.

14.3 Review. Data products requiring HCA review shall be submitted through Comagine unless otherwise directed by Comagine or HCA.

14.4 No Circumvention. Aggregation, de-identification, suppression, or creation of derivative information does not authorize a use or disclosure otherwise prohibited under the Agreement or this Attachment.

15. DATA MODIFICATIONS AND CHANGES IN USE

Subcontractor shall not materially change the authorized purposes, uses, data elements, data flows, hosting locations, methods of access, or third parties receiving Data without prior written authorization from Comagine and any HCA approval required under the Prime Contract.

Subcontractor shall promptly provide information reasonably requested by Comagine to obtain any required HCA approval.

16. INSURANCE

Subcontractor's insurance obligations relating to privacy, security, cyber liability, Data Breach, and Security Incidents are governed by Section 15 of the Agreement.

Nothing in this Attachment reduces or limits the insurance requirements of the Agreement.

17. ORDER OF PRECEDENCE AND INTERPRETATION

17.1 HIPAA. Any ambiguity in this Attachment concerning HIPAA shall be interpreted to permit compliance with HIPAA.

17.2 HCA Requirements. This Attachment is intended to incorporate the privacy, Data sharing, confidentiality, HIPAA, and Data security requirements applicable to Subcontractor under HCA Contract No. K8582. It shall be interpreted consistently with the respective roles of HCA, Comagine, and Subcontractor.

17.3 Conflict. In the event of a conflict between this Attachment and another provision of the Agreement concerning PHI, privacy, confidentiality, or Data security, the provision providing the greater protection to the affected Data shall apply, except where the Agreement expressly establishes a different order of precedence or where application of such provision would conflict with applicable law.

17.4 Coordination with Indemnification. The indemnification obligations in the Agreement are in addition to, and not in lieu of, any remedies available to Comagine Health under this Attachment; provided, however, that Comagine Health will not recover duplicative monetary relief for the same underlying claim, breach, or incident under the Agreement's indemnification provisions and under this Attachment.

18. SURVIVAL

The provisions of this Attachment that by their nature are intended to survive expiration or termination shall survive, including requirements concerning confidentiality, restrictions on use and disclosure, HIPAA compliance, audit and record retention, Data Breach and Security Incident obligations, return and destruction of Data, retained PHI, and applicable liability and remediation obligations.

DATA LICENSING / AUTHORIZED USE STATEMENT

Project: Washington Community Information Exchange (WA CIE)

Purpose: Subcontractor may access and use Data solely as necessary to implement, operate, maintain, support, secure, and transition the WA CIE technology solution and perform other Services expressly authorized under the Agreement.

Authorized Users: Subcontractor personnel and approved lower-tier service providers whose assigned responsibilities require access to Data and who satisfy the applicable confidentiality, privacy, security, training, and access-control requirements.

Anticipated Data: Data may include Personal Information, PII, PHI, screening information relating to social and health barriers, social-support care plans, care-team information, referrals, resource-directory information, and longitudinal social-care information, together with other Data authorized by HCA and Comagine during requirements and system design.

Data Classification: Category 3 – Confidential Information and Category 4 – Confidential Information Requiring Special Handling, as applicable.

Method of Access/Transfer: [TO BE FINALIZED DURING SOLUTION DESIGN/SECURITY REVIEW]

Hosting/Storage Location(s): [TO BE IDENTIFIED BY SELECTED SUBCONTRACTOR AND APPROVED AS REQUIRED]

Approved Lower-Tier Data Processors: [TO BE IDENTIFIED/APPROVED]

Frequency: As necessary to perform the Services.

Additional Restrictions: All access and use remains subject to the Agreement, this Attachment, applicable HCA/WaTech requirements, and written directions or approvals issued by Comagine or HCA.

HCA DATA SECURITY REQUIREMENTS

Subcontractor shall comply with the applicable HCA Data Security Requirements and WaTech Security Policies and Standards required under HCA Contract No. K8582, as applicable to the Services and incorporated into the Security and Technology Requirements of the Agreement.

Where Comagine or HCA determines that a specific HCA Data Security Requirement applies to Subcontractor's architecture, hosting environment, system access, Data processing, or Services, Subcontractor shall comply with that requirement as a condition of accessing or processing applicable HCA Data.

HCA SMALL NUMBERS STANDARD

To the extent Subcontractor creates reports, analyses, visualizations, or other Data products subject to the HCA Small Numbers Standard, Subcontractor shall comply with the then-applicable HCA Small Numbers Standard and any related HCA Data Release and Publishing Standards communicated by Comagine or HCA.

CERTIFICATION OF DESTRUCTION/DISPOSITION OF CONFIDENTIAL INFORMATION

SUBCONTRACTOR: [LEGAL NAME]

AGREEMENT: [AGREEMENT NUMBER]

Subcontractor hereby certifies that the Confidential Information identified below, received from HCA or Comagine, or created, maintained, processed, or received by Subcontractor on behalf of HCA or Comagine in connection with the Agreement, has been returned and/or securely disposed of or destroyed as required by the Agreement.

Description of Information Returned/Destroyed:

_____

_____

_____

Date of Return/Destruction:

_____

Method of Destruction/Disposition:

_____

_____

Subcontractor certifies that all required copies of the identified Confidential Information, including copies maintained by applicable lower-tier subcontractors and service providers, have been returned or destroyed, except for information that Subcontractor is expressly permitted or legally required to retain under the Agreement.

Certified by:

Signature: _____

Printed Name: _____

_____

Title: _____

Date: _____