

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number  
23-26-A-2

SAP Number  
4400021364

### Arrowhead Regional Medical Center

Department Contract Representative Andrew Goldfrach  
Telephone Number (909) 580-6150

Contractor Cepheid  
Contractor Representative Rachel Toffel  
Telephone Number (818) 462-1817  
Contract Term January 1, 2023 through December 31, 2027

Original Contract Amount \$1,632,290  
Amendment Amount \$952,300  
Total Contract Amount \$2,584,590  
Cost Center \_\_\_\_\_  
Grant Number (if applicable) \_\_\_\_\_

**Briefly describe the general nature of the contract:** Amendment No. 2 to Reagent Rental Agreement No. 23-26 with Cepheid for testing reagents and to add a new instrument and services, increasing the contract amount by \$1,632,290 from \$952,300 to \$2,584,590, and extending the term of the agreement for an additional two years, for the total term of January 1, 2023 through December 31, 2027.

**FOR COUNTY USE ONLY**

Approved as to Legal Form  
Bonnie Uphold  
Bonnie Uphold, Supervising Deputy County Counsel  
Date 8/30/2024

Reviewed for Contract Compliance  
\_\_\_\_\_  
Date \_\_\_\_\_

Reviewed/Approved by Department  
Andrew Goldfrach  
Andrew Goldfrach, ARMC Chief Executive Officer  
Date 8/30/2024

**SECOND AMENDMENT TO REAGENT RENTAL AGREEMENT**

**Customer**

San Bernardino County on behalf of Arrowhead  
Regional Medical Center  
400 North Pepper,  
Colton, CA 92324-1801

**Agreement**

Agreement Effective Date: 01-01-2023  
Cepheid Contract #: 00016452

**Addenda (if blank, N/A)**

Instruments and Members List Addendum

Ms. Billie Burch burchb@armc.sbcounty.gov

**GPO; IDN; Authorized Distributor**

GPO: Independent  
IDN:  
Distributor:

**SAP ID**

1000001796

**Amendment**

Amendment Effective Date: 09/10/2024  
Sign by: 09/10/2024

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This Amendment, effective as of the Amendment Effective Date above, amends the Agreement by and between Cepheid and the Customer above. As of the Amendment Effective Date, the parties agree as follows:

1. The parties hereby agree that the title of the Agreement is hereby amended to "Reagent Rental Agreement." All references to "Cepheid Sales Agreement (EZ MYRA)" in the Agreement, and any subsequent amendments, to the Agreement's title shall now refer to "Reagent Rental Agreement", as shown above in this Amendment.
2. The Initial Term of the Agreement is hereby extended and changed to 60 months.
3. The Purchase Commitment in Section II on the Cover Page of the Agreement shall increase by \$245,982.60, for a total Purchase Commitment of \$530,082.60 Annual Spend.
4. Both parties agree to delete and replace the Reagent Products Table in Exhibit C to the Agreement. Therefore, Exhibit C is hereby deleted in its entirety and replaced with Exhibit C attached to this Amendment.
5. The Instruments and Members List Addendum attached to this Amendment is hereby added to this Agreement. Therefore, the summary table on the Cover Page of the Agreement is hereby deleted in its entirety and replaced with the summary table above in this Amendment. In addition, Cepheid shall supply Customer with one GXXVI-16-D-10C, GENEXPERT XVI R2, 16 MODULE, DSKTOP, 10C, one 850-0386, PRO APC POWER-SAVING BACK-UPS KIT and one PRINTER-BW, B&W PRINTER FOR GENEXPERT AND SMARTCYCL to be placed at Arrowhead Regional Medical Center, 400 North Pepper, Colton, CA.
6. Capitalized terms used herein shall have the meanings ascribed to them in the first table above, and if not otherwise defined herein, the Agreement. In the event of any conflict between the terms and conditions of the Agreement and those of this Amendment, the terms and conditions of this Amendment shall control. Except as expressly modified by this Amendment, all terms and conditions of the Agreement shall remain unchanged, as amended hereby, remain in full force and effect.
7. Customer must sign and return an executed copy of this Amendment to Cepheid on or before the "Sign by" date identified in the first table above.
8. This Amendment may be executed in duplicate counterparts. Each such counterpart, if executed by both parties, shall be an original and all such counterparts together shall constitute but one and the same document. This Amendment shall not be deemed executed unless and until at least one counterpart bears the signature of each party's designated signatory. The parties shall be entitled to sign and transmit an electronic signature of this Amendment (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Amendment upon request.
9. Campaign Contribution Disclosures (SB1439). Cepheid has disclosed to Customer using Exhibit E - Campaign Contribution Disclosure Senate Bill 1439, whether it has made any campaign contributions of more than \$250 to any member of the San Bernardino County ("County") Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-

Clerk, Auditor-Controller/Treasurer/Tax Collector and the District Attorney] within the 12 months before the date this Agreement was approved by the County Board of Supervisors. Cepheid acknowledges that under Government Code section 84308, Cepheid is prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer for 12 months after the County's consideration of the Agreement. In the event of a proposed amendment to this Agreement, the Cepheid will provide the County a written statement disclosing any campaign contribution(s) of more than \$250 to any member of the Board of Supervisors or other County elected officer within the preceding 12 months of the date of the proposed amendment. Campaign contributions include those made by any agent/person/entity on behalf of the Cepheid or by a parent, subsidiary or otherwise related business entity of Cepheid.

IN WITNESS WHEREOF, an authorized representative of each party has executed this Amendment.

**CUSTOMER:**

By *Dawn Rowe*  
Name **Dawn Rowe**  
Title **Chair, Board of Supervisors**  
Date **SEP 10 2024**

**CEPHEID:**

By *Ciara Jordan*  
Ciara Jordan (Aug 12, 2024 12:44 PM)  
Name **Ciara Jordan**  
Title **Sr. Manager, Contract Lifecycle & Compliance**  
Date **Aug 12, 2024**

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD  
LYNNA MONELLE  
Clerk of the Board of Supervisors  
of the County of San Bernardino

By *[Signature]*  
Deputy  


**EXHIBIT C:  
REAGENT PRODUCTS TABLE**

<b>Part Number</b>	<b>Product Description</b>	<b># Tests/Kit</b>	<b>Price/Kit</b>
GXMRSA-NXG-10	KIT,10-TEST,MRSA NXG,IVD,GX	10	\$381.45
XP3COV2/FLU/RSV-10	KIT,XPRESS,COV-2/FLU/RSV PLUS,10 TEST	10	\$680.54
XP3SARS-COV2-10	KIT,XPRESS,SARS-COV-2 PLUS,10 TEST	10	\$385.31
GXCDIFF/EPI-10	KIT,CDIFF/EPI,GX,IVD,10-TEST	10	\$340.58
GXCDIFFICILE-120	KIT,C. DIFFICILE,GX,120 TEST,IVD	120	\$3,862.94
GXCT/NG-10	KIT,CT/NG,GX,IVD	10	\$205.22
GXCT/NG-120	XPERT CT/NG-120 US-IVD	120	\$2,464.70
GXFHIV-10	KIT,FII/FV,10-TESTS,GX,IVD	10	\$523.11
GXGBS-100N-10	KIT,GBS 10-TESTS,GX,IVD	10	\$326.40
GXGBS-LB-10	KIT,GBS LB,10-TESTS,GX,IVD	10	\$326.40
GXGBS-LB-120	XPERT GBS LIM BROTH 120 TEST KIT	120	\$3,876.00
GXGBSLBXC-10	KIT,10-TEST,GBS,LB,XC,US-IVD	10	\$257.53
GXMPX-10	KIT, MPOX,10 TEST	10	\$500.00
XPRSTREPA-120	KIT,XPRESS,STREPA,US-IVD,120 TEST	120	\$2,933.93
GXMRSA-120	GENEXPERT MRSA 120 TEST KIT IVD	120	\$4,345.81
GXMRSA-NXG-120	KIT,120-TEST,MRSA NXG,IVD,GX	120	\$4,265.33
GXMRSA/SA-BC-10	KIT,MRSA/SA BC,10-TESTS,GX,IVD	10	\$563.35
GXMRSA/SA-SSTI-10	KIT,MRSA/SA SSTI,10-TESTS,GX,IVD	10	\$651.87
GXMTB/RIF-US-10	KIT,MTB,IVD,US	10	\$595.54
GXNOV-10	KIT,GX,10-TEST,NOROVIRUS,US-IVD	10	\$474.82
GXSACOMP-10	KIT,SA COMP,10-TESTS,GX,IVD	10	\$490.92
GXSACOMP-120	KIT,SACOMP,GX,IVD,120-TEST	120	\$5,874.89
GXTV-10	KIT,XPERT TV_US,10-TEST	10	\$209.33
GXVANA-10	KIT,VANA,10-TESTS,GX,US-IVD	10	\$362.15
XPRS-COV2-10	KIT,10 TEST,XPRESS COVID PLUS,US-IVD	10	\$385.31
XPRS4PLEX-10	KIT,IVD,XPRESS,COV-2/FLU/RSV PLUS,10TEST	10	\$680.54
XPRSFLU-10	KIT,XPRESS,FLU,US-IVD,10 TEST	10	\$442.02
XPRSFLU/RSV-10	KIT,XPRESS,FLU/RSV,US-IVD,10 TEST	10	\$575.46
XPRSGBS-10	KIT,10-TEST,GBS,XPRESS,US-IVD	10	\$257.53
XPRSMVP-10	KIT,XPRESS,MVP,US-IVD,10 TEST	10	\$543.24
XPRSTREPA-10	KIT,XPRESS,STREPA,US-IVD,10 TEST	10	\$241.62
GXCDIFFICILE-10	KIT,CDIFF,10-TESTS,GX,IVD	10	\$340.58
GXCDIFF/EPI-120	KIT,CDIFF/EPI,GX,IVD,120-TEST	120	\$3,862.94
GXCARBAR-10	KIT,CARBA-R,IVD,GX	10	\$474.82
GXBCRABL-US-10	KIT,BCR-ABL ULTRA,US-IVD,10-TEST	10	\$1,046.21
GXMRSA-100N-10	KIT,MRSA,10-TESTS,GX,IVD	10	\$370.20



## INSTRUMENTS AND MEMBERS LIST ADDENDUM

This addendum (this "Addendum") is entered into by **San Bernardino County on behalf of Arrowhead Regional Medical Center** ("Customer") and Cepheid as of the Effective Date of the Agreement (defined below). This Addendum supplements and modifies the **Reagent Rental Agreement** to which it is attached (the "Agreement") and is incorporated into and made a part thereof. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement. In the event of any conflict between the terms of the Agreement and those of this Addendum, the terms of this Addendum shall control.

- 1. Placed Instruments.** Cepheid will supply Customer with the Cepheid-owned GeneXpert instruments and instrument accessories specified on Exhibit A (and other instrument accessories Cepheid determines, in its discretion, are required to support the use of Cepheid products) for use by Customer during the Term of the Agreement at the specified locations. Instruments may not be relocated from their installed locations without Cepheid's written agreement. Instruments are warranted in accordance with Cepheid's standard twelve (12) month limited warranty and will be new or "Certified Pre-Owned" ("CPO"), as determined in Cepheid's discretion at the time of shipment. Part numbers and product descriptions for new versus CPO Instruments may differ. Instruments remain the sole and exclusive property of Cepheid at all times (unless title is transferred). Customer and third parties will have no right, title, or interest in or to the Instruments, except as expressly provided in the Agreement.
- 2. Post-Warranty Instrument Service.** If indicated in the attached Exhibit A, Cepheid will provide service coverage for each Instrument from the expiration of the Instrument's twelve (12) month warranty through the end of the Term. If Exhibit A does not indicate that service is included, Customer must purchase a Service Plan to cover each Instrument from the expiration of the Instrument's twelve (12) month warranty through the end of the Term.
- 3. Instrument Care and Use.** Customer agrees to: (i) use the Instruments only at their approved locations and only to run Cepheid reagent tests; and (ii) use and maintain the Instruments in good condition and working order in accordance with their applicable labeling, inserts, and manuals, and other product-related information and materials published by Cepheid or any regulatory authority. Customer must not, directly or indirectly, including by allowing any third party to: (a) move, part with possession of, modify, repair, rent, lease, license, loan, sell, transfer, mortgage, pledge, encumber, decompile, disassemble, or reverse engineer the Instruments, including their hardware, software, or firmware; (b) abuse, neglect, or otherwise misuse the Instruments; or (c) modify or remove any labels, symbols, serial numbers, or other indicia of Cepheid ownership affixed to or appearing on the Instruments. Promptly upon request by Cepheid, Customer must inform Cepheid of the location of any Instrument. Customer must also provide Cepheid with prompt access during normal business hours and other reasonable assistance so Cepheid can provide instrument or warranty service or inspect any Instrument.
- 4. Instrument Loss or Damage.** Upon delivery of the Instruments and until returned to Cepheid in accordance with the terms of the Agreement or title is transferred to Customer, Customer assumes and will bear the risk of all loss or damage to the Instruments (other than for reasonable wear and tear resulting from Customer's proper use ("Wear and Tear") or any loss or damage caused by Cepheid). Cepheid reserves the right to invoice Customer for: (i) the replacement value of an Instrument or the cost of its repair (at Cepheid's then-current rates) for such loss or damage, including if discovered within a reasonable time after the end of the Term, or if Customer fails to comply with the Instrument return requirements in the Agreement; or (ii) a restocking fee of \$2,000 per module if Customer refuses, prevents, or delays delivery or installation of an Instrument or is permitted to return or exchange an Instrument during the Term, except as caused by Cepheid. Customer must inform Cepheid immediately upon becoming aware of any loss or damage to an Instrument.
- 5. Instrument Returns.** Within fifteen (15) days after any expiration or termination of the Agreement or a request by Cepheid following a Default by Customer, Customer must return all Instruments to Cepheid in the condition in which originally delivered, Wear and Tear and any loss or damage caused by Cepheid excepted. Customer agrees to comply with all reasonable return instructions provided by Cepheid. If Customer returns any equipment to Cepheid for any reason, Customer will ensure that it saves any data it wishes to retain, and removes and deletes all data from such equipment, prior to its return. Customer understands and agrees that Cepheid may delete any data remaining on returned equipment and shall have no responsibility or liability with respect to such data.
- 6. Cepheid C360.** Customer agrees to the Cepheid C360 Terms and Conditions, available on Cepheid's website attached to this Addendum as Exhibit B (the "C360 Terms" marked as Exhibit D), for the use of Cepheid C360 software ("C360 Software"). Notwithstanding anything to the contrary in the Agreement, the C360 Terms do not constitute part of the Agreement and are and will remain a separate and distinct agreement between the parties. During the Term, Customer will: (i) not terminate the C360 Terms; and (ii) ensure all Instruments remain connected to C360 Software as of the date this Agreement becomes effective, continuously uploading the required data. For all Cepheid products delivered to Customer pursuant to the Agreement ("Delivered Products"), Customer will transmit/upload to C360 Software and provide Cepheid with the Analytical Information and Test Result Outcome data types, including data sub-categories, described in Exhibit A attached to the C360 Terms (the "Data Upload Requirement"). The Data Upload Requirement will include tests conducted with all Delivered Products, including those conducted prior to the C360 Terms becoming effective. Customer is not required to upload to C360 Software Sample ID or Patient Information data types described in Exhibit A attached to the C360 Terms. The Data Upload Requirement does not apply to any Cepheid products purchased by Customer pursuant to another agreement with Cepheid, unless otherwise stated in such agreement. The provisions of this section supersede and prevail over any conflicting provisions in the C360 Terms, including, without limitation, any provision allowing Customer to terminate the C360 Terms during the Term or which conflict with the Data Upload Requirement, except when Cepheid makes unilateral and materially



adverse changes to the C360 Terms or the C360 Software. In the event of such unilateral materially adverse change, the Customer may cease use of the C360 Software or terminate the C360 Terms. If Cepheid supplies Customer with any additional Instruments in order to support Customer's use of the C360 Software, such as a Wi-Fi adapter, Customer agrees that it will use and return such Instruments in accordance with the terms of this Agreement.

**EXHIBIT A:  
TO INSTRUMENTS ADDENDUM:  
INSTRUMENTS AND MEMBERS LIST**

<b>INSTRUMENT SUMMARY</b>		
<input checked="" type="checkbox"/> Post-warranty Instrument service is included at no additional charge		
<b>Part Number</b>	<b>Instrument Description</b>	<b>Total Qty</b>
GXXVI-16-D-10C	GENEXPERT XVI R2, 16 MODULE, DSKTOP, 10C	1
850-0386	PRO APC POWER-SAVING BACK-UPS KIT	1
PRINTER-BW	B&W PRINTER FOR GENEXPERT AND SMARTCYCL	1

<b>SAP ID</b>	<b>Site Name</b>	<b>City, State</b>	<b>Placed Instrument Part #</b>	<b>Total Qty</b>
1000001796	Arrowhead Regional Medical Center	Colton, CA	GXXVI-16-D-10C	1
			850-0386	1
			PRINTER-BW	1



**EXHIBIT B**  
**TO INSTRUMENTS ADDENDUM:**

**Cepheid C360 Terms and Conditions**

**Last Updated May 18, 2023**

THESE CEPHEID C360 TERMS AND CONDITIONS (“**AGREEMENT**”) GOVERN THE USE OF CEPHEID C360 CLOUD SOFTWARE, WEB APPLICATIONS, AND ANY ASSOCIATED CEPHEID INTERFACES AND APIS (COLLECTIVELY REFERRED TO AS THE “**SOFTWARE**”) BY THE CUSTOMER (“**CUSTOMER**”, “**YOUR**”, “**YOU**”) THAT EXECUTED OR OTHERWISE ENTERED INTO A PRODUCT AGREEMENT (DEFINED BELOW) WITH CEPHEID (DEFINED BELOW) THAT REFERENCES THIS C360 AGREEMENT, OR CLICKED A BOX OR OTHERWISE INDICATED ACCEPTANCE, OR USES THE SOFTWARE. CUSTOMER AND CEPHEID MAY BE REFERRED TO HEREIN AS “**PARTY**”, OR COLLECTIVELY “**PARTIES**”.

BY EXECUTING OR OTHERWISE ENTERING INTO THE PRODUCT AGREEMENT THAT REFERENCES THIS AGREEMENT, OR CLICKING A BOX OR OTHERWISE INDICATING ACCEPTANCE OR USING THE SOFTWARE, YOU AGREE TO THE TERMS OF THIS C360 AGREEMENT. THE EFFECTIVE DATE (“**EFFECTIVE DATE**”) OF THIS AGREEMENT IS THE EFFECTIVE DATE OF THE PRODUCT AGREEMENT. IN CASE OF ACCEPTANCE BY CLICKING A BOX, THE EFFECTIVE DATE OF THIS AGREEMENT SHALL BE WHEN CEPHEID APPROVES THE ACCEPTANCE IN WRITING.

BY AGREEING TO THESE TERMS ON BEHALF OF AN ORGANIZATION, YOU AGREE THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON ORGANIZATION’S BEHALF AND THAT CUSTOMER, AS USED HEREIN, REFERS TO YOUR ORGANIZATION.

THIS AGREEMENT DOES NOT APPLY TO (A) THE CUSTOMERS LOCATED OUTSIDE OF THE UNITED STATES TERRITORY AND CANADA AND (B) PERSONAL DATA (DEFINED BELOW) RELATES TO INDIVIDUALS LOCATED OUTSIDE OF THE UNITED STATES TERRITORY AND CANADA.

The Software provides Internet services, including management, aggregation, sharing, alerting, and reporting data from Cepheid’s compatible and connected systems, including the Cepheid Systems (defined below).

**1. Definitions**

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. For this purpose, the term “control” means the possession of the power to direct or cause the direction of the management and the policies of an entity, whether through the ownership of at least fifty percent (50%) of the outstanding voting stock securities or by contract

“**Administrator**” means your employees designated by you, who configure, manage and use the Software.

“**Applicable Data Protection Law**” means the privacy and data protection legislation and regulations in force during the Term applicable to Personal Data (defined below) processed under this Agreement.

“**Authorized Users**” means your or your Affiliates’ employees or agents authorized by you to use the Software and access your or your Affiliates’ data via the Software in accordance with this Agreement.

“**C360 Data**” means electronic data (a) collected by your Cepheid Systems and submitted to the Software, and/or (b) generated or encountered through the use of the Software by your Authorized Users.

“**Cepheid**”, “**we**”, “**us**”, or “**ours**” mean the California corporation with a principal place of business is at 904 E. Caribbean Drive, Sunnyvale, CA 94089, U.S.A., including its subsidiaries.

“**Cepheid Service Provider**” means our vendors, contractors, sub-contractors, business and service partners, developers, or other third parties that perform services for, on behalf of or jointly with Cepheid.

“**Cepheid Systems**” includes the GeneXpert family of systems which are comprised of analytical equipment, computers, including hubs and mobile devices, and software controlling the analytical equipment.





“**Confidential Information**” means any non-public information disclosed or made available directly or indirectly by one Party (the “**Discloser**”) to the other Party (the “**Recipient**”) in connection with this Agreement, however such information is disclosed, including, without limitation, in writing, orally or electronically. Cepheid's Confidential Information includes, without limitation, this Agreement and its terms, the Software and its functionality, usability and performance and the Documentation. Customer's Confidential Information includes C360 Data.

“**Documentation**” means any Cepheid technical and other information such as manuals, guides, technical instructions and any other user or administrative support materials that Cepheid provides to you, and any analytics, reports or documentation produced by Cepheid and/or made available to you regarding the Software.

“**Feedback**” feedback provided by you or your Affiliates regarding experiences with the Software, the Documentation, training, sign up, and support.

“**Intellectual Property Rights**” means copyright, patents, trademarks, design rights, database rights, trade secrets, know-how and all other similar rights anywhere in the world whether or not registered, including applications for any of the foregoing rights, as applicable.

“**Malware**” means viruses, malware or any other thing or device (such as software, code, file or program) including worms, trojan horses, viruses and other devices.

“**Personal Data**” as used herein, shall have the same meanings given in the Applicable Data Protection Law (which may be regarded as personal data or personal information therein). If Personal Data (or personal information) is not defined in the Applicable Data Protection Law, it shall mean any information that relates to an identified or identifiable natural person; an identifiable natural person being one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

“**PHI**” means protected health information as defined in 45 C.F.R. § 160.103.

“**Product Agreement**” means the agreement entered into between Customer and Cepheid pursuant to which Customer acquires or has acquired use of or service for the Cepheid Systems, or other Cepheid products or services, and references to this Agreement, including, without limitation, Cepheid quotes, purchase orders, order forms, and letter agreements.

## 2. Term

2.1 This Agreement commences on the Effective Date and will continue in force unless terminated as permitted below.

## 3. Ownership

3.1 We own or are permitted to use all Intellectual Property Rights in our systems, including the Cepheid Systems, the Software, and the Documentation. The Software and all Intellectual Property Rights licensed to you under this Agreement remain our property or that of our licensors.

3.2 Between the Customer and Cepheid, Customer owns the C360 Data subject to Cepheid's rights to use the C360 Data as set forth in this Agreement.



#### **4. License**

- 4.1 Subject to your compliance with the terms and conditions of this Agreement, we grant you and your Authorized Users a limited, non-exclusive, non-sub-licensable, non-transferable license to access and use the Software and Documentation, solely for your internal use during the Term for the purpose of the Software as described in the Documentation and as permitted in this Agreement.
- 4.2 You grant Cepheid and its Affiliates a worldwide, royalty free, perpetual, and irrevocable license in the Feedback to use, distribute, disclose, and make and incorporate into the Software, and improve, and enhance our and our Affiliates' products and services.
- 4.3 You grant Cepheid and its Affiliates a worldwide, royalty free, perpetual and irrevocable license to use and disclose C360 Data in accordance with Sections 9.1 and 9.2 of this Agreement.

#### **5. Software**

- 5.1 In consideration of your undertakings as set forth in this Agreement, we will provide you with access to the Software and Documentation for use during the Term. The Software shall substantially conform to the descriptions provided in the Documentation.
- 5.2 We will provide access to the Software to the Administrator using a username and password system. The Administrator may create multiple Authorized User accounts. You shall keep the Administrator's information, including email address up to date.

#### **6. Your Responsibilities**

- 6.1 You shall:
  - (a) be responsible and liable for your Affiliates and all Authorized Users, including Administrator's, compliance with this Agreement and Documentation;
  - (b) provide us with all necessary cooperation in relation to this Agreement and access to such information as we require to enable proper operation of the Software, including but not limited to C360 Data;
  - (c) comply with all applicable laws and regulations with respect to your activities under this Agreement; and
  - (d) ensure that your network and systems are appropriate for your use of the Software pursuant to the Documentation.
- 6.2 You agree that you shall not (and shall ensure that your Authorized Users do not):
  - (a) sublicense your rights in the Software, Documentation, or any other Intellectual Property Rights licensed to you under this Agreement, or grant or purport to grant to any third party any right in or to same; or
  - (b) allow access or use of the Software, Documentation, or any other Cepheid Confidential Information by anyone other than your Authorized Users and Affiliates, existing employees or agents, who are bound by confidentiality obligations at least as restrictive as those in this Agreement.
- 6.3 You shall not, and you shall ensure that the Authorized Users shall not, directly or indirectly:



- (a) modify, reverse engineer or attempt to obtain any source code or create derivative works of the Software or Documentation;
- (b) use the Software, Documentation and/or any other Cepheid Confidential Information to build a similar or competitive product or service; or
- (c) use the Software, Documentation and/or any other Cepheid Confidential Information in a manner inconsistent with applicable law or this Agreement.

6.4 If requested by Cepheid, you agree to provide Feedback to us at mutually agreeable times and in formats as we may reasonably request.

## 7. Malware

7.1 Both Parties shall take reasonable steps to ensure that the Administrator and all Authorized Users shall not access, store, distribute or transmit any Malware which may adversely affect: (i) the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; (ii) access to or the operation of any program or data, including the reliability of any program or data; (iii) the confidentiality, security, integrity, or availability of data, or (iv) the user experience. We reserve the right, without liability or prejudice to our other rights, to temporarily disable your access to the Software in the event that Malware is introduced to the Software until the problem is resolved.

## 8. Termination

8.1 Each Party may terminate this Agreement for any reason or no reason, upon thirty (30) days' prior written notice to you.

8.2 Either Party may terminate this Agreement immediately upon giving written notice to the other Party if:

- (a) the other Party is in breach of any of the terms of this Agreement and such breach is incapable of being remedied;
- (b) the other Party is in breach of any of the terms of this Agreement and, the breach being remediable, fails to remedy the breach within thirty (30) days from the date of a written request to do so; or
- (c) the other Party files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law.

8.3 Termination of this Agreement shall not affect a Party's accrued rights and remedies.

8.4 On termination of this Agreement, you shall immediately take necessary steps to disable the connection between your Cepheid Systems and the Software and cease using the Software.

8.5 Within the 30-day period upon notice of termination of this Agreement, Customer may ask Cepheid to export C360 Data in already available formats as provided in the Documentation to provide to the Customer. After such 30-day period, we will have no obligation to maintain any C360 Data, and subject to our rights set out in Sections 4, 9.1 and 9.2 shall delete or otherwise dispose of any of the Personal Data in our possession unless (i) we are required by applicable law to retain some or all of the Personal Data, or we reasonably believe that such retention is necessary to comply with applicable laws and regulations, or to comply with a legal process or request; (ii) to the extent we reasonably believe that retention of some or all of the Personal Data is appropriate or necessary to take precautions against liability or to protect the rights or



safety of us, you, (iii) to the extent we reasonably believe that it is appropriate or necessary to detect, prevent or otherwise address security, fraud or technical issues, or (iv) to the extent it is infeasible.

## 9. Data Use and Sharing

9.1 You acknowledge and agree that we may:

- (a) Use C360 Data to support your use of the Software, Cepheid Systems and Cepheid's products and services; and
- (b) Use anonymized and de-identified C360 Data that does not contain Personal Data or PHI, to improve and enhance our products or services, develop new products or services, or for our operational planning and performances.

9.2 We may share the C360 Data:

- (a) with our Affiliates and the Cepheid Service Providers that are bound with the confidentiality obligations set forth in Section 11;
- (b) when we are required by law or regulation, or we reasonably believe that disclosure is necessary to comply with applicable laws and regulations, or to comply with a legal process or request;
- (c) when we reasonably believe that it is appropriate or necessary to take precautions against liability or to protect the rights or safety of us, or you;
- (d) when we reasonably believe that it is appropriate or necessary to detect, prevent or otherwise address security, fraud or technical issues, or
- (e) when it is necessary if we are acquired by or merged with a third-party entity, in which case, we reserve the right to transfer or assign the C360 Data, as part of such merger, acquisition, sale, or other change of control.

9.3 To the extent C360 Data contains any Personal Data, you and we acknowledge and agree that:

- (a) you are responsible for ensuring that the collection, processing and sharing of such Personal Data in the context of the Software complies with the requirements of Applicable Data Protection Law that may affect this Agreement, and to provide adequate notice to and, if necessary based on the data stored), obtain express consent from individuals so that you and we can lawfully use, process, store and transfer any such Personal Data in accordance with this Agreement;
- (b) we shall ensure that any person we authorize to process Personal Data has committed themselves to keep such Personal Data confidential or are under an appropriate statutory obligation of confidentiality;
- (c) we shall process Personal Data per the terms of Agreement, our C360 Privacy Policy available on Cepheid C360 website at <https://c360.cephheid.com> (terms of which may be changed by Cepheid in its sole discretion and such update shall be notified to the Customer), and our statutory obligations under the Applicable Data Protection Law;
- (d) we shall apply to such Personal Data appropriate technical and organizational security measures as required by Applicable Data Protection Law to protect against unauthorized or unlawful processing, accidental loss or destruction of, or damage to, such Personal Data;



(e) for the U.S. customers and C360 Data originating from the United States, the Business Associate Agreement (“BAA”) at [https://www.cepheid.com/en\\_US/systems/business-associates-agreement](https://www.cepheid.com/en_US/systems/business-associates-agreement) shall govern our use and disclosure of PHI. To the extent any provision herein conflicts with a provision of the BAA, the provision in the BAA shall prevail. This Agreement and the BAA shall supersede all earlier versions of the C360 User Agreements or terms of use and BAAs entered between the Customer and Cepheid. To the extent any provision herein conflicts with a provision of the BAA, the provision herein conflicts with a provision of the BAA, the provision in the BAA shall prevail. This C360 Agreement and the attached BAA shall supersede all earlier versions of the C360 User Agreements and BAAs between the Customer and Cepheid. For the Canadian customers and C360 Data originating from Canada, you and Cepheid are subject to Data Protection Addendum (“DPA”) set forth in Exhibit A hereto in connection with the Personal Data processed by Cepheid under this Agreement, which will apply when and to the extent required by Applicable Data Protection Law, and DPA and its Annexes form an integral part of this Agreement. Where, and to the extent that the DPA applies, if there is any conflict between this Section and the DPA, the DPA will prevail.

## 10. Liability

10.1 Access to the Software is being provided to you solely for use in accordance with this Agreement. While we will use reasonable skill and care in making the Software available to you, we exclude, to the fullest extent permissible by law, all warranties, representations, conditions or terms which may be implied. Except as expressly provided otherwise in this Agreement, the Software and supporting Documentation are provided to you on an “as is” basis, and we disclaim and do not accept any liability to you or any patients or other third parties in connection with this Agreement. We do not warrant (i) the accuracy or completeness of any data accessed, tracked, collected or otherwise provided to you as part of the Software; or (ii) that the Software is free of bugs, speed issues or performance issues. You acknowledge and agree that the operation of the Software is dependent upon the proper and effective functioning of the Internet, your own- and third-party equipment and services, your own configuration of the Software functionalities and your own usage of the data made available, and that we do not guarantee and shall not be liable for these in any way for these services. If you transmit or export any of the C360 Data to third-party equipment, you acknowledge and agree that we will not be liable for processing, use, retention or deletion of the transmitted/exported data.

10.2 Neither Party shall be liable to the other for any special, indirect or consequential losses or damages.

10.3 You are liable for, and shall indemnify and keep us (together with our affiliates, employees, directors, sub- contractors and agents) indemnified from and against any and all claims, demands, proceedings, costs, charges, damages, loss and liability whatsoever incurred or suffered by us whether direct, indirect or consequential (including without limitation any economic loss or other loss of profits, business or goodwill) arising out of any dispute, claims or proceedings brought against us arising out of your use of the Software, Documentation and/or any other Cepheid Confidential Information otherwise than in accordance with the terms of this Agreement and/or your breach of Applicable Data Protection Law.

10.4 No term of this Agreement shall restrict or exclude any liability which by applicable law cannot be so restricted or excluded.

## 11. Confidentiality and Publicity

11.1 Each Party agrees: (i) not to disclose the Confidential Information of the other Party to anyone except Recipient’s and its Affiliates’ employees, contractors and agents, and in Cepheid’s case when Cepheid is the Recipient, to Cepheid Service Providers, on a strict need to know basis and subject to a written duty of



confidentiality; (ii) to use the Confidential Information strictly for the performance of and as provided for in this Agreement; and (iii) to use all commercially reasonable endeavors to protect the confidentiality of the other Party's Confidential Information, applying at least the same care that it applies to protect its own similar information, but in no event less than reasonable care.

- 11.2 Section 11.1 shall not apply if Confidential Information (i) is or becomes publicly available through no fault of the Recipient, (ii) is already in the Recipient's possession at the time of its disclosure without any duty of confidentiality, or (iii) is independently developed by the Recipient without use of the Discloser's Confidential Information.
- 11.3 Each Party may disclose Confidential Information of the other Party to the extent required (i) by applicable law or court or governmental order, (ii) to exercise its rights under this Agreement, or (iii) to establish or preserve its rights under this Agreement (collectively "**Compulsory Disclosure**"), provided that a Party who is subject to such a Compulsory Disclosure shall provide prompt prior notice to the other Party as soon as possible of the purported obligation to make such Compulsory Disclosure so that a Party can seek to prevent and/or limit the potential disclosure of its Confidential Information, and provided that if Compulsory Disclosure is required despite a Party's efforts to prevent it, then the disclosing Party shall disclose no more than is legally required and shall make best efforts to maintain the confidentiality of the Confidential Information.
- 11.4 The Parties agree that any actual or threatened breach of this Section may constitute immediate, irreparable harm to the innocent Party for which monetary damages may be an inadequate remedy, and that injunctive relief is an appropriate remedy for such breach.

## 12. Miscellaneous Provisions

- 12.1 **Assignment:** Neither Party may assign, transfer or novate this Agreement or any of its rights and obligations under it, except to a successor, without the express written consent of the other Party.
- 12.2 **Entire agreement:** This Agreement sets out the entire agreement between you and us and supersedes all previous or contemporaneous understandings, communications, agreements or representations in relation to its subject matter, whether written or oral. If this Agreement is translated into a language other than English and there are conflicts between the translations, to the extent allowed by the applicable law, the English version shall prevail and control. The parties acknowledge and agree that they have required that this Agreement be prepared in the English language. Les parties reconnaissent avoir exigé que les présentes soient rédigées en langue anglaise.
- 12.3 **Severability:** Any provision of this Agreement that is unenforceable shall be severed and the remaining provisions shall continue in full force and effect.
- 12.4 **Survival:** Any right or obligation of the Parties in this Agreement which, by its express terms or nature and context, is intended to survive termination or expiration of this Agreement, will survive any such termination or expiration. For clarity purposes, Sections 3, 4, 6, 9, 10, 11 and 12 shall survive termination of this Agreement.
- 12.5 **Changes:** Cepheid reserves the right at any time to modify this Agreement and to impose new or additional terms or conditions on your use of the Software. In such case, Cepheid will give you notice of any material adverse change to this Agreement, unless it would not be reasonable to do so due to circumstances arising from legal, regulatory, or governmental action; to address user security, user privacy, or technical integrity concerns; to avoid service disruptions to other users; or due to a natural disaster, catastrophic event, war, or other similar occurrence outside of Cepheid's reasonable control. In the event that Cepheid does make



material adverse changes to the terms of use, you will have the right to terminate this Agreement immediately.

**12.6 Waiver:** Any waiver (which must be in writing) on a particular occasion by either you or us of any rights under this Agreement does not imply that other rights are or will be waived.

**12.7 Force Majeure:** Neither Party shall be in breach of this Agreement or liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected Party shall be entitled to a reasonable extension of time for performing such obligations. If the period of delay or non-performance continues for sixty days, the non-delaying Party may terminate this Agreement by giving thirty (30) days' written notice to the delaying Party.

**12.8 Notices:** All notices required to be given to the other Party under this Agreement shall be in writing and shall be sent to the addresses below, or such alternative address as each Party may notify to the other in writing from time to time. Such notices shall be deemed effective upon receipt.

**For Cepheid**

Cepheid  
Attn: Legal/Privacy 904  
Caribbean Drive  
Sunnyvale, CA 94089  
Phone: 408-541-4191  
Email: cepheid.legal@cepheid.com

**For Customer**

Customer's Administrator(s) email addresses recorded in the  
Software

**12.9 No partnership or agency:** Nothing in this Agreement shall be deemed to establish any agency, partnership or joint venture relationship between us and you.

**12.10 Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature complying with the U.S. federal ESIGN Act of 2000, California's Uniform Electronic Transactions Act (Cal. Civ. Code § 1633.1, et seq.) or other applicable law) or other transmission method, and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**12.11 Updates.** Cepheid may update the Software from time to time in its sole discretion without notice to you. However, Cepheid will give you prior notice of any material adverse change to the Software functions such that the updated functions materially change the data collection or modify our data use outlined in this Agreement or Documentation unless: a change is reasonably necessary to address legal, regulatory, or governmental action; to address your or other users' security, your or other user's privacy, or technical integrity concerns; to avoid service disruptions to other users; or to avoid issues resulting from a natural disaster, a catastrophic event, war, or other similar occurrence outside of Cepheid's reasonable control.

**12.12 Governing law and jurisdiction:** The laws of the State of California, excluding its conflicts of law provisions, shall govern the validity, construction and effect of this Agreement and the relationship between the Parties. The Parties agree to submit to the personal and exclusive jurisdiction and venue of the courts located within the county of Santa Clara, California, to resolve any dispute or claim arising from this Agreement.

[End of Agreement. Exhibit A follows.]

## **EXHIBIT A**

### **DATA PROTECTION ADDENDUM**

This Data Protection Addendum (“**DPA**”) supplements the C360 User Agreement between Customer and Cepheid into which it is incorporated by reference (“**Agreement**”) and contains Annexes 1-2. The terms of the DPA applies when and to the extent they are required by the Applicable Data Protection Law (defined below). All capitalized terms not defined in this DPA shall have the meanings set forth in the Agreement.

#### 1. Definitions in the DPA.

- (A) “**Controller**”, “**Processor**”, “**Data Subject**”, “**Personal Data**”, “**Process**”, “**Processing**” and “**Special Categories of Personal Data**” shall have the meanings given in Applicable Data Protection Law.
- (B) “**Customer Personal Data**” means any Personal Data Processed by Cepheid on behalf of Customer pursuant to or in connection with the Agreement.
- (C) “**Cepheid Data**” means any Personal Data in the C360 Data Processed by Cepheid as a Controller pursuant to or in connection with the Agreement.
- (D) “**Data Breach**” means any unauthorized or unlawful breach of security that leads to the accidental or unlawful destruction, loss, or alteration of, or unauthorized disclosure of or access to, Personal Data in C360 Data managed or otherwise controlled by Cepheid.
- (E) “**Services**” means those activities, functions and services that Cepheid performs pursuant to the Agreement.
- (F) “**Sub-Processor**” means any entity or person that Processes Customer Personal Data on behalf of Cepheid in connection with the Agreement.

#### 2. Relationship of the Parties:

- 2.1 The Parties acknowledge and agree that with regard to the processing of Customer Personal Data, Customer is the Controller and Cepheid is a Processor acting on behalf of Customer as set forth in the Agreement, as further described in **Annex 1** (Data Processing Description) of this DPA. The Parties acknowledge and agree that, with regard to the processing of Customer Personal Data, each Party will comply with the terms set out in Clauses 3 to 7 of this DPA.
- 2.2 Cepheid shall process Customer Personal Data only (a) in accordance with the Agreement and Annex 1 of the DPA, (b) as otherwise necessary to provide the Services to Customer (which may include investigating security incidents and preventing spam or fraudulent activity, and detecting and preventing network exploits and abuse), (c) as we reasonably believe that it is necessary to comply with applicable law or regulation, (d) as otherwise agreed in writing by the Parties (“**Permitted Processor Purposes**”). Cepheid may make reasonable amendments to Annex 1 by written notice to Customer from time to time as Cepheid reasonably considers necessary to meet the requirements set forth in article 28(3) of the Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the Processing of Personal Data and on the free movement of such data (General Data Protection Regulation) (“**GDPR**”) (and, possibly, equivalent requirements of other Applicable Data Protection Laws). Nothing in Annex 1 (including as amended pursuant to this section) confers any right or imposes any obligation on any party to this DPA.
- 2.3 The Parties acknowledge that Cepheid is a Controller of the Cepheid Data and that Cepheid will process the Cepheid Data as a separate and independent Controller strictly for the purposes of described in

Exhibit A of C360 T&C (20230518US-CA) Clause 9.2(b) (“**Permitted Controller Purposes**”) and in compliance with the terms set out in Clause 9 of this DPA. In no event will the Parties process Cepheid Data as joint Controllers.

- 2.4 Each Party shall comply with the obligations that apply to it under the Applicable Data Protection Law.

#### 3. Security

- 3.1 Cepheid shall implement and maintain appropriate technical and organizational security measures that are designed to protect Customer Personal Data from Data Breach and designed to preserve the security and confidentiality of Customer Personal Data at least in accordance with Cepheid’s security standards described in **Annex 2**. Taking into account the



state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons. Cepheid shall in relation to the Customer Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR; at a minimum, such measures shall include the measures identified in Annex 2.

3.2 In terms of Cepheid's personnel access to Customer Personal Data, Cepheid shall permit only personnel (employee, agents or contractors) who need to access the relevant Customer Personal Data as reasonably necessary for the purposes of the Agreement, with all such individuals being subject to a duty of confidentiality undertakings or professional or statutory obligations of confidentiality.

3.3 If Cepheid becomes aware of a Data Breach affecting Customer Personal Data, it shall:

- a) provide Customer written notice of the same without undue delay and, where feasible, not later than forty-eight (48) hours after becoming aware of such Data Breach;
- b) provide Customer with timely and sufficient information to meet any obligations to report or inform Data Subjects of the Data Breach under the Applicable Data Protection Laws; and
- c) undertake an investigation of such Data Breach and reasonably cooperate with Customer and take such reasonable steps as directed by Customer to assist in the investigation, mitigation and remediation of such Data Breach.

3.4 Upon request and no more than once per year, we shall:

- (a) subject to the confidentiality terms of the Agreement, permit Customer (with ninety (90) days' notice and at a mutually agreed date during regular business hours) at Customer's own expense to review and inspect Cepheid's policies and records concerning Cepheid's physical and administrative controls related to our processing of Personal Data, or at Cepheid's election, make available to Customer a summary copy of reports by an independent auditor concerning the same; and
- (b) respond to a security questionnaire provided by Customer relating to Cepheid's technical and organizational measures implemented in accordance with Annex 2.

3.5 Upon Customer's reasonable request and with reasonable advance notice, Cepheid shall submit the facilities it uses to Process Personal Data and/or the Personal Data for audit which shall be carried out by Customer representatives or an auditing body agreed to by both Parties, with the cost associated therewith being borne exclusively by the Customer. Cepheid shall keep appropriate records that support its compliance with its obligations under this DPA and make them available to Customer in connection with any audit referred to in this Section 3.

#### 4. Cooperation with the Customer with regard to Customer Personal Data

4.1 Cepheid shall provide reasonable and timely assistance at Customer's expense (including by implementing appropriate technical and organizational measures) for the fulfilment of the Customer's obligations, as reasonably understood by Customer, to respond to (i) any request from a Data Subject to exercise any of its rights under Applicable Data Protection Law (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, enquiry or complaint received from a Data Subject, supervisory authority or other third party in connection with the Processing of the Personal Data under the Data Protection Laws. If any such request, correspondence, enquiry or complaint is made directly to Cepheid, Cepheid shall promptly inform Customer providing full details of the same. Cepheid shall not respond to such communication directly except as appropriate (for example to direct the Data Subject to contact Customer) or legally required, without Customer's prior authorization. If Cepheid is required to respond to such a request, Cepheid shall promptly notify Customer and provide Customer with a copy of the request unless Cepheid is legally prohibited from doing so.

4.2 To the extent required by the Applicable Data Protection Law, Cepheid shall (taking into account the nature of the processing and the information available to Cepheid) provide all reasonably requested information to assist the Customer with any data protection impact assessment or prior consultations with applicable data protection authorities as required by the Applicable Data Protection Law.

4.3. To the extent required by Applicable Data Protection Law, if Cepheid determines that its processing of the Personal Data is likely to result in a high risk to the data protection rights and freedoms of an Authorized User or patient, Cepheid shall inform Customer and provide reasonable cooperation to Cepheid (at Customer's expense) in connection with any data protection impact assessment that may be required under the Applicable Data Protection Law.

5. Data Center Locations

Customer acknowledges that Cepheid may transfer and process Customer Personal Data and C360 Data out of the country where it is collected where Cepheid or its Sub-Processors maintain data processing operations. Cepheid shall at all times ensure that such transfers are made in compliance with the requirements of Applicable Data Protection Law.

6. Data Retention and Deletion

Cepheid shall retain Customer Personal Data only for as long as necessary to perform the Services, and at the end of the provision of the Services at Customer's choice delete or return the Personal Data to Customer (unless expressly required otherwise by applicable law, including Applicable Data Protection Law and provide written certification, if requested, to Customer that it has complied with this section.

7. Sub-Processing for Customer Personal Data

7.1 Customer authorises Cepheid to appoint Sub-Processors (and permit each Sub-Processor appointed to appoint Sub-Processors) in accordance with this Section 7 and any restrictions in the Agreement.

7.2 Customer hereby provides a general consent for Cepheid to use Sub-Processors already engaged as of the date of this DPA provided that Cepheid remains fully liable to Customer for such third party and, in each case as soon as practicable, enters into a written and enforceable agreement with such third party that includes terms that are no less restrictive than the obligations applicable to Cepheid under this DPA.

7.3 If Cepheid is to engage a new Sub-Processor, it will give Customer the opportunity to object to the proposed Sub-Processor. If the Customer objects in writing to the new proposed Sub-Processor within fifteen (15) days after receipt of Cepheid's proposed Sub-Processor (a) Cepheid shall work with Company in good faith to make available a commercially reasonable change in the provision of the Services which avoids the use of that proposed Sub-Processor; or (b) where such a change cannot be made within a reasonable time, notwithstanding anything in the Agreement, Cepheid may terminate the Agreement.

8. Controller to Controller Terms

8.1 In relation to any Cepheid Data disclosed to Cepheid for the Permitted Controller Purpose, Customer shall be responsible for complying with all necessary transparency and lawfulness requirements under Applicable Data Protection Law in order to do so, including but not limited to the provision of privacy notices provided by Cepheid to Customer from time to time to Patients and/or Authorized Users and obtaining the Patient's consent to Cepheid's processing activities described in the privacy notices provided (where appropriate).

8.2 Cepheid shall implement appropriate technical and organisational measures to protect Cepheid Data from and against a Data Breach and as set out in Annex 2.

8.3 Cepheid may, at its election, appoint third party Processors to process Cepheid Data for the Permitted Controller Purpose, provided that such processors: (a) agree in writing to process Cepheid Data in accordance with Cepheid's documented instructions; (b) implement appropriate technical and organisational security measures to protect the Cepheid Data against a Data Breach; and (c) otherwise provide sufficient guarantees that they will process the Cepheid Data in a manner that will meet the requirements of Applicable Data Protection Law.

8.4 In the event that either Party receives any correspondence, enquiry or complaint from a Data Subject, regulator or other third party ("**Correspondence**") related to (a) the disclosure of Cepheid Data by Customer to Cepheid for the Permitted Controller Purpose; or (b) the processing of Cepheid Data by the other Party, it shall promptly inform the other Party giving full details of the same, and the Parties shall cooperate reasonably and in good faith in order to respond to the Correspondence in accordance with any requirements under Applicable Data Protection Law.

9. Jurisdiction

The Parties submit to the choice of jurisdiction stipulated in the Agreement with respect to any disputes or claims howsoever arising under this DPA, including disputes regarding its existence, validity or termination or the consequences of its nullity; and this DPA and all non-contractual or other obligations arising out of or in connection with it are governed by the law of the country or territory stipulated for this purpose in the Agreement.



# EXHIBIT E

## Campaign Contribution Disclosure (SB 1439)

### DEFINITIONS

Actively supporting the matter: (a) Communicate directly with a member of the Board of Supervisors or other County elected officer [Sheriff, Assessor-Recorder-Clerk, District Attorney, Auditor-Controller/Treasurer/Tax Collector] for the purpose of influencing the decision on the matter; or (b) testifies or makes an oral statement before the County in a proceeding on the matter for the purpose of influencing the County's decision on the matter; or (c) communicates with County employees, for the purpose of influencing the County's decision on the matter; or (d) when the person/company's agent lobbies in person, testifies in person or otherwise communicates with the Board or County employees for purposes of influencing the County's decision in a matter.

Agent: A third-party individual or firm who, for compensation, is representing a party or a participant in the matter submitted to the Board of Supervisors. If an agent is an employee or member of a third-party law, architectural, engineering or consulting firm, or a similar entity, both the entity and the individual are considered agents.

Otherwise related entity: An otherwise related entity is any for-profit organization/company which does not have a parent-subsidary relationship but meets one of the following criteria:

- (1) One business entity has a controlling ownership interest in the other business entity;
- (2) there is shared management and control between the entities; or
- (3) a controlling owner (50% or greater interest as a shareholder or as a general partner) in one entity also is a controlling owner in the other entity.

For purposes of (2), "shared management and control" can be found when the same person or substantially the same persons own and manage the two entities; there are common or commingled funds or assets; the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis; or there is otherwise a regular and close working relationship between the entities.

Parent-Subsidiary Relationship: A parent-subsidiary relationship exists when one corporation has more than 50 percent of the voting power of another corporation.

**Contractors must respond to the questions on the following page. All references to "Contractor" in this Exhibit refer to BD. If a question does not apply respond N/A or Not Applicable.**

1. Name of Contractor: Cepheid
2. Is the entity listed in Question No.1 a nonprofit organization under Internal Revenue Code section 501(c)(3)?  
 Yes  If yes, skip Question Nos. 3-4 and go to Question No. 5 No
3. Name of Principal (i.e., CEO/President) of entity listed in Question No. 1, if the individual actively supports the matter and has a financial interest in the decision: Vitor Rocha
4. If the entity identified in Question No.1 is a corporation held by 35 or less shareholders, and not publicly traded (“closed corporation”), identify the major shareholder(s):  
  
 Danaher Corporation
5. Name of any parent, subsidiary, or otherwise related entity for the entity listed in Question No. 1 (see definitions above):  
 See attached Exhibit 21 List of Subsidiaries

Company Name	Relationship
Danaher Corporation	Parent

6. Name of agent(s) of Contractor:

Company Name	Agent(s)	Date Agent Retained (if less than 12 months prior)
NA	NA	NA

7. Name of Subcontractor(s) (including Principal and Agent(s)) that will be providing services/work under the awarded contract if the subcontractor (1) actively supports the matter and (2) has a financial interest in the decision and (3) will be possibly identified in the contract with the County or board governed special district.

Company Name	Subcontractor(s):	Principal and//or Agent(s):
NA	NA	NA

8. Name of any known individuals/companies who are not listed in Questions 1-7, but who may (1) actively support or oppose the matter submitted to the Board and (2) have a financial interest in the outcome of the decision:

Company Name	Individual(s) Name
NA	NA

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9. Was a campaign contribution, of more than \$250, made to any member of the San Bernardino County Board of Supervisors or other County elected officer within the prior 12 months, by any of the individuals or entities listed in Question Nos. 1-8?

No  If **no**, please skip Question No. 10.

Yes  If **yes**, please continue to complete this form.

10. Name of Board of Supervisor Member or other County elected officer: \_\_\_\_\_

Name of Contributor: \_\_\_\_\_

Date(s) of Contribution(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Please add an additional sheet(s) to identify additional Board Members or other County elected officers to whom anyone listed made campaign contributions.

By signing the Amendment, Contractor certifies that the statements made herein are true and correct. Contractor understands that the individuals and entities listed in Question Nos. 1-8 are prohibited from making campaign contributions of more than \$250 to any member of the Board of Supervisors or other County elected officer while award of this Amendment is being considered and for 12 months after a final decision by the County.