

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



Contract Number

21-904

SAP Number

Arrowhead Regional Medical Center

Department Contract Representative	William L. Gilbert
Telephone Number	(909) 580-6150
Contractor	CommuniCare Technology, Inc., dba Pulsara
Contractor Representative	
Telephone Number	
Contract Term	December 17, 2020 – December 31, 2022
Original Contract Amount	
Amendment Amount	
Total Contract Amount	
Cost Center	8483

Briefly describe the general nature of the contract:

Non-financial End User License Agreement with CommuniCare Technology, Inc., dba Pulsara, including non-standard terms, for an indefinite period of time.

FOR COUNTY USE ONLY

Approved as to Legal Form

► *Bonnie Uphold*
Bonnie Uphold, Deputy County Counsel

Date 11-30-2021

Reviewed for Contract Compliance

► _____

Date _____

Reviewed/Approved by Department

► *[Signature]*

Date 11/30/21



([https://www.pulsara.com?](https://www.pulsara.com?hsLang=en-us)
hsLang=en-us)

COVID-19 (https://www.pulsara.com/cs/c/?cta_guid=1ec4e01d-fa0e-486d-95ad-abbf31624cf7412b3c&click=21b89bd1-b9c4-49e5-9001-4c8ee58ef26f&hsid=152sbxfvS3pDtfrwgJ2io&__hstc=91228293.f8fa52af69d8b640822a5a9b22aa9db8.16354)

END USER LICENSE AGREEMENT

THIS APP IS NOT INTENDED FOR USE BY INDIVIDUALS UNDER 18 YEARS OLD.

This End User License Agreement ("**Agreement**") sets forth the terms and conditions upon which you may download and use the Pulsara software application, related services, and all updates, enhancements, and upgrades provided to you (collectively, "**App**") by CommuniCare Technology, Inc. (dba "Pulsara") (hereinafter "**Pulsara**") and/or its authorized distributors. "You", "your", "yourself" means you, as an individual.

PLEASE READ THIS AGREEMENT CAREFULLY IN ITS ENTIRETY BEFORE USING THE APP. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, PLEASE DO NOT USE THE APP. THIS AGREEMENT CONTAINS WARRANTY DISCLAIMERS AND OTHER PROVISIONS THAT LIMIT PULSARA'S LIABILITY TO YOU. BY USING THE APP, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT, THE PROVISIONS, DISCLOSURES, AND DISCLAIMERS SET FORTH IN THIS AGREEMENT ARE FAIR AND REASONABLE, AND YOUR AGREEMENT TO FOLLOW AND BE BOUND BY THIS AGREEMENT IS VOLUNTARY AND IS NOT THE RESULT OF FRAUD, DURESS, OR UNDUE INFLUENCE EXERCISED UPON YOU BY ANY PERSON OR ENTITY.

1. In General. The terms of this Agreement will govern the App and any software updates, enhancements, and upgrades that replace and/or supplement the original App, unless such upgrade is accompanied by a separate license in which case the terms of that license will You agree to comply with all terms, conditions, and restrictions set forth in this Agreement. You acknowledge that any use of the App not in compliance with this Agreement invalidates this license and may be prosecuted to the full extent of the law. By downloading and using this App, you represent and warrant that you are at least 18 years old.

2. Permitted Use and Restrictions.

a. Grant of License and Reservations. Subject to the terms of this Agreement, Pulsara grants you a limited, non-exclusive, revocable, non-transferable license to install and use the App and any future fixes, updates and upgrades provided to you solely for use in connection with your provision of medical care to patients including transmitting, accessing, managing, collecting, and displaying Patient Information (defined in clause 3 below) by and among authorized Healthcare Providers (defined in clause 4 below). This App is licensed, not sold, to you by Pulsara for use only under the terms of this Agreement. Pulsara reserves all rights not expressly granted to you. The rights granted in this Agreement are limited to Pulsara's intellectual property rights in the App and do not include any other patents or intellectual property rights. You may own the media on which the App is stored, but Pulsara retains ownership of the App itself.

b. Reverse Engineering. Except as expressly set forth in this Agreement, you agree not to reverse engineer, de-compile, disassemble, alter, duplicate, modify, rent, lease, loan, sublicense, make copies, create derivative works from, distribute or provide others with the App, in whole or part, or transmit or communicate the App over a network or to any third party. You agree not to lease, loan, sublicense, distribute, or otherwise provide others access to or with any aspect of the App, except as expressly permitted in this Agreement. Further, you agree not to develop, sell, or distribute applications that are capable of launching, being launched from, or are otherwise integrated with, the App or content accessed through the App without Pulsara's express written permission.

c. Further Restrictions. You further agree to not use the App to do the following:

- i. Transmit, access, or communicate any data that you do not have the right to transmit, access or communicate under applicable Law (as defined in clause 15(b) below), including the Health Insurance Portability and Accountability Act of 1996 as modified by the Health Information Technology for Economic and Clinical Health Act and all rules, regulations, and related laws and acts promulgated under and in connection therewith (collectively, "**HIPAA**"), under similar more stringent state laws, or under a contractual or fiduciary relationship;
- ii. infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- iii. Transmit or communicate any data that contains software viruses or any other computer code, files, or programs designed, intended, or likely to interrupt, destroy or limit the functionality of any computer software or hardware or any telecommunications equipment;
- iv. Interfere with or disrupt or circumvent the App;
- v. Intentionally or unintentionally violate any applicable local, state, national or international Law, including laws relating to securities exchange and any regulations, requirements, procedures or policies in force from time to time relating to the App;
- vi. Transmit or communicate any data that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, invasive of another's privacy, hateful or racially, ethnically or otherwise objectionable;
- vii. Use the App while driving;
- viii. Endanger yourself or others; or

- ix. Impair your ability to provide medical treatment at the standard of care.

3. Patient Information. You acknowledge and agree that the App may be used to transmit, collect, access, manage, and display Patient Information by and among you and other authorized Healthcare Providers, and their employees and contractors. You acknowledge and agree that Patient Information related to your treatment of patients may be stored by Pulsara and/or its licensees and service providers in connection with providing the App and its related services, as well as shared among other users of the App and its related services. You acknowledge and agree that the Patient Information stored by Pulsara shall not serve as the system of record for any patient, personal representative of a patient, health care provider, any business associate of a health care provider, or any affiliates of the foregoing. "Patient Information" means, collectively, information and data related to the provision of health care to patients, their health status, medical records, and related information and documents, including consent to treatment forms, authorization to disclose medical information forms, Medicare forms, Medicaid forms, living wills, Directives to Physicians and Family or Surrogates, Medical Powers of Attorney, Out-of-Hospital Do-Not-Resuscitate Orders, Declarations of Mental Health Treatment, images, reports, and lab and test results, medical treatments performed by you and/or other Healthcare Providers, and other "protected health information," as defined under HIPAA and similar terms as defined by state, national or international Law. You agree that your provision and use of all Patient Information will be in compliance with HIPAA and all other applicable Laws.

4. Medical Advice and Treatment. Pulsara does not provide medical advice, diagnosis, or treatment. You acknowledge and agree that the App is merely a conduit of information related to patients and the provision of healthcare to patients by independent third party healthcare providers including yourself, physicians, physician assistants, nurses, paramedics, emergency care responders, other physician extenders, healthcare systems, healthcare facilities, or other providers of healthcare services (collectively, "Healthcare Provider(s)"). You acknowledge and agree that the Healthcare Providers are solely responsible for and will have complete authority, responsibility, supervision, and control over the provision of all medical services, advice, instructions, treatment decisions, and other professional health care services performed, and that all diagnoses, treatments, procedures, and other professional health care services will be provided and performed exclusively by or under the supervision of Healthcare Providers as they, in their sole discretion, deem appropriate. You further acknowledge and agree that Pulsara does not provide or endorse any medical advice on or through the App and no information obtained through the App can be so construed or used. Pulsara will have and exercise absolutely no control, authority, or supervision over the provision of any medical services or other professional health care services. The use of the App, all text, graphics, images, audio content, audiovisual content, data, other materials and any other information provided on or entered into or made available through the App, including all healthcare related information, whether provided by you, the entity or organization with which you are employed or otherwise affiliated ("Your Organization"), other Healthcare Providers, or other third parties (collectively, "Content") is solely your responsibility. Pulsara will make all reasonable efforts in accordance with applicable laws and agreements to safeguard the integrity and availability of the Content. Further, when using the App, information may be transmitted over a medium that may be beyond the control and jurisdiction of Pulsara and its suppliers. Accordingly, Pulsara assumes no liability for or relating to the delay, failure, interruption, or corruption of any data or other information transmitted in connection with use of the App that is reasonably determined to be

beyond Pulsara's control. Accordingly, you acknowledge and agree that you are solely responsible for all medical services, advice, instructions, diagnoses, treatments, procedures, and other services you provide in connection with using the App or otherwise.

5. Registration. Upon registration, you agree to provide current, accurate, and complete information about you and Your Organization as is required to register to use the App and at other points as may be required in the course of using the App, including your complete legal name, street address, phone number(s), email address, and such other information as may be requested by Pulsara ("**Registration Data**"). Further, you agree to maintain and update your Registration Data as required to keep it current, accurate, and complete. You agree that Pulsara may store and use the Registration Data you provide in connection with your use of the App in accordance with the End User Privacy Policy ("Privacy Policy", which is incorporated into this Agreement by reference). Pulsara has the right, but not the duty, to confirm or otherwise verify or check, in its sole discretion, the truth and accuracy of any registration information at any time. Verification of your registration information, specifically, your name, address and/or tax identification number, against a third party database may be considered to constitute a "credit check" under certain laws. Pulsara is not making, and will not otherwise make, any type of inquiry to any third party regarding any individual's credit history and personal financial information without first obtaining such individual's express authorization to do so. Pulsara may terminate your rights to the entire App, if any information you provide is false, incomplete or inaccurate.

6. Third Party Technology. Any and all third party technology provided, made available, linked to, or otherwise accessible through the App ("**Third Party Technology**") is provided solely as a convenience to you and is not under the control of Pulsara does not endorse, recommend, or otherwise make any representations or warranties with respect to any Third Party Technology. Pulsara does not have any responsibility or liability to you for any Third Party Technology which you access and you use at your own risk. Further, you agree to comply with any and all terms and conditions applicable to the use of Third Party Technology and otherwise ensure that you have obtained all rights, licenses, and clearances that may be necessary to use such Third Party Technology.

7. Third Party Websites. This App may contain links to other independent third party websites ("**Linked Websites**"). These Linked Websites are provided solely as a convenience to our Such Linked Websites are not under the control of Pulsara, and Pulsara is not responsible for and does not endorse the content of such Linked Websites, including any information or materials contained on such Linked Websites. Pulsara does not have any responsibility or liability for any information, data, communications or materials available on such third-party sites. You therefore access these Linked Websites at your own risk.

8. Collection of Information. You grant Pulsara the perpetual, non-exclusive, worldwide, royalty-free irrevocable license to use, copy, print, display, reproduce, modify, publish, post, transmit, distribute, and preserve any transmittal, communication, or other Content provided by you through the App, or any other service offered on or through the App, and data related to your use of the App, including your name, profile, biography, and treatment and response Pulsara may disclose any such information and Content to other users of the App, Pulsara's licensees, service providers, clients, researchers, and other third parties in accordance with applicable Law, agreements and the Privacy Policy. Further, Pulsara may also use or disclose such data if required to do so by Law or Pulsara determines that such use or disclosure is reasonably necessary to (1) comply with legal process, (2) enforce this Agreement, (3) respond to claims that any such data violates the rights of others, or (4) protect the rights,

property, or personal safety of Pulsara, its employees, and users of the App. For further information regarding your privacy, please review our **Privacy Policy**, which is incorporated into this Agreement by reference. Notwithstanding the foregoing, the Privacy Policy may be changed from time to time without amending this Agreement. To the extent that there is a conflict between the Privacy Policy and this Agreement, this Agreement will control with respect to your use of the App; the Privacy Policy controls with respect to the collection, use, disclosure and disposal of your information.

9. Authorized Use. Except as expressly set forth in this Agreement, you will protect the confidentiality of the App, and will not distribute or otherwise make available the App, or any portion of the App, in any form to any third party. Any rights you may possess in the App expire upon expiration or termination of this Agreement. You will employ the security measures necessary to prevent unauthorized users from accessing the App including your user ID(s) and password(s) ("**Login Information**"). You are solely responsible for the maintenance and protection of your Login Information. You accept responsibility for, and will be liable for all access to the App in connection with your Login Information. Without the prior written consent of Pulsara, you will not utilize the services of any third party to assist you in using the App. Further, you will be responsible for all activities that occur under or in connection with your account and your use of the App.

10. Export Law Assurances. You will not use or otherwise export or re-export this App except as authorized by United States law and the laws of the jurisdiction in which the App was developed. In particular, but without limitation, the App will not be exported or re-exported (1) into (or to a national or resident of) any U.S. embargoed countries, or (2) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Persons' List or Entity List. By using the App, you represent and warrant that you are not located in, under control of, or a national or resident of any such country or on any such list.

11. Territory. Presently, the App is available to residents of the United States and Australia. You understand and acknowledge that you may not sign up for, access or attempt to access or use the App from countries outside of the United States and Australia. Pulsara may use technologies to verify your compliance. You agree to abide by United States, Australian and other applicable export control laws and not to transfer, by electronic transmission or otherwise, any content or software subject to restrictions under such laws to a national destination or person prohibited under such laws.

12. Trademarks. Trademarks, service marks, graphics and logos used in connection with the App are the trademarks of their respective owners. Pulsara™ and the trademarks related to the App are trademarks of Pulsara. You are not granted any right or license with respect to any of the trademarks mentioned above and any use of such trademarks.

13. Copyright Infringement. Pulsara respects copyright and other laws. Pulsara requires all App users to comply with copyright and other laws. Pulsara does not, by the supply of the App, authorize you to infringe the copyright or other rights of third parties. As a condition to use the App, you agree that you must not use the App to infringe upon the intellectual property or other rights of others in any way. The unauthorized reproduction, distribution, modification, public display, communication to the public or public performance of copyrighted works is an infringement of copyright. You are entirely responsible for your conduct and for ensuring that it complies with all applicable copyright and data-protection laws. In the event you fail to comply with laws regarding copyrights or other intellectual property rights, data protection and privacy, you may be exposed to civil and criminal liability, including possible fines and jail time.

14. Ownership and Title. All title to and the rights in the App, including ownership rights to patents (registrations, renewals, and pending applications), copyrights, trademarks, service marks, domain names, trade dress, trade secrets, Pulsara's or third party other technology, any derivatives of and all goodwill associated with the foregoing is the exclusive property of Pulsara and/or third parties.

15. Representations & Warranties. In addition to the other representations and warranties contained in this Agreement, you further represent, warrant, and covenant to Pulsara the following:

- a. All information you provide to Pulsara as part of the registration process or otherwise will be truthful, accurate and complete, irrespective of any independent verification or other determination made by Pulsara;
- b. You, your practice, and all goods and services provided in connection with your use of the App will comply with all applicable international, national, federal, state, and local laws, regulations, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction within the United States and Australia, as applicable (collectively, "**Law**");
- c. You are legally authorized in accordance with applicable Law to provide any and all Patient Information that you provide to the App for all uses contemplated under this Agreement;
- d. This Agreement has been duly and validly authorized, accepted, agreed to, and delivered by you (or your authorized representative) and constitutes your legal, valid, and binding obligation, enforceable against you in accordance with this You represent that you have full power, capacity and authority to enter into this Agreement; and
- e. The performance by you of this Agreement and your use of the App does not and will not conflict with or violate (1) any law, rule, regulation, order, judgment, decree, agreement, instrument, or obligation applicable to you, or (2) if you are an entity, any provision of your organizational or governing documents.

16. Disclaimer of Warranties. THE APP, AND ANY THIRD PARTY TECHNOLOGY ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF TITLE, NON-INFRINGEMENT, AND IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, PULSARA, ITS LICENSORS, AND SUPPLIERS MAKE NO WARRANTY, REPRESENTATION, OR GUARANTY:

1. AS TO THE SEQUENCE, ACCURACY, TIMELINESS, RELEVANCE, OR COMPLETENESS OF THE APP;
2. AS TO ANY INFORMATION OFFERED OR PROVIDED WITHIN OR THROUGH THE APP REGARDING TREATMENT OF MEDICAL CONDITIONS, ACTIONS, DIAGNOSES, PROCEDURES, APPLICATION OF MEDICATION, OR OTHER PROVISION OF HEALTHCARE SERVICES;
3. THAT THE APP MAY BE RELIED UPON FOR ANY REASON, THAT THE USE OF THE APP WILL BE UNINTERRUPTED OR ERROR FREE.

FURTHER, YOUR USE OF THE APP, AND ANY THIRD PARTY TECHNOLOGY IS AT YOUR OWN RISK. PULSARA DOES NOT WARRANT THAT THE APP OR THIRD PARTY TECHNOLOGY WILL MEET YOUR SPECIFIC REQUIREMENTS. TO THE EXTENT THAT PULSARA MAY NOT DISCLAIM ANY

WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW.

17. Limitation of Liability. EXCEPT WHERE PROHIBITED BY LAW, UNDER NO CIRCUMSTANCES WILL PULSARA BE LIABLE TO YOU OR ANY OTHER PERSON FOR DIRECT, CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES, COSTS, EXPENSES OR LOSSES OR LOST PROFITS IN CONNECTION WITH THE APP OR OTHERWISE RELATED TO THIS THE PROVISIONS OF THIS SECTION WILL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE, CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT (INCLUDING NEGLIGENCE), FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, AND EVEN IF ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES. PULSARA WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF CIRCUMSTANCES BEYOND ITS CONTROL, WHICH CIRCUMSTANCES INCLUDE NATURAL DISASTER, TERRORISM, THIRD PARTY LABOR DISPUTES, WAR, DECLARATIONS OF GOVERNMENTS, TRANSPORTATION DELAYS, FAILURE OF HARDWARE, EQUIPMENT, OR TELECOMMUNICATIONS FAILURE. PULSARA WILL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT BECAUSE OF YOUR MISUSE OF THE APP BY YOU OR ANY OTHER PERSON. THIS SECTION WILL BE GIVEN FULL EFFECT EVEN IN THE EVENT THAT ANY EXCLUSIVE REMEDY PROVIDED HAS FAILED OF ITS ESSENTIAL PURPOSE. FURTHER, IN NO EVENT WILL PULSARA BE LIABLE TO YOU OR ANYONE ELSE FOR ANY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF ANY USE OR MISUSE OF ANY THIRD PARTY TECHNOLOGY. THE PARTIES ACKNOWLEDGE THAT THE TERMS OF THIS SECTION REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF LIABILITY. IN NO EVENT SHALL THE LIABILITY OF PULSARA FOR ANY LOSS RELATED TO USE OR INABILITY TO USE THE APP EXCEED \$5.00 U.S.

18. Indemnification. YOU WILL INDEMNIFY, DEFEND, AND HOLD INDEMNITEES (AS DEFINED BELOW) HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND LOSSES ARISING FROM OR ATTRIBUTABLE TO (1) YOUR PROVISION OF MEDICAL SERVICES AND TREATMENT OF PATIENTS IN CONNECTION WITH YOUR USE OF THE APP OR OTHERWISE; (2) YOUR BREACH OF ANY OF YOUR REPRESENTATIONS, WARRANTIES, COVENANTS, OR OTHER AGREEMENTS MADE UNDER THIS AGREEMENT; (3) ANY CLAIMS BY OR DISPUTES RELATED TO YOUR USE OF THE APP ; (4) ANY CONTENT YOU PROVIDE TO THE APP OR OTHERWISE TRANSMIT USING THE APP; AND (5) BREACH OF CONFIDENTIALITY RELATED TO YOUR USE OF THE APP.

a. **Procedures.** The Indemnitee will give you written notice of any Claim for which indemnification is However, failure to provide such notice will not relieve you from your liability or obligations under this Agreement, except to the extent you are materially prejudiced as a direct result of such failure. The Indemnitee will cooperate with you at your expense in connection with the defense and settlement of the Claim. You may not settle any indemnified Claim in a manner that adversely affects the Indemnitee without its prior written consent. Further, the Indemnitee may participate in the defense of the Claim through counsel of its own choosing at its own cost and expense. If you fail to promptly assume the defense and employ counsel reasonably satisfactory to Indemnitee, or the Indemnitee has been advised by counsel that there exist actual or potential conflicting interests between you or your counsel and such Indemnitee, the Indemnitee may employ

separate counsel, in addition to local counsel, to represent or defend such Indemnitee in such action or proceeding, and you agree to pay the fees and disbursements of such separate counsel as incurred. To the extent indemnification requires the payment of monies owed, such indemnification will occur as soon as reasonably possible after the determination of monies owed, and payment to the Indemnitee will be made within 30 days of a final determination of monies owed. Your obligations under this Section are in addition to any rights that any Indemnitee may have at common law or otherwise.

b. **Defined Terms.** **"Claim"** means each and every claim, request, accusation, allegation, assertion, complaint, petition, demand, suit, action, proceeding, and cause of action of every kind and **"Indemnitee"** means Pulsara, its affiliates, and its and their respective officers, directors, shareholders, managers, members, agents, employees, representatives, successors, and assigns. **"Loss"** means each and every liability, loss, damage, and injury (including injury or damage to any property right, and injury, damage, or death to any Person), wound, wrong, hurt, harm, expense, deficiency, diminution in value, obligation, expenditure and disbursement of any kind or nature (including all fees, costs, and expenses of investigation, travel expenses, and value of time expended by personnel), settlement, fine, fee, cost, cost of court, and all expenses of litigation (including reasonable attorneys' fees) incident to any of the foregoing.

19. Release. IN THE EVENT THAT YOU HAVE A DISPUTE WITH ONE OR MORE USERS OF THE APP FOR ANY REASON, YOU RELEASE PULSARA (AND ITS OFFICERS, DIRECTORS, MANAGERS, MEMBERS, AGENTS, SUBSIDIARIES, REPRESENTATIVES, AND EMPLOYEES) FROM ALL CLAIMS, DEMANDS AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE §1542, WHICH PROVIDES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

20. Term. Unless otherwise terminated by Pulsara as provided for in this Agreement, this Agreement will remain in effect for so long as Pulsara licenses the use of the App to you.

21. Termination. Pulsara may, in its sole discretion and without prior notice, terminate your access to the App for violations of this Agreement or other agreements or guidelines, which may be associated with your use of the App, or if Pulsara deems it necessary in its sole Further, Your Organization may terminate, or request that Pulsara terminate your access to the App. In any such event, you must destroy all copies of the App and all of its component parts. Failure to abide by this Agreement is a material breach of this Agreement for which Pulsara may pursue all rights and remedies it has pursuant to this Agreement, and any other rights and remedies it may have at law or in equity. You also agree that any violation by you of this Agreement will constitute an unlawful and unfair business practice and will cause irreparable harm to Pulsara, for which monetary damages would be inadequate, and you consent to Pulsara obtaining any injunctive or equitable relief that Pulsara deems necessary or appropriate in such circumstances without the need to post a bond or satisfy any similar requirements. These remedies are in addition to any other remedies Pulsara may have at law or in equity.

22. U.S. Government End Users. The App is a "commercial item" as that term is defined at FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 and is provided to the U.S. Government only as a commercial end item. Consistent with FAR 12.212 and DFARS 227.7202, all U.S. Government End Users acquire the App with only those rights expressly set forth in this Agreement.

23. General Provisions.

a. Entire Agreement. This Agreement, the Privacy Policy, and any other terms of use, or other guidelines (collectively, "**Other Terms**") provided by Pulsara through or in connection with the App contain the entire understanding of the parties with respect to the subject matter of this Agreement and supersede all previous verbal and written agreements between the parties concerning the subject matter of this To the extent that any Other Terms conflict with any provision of this Agreement, this Agreement will control. The App is the property of Pulsara. Pulsara reserves the right to change, add or remove portions of this Agreement or the App at any time and at its sole discretion. Your continued use of the App following the posting or delivery to you of any changes means that you accept and agree to such changes.

b. Assignment. This Agreement, and any rights or obligations in this Agreement will not be assigned by you without the prior written consent of Pulsara. Any attempt to assign or transfer this Agreement other than in accordance with this provision will be null and Subject to the forgoing, this Agreement and its terms and provisions inure to the benefit of and are binding upon the parties and their respective successors, heirs, personal representatives, and assigns.

c. Governing Law/Waiver of Trial by Jury.

i. You agree that all matters relating to your access to or use of the App, including all disputes, will be governed by the laws of the United States and by the laws of the State of Montana without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in Gallatin County and Yellowstone County, Montana, and waive any objection to such jurisdiction or venue. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If for any reason a court of competent jurisdiction finds any provision, or portion of any provision, to be unenforceable, the remainder of this Agreement will continue in full force and effect.

ii. EXCEPT WHERE PROHIBITED BY LAW, THE PARTIES EXPRESSLY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING ANY DISPUTE, CONTROVERSY, OR CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

d. Notices. All notices, requests, or consents sent to Pulsara that are required or permitted under this Agreement must be in writing (including electronic form) and must be delivered to the address designated below in a notice served in the manner provided for below. Each notice, request, consent, or other communication will be given and will be effective: (1) if delivered by hand, when so delivered; (2) if delivered by nationally recognized overnight courier service or sent by United States Express Mail, upon confirmation of delivery; (3) if delivered by certified or registered mail, on the third following

day after deposit with the United States Postal App; or (4) if delivered by facsimile, upon confirmation of successful transmission, and if delivered by email, upon confirmation of receipt by the other party in writing by return email.

Pulsara

2880 Technology Blvd W, Suite 183
Bozeman, MT 59718

e. Severability. The provisions of this Agreement are severable. The invalidity, in whole or in part, of any provision of this Agreement will not affect the validity or enforceability of any other of its provisions. If one or more provisions of this Agreement are declared invalid or unenforceable, the remaining provisions will remain in full force and effect and will be construed in the broadest possible manner to effectuate the purposes of this Agreement. The parties further agree to replace such void or unenforceable provisions of this Agreement with valid and enforceable provisions that will achieve, to the extent possible, the economic, business, and other purposes of the void or unenforceable provisions.

f. Captions. The headings and captions of this Agreement are inserted for reference convenience and do not define, limit, or describe the scope or intent of this Agreement or any particular section, paragraph, or provision of this Unless otherwise expressly provided, the words "include(s)," "included," or "including" do not limit the preceding words or terms. Pronouns will refer to the masculine, feminine, neuter, singular, or plural as the context will require.

g. Waiver. The failure or delay of Pulsara to exercise or enforce any rights or provision of this Agreement does not constitute a waiver of such right or provision.

h. Survival. All provisions which must survive in order to give effect to their meaning will survive any expiration or termination of this Agreement, including without limitation, Sections 2(b), 16, 17, 18 and 19 and all of your representations, warranties and indemnification obligations, which will survive any expiration or termination of this Agreement indefinitely.

Last Updated October 1, 2018

Address



(<https://www.pulsara.com?hsLang=en-us>)

2880 Technology Blvd. W,
Suite #183
Bozeman, MT 59718
Phone: +1 877-903-5642

CONTACT US (<https://www.pulsara.com/contact?hsLang=en-us>)

About

About Pulsara (<https://www.pulsara.com/about?hsLang=en-us>)

Team (<https://www.pulsara.com/team?hsLang=en-us>)

Careers (<https://www.pulsara.com/careers?hsLang=en-us>)

Award-Winning Support (<https://www.pulsara.com/award-winning-support?hsLang=en-us>)

What's New (<https://www.pulsara.com/pulsara-features-learn-more?hsLang=en-us>)

Events (<https://www.pulsara.com/events?hsLang=en-us>)



Resources

Status (<https://status.pulsara.com/>)

FAQs (<https://knowledge.pulsara.com/en?hsLang=en-us>)

IT Security (<https://www.pulsara.com/it?hsLang=en-us>)

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Bringing together our innovative PULSARA® PLATFORM with our Internet of Lifesaving People™ advisory services to promote streamlined workflows and positive change management to enable real-time communication and information sharing for healthcare teams. It's About Time. It's About People.

