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**Application for Product Testing**

(Rev. 1/15/2015)

**Instructions: Please complete and e-mail the following information to** [**admin@sequoiaproject.org**](mailto:admin@sequoiaproject.org)

Part I: Applicant Information

|  |  |  |  |
| --- | --- | --- | --- |
| **Organization Name:** |  | | |
| **Address:** |  | | |
| **Fax:** |  | | |
| **Web Site:** |  | | |
| **Describe the type of organizations that use your solution.** |  | | |
| **How many customers do you anticipate may onboard to the eHealth Exchange using your product?** |  | | |
| **Points of Contact** | *Name* | *Phone* | *E-mail* |
| **Primary Business** |  |  |  |
| **Technical Contact** |  |  |  |
| **Target Test Date:** |  | | |

Part II: Product Information (include information for each product that will be tested)

|  |  |
| --- | --- |
| 1. **Type of Product (e.g. HIE system, EHR system, other):** |  |
| 1. **Product Name / Description:** |  |
| 1. **Version Number:** |  |

Part III: eHealth Exchange Product Testing Services Agreement

This **eHealth Exchange Product Testing** **Agreement** (this “**Agreement**”) is made and entered into as of \_\_\_\_\_\_\_\_\_, 201\_ (the “**Effective Date**”) by and between EHealth Exchange, Inc. (“**EHealth Exchange**”), a Virginia non-stock, membership corporation and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Applicant**”), a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(INSERT TYPE OF LEGAL ENTITY AND STATE OF DOMICILE). Each of EHealth Exchange and the Applicant shall be referred to in this Agreement as a Party or collectively as Parties.

**RECITALS**

**WHEREAS,** EHealth Exchange is organized as a non-profit corporation to provide operational support to the eHealth Exchange (formerly referred to as the Nationwide Health Information Network Exchange);

**WHEREAS**, the eHealth Exchange Product Testing Program tests information technology products for compliance with health information exchange (HIE) standards that relate to the eHealth Exchange;

**WHEREAS**, EHealth Exchange operates the Product Testing Program for eHealth Exchange;

**WHEREAS,** Applicant wishes to have Applicant’s HIE Technology validated as compliant with the Specifications.

**THEREFORE**, in consideration of the mutual agreements of the Parties as set forth in this Agreement and other good and valuable consideration, the adequacy and sufficiency of which is hereby acknowledged, the Parties do agree as follows:

1. **Definitions**
   1. “**Applicant’s HIE Technology**” means the health information exchange technology submitted by Applicant to EHealth Exchange for the purpose of completing the Testing Process and demonstrating compliance with the Specifications.
   2. “**eHealth Exchange Product Testing Program**” means EHealth Exchange’s program of Testing as described herein and in the eHealth Exchange Product Testing Guide.
   3. “**HIT**” means health information technology.
   4. “**Sample Messages**” means transactions generated by the Applicant’s HIE Technology that accurately reflect the type of data exchanged between and among eHealth Exchange Participants. Sample Messages shall not contain PHI.
   5. “**Specifications**” means the system requirements adopted for the eHealth Exchange.
   6. “**Specification Version**” means a set of Testing Program items (Specifications and Test Materials) that are associated with the eHealth Exchange Product Testing Program, as described in the eHealth Exchange Product Testing Guide. For example, as of November 2013, the two Specification Versions are the 2010 Version eHealth Exchange Specifications and the 2011 Version eHealth Exchange Specifications.
   7. “**SPOC**” means Applicant’s designated single point of contact who will oversee and coordinate Applicant’s participation in the Product Testing Program and respond to EHealth Exchange inquiries as necessary during each phase of the Testing Process.
   8. **“Test Materials”** means the set of testing requirements that must be successfully demonstrated and validated to comply with the Specifications. This may include, but is not limited to test cases, test scenarios, conformance checklists, etc.
   9. “**Testing Date**” means the date on which Applicant’s HIE Technology is issued a Testing Report.
   10. “**Testing Fee**”means the fee payable at the time of application by Applicant for the evaluation of Applicant’s HIE Technology for the testing process. The amount of the Testing Fee is set forth in Exhibit A attached hereto and may be modified for future programs.
   11. “**Testing Process**” means the process followed by EHealth Exchange as defined in the Product Testing Guide to evaluate the compliance of the Applicant’s HIE Technology with the Specifications and Test Materials and indicated on the Testing Report.
   12. “**Test Report**” means a written report issued by EHealth Exchange that documents the outcomes of the Testing Process; that is, the Applicant’s compliance with the Specifications and Test Materials.
   13. “**Testing**”means validation of Applicant’s HIE Technology that indicates that the Applicant’s HIE Technology is in compliance with the Specifications and Test Materials.
   14. “**Web Site**” means EHealth Exchange's web site at [www.sequoiaproject.org](http://www.sequoiaproject.org).
2. **Testing Process**
   1. **Application Process**. Applicant and EHealth Exchange shall follow the process described in the eHealth Exchange Product Testing Guide for the submission, review and processing of Applicant’s application for Testing of Applicant’s HIE Technology.
   2. **Testing Process**. Applicant and EHealth Exchange shall follow the process described in the eHealth Exchange Product Testing Guide.
   3. **Testing Outcome**. EHealth Exchange shall determine the outcome of the Testing Process and such determination shall be communicated to Applicant by delivery of a Test Report.
   4. **Appeal Procedures**. Applicant may appeal the findings in a Test Report only if the Applicant failed testing and Applicant believes, in good faith, that eHealth Exchange rendered an incorrect decision about the technology compliance based upon how the technology was validated during the test due to perceived bias or error and that, as a result the Test Report does not accurately reflect the compliance of the Applicant’s HIE technology with the Specifications and Test Materials based upon how the Applicant’s HIE Technology was validated by eHealth Exchange. The Parties agree that neither of them will make any public statements or disclosures about Applicant’s appeal during or after the appeal except as required by law.
3. **Fees**
   1. **Standard Testing Fee**. Applicant shall pay the “**Testing Fee**” set forth on Exhibit A attached hereto. Payment of the total Testing Fee must be received in full by eHealth Exchange before processing of the application will begin.
   2. **Standard Time for Testing.** Applicants will have sixty (60) calendar days from submission to EHealth Exchange of Applicant’s initial set of test results to complete the entire Testing Process. If Applicant has not completed its Testing within this 60 day time period, EHealth Exchange may require an additional fee equal to 15% of the Testing Fee to complete the Testing Process. eHealth Exchange may, in its sole discretion, agree to extensions if unexpected delays occur as a result of the eHealth Exchange’s efforts.
   3. **Additional Sets of Test Results**. Applicants may practice with the testing tools on an unlimited basis. However, Applicants will be allowed to submit two (2) sets of test results to eHealth Exchange for evaluation as evidence of compliance for the Final Testing Report as covered by the Standard Testing Fees. If Applicant needs to submit additional test results for review and evaluation to demonstrate its compliance, it may do so for an additional fee (“Additional Result Review Fee”) set forth on Exhibit A attached hereto.
   4. **Refunds.** Applicant is not entitled to a refund of any Testing Fees except Applicant shall receive a refund of 85% of the Testing Fee where (i) the Applicant’s application is incomplete and the Applicant is unable to resolve all deficiencies in the application to eHealth Exchange’s satisfaction; or (ii) eHealth Exchange fails to accept the Applicant’s application for Testing for any reason. Applicant may reapply at any time in the future by resubmitting its application and the full Testing Fee.
4. **EHealth Exchange Responsibilities**
   1. **Test Summary Report.** Upon completion of the Testing, eHealth Exchange will determine whether Applicant successfully completed and passed Testing and will provide Applicant with a Test Report.
   2. **Test Requirements**. eHealth Exchange will post on its web site the current eHealth Exchange Product Testing Guide and Test Materials, as modified from time to time.
   3. **Complaint Process**. eHealth Exchange shall establish and maintain a process by which third parties may submit to eHealth Exchange complaints regarding a validated product’s potential non-compliance with the Specifications.
   4. **Periodic Review of Sample Messages.** In addition to eHealth Exchange’s right to respond to suspected non-compliance, the eHealth Exchange has the right to request and review Sample Messages exchanged via Applicant’s HIE Technology in a test environment for conformance and interoperability as well as related audit log data as it pertains to Sample Messages.
   5. **Response to suspected non-compliance.**   If the eHealth Exchange believes, either as the result of a review pursuant to section 4(d) above or learning of a complaint, that Applicant’s HIE Technology (including, but not limited to, Applicant’s HIE Technology system configuration, architecture, components, and Sample Messages produced by Applicant’s HIE Technology) is not functioning in material compliance with the Specifications, eHealth Exchange may inform Applicant of such belief and request that Applicant, within a reasonable time, (i) verify that Applicant’s HIE Technology remains in compliance with the Specifications by submitting a written attestation of compliance, or (ii) explain the reasons for non-compliance and propose a plan for remedying such non-compliance.  If eHealth Exchange (in its reasonable discretion) is not satisfied with the information Applicant provides in response to such request, eHealth Exchange may inform Applicant that its HIE Technology is non-compliant with the Specifications and request that Applicant submit Applicant’s HIE Technology for additional Testing in accordance with Section 5(c).
5. **Applicant Responsibilities**
   1. **eHealth Exchange Product Testing Program**. Applicant shall perform all of Applicant’s obligations specified for all phases of the eHealth Exchange Product Testing Program,in accordance with this Agreement and the eHealth Exchange Product Testing Guide and Test Materials which are incorporated by reference into this Agreement.
   2. **SPOC**. Applicant shall designate a SPOC, and make available during the Testing Process its SPOC and other Applicant personnel as necessary to effectively complete the Testing, as well as for review of the Test Report and any other elements contained in any other testing methods used in the eHealth Exchange Product Testing Programand to answer questions and attend meetings as required by EHealth Exchange. Applicant will notify EHealth Exchange promptly in the event of a change in the SPOC for Applicant’s HIE Technology.
   3. **Retesting Upon a Finding of Non-Compliance.** Upon receipt of the notice provided pursuant to section 4(e) above, Applicant shall have (30) days to either (i) pay the then applicable Fees for Testing, undergo Testing of the allegedly non-compliant Applicant HIE Technology and submit a set of test results to EHealth Exchange for the allegedly non-compliant Applicant HIE Technology; or (ii) provide notice of termination of this Agreement to EHealth Exchange, which termination shall be effective no later than the thirty-first day following Applicant’s original receipt of notice of such non-compliance.  If during such thirty day period, Applicant fails to pay the applicable Fees for Testing, undergo Testing, and submit a set of test results or provide notice of termination, EHealth Exchange may terminate this Agreement effective immediately upon notice to Applicant of such termination.  The fees set forth in Sections 3(b) and 3(c) shall also apply to any such Testing of allegedly non-compliant Applicant HIE Technology.
   4. **Cooperation with Periodic Review.** Applicant shall fully cooperate with EHealth Exchange and Applicant’s customers for any periodic reviews of Sample Messages that EHealth Exchange performs.
6. **Ownership of Materials.** 
   1. Applicant acknowledges that any copyrights, patent rights, trade secrets, trademarks and other intellectual property in or related to the eHealth Exchange Product Testing Program including, but not limited to, all related materials, information, reports, processes, seals, test cases, test case runner, gateway proxy, test repository database, test case templates, configuration files, and test tool documentation (the “EHealth Exchange IP”), are the exclusive property of EHealth Exchange or its licensors. To the extent any corrections, enhancements, improvements, or derivative works, relating to the EHealth Exchange IP are developed by EHealth Exchange based upon ideas or suggestions submitted by Applicant, Applicant hereby irrevocably assigns its rights to such ideas or suggestions to EHealth Exchange, together with all copyrights, trade secrets, patent rights and other intellectual property rights related thereto. Applicant shall not challenge the validity of EHealth Exchange’s ownership of such EHealth Exchange IP. Applicant shall not represent that it owns or has any rights in relation to the EHealth Exchange IP. Applicant shall not apply for registration of any trademark, business name or company name that incorporates any name or logo the same as, substantially similar to or deceptively similar to any EHealth Exchange or eHealth Exchange marks without the prior written consent of EHealth Exchange. Applicant shall not create any derivative work, program or product based on or derived from the EHealth Exchange IP, or use any EHealth Exchange trade secrets, business processes, or intellectual property related to the eHealth Exchange Product Testing Program to create any other program or product.
   2. Nothing shall prevent Applicant from (i) making changes to Applicant’s HIE Technology to conform it to the requirements of the testing program or (ii) make such changes available to Applicant’s customers.
7. **EHealth Exchange Validation Seal.** Upon notification by EHealth Exchange to Applicant of successful completion of Testing, Applicant shall be entitled to designate Applicant’s HIE Technology as compliant with the Specifications and “EHealth Exchange Validated” (the “Validation”). EHealth Exchange will provide to Applicant a digital version of a seal signifying such Validation (the “Seal”). EHealth Exchange grants to Applicant a nonexclusive, non-assignable and nontransferable license to use and display the Seal as described herein. Applicant shall not use or display the Seal, the Validation or anything similar thereto for any software other than the version of Applicant’s HIE Technology that successfully completed the Testing. When displaying the Validation, the Validation should be used in such a way that there is no implication of endorsement by EHealth Exchange. When displaying the Seal, Applicant shall not alter or modify the digital version provided by EHealth Exchange. Applicant is authorized to display and use the Seal and Validation as set forth herein in any and all marketing materials for the Applicant’s HIE Technology. These rights are not transferable to any other entity or any other program or software produced by Applicant. Upon request, Applicant shall provide to EHealth Exchange samples of Applicant’s use of the Seal and Validation. Applicant’s failure to appropriately use the Validation, in the sole and absolute discretion of EHealth Exchange, may result in termination of its right to use the Validation.
8. **Confidentiality**
   1. **Confidential Information**. Confidential Information furnished by either party under this Agreement is provided solely for use in the eHealth Exchange Product Testing Program and both parties desire to ensure the safeguarding of such information and limit its distribution. “**Confidential Information**” shall include the following:
      1. Applicant’s HIE Technology documentation and technical information submitted to EHealth Exchange by Applicant under this Agreement;
      2. Test Reports;
      3. Item-by-item compliance results for Applicant’s HIE Technology developed during the course of any Testing Process or Appeal; and
      4. Any other non-public information that is disclosed by one party (the “**Disclosing Party**”) to the other (the “**Recipient**”), whether before or after the execution of this Agreement, provided that such information is marked in writing as “Confidential” or “Proprietary.”
   2. **Exclusions**. Irrespective of any marking, Confidential Information shall not include:
      1. Applicant’s company name, and contact information for Applicant’s representatives;
      2. Item-by-item compliance results, when de-identified as to Applicant, and aggregated statistically with corresponding compliance results from other applicants;
      3. Information that is, or subsequently becomes, generally available to the public through no act or fault of the Recipient;
      4. Information that was in the possession of the Recipient prior to its disclosure;
      5. Information that was lawfully acquired by the Recipient from a third party who was not under an obligation of confidentiality to the Disclosing Party; or
      6. Information that was independently developed by the Recipient by personnel without access to the Confidential Information.
   3. **Disclosure and Use Restrictions**. Except as otherwise provided herein, the Recipient shall:
      1. retain in confidence all Confidential Information, using at least the same degree of care in safeguarding the Disclosing Party’s Confidential Information as it uses in safeguarding its own confidential information, subject to a minimum standard of reasonable diligence and protection;
      2. use and disclose Confidential Information only in the course of performing its obligations pursuant to this Agreement; and
      3. disclose Confidential Information within its organization only to those of its employees, faculty, agents or subcontractors who both have a need to know such information for the Recipient’s performance under this Agreement and have a legal duty to protect it comparable to that of the Recipient.
   4. **Injunctive Relief**. Each party recognizes and acknowledges that any use or disclosure of the Confidential Information of the other party in a manner inconsistent with the provisions of this Agreement may cause such other party irreparable damage for which remedies at law may be inadequate, and each party agrees that in any request to a court of competent jurisdiction by such other party for injunctive or other equitable relief seeking to restrain such use or disclosure, it will not maintain that such remedy is not appropriate under the circumstances.
9. **Limitation of Liability; Right of Action**
   1. EXCEPT WITH RESPECT TO THE CONFIDENTIALITY OBLIGATIONS IN SECTION 8 OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE (WHETHER IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY IN TORT OR BY STATUTE OR OTHERWISE) TO THE OTHER OR TO ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE LOSS, DAMAGES OR EXPENSES (INCLUDING LOST PROFITS OR SAVINGS).
   2. No claim or cause of action, regardless of form, arising out of or related to the eHealth Exchange Product Testing Program, this Agreement, or the breach thereof, or any other dispute between EHealth Exchange and Applicant may be brought in an arbitral, judicial, or other proceeding by any party more than one year after the cause of action has accrued, regardless of any statute, law, regulation, or rule to the contrary (“**Limitation Period**”). The Limitation Period shall commence the day after the day on which the cause of action accrued. Failure to institute a proceeding within the Limitation Period will constitute an absolute bar and waiver of the institution of any proceedings, whether in arbitration, court, or otherwise, with respect to such cause of action. A cause of action that has become time-barred may not be exercised by way of counter claim or relied upon by way of exception.
10. **Warranties; Disclaimer**.
    1. Applicant warrants and represents that it has the full power and authority to execute the application for Testing and to enter into this Agreement and that any representative of Applicant who signed the Testing application or signs this Agreement had or has full power and authority to do so on behalf of Applicant.
    2. Applicant warrants and represents that the information submitted to EHealth Exchange in the Testing application, Applicant’s Test Report, any other documentation or information provided by Applicant to EHealth Exchange is, to the best of Applicant’s knowledge, accurate and complete.
    3. Applicant warrants and represents that the Applicant’s HIE Technology is the same health information exchange technology that will be used by Applicant’s customers in production to participate in eHealth Exchange.
    4. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT: (a) NEITHER PARTY MAKES NOR WILL BE DEEMED TO MAKE OR HAVE MADE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, DIRECTLY OR INDIRECTLY, EXPRESS OR IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW); AND, (b) EACH PARTY EXPRESSLY DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY, TITLE, DESIGN, NON-INFRINGEMENT, OPERATION OR FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM CONDUCT, COURSE OF DEALING OR CUSTOM OR USAGE IN TRADE.
11. **Term and Termination**
    1. **Initial Validation Period**. The initial term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years (the “Initial Validation Period”), unless earlier terminated in accordance with this Section 11. Following the Initial Validation Period, the Parties may extend the term of this Agreement for additional three (3) year terms in accordance with Section 11(b) (each an “Additional Validation Period”).
    2. **Additional Validation Periods**. At least ninety (90) days prior to the end of the Initial Validation Period or any Additional Validation Periods, Applicant must pay the then applicable Fees for Testing, undergo Testing of Applicant’s then current HIE Technology and submit a set of test results to EHealth Exchange for Applicant’s then current HIE Technology (the “Retesting”). The fees set forth in Sections 3(b) and 3(c) shall also apply to any such Retesting. All Testing will be conducted in accordance with the then current version of the eHealth Exchange Product Testing Guide, Test Materials and this Agreement. Should Applicant fail to successfully complete or pass Retesting prior to the end of the then current Initial Validation Period or Additional Validation Period, EHealth Exchange may (i) terminate this Agreement at the end of such Period; or (ii) renew this Agreement contingent upon Applicant instituting a remediation plan acceptable to EHealth Exchange and successfully completing and passing Retesting in a timeframe to be determined by EHealth Exchange, in its sole discretion.
    3. **Termination by Applicant**. Applicant may terminate this Agreement at any time by providing sixty (60) days prior written notice to EHealth Exchange. Applicant will not be entitled to a refund of any Testing Fees paid prior to termination except as set forth in Section 5(c). Applicant may also terminate this Agreement in accordance with Section 5(c)).
    4. **Termination by EHealth Exchange**. EHealth Exchange may terminate this Agreement with immediate effect in accordance with Section 5(c) or by giving notice to Applicant if:
       1. Applicant is in material breach of any of the terms and conditions of this Agreement and fails to remedy such breach within 30 days after receiving notice of such breach; or
       2. Applicant breaches a material provision of this Agreement where such breach is not capable of remedy.
    5. **Effect of Termination**. Upon termination of this Agreement for any reason, Applicant shall (i) immediately remove the Seal and Validation from all electronic media, (ii) immediately discard all materials bearing the Seal or Validation, and (iii) cease future use of the Seal and Validation. Within ten (10) business days of termination of this Agreement, Applicant shall confirm to EHealth Exchange, in writing, that it has complied with subsections (i) and (ii) of this Section. EHealth Exchange will remove Applicant’s HIE Technology from its list of EHealth Exchange Validated software products.
12. **Notices**. Any formal notice or other significant communication given pursuant to this Agreement must be in writing and shall be deemed to have been received either (a) upon personal delivery (or refusal thereof) to the party for whom intended or (b) on the date receipt is confirmed by a courier service or the United States Post Office (sent certified mail, return receipt requested), in each case addressed to such party at the address specified below (or such other address designated by notice to the other party).

For Applicant:

Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

For EHealth Exchange, Inc.:

1600 Tysons Boulevard, 8th Floor

McLean, VA 22102

Attn: Mariann Yeager, CEO

1. **General**
   1. **Non-Disclosure of Applicant Status**. Except as specifically provided in the Product Testing Guide, without Applicant’s prior written approval (which may be given by email), EHealth Exchange shall not: (i) advertise or otherwise name Applicant as a participant in the eHealth Exchange Product Testing Program; nor (ii) publicly disclose the results of Applicant’s participation in the eHealth Exchange Product Testing Program, except in de-identified form. Notwithstanding the foregoing, upon Applicant’s successful completion of Testing, EHealth Exchange is permitted to include the Applicant’s HIE Technology in the list of EHealth Exchange Validated software products.
   2. **Force Majeure**. Neither party shall be responsible for any delays or failures in performance due to circumstances beyond its reasonable control, including, without limitation, failures of computers, computer-related equipment, hardware or software.
   3. **Severability**. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be modified to the minimum extent necessary to achieve the purpose originally intended, if possible, and the remaining provisions of this Agreement shall remain in full force and effect and enforceable.
   4. **Survival of Rights and Obligations**. All Sections, which by their nature are meant to survive this Agreement, shall survive expiration or termination of this Agreement.
   5. **Governing Law, Forum and Jurisdiction**. In the event of a dispute between the parties, the applicable Federal and State conflicts of law provisions that govern the operations of the parties shall determine governing law.
   6. **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be considered an original counterpart, and shall become a binding agreement when each party shall have executed one counterpart.
   7. **Captions**. Captions appearing in this Agreement are for convenience only and shall not be deemed to explain, limit or amplify the provisions of this Agreement.
   8. **Independent Parties**. Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between Applicant and EHealth Exchange. Except as specifically set forth herein, neither party shall have the power to control the activities and operations of, or contractually bind or commit, the other party and their status with respect to one another is that of independent contractors.
   9. **No Third Party Beneficiary**. Nothing contained in this Agreement will be deemed to create, or be construed as creating, any third party beneficiary right of action upon any third party or entity whatsoever, in any manner whatsoever.
   10. **Assignment.** None of this Agreement, any of the rights hereunder nor any resulting certification shall be assignable by Applicant whether by operation of law or otherwise without the express written approval of EHealth Exchange.
   11. **Entire Agreement; Waiver**. This Agreement contains the entire understanding of the parties with regard to the subject matter contained herein and may not be amended except by mutual written agreement. The failure of either party to enforce at any time any provision of this Agreement shall not be construed to be a waiver of such provision, nor in any way affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach, nor shall any delay by either party to exercise any right under this Agreement operate as a waiver of any such right.

**[Signature Page Follows]**

**[*Signature Page to* eHealth Exchange Product Testing *Application* and *Agreement*]**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **For** | |  | **For EHEALTH EXCHANGE, INC.** | |
|  |  |  |  |  |
| By: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | By: | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| Name: |  |  | Name: | **Mariann Yeager** |
| Title: |  |  | Title: | **Executive Director and CEO** |

**Exhibit A**

**Fee Schedule**

2011 Product Tests $34,000

Content $3,000

NOTE: Content testing options include Basic C32, Bridge C32 or C-CDA. Applicants may choose more than one option but individual fees are applied for each option chosen. Content testing is waived if Applicant uses a product that was certified for the 2011 or 2014 edition of EHR certification for Stage 1 or Stage 2 meaningful use.

**Additional Fees**

|  |  |
| --- | --- |
|  |  |
| Timeframe Extension (beyond 60 days) | 15% of testing fee |
| Additional Result Review Fee (per test result) | $2,000 |
|  |  |