

# Concept Systems LabDash Usage Agreement

Effective Date: November 19, 2020

BY CHECKING THE ACCEPTANCE BOX OR ACCESSING OR USING ALL OR ANY PORTION OF LABDASH, LICENSEE IS ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT AS PUBLISHED ON LABDASH.NET (AS MAY BE RELOCATED BY CONCEPT SYSTEMS INC FROM TIME TO TIME). LICENSEE AGREES THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY LICENSEE AND LEGALLY BINDING BETWEEN LICENSEE AND CONCEPT SYSTEMS INC. IF LICENSEE DOES NOT AGREE TO ALL OF THESE TERMS AND CONDITIONS, DO NOT ACCESS OR USE LABDASH. IF LICENSEE WISHES TO TERMINATE THIS AGREEMENT AT ANY TIME, LICENSEE CAN DO SO BY EMAILING [labdash@conceptsystemsinc.com](mailto:labdash@conceptsystemsinc.com).

THIS LABDASH USAGE AGREEMENT (“**USAGE AGREEMENT**”) IS BETWEEN CONCEPT SYSTEMS INC AND THE CUSTOMER (INDIVIDUAL OR ENTITY) THAT UTILIZES LABDASH (“**LICENSEE**”). THE “**EFFECTIVE DATE**” OF THIS AGREEMENT IS THE DATE OF LINCENCEE’S INITIAL ACCESS TO LABDASH THROUGH ANY ONLINE PROVISIONING, REGISTRATION OR ORDER PROCESS. IF LICENSEE IS A PATIENT AND DOES NOT WISH TO CREATE A LABDASH ACCOUNT, PLEASE CONTACT YOUR PROVIDER OR SPONSOR FOR INSTRUCTIONS ON ALTERNATIVE MEANS OF COLLECTING YOUR SAMPLE AND DELIVERING YOUR RESULTS.

**GENERAL LAB, PROVIDER, AND SPONSOR PROVISIONS.** THE LAWS AUTHORIZING A MINOR (ANYONE UNDER THE AGE OF 18) TO CONSENT TO GENERAL MEDICAL SERVICES WITHOUT A PARENT’S OR GUARDIAN’S INFORMED CONSENT VARY FROM STATE TO STATE. LABDASH DOES NOT PROVIDE ANY SERVICES TO DETERMINE IF A MINOR WHO RECEIVED RESULTS THROUGH LABDASH CONDUCTED THEIR MEDICAL SERVICES LEGALLY WITHIN THE STATE WHERE THE SERVICES WERE ADMINISTERED, OR WHERE THE MINOR RESIDES. LABDASH IS NOT LIABLE FOR ANY POTENTIAL LEGAL VIOLATIONS OF ANY SERVICES PERFORMED ON A MINOR. IT IS RECOMMENDED THAT THOSE ADMINISTERING GENERAL MEDICAL SERVICES ON A MINOR CONSULT THE APPROPRIATE STATE LAWS, FOR BOTH THE LOCATION OF THE SERVICES AND THE LOCATION OF THE MINOR, ON THE SUBJECT TO DETERMINE THE LEGALITY OF THOSE SERVICES.

**GENERAL PATIENT PROVISIONS.** THE LAWS AUTHORIZING A MINOR (ANYONE UNDER THE AGE OF 18) TO CONSENT TO GENERAL MEDICAL SERVICES WITHOUT A PARENT’S OR GUARDIAN’S INFORMED CONSENT VARY FROM STATE TO STATE. LABDASH RESTRICTS ACCESS TO LABDASH BASED ON AGE RESTRICTIONS PUBLISHED FOR THE STATE IN WHICH THE LICENSEE IS REGISTERING. LABDASH TAKES REASONABLE EFFORTS TO MAINTAIN THESE RESTRICTIONS IN ACCORDANCE WITH THE LAW FOR EVERY STATE AS THESE LAWS CHANGE FROM TIME TO TIME. LABDASH DOES NOT PROVIDE ANY OTHER SERVICES TO DETERMINE IF A MINOR REQUESTING REGISTERING FOR LABDASH IS DOING SO LEGALLY WITHIN THE STATE WHERE THE SERVICES ARE TO BE ADMINISTERED, OR WHERE THE MINOR RESIDES. LABDASH IS NOT LIABLE FOR ANY POTENTIAL LEGAL VIOLATIONS OF ANY SERVICES PERFORMED ON A MINOR. IT IS RECOMMENDED THAT MINORS SEEKING MEDICAL SERVICES CONSULT THEIR STATE’S LAWS ON THE SUBJECT TO DETERMINE THE LEGALITY OF REQUESTING SERVICES. IN CASES WHERE A MINOR’S ACCESS IS RESTRICTED, THE MINOR WILL BE NOTIFIED OF THE REASON FOR DENIED ACCESS. IN SUCH CASES, IF THE MINOR FEELS ACCESS IS BEING IMPROPERLY RESTRICTED, THEY SHOULD CONTACT US BY EMAIL AT [labdash@conceptsystemsinc.com](mailto:labdash@conceptsystemsinc.com) AND WE WILL INVESTIGATE THE MATTER AS TIMELY AS POSSIBLE AND PROVIDE THE ACCESS THE MINOR IS ENTITLED TO.

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1. **Concept Systems Inc and LabDash**
  - 1.1. **Concept Systems Inc.** Concept Systems Inc and our subsidiaries and affiliates (collectively, “**Concept Systems Inc**”), supplies software products and services to customers throughout the United States. LabDash was developed in partnership with a clinical laboratory to improve the efficiency and effectiveness of sample collection, tracking of results, and delivery to patients.

LabDash offers an integrated sample tracking product for our clients; medical groups, practices, hospitals, health systems, government entities, private companies, clinical laboratories, physicians, specialists, staff and patients.

12. **Provision of LabDash.** LabDash is a product that includes integrated websites, software applications, and hardware that facilitates lab collections, collection tracking, results tracking and reporting as such products may be modified, enhanced, and/or updated from time to time ("**LabDash**"). LabDash is described more fully in the then-current version of any supporting product help and technical specifications documentation provided by Concept Systems Inc with LabDash to Licensee ("**Documentation**"). This Usage Agreement applies only to LabDash and does not grant Licensee rights to any other Concept Systems Inc services or software.
13. **Access to LabDash.** Subject to the terms and conditions of the Usage Agreement, and except as set forth in Section 4 (Term and Termination) Concept Systems Inc hereby grants to Licensee a non-exclusive, non-transferable, non-sublicensable, worldwide right to access and use LabDash solely for Licensee's personal and/or business purposes but only in accordance with: (i) the Documentation; and (ii) the restrictions in Section 1.2 (Provision of LabDash), Section 1.6 (General Restrictions), and Section 2 (Patient Data and Licensee's Obligations). Licensee will use reasonable efforts to prevent any unauthorized access to or use of LabDash and the Documentation, and will promptly notify Concept Systems Inc in writing of any unauthorized access or use of which Licensee becomes aware of and will provide all reasonable cooperation to prevent and terminate such access or use.
14. **Authorized Users.** "**Authorized Users**" means those uniquely identified individuals subject to this Usage Agreement who are authorized by Licensee to use and access LabDash for any purpose regardless of whether those individuals are actively using LabDash at any given time. The Authorized Users will receive user IDs and passwords to access LabDash. These credentials are granted to individual, named persons and may not be shared. Licensee will ensure that all Authorized Users keep these credentials strictly confidential. Each Authorized User's access right may be further specified or restricted, and the technical capabilities available to each Authorized User within LabDash shall be as set forth in the Documentation. Access rights to LabDash may be reassigned between uniquely identified individuals over time. Licensee may allow their Contractors and Affiliates to access LabDash as Authorized Users in accordance with this Usage Agreement, provided Licensee shall remain liable for all acts and omissions of such Affiliates and Contractors as if their breach were Licensee's own. "**Affiliate**" means each legal entity that is directly or indirectly controlled by Licensee on or after the Effective Date, for so long as such entity remains directly or indirectly controlled by Licensee (where "**controlled**" means the ownership of, or the power to vote, directly or indirectly, a majority of any class of voting securities of a corporation or limited liability company, or the ownership of any general partnership interest in any general or limited partnership). "**Contractor**" means those independent third parties who perform services related to this Usage Agreement for Licensee, but solely to the extent they are acting on Licensee's behalf.
15. **Third-Party Code.** LabDash may contain or be provided with components which are licensed from third parties ("**Third Party Code**"), including components subject to the terms and conditions of "open source" software licenses ("**Open Source Software**"). Open Source Software may be identified in the Documentation, or in a list of the Open Source Software provided to Licensee upon written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Usage Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.
16. **General Restrictions.** As a condition to the rights granted to Licensee hereunder, Licensee shall not (and shall not allow any third party to): (a) decompile, disassemble, or otherwise reverse engineer LabDash or any Third Party Code or attempt to reconstruct or discover any source code, APIs, underlying ideas, algorithms, file formats or programming interfaces of LabDash or the Third Party Code by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, or as permitted by an applicable Open Source Software license); (b) distribute, sell, sublicense, rent, lease or use LabDash or any Third Party Code (or any portion thereof) for time sharing, hosting, service provider or like purposes; (c) remove any product identification, proprietary, copyright trademark, service mark, or other notices contained in LabDash or any Third Party Code (including any reports or data printed via the use of LabDash); (d) modify any part of LabDash or any Third Party Code, create a derivative work of any part of LabDash or any Third Party Code, or incorporate LabDash or any Third Party Code into or with other software, except to the extent expressly authorized in writing by Concept Systems Inc or as permitted by an applicable Open Source Software license; (e) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to LabDash; (f) utilize any equipment, device, software,

or other means designed to circumvent or remove any form of copy or other protection used by Concept Systems Inc in connection with LabDash, or use LabDash together with any user credentials or other copy protection device not supplied by Concept Systems Inc or through an Authorized Licensor; (g) use LabDash to develop a product which is competitive with any Concept Systems Inc product offerings; (h) use unauthorized user credentials or distribute or publish such credentials except as may be expressly permitted by Concept Systems Inc in writing; (i) assert, nor will Licensee authorize, assist or encourage any third-party to assert, against Concept Systems Inc, or any of its Authorized Licensors or clients, any patent infringement or other intellectual property infringement claim regarding LabDash or any support Licensee has purchased or used hereunder; or (j) automate processes, including without limitation, API calls, or refreshes of visualizations or dashboards, if such automation has a detrimental impact on Concept Systems Inc's ability to provide LabDash to its other customers.

## 2. Patient Data and Licensee's Obligations

2.1. **Patient Data.** "Patient Data" means any information or other data which Licensee inputs, or Licensee's machines input, or either provides to Concept Systems Inc or its Authorized Licensors for inputting, into LabDash.

2.2. **Rights in Patient Data.** As between the parties, Licensee shall retain all right, title and interest (including any and all intellectual property rights) in and to Licensee's Patient Data as published on LabDash. Subject to the terms of this Usage Agreement, Licensee hereby grants to Concept Systems Inc a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, and distribute, perform and display, modify and create derivative works of the Patient Data solely to the extent necessary to perform the services and provide the functionality of LabDash in accordance with this Usage Agreement and the Documentation.

2.3. **Storage of Patient Data.** LabDash will store Patient Data for five (5) years after last access and use of the data by any Authorized Users unless otherwise request by an Authorized User. To request the removal of Patient Data email [labdash@conceptsystmsinc.com](mailto:labdash@conceptsystmsinc.com).

## 2.4. Licensee's Obligations

2.4.1. **General.** Licensee is solely responsible for the accuracy and content of all Patient Data. Licensee represents and warrants to Concept Systems Inc that (i) Licensee has sufficient rights in the Patient Data to authorize Concept Systems Inc to process, distribute and display the Patient Data as contemplated by this Usage Agreement and the Documentation, (ii) the Patient Data and its use hereunder will not violate or infringe the rights of any third party, and (iii) Licensee's use of LabDash and all Patient Data is at all times compliant with Concept Systems Inc's Privacy Policies and all applicable local, state, federal and international laws, regulations and conventions, including without limitation those related to data privacy, international communications and the exportation of technical or personal data.

2.4.2. **Data and Information Accuracy.** Licensee will not enter any false data or information into LabDash and will ensure that data and information related to Licensee is current, complete, and accurate at all times. If Licensee becomes aware of any incorrect data or information, Licensee will notify Concept Systems Inc immediately. If Licensee changes or deactivates any of Licensee's mailing addresses, email accounts, or telephone numbers connected to Licensee's account, Licensee agrees to update Licensee's LabDash account immediately to ensure that any communications or other information are not sent to an incorrect address or phone number. Licensee provides express written consent and all rights necessary for Concept Systems Inc to use Licensee's addresses and phone numbers for verification purposes.

2.4.3. **Non-Disclosure.** Licensee will not disclose Patient Data that Licensee does not have the legal right to disclose, nor will Licensee disclose Patient Data in a manner Licensee is not authorized to disclose Patient Data. Disclosure of Patient Data is further restricted by the provisions set forth in Section 8 (Confidential Information).

2.4.4. **Identification.** Licensee acknowledges and agrees that Concept Systems Inc may rely on any password or other credentials to identify Licensee.

2.4.5. **Notice of Security Breach.** Licensee will notify Concept Systems Inc immediately if Licensee suspects that the security or secrecy of Licensee's LabDash account login information may have been compromised.

2.4.6. **Liability.** Licensee acknowledges and agrees that Licensee will be held responsible for any losses incurred by Concept Systems Inc, or its Authorized Licensors or clients, that are in any way related to Licensee's failure to maintain the security of Licensee's LabDash account.

## 3. OWNERSHIP

3.1. **Concept Systems Inc Technology.** Notwithstanding anything to the contrary contained herein, except for the limited access

and use rights expressly provided herein, Concept Systems Inc and its Authorized Licensors retain all right, title and interest (including, without limitation, all patent, copyright, trade secret and other intellectual property rights) in and to LabDash, the Documentation, the Third Party Code, any other Concept Systems Inc deliverables and any and all related and underlying software (including interfaces), databases (including data models, structures, and any other non-customer specific data and statistical data), technology, reports, documentation, as well as any related process or methodology provided or used by Concept Systems Inc, and with respect to each of the foregoing, any copies, modifications, improvements, derivative works, or enhancements thereto however developed or provided (including any which incorporate any of Licensee's ideas, Feedback, or suggestions) (collectively, "**Concept Systems Inc Technology**"). Licensee acknowledges that Licensee is obtaining only a limited right to access and use LabDash on a hosted basis and that irrespective of any use of the words "purchase", "sale", "sublicense" or like terms hereunder no ownership rights are being conveyed to Licensee under this Usage Agreement or otherwise, and further acknowledge that nothing contained in this Usage Agreement shall be construed to convey to Licensee ownership of any intellectual property rights in or to any Concept Systems Inc Technology or any related methodologies or processes. Nothing in this Section 3.1 shall be deemed as granting Concept Systems Inc ownership of Patient Data or in any way impacting Licensee's ownership of Patient Data.

3.2. **Feedback.** From time to time, Licensee may submit comments, information, questions, data, ideas, descriptions of processes, or other information to Concept Systems Inc or its Authorized Licensors ("**Feedback**"). Licensee agrees that all Feedback is and shall be given entirely voluntarily. Feedback, even if designated as confidential by Licensee, shall not, absent a separate written agreement, create any confidentiality obligation for or upon Concept Systems Inc or its Authorized Licensors. Licensee will not give Feedback that is subject to license terms that seek to require any Concept Systems Inc product, technology, service or documentation incorporating or derived from such Feedback, or any Concept Systems Inc intellectual property, to be licensed or otherwise shared with any third party. Concept Systems Inc may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner it sees fit without any obligation, royalty or restriction based on intellectual property rights.

#### 4. **TERM AND TERMINATION**

4.1. **Term.** This Usage Agreement is effective as of the Effective Date and will continue in effect until terminated by Licensee or Concept Systems Inc. Concept Systems Inc may terminate or modify Licensee's LabDash account at any time without prior notice in Concept Systems Inc's sole discretion. If Licensee wishes to terminate this Usage Agreement at any time, Licensee can do so by emailing [labdash@conceptsystemsinc.com](mailto:labdash@conceptsystemsinc.com).

4.2. **Effect of Termination.** Upon any termination of this Usage Agreement, Licensee shall immediately cease any and all use of and access to LabDash, and all rights granted to Licensee under this Usage Agreement will also terminate. Licensee agrees that neither Concept Systems Inc, or its Authorized Licensors or clients shall be liable to Licensee or any third party for any termination or modification of Licensee's LabDash account. Licensee acknowledges that, except as exported or printed prior to termination or expiration by Licensee as may be permitted through the functionality of LabDash, following termination or expiration Licensee shall have no further access to any Patient Data input into LabDash, and that Concept Systems Inc may delete any such data at any time. Except where an exclusive remedy is specified in this Usage Agreement, the exercise by either party of any remedy under this Usage Agreement, including termination, will be without prejudice to any other remedies it may have under this Usage Agreement, by law, or otherwise.

4.3. **Survival.** The following Sections shall survive any expiration or termination of this Usage Agreement: 1.6 (General Restrictions), 3 (Ownership), 4 (Term and Termination), 5.3 (Warranty Disclaimer), 6 (Limitation of Remedies and Damages), 7.2 (Indemnification by Licensee), 8 (Confidential Information) and 10 (General Terms).

#### 5. **WARRANTY**

5.1. **Limited Warranty.** Concept Systems Inc warrants to Licensee that LabDash will operate in substantial conformity with the applicable Documentation. Concept Systems Inc does not warrant that Licensee's use of LabDash will be uninterrupted or error-free, nor does Concept Systems Inc warrant that it will review the Patient Data for accuracy or that it will preserve or maintain the Patient Data without loss. Concept Systems Inc's sole liability (and Licensee's sole and exclusive remedy) for any breach of this warranty shall be, in Concept Systems Inc's sole discretion and at no charge to Licensee, to use commercially reasonable efforts to correct the reported non-conformity.

5.2. **Data and Information Transfers.** Licensee acknowledges and agrees that information will be transmitted over a medium that

may be beyond the control of Concept Systems Inc, and its Authorized Licensors and clients. Accordingly, neither Concept Systems Inc, nor its Authorized Licensors or clients assume liability for or relating to the delay, failure, interruption or corruption of any data or other information transmitted in connection with Licensee's LabDash account.

5.3. **Warranty Disclaimer.** THIS SECTION 5.3 IS A LIMITED WARRANTY AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 5.3, LABDASH, INCLUDING WITHOUT LIMITATION THE THIRD-PARTY CODE ARE PROVIDED "AS IS". NEITHER CONCEPT SYSTEMS INC NOR ITS AUTHORIZED LICENSORS MAKES ANY OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. LICENSEE MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES SHALL BE LIMITED AS PROVIDED HEREIN. CONCEPT SYSTEMS INC SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF CONCEPT SYSTEMS INC.

#### 6. **LIMITATION OF REMEDIES AND DAMAGES**

6.1. BUT FOR BREACH OF SECTION 1.6 (GENERAL RESTRICTIONS), OR SECTION 9 (EXPORT CONTROL), NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF DELAY OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

6.2. BUT FOR BREACH OF SECTION 1.6 (GENERAL RESTRICTIONS) OR SECTION 9 (EXPORT CONTROL), EACH PARTY'S ENTIRE LIABILITY AND OBLIGATION TO THE OTHER PARTY SHALL NOT EXCEED THE LESSER OF (A) FEES PAID OR OWED BY LICENSEE TO AUTHORIZED LICENSOR UNDER A PARTNER AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE CLAIM OR (B) US \$1,000,000.

6.3. **Failure of Essential Purpose.** Licensee agrees that the limitations specified in this Section 6 will survive and apply even if any limited remedy specified in this Usage Agreement is found to have failed of its essential purpose.

#### 7. **INDEMNIFICATION**

7.1. **Concept Systems Inc Indemnification.** Concept Systems Inc shall defend Licensee from and against any claim by a third party alleging that LabDash, when used as authorized under this Usage Agreement, infringes a U.S. patent, U.S. copyright, or U.S. trademark and shall indemnify and hold Licensee harmless from and against any damages and costs awarded against Licensee or agreed to in settlement by Concept Systems Inc (including reasonable attorneys' fees). Provided that Concept Systems Inc shall have received from Licensee: (i) prompt written notice of such claim (but in any event notice in sufficient time for Concept Systems Inc to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation from Licensee. The foregoing obligations of Concept Systems Inc shall not apply: (1) if LabDash is modified by any party other than Concept Systems Inc, but solely to the extent the alleged infringement is caused by such modification; (2) if LabDash is combined with other non-LabDash services or processes not provided or authorized by Concept Systems Inc, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of LabDash; (4) to any action arising as a result of Patient Data or any third-party components contained within or uploaded to LabDash; or (5) if Licensee settles or makes any admissions with respect to a claim without Concept Systems Inc's prior written consent. SECTION 6 (LIMITATION OF REMEDIES AND DAMAGES) AND THIS SECTION 7 SETS FORTH CONCEPT SYSTEMS INC AND ITS AUTHORIZED LICENSORS' SOLE LIABILITY AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

7.2. **Indemnification by Licensee.** Subject to this Section 7, Licensee shall defend Concept Systems Inc and its Authorized Licensors from and against any and all claims by third parties resulting from or relating to the Patient Data, including without limitation any claim based on Licensee's breach or alleged breach of Section 2.4 (Licensee's Obligations) or alleging that the Patient Data infringes upon any valid patent, copyright, trademark, trade secret, or other proprietary right of, or otherwise harms, such third party, and shall indemnify and hold Concept Systems Inc and its Authorized Licensors harmless from and against any damages and costs awarded against Concept Systems Inc or its Authorized Licensors or agreed in settlement by Licensee (including reasonable attorney's fees) resulting from such claims, provided that Licensee shall have received from Concept Systems Inc or its Authorized Licensors: (i) prompt written notice of such claim (but in any event notice in sufficient time for

Licensee to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation from Concept Systems Inc and its Authorized Licensors. Licensee may not settle any such claim relating to LabDash without Concept Systems Inc's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

8. **CONFIDENTIAL INFORMATION.**

8.1. "**Confidential Information**" will mean all of the information, data, software code, inventions, know-how, business, technical and financial information furnished by one party to the other in connection with this Usage License. Each party (as "**Receiving Party**") agrees that Confidential Information it obtains from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party and will remain the Disclosing Party's property. Notwithstanding the foregoing, and excepting any proprietary financial information, the Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by, or by employees of, the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). Without limiting the generality of the foregoing, the parties stipulate and agree that Confidential Information of Concept Systems Inc will specifically include: (i) all LabDash software, hardware, information, and methods; (ii) all passwords provided by Concept Systems Inc or its Authorized Licensors allowing Licensee access to LabDash; (iii) performance information relating to LabDash; (iv) the terms and conditions of this Usage Agreement; (v) pricing; and (vi) Documentation. Without limiting the generality of the foregoing, the parties stipulate and agree that Confidential Information of Licensee will specifically include Patient Data. A party's failure to mark any Confidential Information as confidential, protected or proprietary will not affect its status as Confidential Information under this Usage License. Except for Concept Systems Inc's or its Authorized Licensors' right to use Patient Data as expressly permitted by the terms of this Usage License, all Patient Data is and shall be owned solely and exclusively by Licensee.

8.2. **Nondisclosure.** Receiving Party hereby agrees that it will not, except with the prior written consent of the Disclosing Party, at any time directly by itself or indirectly through any agent or employee: (i) reproduce, distribute, transmit, publicly display, modify, create derivative works based upon, or disclose, deliver, display, divulge, reveal, report, publish or transfer to any person or entity, for any purpose whatsoever, any Confidential Information of the Disclosing Party or (ii) use Confidential Information of the Disclosing Party for any purpose other than in connection with the performance of its obligations or the exercise of its rights hereunder. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information to anyone other than its affiliates, employees and consultants ("**Representatives**") who have a need to know and who agree in writing to keep the information confidential on terms no less restrictive than those contained in this Usage Agreement. Both Concept Systems Inc and Licensee will ensure that their respective Representatives comply with this Usage Agreement and will be responsible for any unauthorized use or disclosure of Confidential Information by such Representatives. Each party further covenants and agrees to handle the Confidential Information of the other party in the same manner that the party handles its own most confidential information and, in any event, to take all steps reasonably necessary to preserve the confidentiality of Confidential Information, including without limitation adopting appropriate confidentiality policies, inserting appropriate confidentiality terms in agreements with all employees and subcontractors, and maintaining Confidential Information in a manner designed to assure that it will not be used or disclosed improperly. The Receiving Party acknowledges that disclosure of Confidential Information could cause substantial harm to the Disclosing Party for which damages alone would not be a sufficient remedy, and therefore upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

8.3. **Aggregate Data.** Notwithstanding any other provision herein, Concept Systems Inc or its Authorized Licensors shall have the right, and Licensee hereby grants to Concept Systems Inc or its Authorized Licensors a royalty-free, non-exclusive license, to access, compile, aggregate and use Patient Data for statistical analysis, benchmarking and research purposes, provided, that the Patient Data is compiled and presented in aggregate form only, without identifying or being capable of identifying (i) the source of the Patient Data; (ii) any employee, enrollee, subscriber, beneficiary, or other individual; or (iii) an employer, trade group, or insured. To the extent that any Patient Data is compiled or aggregated by Concept Systems Inc or its Authorized

Licensors in accordance with the terms herein (collectively, the "**Aggregate Data**"), such Aggregate Data will be owned solely by Concept Systems Inc or its Authorized Licensors and may be used by Concept Systems Inc or its Authorized Licensors for any lawful business purpose without a duty of accounting to Licensee. Further, Concept Systems Inc or its Authorized Licensors may de-identify any and all personally identifiable Patient Data, and such de-identified Patient Data shall not be subject to the provisions of this Section 8.

- 8.4. **Notice.** A party will promptly notify the other party if it becomes aware of any unauthorized use or disclosure of any Confidential Information of the other party and, at the other party's request, will take such action as may be reasonably necessary and legally permissible to terminate or remedy any unauthorized use or disclosure that results from any act or omission of the party or any of its employees, subcontractors or agents. If a receiving party is compelled by a court or other body of competent jurisdiction to disclose the Confidential Information, the receiving party shall inform the disclosing party by written notice and shall provide reasonable assistance in obtaining and enforcing a protective order or other appropriate means of safeguarding the Confidential Information required to be disclosed. The receiving party may then disclose only so much of the Confidential Information as is legally required to be disclosed.
- 8.5. **Privacy Policy.** Licensee's use of LabDash and any related support and maintenance or professional services is subject to Concept Systems Inc's Privacy Policy, a current version of which is available at <https://LabDash.net>.
9. **Export Control.** Licensee acknowledges that LabDash is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of foreign governments. Licensee agrees that (1) all use, exports, and imports related to this Usage Agreement will be in compliance with these laws and regulations and (2) Licensee shall not allow any third party to export, re-export, or transfer any part of Software in violation of these laws and regulations. The foregoing obligations include but are not limited to Licensee or a third party exporting, transferring, or importing the Software to: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. or foreign governments; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>) or applicable international specially-designated parties or economic sanctions programs; (iii) to any end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.
10. **GENERAL TERMS**
- 10.1. **Assignment.** This Usage Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Concept Systems Inc may assign this Usage Agreement to any affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Concept Systems Inc's assets or voting securities. Licensee may not assign or transfer this Usage Agreement, in whole or in part, without Concept Systems Inc's written consent except that Licensee may assign this Usage Agreement, in whole but not in part, without Concept Systems Inc's written consent in connection with any merger, consolidation, sale of all or substantially all of Licensee's assets, or any similar transaction provided that: (i) the assignee must not be a direct competitor of Concept Systems Inc; (ii) Licensee provides prompt written notice of such assignment to Concept Systems Inc; (iii) the assignee is capable of fully performing Licensee's obligations under this Usage Agreement, and (iv) the assignee agrees to be bound by the terms and conditions of this Usage Agreement. Any attempt to transfer or assign this Usage Agreement without such written consent will be null and void.
- 10.2. **Severability.** If any provision of this Usage Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Usage Agreement shall otherwise remain in effect.
- 10.3. **Governing Law; Jurisdiction and Venue.** Excluding conflict of laws rules, this Usage Agreement shall be governed by and construed under the laws of the State of Oregon, U.S. All disputes arising out of or in relation to this Usage Agreement shall be submitted to the exclusive jurisdiction of the courts of Portland, Oregon. Nothing in this Section 10 shall restrict Concept Systems Inc's right to bring an action (including for example a motion for injunctive relief) against Licensee in the jurisdiction where Licensee's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Usage Agreement.

- 10.4. **Attorneys' Fees and Costs.** The prevailing party in any action to enforce this Usage Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.
- 10.5. **Concept Systems Inc's Customer List.** Licensee agrees that Concept Systems Inc may disclose Licensee as a customer of Concept Systems Inc and use Licensee's name and logo on Concept Systems Inc's website and in Concept Systems Inc's promotional materials.
- 10.6. **Notice.** Any notice or communication required or permitted under this Usage Agreement shall be in writing or in electronic format. If to Concept Systems Inc by mail, such notice or report shall be sent to Concept Systems Inc at 1957 Fescue St SE, Albany, Oregon, 97322 to the attention of "Legal Department". If to Concept Systems Inc by email, such notice or report shall be sent to: [labdash@conceptsystemsinc.com](mailto:labdash@conceptsystemsinc.com). If to Licensee such notice or report shall be sent to the mailing or email address Licensee provided upon placing establishing a LabDash account. Notices and reports sent by mail shall be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if sent by certified or registered mail (return receipt requested); or (c) one day after it is sent if by next day delivery by a major commercial delivery service. Any notices and reports sent by email shall be effective upon receipt of the same.
- 10.7. **Amendments; Waivers.** From time to time, Concept Systems Inc may modify this Usage Agreement. Unless otherwise specified by Concept Systems Inc, changes become effective for existing Licensees upon the next logon to their LabDash account. Concept Systems Inc will use reasonable efforts to notify Licensee of the changes through communications through LabDash, email, or other means. Licensee may be required to click to accept the modified Usage Agreement before using LabDash, and in any event continued use of LabDash will constitute Licensee's acceptance of the version of the Usage Agreement in effect at the time. Except as set forth in this Section 10.7, no supplement, modification, or amendment of this Usage Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Usage Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Usage Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by Licensee, including any electronic invoicing portals and vendor registration processes, will supersede the terms and conditions of this Usage Agreement, and any such document relating to this Usage Agreement shall be for administrative purposes only and shall have no legal effect.
- 10.8. **Entire Agreement.** This Usage Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Usage Agreement. Licensee acknowledges that LabDash is an on-line product and that in order to provide improved customer experience Concept Systems Inc may make changes to LabDash (which may include making available different or substitute code compared to those available as of the Effective Date), and Concept Systems Inc will update the Documentation accordingly.
- 10.9. **Independent Contractors.** The parties to this Usage Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.
- 10.10. **Audit Rights.** Licensee understands that Concept Systems Inc may monitor Licensee's use of LabDash. If Concept Systems Inc suspects any improper usage of LabDash, and upon Concept Systems Inc's written request, Licensee shall furnish Concept Systems Inc with a signed certification certifying that LabDash is being used pursuant to the terms of this Usage Agreement. With prior reasonable notice, Concept Systems Inc may audit Licensee's compliance with this Usage Agreement, Licensee's use of LabDash, and Licensee's software monitoring system and records, provided such audit is during regular business hours. If such inspections or audits disclose that Licensee has accessed or permitted access to LabDash in a manner that is not permitted under this Usage Agreement, then Concept Systems Inc may terminate this Usage Agreement pursuant to Section 4 (Term and Termination) and Licensee is liable for the reasonable costs of the audit in addition to any other fees, damages and penalties Concept Systems Inc may be entitled to under this Usage Agreement and applicable law.
- 10.11. **Force Majeure.** Neither party shall be liable to the other for any delay or failure to perform any obligation under this Usage Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which occur after the signing of this Usage Agreement and which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by the government or other governmental agencies, in so far as such an event prevents or delays the



affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

- 10.12. **Government End-Users.** LabDash is commercial computer software. If the Licensee is affiliated with an agency, department or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure or transfer of LabDash, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by this Usage Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. LabDash was developed fully at private expense. All other use is prohibited.
- 10.13. **Authorized Licensor.** If Licensee received LabDash under an agreement (“**Partner Agreement**”) with an authorized Concept Systems Inc licensor (“**Authorized Licensor**”) then, notwithstanding anything to the contrary in this Usage Agreement Licensee’s use of LabDash is subject to any additional terms in the Partner Agreement, including any limitations on use of LabDash in conjunction with third-party applications. If Licensee’s warranty and support terms stated in the Partner Agreement are different than what is stated in Section 5 (Warranty) herein, then Concept Systems Inc has no warranty or support obligations to Licensee under this Usage Agreement (although the disclaimers of warranties in Section 5.3 (Warranty Disclaimer) still apply to the Licensee). If Licensee’s warranty and support terms passed on in Licensee’s Partner Agreement are as stated herein, then Section 5 (Warranty) shall apply to Licensee as written. Notwithstanding anything in this Usage Agreement to the contrary, (i) the Partner Agreement may not modify any of the remaining terms of this Usage Agreement and (ii) the Partner Agreement is between Licensee and the Authorized Licensor and is not binding on Concept Systems Inc. Concept Systems Inc may terminate this Usage Agreement (including Licensee’s right to use LabDash) in the event Concept Systems Inc fails to receive payment for Licensee’s use of LabDash from the Authorized Licensor or if Licensee breaches any term of this Usage Agreement.
- 10.14. **Third Party Beneficiaries.** Concept Systems Inc, its affiliates and its Authorized Licensors may be third party beneficiaries of this Usage Agreement. No other third party is intended to be a beneficiary of this Usage Agreement entitled to enforce its terms directly.
- 10.15. **Language.** Regardless of any language into which this Usage Agreement may be translated, the official, controlling and governing version of this Usage Agreement shall be exclusively the English language version.

**SPECIAL PROVISIONS ADDENDUM TO  
Concept Systems LabDash Usage Agreement**

This Special Provisions Addendum (“Addendum”) to the Concept Systems LabDash Usage Agreement (“Usage Agreement”), applies to the following entities:

- A. Benton County, Oregon, a political subdivision of the State of Oregon (“Benton County”).

**NOWHEREFORE, it is hereby agreed as follows:**

1. Remove Section 8.1 in its entirety and replace it with the following:

**“8.1. “Confidential Information”** will mean all of the information, data, software code, inventions, know-how, business, technical and financial information furnished by one party to the other in connection with this Usage License. Each party (as **“Receiving Party”**) agrees that Confidential Information it obtains from the disclosing party (**“Disclosing Party”**) constitute the confidential property of the Disclosing Party and will remain the Disclosing Party’s property. Notwithstanding the foregoing, and excepting any proprietary financial information, the Receiving Party’s nondisclosure obligation shall not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by, or by employees of, the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order). Without limiting the generality of the foregoing, the parties stipulate and agree that Confidential Information of Concept Systems Inc will specifically include: (i) all LabDash software, hardware, information, and methods; (ii) all passwords provided by Concept Systems Inc or its Authorized Licensors allowing Licensee access to LabDash; (iii) performance information relating to LabDash; (iv) the terms and conditions of this Usage Agreement; (v) pricing; and (vi) Documentation. Without limiting the generality of the foregoing, the parties stipulate and agree that Confidential Information of Licensee will specifically include Patient Data. A party's failure to mark any Confidential Information as confidential, protected or proprietary will not affect its status as Confidential Information under this Usage License. Except for Concept Systems Inc’s or its Authorized Licensors’ right to use Patient Data as expressly permitted by the terms of this Usage License, all Patient Data is and shall be owned solely and exclusively by Licensee.”

2. Remove Section 8.2 in its entirety and replace it with the following:

**“8.2 Nondisclosure.** Receiving Party hereby agrees that it will not, at any time directly by itself or indirectly through any agent or employee: (i) reproduce, distribute, transmit, publicly display, modify, create derivative works based upon, or disclose, deliver, display, divulge, reveal, report, publish or transfer to any person or entity, for any purpose whatsoever, any Confidential Information of the Disclosing Party or (ii) use Confidential Information of the Disclosing Party for any purpose other than in connection with the performance of its obligations or the exercise of its rights hereunder. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information to anyone other than its affiliates, employees and consultants (**“Representatives”**) who have a need to know and who agree in writing to keep the information confidential on terms no less restrictive than those contained in this Usage Agreement. Both Concept Systems Inc and Licensee will ensure that their respective Representatives comply with this Usage Agreement and will be responsible for any unauthorized use or disclosure of Confidential Information by such Representatives. Each party further covenants and agrees to handle the Confidential Information of the other party in the same manner that the party handles its own most confidential information and, in any event, to take all steps reasonably necessary to preserve the confidentiality of Confidential Information, including without limitation adopting appropriate confidentiality policies, inserting appropriate confidentiality terms in agreements with all employees and subcontractors, and maintaining Confidential Information in a manner designed to assure that it will not be used or disclosed improperly. The Receiving Party acknowledges that disclosure of Confidential Information could cause substantial harm to the Disclosing Party for which damages alone would not be a sufficient remedy, and therefore upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.”