

## COSMOS LICENSE AGREEMENT

Epic Systems Corporation (“Epic”) and University Health Systems of Eastern Carolina, Inc. d/b/a Vidant Health (“ECUH”) entered into an agreement that permits ECUH to make the Cosmos available to You contingent upon Your acceptance and compliance with this Cosmos License Agreement. By accessing and using the Cosmos, You agree to the following:

### BACKGROUND

The following provisions apply to Your use of Cosmos, a software product that combines EHR data from healthcare organizations representing almost 250 million patients to improve the health and lives of people everywhere. Cosmos brings together data from across the Epic community to form the world’s largest database of patient EHR information, which You will be able to use to:

- Share insights at the point of care based on the combined data of millions of patients and interactions.
- Connect clinicians who care for similar patients with rare characteristics so they can collaborate and learn from each other’s experience.
- Draw upon the collective data of the Epic community to analyze health information and create knowledge at an unprecedented scale.

### AMENDMENT

All capitalized terms used and not defined in this Amendment have the meanings in the Regulations. To access the Cosmos, You agree as follows.

**I. Cosmos Terms.** Epic community members add to the value of Cosmos by contributing data. You agree to transmit to Epic Limited Data Sets containing specified data elements (“Cosmos Data”) that will be combined with data from other sources into Cosmos and made available to use for the Purpose defined below.

A. *Data Sharing.* As a data contributor to Cosmos, You grant other Cosmos users and Epic a perpetual and irrevocable license to use Your Cosmos Data for purposes consistent with the Cosmos Rules of the Road (the “Rules”), (attached as Exhibit A), including improving patient care and outcomes, accelerating healthcare innovation, advancing knowledge, and use by Epic and Epic Affiliated Companies to improve software and support, especially analytics and research capabilities to improve healthcare (the “Purpose”).

Access to Cosmos will be granted only to: (1) You, (2) Epic community members who contribute data to Cosmos and agree to the Rules, (3) Epic and Epic Affiliated Companies (4) government entities or enforcement agencies pursuant to a formal government investigation or valid, mandatory court order, and (5) others as permitted by the Cosmos Governing Council and Epic. You agree to share Your Cosmos Data under the condition that the only entities that will access Your Cosmos Data are as set out in the preceding sentence. For the sake of clarity, “Epic community members” means Epic’s then-current customers, and their “affiliates” and “authorized users” (as permitted in their agreements with Epic).

B. *Data Use.*

- i. As a Cosmos user and member of the Epic community, You may freely use Cosmos Data for Your own self-funded research, such as observational studies and feasibility investigations, and publish Your findings. In the event You publish findings made possible in part or in whole by Your use of Cosmos, You agree to acknowledge Cosmos as a software product that supported Your research in such publication. In order to help members of the Epic community be comfortable with contributing information, You will not sell Cosmos Data or allow third parties to access Cosmos unless permitted by the Rules. Use of Cosmos Data for any research other than self-funded research requires approval by Epic and, in some cases, the Governing Council. A fast track approval process will be available for research funded entirely by government entities, or philanthropic, non-profit, or charitable organizations.
- ii. One of the activities that Cosmos is intended to support is research, including privately-funded research, with a primary purpose of contributing to evidence-based clinical practice and improving the delivery of care. Cosmos is not intended to be used for research activities being carried out primarily for commercial gain, or marketing or advertising purposes.

If You want to use Cosmos for privately-funded research intended to contribute to evidence-based clinical practice and improve the delivery of care, You will submit Your request to Epic for review using Epic's then-applicable format for those requests. Epic will review Your request in consultation with the Governing Council to determine whether such request is appropriate and aligned with the purpose of Cosmos.

If Epic approves Your request, the third party that is funding Your research, or a portion of Your research, may be required to pay Epic for such use of Cosmos. Epic will share a portion of these payments with some or all organizations contributing data to Cosmos.

If You identify other potential uses of Cosmos (such as the development of new tools, products, or services) that are consistent with the Rules, then upon Your request, the Governing Council and Epic will discuss such uses with You.

iii. Epic will:

- 1) Not use or disclose Your Cosmos Data except as permitted by the Rules and this Amendment or as required by law;
- 2) Use appropriate safeguards (as set out in Subpart C of 45 CFR Part 164) to prevent use or disclosure of Your Cosmos Data other than as provided for in the Rules and this Section II.C.iii.;
- 3) Report to You any use or disclosure of Your Cosmos Data not provided for by the Rules of which Epic becomes aware;
- 4) Not identify individual patients whose data is included in Your Cosmos Data or contact such individuals; and
- 5) Remind everyone given access to Cosmos Data of the Rules and their responsibilities by requiring them to agree to a Cosmos data use agreement. A version of the Cosmos data use agreement for Your Users is available at <https://galaxy.epic.com/CosmosUserAgreement> (and an example is also attached as Exhibit B). The Cosmos data use agreement will reflect the following requirements:
  - Users may not use or disclose Cosmos Data except as permitted by the Rules and the Cosmos data use agreement or required by law;
  - Users must use appropriate safeguards to prevent use or disclosure of Cosmos Data other than as provided for in the Rules and the Cosmos data use agreement;
  - Users must report to Epic any use or disclosure of Cosmos Data not provided for by the Rules or the Cosmos data use agreement of which they become aware; and
  - Users will not identify or attempt to identify individuals whose data is included in Cosmos Data or contact such individuals.

Epic may subcontract hosting of Cosmos Data and related activities to an Epic Affiliated Company or other third party in accordance with this Section II.C.iii. and the Cosmos Rules.

C. *Your Obligations.* Because You are in the best position to know the laws and policies applicable to You, You have determined You are permitted to disclose Your Cosmos Data (a HIPAA Limited Data Set) to Epic and other Cosmos users as described in this Amendment. You are responsible for Your compliance with the Rules and for Your Users who are granted access to Cosmos, Cosmos Data, and related services to the same extent as You are responsible for Your Affiliate Users under the Agreement. You may discontinue Your use of Cosmos at any time. To protect users' ability to continue and to re-validate their research, Your Cosmos Data will remain available for use after Your license to use Cosmos ends, subject to the terms of this Section II, which will also survive termination of Your use of Cosmos and the Agreement.

D. *Term.*

- i. Epic or ECUH may elect to cease providing Cosmos for Your use at any time, provided that respective party ending Your access will inform You of such decision reasonably in advance. In the event Epic decides to suspend

its provision and support of Cosmos, Epic will return or destroy Your Cosmos Data in accordance with 45 CFR 164.

E. *Governing Council Indemnification.* The Cosmos community and Epic currently maintain a Governing Council. The Governing Council and Epic will oversee Cosmos and governance of the Rules, including recommending modifications to the Rules, determining violations, and establishing appropriate remedies (the “Oversight Activities”). The Governing Council may include representatives from Your organization, other Cosmos users, and Epic. Epic would like to protect the Governing Council from liability for carrying out the Oversight Activities. Therefore, to the extent permitted by the law applicable to You, You agree to indemnify, defend, and hold harmless the Governing Council and Epic, and each of their officers, employees, contractors, and agents (collectively, the “Indemnitees”) from and against any Claim brought by You, Your Users or Your Patients and arising out of or in any way connected with the Oversight Activities, including Claims based on an Indemnitee’s negligence. For purposes of this Section II.F., (1) “Claim” means a claim, damage, liability, claim of loss, lawsuit, cause of action, or other claim and includes without limitation reasonable attorneys’ fees; (2) “Your Users” means any individual or entity to whom You provide access to any Program Property if the Claim relates to any situation in which the individual or entity had or would have had access to the Program Property through You; and (3) “Your Patients” means any patients whose data is included in Your Cosmos Data.

**II. Limitations.** Cosmos is provided for Your use as described in this agreement, the terms below, and the then-current Rules. As the Rules change over time, Epic will make future versions available on Epic’s UserWeb or another website available to You. Since there are no license or maintenance fees for Cosmos, it is provided “AS IS”, without any warranty and is subject to Section 8(j) of the Agreement. **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, EPIC’S TOTAL LIABILITY TO YOU FOR ALL CLAIMS (INDIVIDUALLY AND IN THE AGGREGATE) ARISING UNDER THIS AMENDMENT AND/OR USE OF COSMOS WILL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000) (WHETHER THE LIABILITY ARISES OUT OF THE SOFTWARE, SERVICES, OR OTHERWISE).**

**III. Miscellaneous.** All terms of the Agreement remain in effect, but this Amendment will take precedence over the Agreement to the extent of any conflict. Upon Epic’s signature, this Amendment is effective as of the date of Your signature below.

ONC Health IT Certification (for Meaningful Use) information, including pricing and limitations, is available here:  
<http://www.epic.com/Docs/MUCertification.pdf>.

## Exhibit A

### Cosmos Rules of the Road

When we have participation from hundreds of organizations combining EHR data from almost 250 million patients, together we can improve the health and lives of people everywhere. Cosmos is what helps make that possible. It brings together data from across the Epic community to form the world's largest database of EHR patient information, which You can use to:

- **Provide the best care.** Cosmos will share insights based on millions of patients and interactions right at the point of care with *Best Care for My Patient*.
- **Collaborate with peers.** Through *Look-Alikes*, Cosmos will connect clinicians who care for similar patients with rare characteristics so they can collaborate and learn from each other's experience.
- **Accelerate the pace of healthcare innovation.** When You and hundreds of Your peers share data with Cosmos, You can draw upon the collective data of the Epic community to analyze health information and create knowledge at an unprecedented scale.

The Cosmos Rules of the Road establish a governance framework and a common set of participation guidelines for organizations using Cosmos.

#### 1. Using Cosmos.

- a. In order to use Cosmos, You will appoint a Cosmos representative to serve as Your primary contact on Cosmos matters.
- b. You will send data to Cosmos through the Cosmos Data Transport Framework, which helps automate data exchange. The data you share will be a HIPAA Limited Data Set of defined Cosmos Data from all patient encounters documented in Your production environment. You can find some reasonable exclusions to this rule in Section 4(c). Sending data to Cosmos and participating in a maintenance program for EpicCare Ambulatory EHR or EpicCare Inpatient Clinical System provides You the right to use Cosmos.

#### 2. Access to Cosmos Data.

- a. Physicians, advanced practitioners, researchers, and executives are examples of users ("Cosmos Users") You might want to give access to Cosmos. For Cosmos Users like those listed above, to determine whether to grant them access to Cosmos, You should use a level of rigor similar to what You use today for access to Your Epic system.
- b. Users access the Cosmos software product through a web-based application made available by Epic.
- c. Cosmos Users who are also permitted to access Your Epic system are bound by the terms of the then-current Cosmos user agreement signed by You. Other Cosmos Users that You allow to have access to Cosmos in accordance with these Rules, such as academic researchers, must accept the then-current online Cosmos user agreement before using Cosmos. You agree that Your Cosmos Users' acceptance of the online user agreement constitutes a legally binding agreement between each user and Epic. For clarity, You remain responsible for the activities of all Cosmos Users that You allow to have access to Cosmos.
- d. Users cannot download, copy, screenshot, or otherwise remove Cosmos Data from Cosmos.
- e. You will manage the process to provide Cosmos Users with credentials for Cosmos, and You are responsible for Your Cosmos Users, including their compliance with these Rules, HIPAA, license terms, and other Cosmos requirements.
- f. You will not allow third parties (*e.g.*, consultants, vendors, outsourcing firms) to have access to Cosmos unless their access is recommended by the Cosmos Governing Council, agreed to by the majority of Cosmos community members, and agreed to by Epic.

3. **Uses of Cosmos Data.**

- a. You can use Cosmos Data to improve the understanding of the causes, treatment, and prevention of disease, to advance healthcare knowledge, to use Epic-provided tools like Look-Alikes and Best Care for My Patient, and to help physicians treat their patients. Epic might also use Cosmos Data for the same reasons above and to improve its software, services, and analytics, and to test, audit, and administer Cosmos.
- b. You cannot use Cosmos Data:
  - To try to identify individual patients, or to try to identify clinicians or specific organizations associated with Cosmos Data, whether using Cosmos Data alone or in combination with any other data; or
  - For advertising purposes or published healthcare-related market comparisons/analyses of clinicians or organizations.
- c. Neither Cosmos Data nor access to Cosmos can be sold or exchanged for any type of payment or consideration unless allowed in Section 2 above.
- d. Epic may also:
  - Collect Cosmos performance data, including executed queries, for auditing and other purposes associated with Cosmos or Epic's operations;
  - Publish insights gained through analysis of Cosmos Data, usage statistics, data set characteristics, and other operational data about Cosmos; and
  - Identify Cosmos users as needed to improve Epic's software and services, and to support functionality in Epic's software, such as Look-Alikes and public health reporting tools, and in other cases with a user's consent.

4. **Data Set Review.**

- a. Epic may revise the Cosmos data set from time to time, consistent with the requirements of a Limited Data Set under HIPAA. You will have an opportunity to review revisions to the data set and determine whether to continue participating in Cosmos.
- b. Cosmos Data is discretely structured and mapped to specified standards to ensure that the data is high-quality. To share data, You will map necessary data elements and update these mappings as terminology, or the Cosmos data set, evolves. You can learn more about data set mapping in Epic's Cosmos Setup and Support Guide.
- c. Because internal policies and regulatory obligations vary, You are responsible for ensuring that:
  - Your participation and data submissions are consistent with applicable laws, regulations, and policies.
  - When You send data to Cosmos, You exclude third party materials or data that You do not have the right to submit (*e.g.*, proprietary third party content).
  - From time to time, the Governing Council and Epic may publish additional categories of data that may be excluded or included.

5. **Governing Council.**

- a. Epic facilitates a Cosmos Governing Council (the “Governing Council”), which is a board of representatives from the Epic community that provides strategic guidance for Cosmos and oversees compliance with these Rules.
- b. If You identify a use of Cosmos that is inconsistent with these Rules or other Cosmos requirements, let Epic know. Epic and the Governing Council will follow a set process to adjudicate grievances. Cosmos Users who misuse Cosmos could be denied access to it. Users named in a grievance agree to cooperate and either accept and comply with the Governing Council’s decision or stop participating in Cosmos. While grievances are being settled, the Governing Council or Epic might decide to suspend access to Cosmos for a user or their organization. During that time, the user’s organization is not required to send data to Cosmos.
- c. If the Governing Council or Epic identifies a use of Cosmos that is inconsistent with the spirit of Cosmos, they might temporarily impose additional restrictions until the Rules can be updated. Epic will post the additional restrictions on the UserWeb and inform Your Cosmos Coordinator about such restrictions.
- d. As the developer of Cosmos, Epic may revise its governance or the Governing Council’s Operating Procedures from time to time.

6. **Publications.**

We (Epic) appreciate Cosmos attribution whenever possible. Please send the Governing Council, on a semi-annual basis, a list of publications that cite research You conducted using Cosmos.

7. **Privacy and Security.**

- a. To protect Cosmos Data, please implement safeguards, including training for Cosmos Users on the appropriate and inappropriate uses of Cosmos. Disciplinary procedures for the inappropriate use of Cosmos Data should be the same as for inappropriate use of other, similar information.
- b. If Epic identifies a security vulnerability that could threaten the privacy and security of Cosmos, Epic may take action to limit access or data transmission to Cosmos.

8. **Ceasing Your Use of Cosmos.**

If You decide to stop using in Cosmos, You agree to inform Epic of Your decision in accordance with the Cosmos license terms. If You do not participate in the maintenance program for EpicCare Ambulatory EHR, EpicCare Inpatient Clinical System, or other key items of software identified by Epic, Your license to use Cosmos will be terminated. After Your license to use Cosmos ends, Your users will no longer have access to Cosmos. However, any data You contributed prior to ending Your use of Cosmos will continue to be available to current Cosmos users, to the extent supported by Epic.

9. **Refinement of the Rules.**

- a. These Rules will be refined over time. Changes to these Rules will require approval by a majority vote from the Governing Council and by Epic.
- b. Updated Rules will be posted on the UserWeb and will typically take effect 45 days after they are posted. If Epic determines the matter is of immediate concern, the change might take effect before the updated Rules are posted or soon thereafter.

Capitalized terms that are not defined in the Rules or the Agreement have the definitions assigned in the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A, C, D, and E, as in effect on the date the Rules were last revised (such regulations, “HIPAA”). References to Cosmos include Cosmos Data (defined above) as appropriate given the context, and with respect to permitted uses of Cosmos Data, references to users include Epic. Each organization using Cosmos is a third-party beneficiary of these Rules.

## Exhibit B

### Sample Cosmos User Agreement

Welcome to Cosmos, a software product that brings together data from hundreds of organizations to support the delivery of care, help peers collaborate, and accelerate healthcare innovation.

Please review the following basic rules that govern your use of Cosmos as they constitute a legally binding agreement between you and Epic. By accepting these terms, you agree:

1. You will:
  - a. only access Cosmos data if you are granted access by an organization that currently contributes data to Cosmos or Epic;
  - b. not download, copy, screenshot, or otherwise remove data from Cosmos;
  - c. not identify or attempt to identify individuals or clinicians whose data is included in Cosmos or any organizations that contribute data to Cosmos, or contact such individuals, clinicians, or institutions;
  - d. limit your use of Cosmos to the minimum necessary for your permitted use case;
  - e. only use Cosmos data as permitted by these terms and the Cosmos Rules of the Road, or as otherwise required by law;
  - f. use appropriate safeguards to prevent use or disclosure of the Cosmos data other than as permitted by these terms and the Cosmos Rules of the Road;
  - g. immediately report to Epic (i) any use or disclosure of Cosmos data not permitted by these terms and the Cosmos Rules of the Road of which you become aware, and (ii) any organization- or person-identifiable data that you find in Cosmos;
  - h. not allow any other person to access Cosmos using your credentials; and
  - i. not use Cosmos data for commercial, marketing, or advertising purposes.
2. Neither Cosmos data nor access to Cosmos may be sold or exchanged for any type of payment or consideration.
3. Epic appreciates Cosmos attribution in publications when possible. Each organization that participates in Cosmos periodically submits to the Cosmos Governing Council a list of publications citing research that was conducted using Cosmos, and may also report to Epic the funding amounts supporting such research. You agree to cooperate with your sponsoring organization and Epic regarding any requests for such information as it relates to your use of Cosmos.
4. You agree that any organization that has contributed data to Cosmos is a third party beneficiary of this Cosmos User Agreement.
5. Epic and You are independent contractors and neither is or will be considered to be the agent of the other party for any purpose.

Cosmos data is provided AS IS, without any warranty of any kind from any person or entity. UNDER NO CIRCUMSTANCES WILL EPIC OR ANY ORGANIZATION THAT HAS CONTRIBUTED DATA TO COSMOS BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, REGARDLESS OF HOW THE DAMAGES ARE INCURRED OR THE THEORY OF LIABILITY, INCLUDING CLAIMS BASED UPON ALLEGED NEGLIGENCE BY EPIC. THE LIMITATIONS ON LIABILITY APPLY REGARDLESS OF WHETHER EPIC OR THE RELEVANT ORGANIZATION HAS BEEN ADVISED OF OR IS AWARE OF THE POSSIBILITY THAT SUCH LOSSES OR DAMAGES MAY OCCUR. IN ADDITION, UNDER NO CIRCUMSTANCES WILL EPIC OR ANY ORGANIZATION THAT HAS CONTRIBUTED DATA TO COSMOS BE LIABLE TO YOU FOR DIRECT DAMAGES PERMITTED UNDER THIS AGREEMENT IN EXCESS OF \$100.

Epic may revise these terms and re-present them to you for signature from time to time. If you do not agree with a future revision to the terms, you may discontinue your use of Cosmos and failure to agree to future revisions will result in the suspension of your ability to use Cosmos. Epic will make the then-current data use terms available for your reference.

By clicking “I accept,” I hereby agree and consent to the Cosmos User Agreement and the Cosmos Rules of the Road.