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Attorneys for Plaintiff, meridianEMR, Inc.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

meridianEMR, INC.

Plaintiff,

v.

INTUITIVE MEDICAL SOFTWARE, LLC  
d/b/a UROCHART and  
THE SHAPPLEY CLINIC

Defendants.

Civil Action No.

**CIVIL ACTION**

**DECLARATION OF  
CHRIS BARTLETT**

CHRIS BARTLETT, of full age, under oath, hereby declares as follows:

1. I am the Chief Technical Support Analyst for plaintiff, meridianEMR, Inc. ("Meridian"). I make this Declaration in support of the relief requested by way of Order to Show Cause. I have personal knowledge of the facts set forth below.

2. Annexed hereto as Exhibit "A" is a true copy of Meridian's Agreement with The Shappley Clinic (the "Agreement"). Under §3(b) of the Agreement, customers, including The Shappley Clinic, are specifically forbidden from making Meridian's software or its applications available to any other person or

entity and forbidden from modifying, reproducing or distributing Meridian's software applications.

3. Annexed hereto as Exhibit "B" is a true copy of documentation from the Meridian security log, demonstrating a successful login to a Meridian account used for functionality issues from a Shappley Clinic work station, bearing its assigned computer name of "memr-1048-1". The "user name" of this account has been redacted from Exhibit B for security reasons.

4. The security log makes clear that the login occurred at 1:11 p.m. central time on June 1, 2011 and the user installed -- after three failed attempts -- a Microsoft System Center Virtual Machine Manager P2V Agent software. This software is designed to replicate or "clone" data from an existing server or computer.

5. After installing the Virtual Machine Manager at 2:20 p.m. central time on June 1, 2011, the unidentified user removed that software at 6:53 p.m. central time on June 1, 2011.

6. Annexed hereto as Exhibit "C" is a true copy of excerpts from Meridian's security log, demonstrating the existence of a duplicated or "cloned" server from Shappley's office making contact with the Meridian master server in Newton, New Jersey on various occasions after June 1, 2011.

7. Annexed hereto as Exhibit "D" is a true copy of an excerpt from the Meridian security log, confirming a username

"urochart" login to the Meridian system on June 2, 2011 at 8:41 a.m. central time.

8. Annexed hereto as Exhibit "E" is a true copy of an excerpt from the Meridian security log, demonstrating that access was obtained to Meridian's disaster recovery account at 9:28 p.m. on June 8, 2011, whereby defendants would assume they have access to Meridian's highly confidential and encrypted software, templates and other confidential data. The "user name" of Meridian's disaster recovery account has been redacted from Exhibit E for security reasons.

9. It is imperative that Meridian immediately obtain possession of the server at the Shappley Clinic and the "Clone" server, wherever that might now be located, as soon as possible not only to prevent further access to confidential data but also to determine precisely the data to which defendants have availed themselves. This is particularly important in that the memory log of the monitoring software on the servers have a finite number of entries before they begin deleting older entries and limiting the number of days where events will be viewable.

10. Similarly, it is imperative to obtain the VPN logs from The Shappley Clinic so as to determine precisely any alterations or other capture by defendants of Meridian's encryption codes. These VPN logs may also contain a finite number of entries and begin an automatic deletion process.

11. Accordingly, Meridian views this matter as emergent, and Meridian will suffer irreparable harm if defendants continue to access Meridian's confidential data.

12. In that defendants are technically savvy and will have an opportunity to destroy any such data, Meridian seeks the entry of an Order on an ex parte basis.

I declare under penalty of perjury that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.

Dated:

6/16/11



CHRIS BARTLETT

**EXHIBIT A**

**meridianEMR, Inc. BUSINESS SERVICES AGREEMENT**

This BUSINESS SERVICES AGREEMENT ("Agreement") is entered into by and between The Shapley Clinic ("Customer") with primary business location at 7705 Poplar Ave, Ste 310B, Meriden, TN 38138 and meridianEMR, Inc. ("meridianEMR"), a New Jersey Corporation with primary business location at 354 Eisenhower Parkway, Livingston, NJ, 07039, this 8<sup>th</sup> day of September, 2005 ("Commencement Date")

Whereas, meridianEMR offers the product, which includes packaged software applications to Customers; and Whereas, Customer wishes to contract with meridianEMR to provide certain services

Now therefore, in consideration of the mutual covenants and promises herein contained, the parties hereto agree as follows:

**1. meridianEMR Services.**

a) **Services.** meridianEMR shall provide the "Services", as are described in the Exhibits. meridianEMR will provide application and operational support services to Customer only for the software application programs specifically identified in the Exhibits.

b) **License.** In accordance with the Agreement, and subject to the Termination clauses herein, meridianEMR hereby provides Customer a restricted, non-transferable and nonexclusive license to use the Services and software for the sole purpose of supporting the internal operations of Customer's business. Customer may use the services and software only to process Customer's own data and that of Customer's patients or members. Customer may not use the software in a resale capacity, to process and/or analyze the data of a third party as a service bureau, or on any hardware and with any operating system or applications software other than as approved in advance and in writing by meridianEMR.

c) **Connectivity Solutions.** Customer will utilize the required and/or supported equipment, including but not limited to, desktops, network, servers, and printers, as well as application software and operating system software as identified in the Exhibits. Customer acknowledges and agrees that the Services are predicated and conditioned upon Customer's use of the Required and Supported Equipment. Customer shall have sole responsibility for maintaining the Equipment.

**2. Invoicing and Payment Terms.**

In accordance with the Exhibit attached hereto

**3. Ownership and Use of Software, Data and Records.**

a) **meridianEMR's Right to Software.** meridianEMR represents and warrants that meridianEMR, to the best of its knowledge, owns or has the right to use and license all the software components used to provide Services under this Agreement for the Supported Applications.

b) **Customer's Use of Software.** Customer acknowledges and understands that meridianEMR may provide to Customer (i) meridianEMR owned software, and/or (ii) software applications owned by third parties which meridianEMR uses under license agreements with such third parties. Customer acknowledges and agrees that (i) title to all such meridianEMR software and software applications remains with and is subject to the proprietary rights of meridianEMR or its third party vendors, and (ii) such software and software applications may contain trade secrets and other valuable proprietary information of meridianEMR or its third party vendors. Customer may not grant any sublicenses to or otherwise make such software, such software applications, the Supported Applications, or the documentation available to any other person, entity or business. Customer agrees that Customer will not reverse assemble, reverse compile, reverse engineer, modify, reproduce, distribute, prepare derivative works based on, or demonstrate such software, such software applications or the Supported Applications in whole or in part.

c) **Use of Aggregate Data.** Customer acknowledges and agrees that meridianEMR may use or sell the aggregated data derived from Customer's use of the Services hereunder, provided that meridianEMR has completed a de-identification process on such data. meridianEMR agrees to follow all HIPAA laws in providing this data to any entity. This Section shall survive the termination of this Agreement with respect to data transmitted hereunder prior to the date of termination

**4. Limitation of Liability and Disclaimer of Warranty**

a) **Exclusive Remedy.** meridianEMR's obligation and Customer's sole and exclusive remedy from a breach of this agreement, except from force majeure events including without limitation Customer's acts or omissions, shall be that meridianEMR will credit Customer a portion of Customer's fee for the time period during which the Services were inoperative.

b) **Transmission of Data.** meridianEMR is not responsible for loss of data in transmission, improper transmission by Customer or failure by Customer or any third party to act on any communication transmission to or by Customer through meridianEMR. In the event of improper transmission or loss of data in transmission, meridianEMR will use meridianEMR's commercially reasonable efforts to recreate such transmission at Customer's expense.

c) **DISCLAIMER OF WARRANTIES.** EXCEPT FOR EXPRESS WARRANTIES, IF ANY, meridianEMR MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AS TO ANY MATTER WHATSOEVER, INCLUDING BUT NOT LIMITED TO THE HARDWARE, SUPPORTED APPLICATIONS, SOFTWARE PROVIDED BY meridianEMR TO CUSTOMER, HARDWARE AND SOFTWARE USED BY CUSTOMER BUT NOT PROVIDED BY meridianEMR, DOCUMENTATION, DATA FILES, OUTPUT, SERVICES, OR OTHER MATTERS PRODUCED OR PROVIDED HEREUNDER.

d) **Limitations.** Unless otherwise expressly provided herein, neither meridianEMR nor any of its service providers, licensors, employees or agents warrant (i) that the operation of the Services will be uninterrupted or error free; or (ii) that the Services meet Customer's requirements. Except as set forth herein, meridianEMR will not be responsible for any damages that Customer may suffer arising out of use, or inability to use, the software and services. meridianEMR will not be liable for unauthorized access to or alteration, theft or destruction of Customer's data files, programs, procedures or information through accident, fraudulent means or devices, or any other method.

5. **Governing Law.** The parties hereby agree that this Agreement was entered into in New Jersey. This Agreement will be governed in accordance with the laws of the State of New Jersey without regard to its conflict of law provisions. The parties agree that jurisdiction and venue for any actions relating to this Agreement will be in the State or Federal Courts in New Jersey.

**6. Term and Termination.**

a) **Term.** The term will commence on the commencement date and will terminate 365 days thereafter. The support part of this agreement will begin 30 days after the commencement date and will automatically renew based upon payment for annual support services for successive one year terms unless either one of the parties terminates the Agreement by providing written notice of termination to the other party at least 90 days before the Termination Date.

b) **Termination.** In addition to its rights set forth in this agreement, meridianEMR shall have the right to terminate this agreement upon 10 days prior written notice upon a violation or breach by customer, its employees or officers of any provision of this agreement; b, the termination of business of customer; c, voluntary or involuntary filing of bankruptcy petition or similar proceedings, Customer's becoming insolvent or making an assignment for the benefit of creditors.

c) **Deconversion Services Upon Termination.** Upon the termination of this Agreement for any reason and subject to agreement on reasonable terms, meridianEMR shall assist Customer in the deconversion and transfer of information to Customer or a party or parties identified by Customer and with such other actions as may be necessary or appropriate.

d) **Return of Materials Upon Termination.** Upon termination of this Agreement, the Customer must immediately cease use of the Services, and shall return all documentation and software, if any, relating to the Services and meridianEMR's confidential information to meridianEMR within 10 days of termination.



7. General

a) Relationship Between the Parties. The performance by meridianEMR of its duties and obligations under this Agreement shall be that of an independent contractor and nothing contained in this Agreement shall create or imply an agency relationship between Client and meridianEMR, nor shall this Agreement be deemed to constitute a joint venture or partnership between Client and meridianEMR. Each party assumes sole and full responsibility for its acts and the acts of its personnel. Neither party shall have the authority to make commitments or enter into contracts on behalf of, bind, or otherwise obligate the other party except for the limited agency expressly provided for herein.

b) meridianEMR Not Engaged in Practice of Medicine. meridianEMR does not, nor does it intend to, engage in the performance or delivery of medical or hospital services or other types of healthcare. meridianEMR's performance under this Agreement should not, in any case, be deemed or understood as a recommendation, endorsement, guarantee or warranty of the professional services. Nothing herein shall be construed to imply that meridianEMR, or any of meridianEMR's subsidiaries, officer, directors, employees, or agents is engaged in the practice of medicine or other professions related thereto. All matters related to such field shall be the exclusive province of Client and its staff, agents, and employees.

c) Severability. If one or more provisions or parts of this Agreement are declared invalid, illegal or unenforceable by a court with jurisdiction over the parties to this Agreement, the remaining provisions will nevertheless remain in full force and effect in such jurisdiction, unless such severance would frustrate the contractual intent of the parties.

d) Entire Agreement; Amendments, Exhibits. This Agreement (including the Schedules and Exhibits attached hereto) embodies the entire understanding of the parties in relation to its subject matter, and supersedes all proposals, letters of intent or prior agreements, oral or written, and all other communications and representations between the parties relating to the subject matter of this Agreement an no other agreement or understanding, verbal or otherwise, relative to this subject matter exists between the parties at the time of execution of this Agreement. This Agreement may be amended only by a written agreement signed by both parties. Each of the exhibits attached to this Agreement is made a part of this Agreement and the terms of these Exhibits will be fully binding on the parties

e) Waiver. No waiver of any breach of any provisions of this Agreement shall be effective unless made in writing and signed by each of the parties to this Agreement. Each party agrees that no failure or delay by the other party in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

f) Headings. The headings used herein are for identification and reference purposes only and shall not be used in the construction and interpretation of this Agreement.

IN WITNESS WHEREOF, the parties have caused this meridianEMR Business Services Agreement to be executed and delivered by their duly authorized representatives, as of the date first above written.

meridianEMR, Inc.

Customer

By:

Larry G. Drappi

William Vance Shappley, M.D.

Print Name:

Larry G. Drappi

Title:

Executive V.P.

OWNER

Additional Information - Software source code is agreed to be placed with an escrow agent under an escrow agreement.

Initial \_\_\_\_\_  
Initial LGD

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**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (this "Agreement") is made and entered into as of September 8<sup>th</sup>, 2005 (the "Effective Date"), by and between The Shepley Clinic ("Covered Entity"), and meridianEMR, Inc., a New Jersey corporation ("Business Associate").

**RECITALS**

This Agreement is made with reference to the following facts:

- A. Business Associate has entered into a claims processing and/or service agreement ("Services Agreement") with Covered Entity, the terms and conditions of which have been agreed to by Covered Entity;
- B. Covered Entity is a covered entity as defined in 45 Code of Federal Regulations ("CFR") § 160.103 and the regulations codified at 45 CFR Parts 160 and 164 ("HIPAA Privacy Rule") promulgated under Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and has agreed to enter into this Agreement on the terms and conditions hereof; and
- C. Pursuant to the Services Agreement, Business Associate is a business associate of Covered Entity as defined under HIPAA, and Covered Entity shall provide individually identifiable health information as defined in HIPAA ("Protected Health Information") to Business Associate as provided in the Services Agreement.

NOW, THEREFORE, Covered Entity and Business Associate, in consideration of the mutual promises and obligations set forth in this Agreement, and intending to be legally bound, agree as follows:

**AGREEMENT**

**1. Obligations and Activities of Business Associate Relating to HIPAA.**

1.1 Business Associate shall not use or disclose any Protected Health Information in a manner other than as permitted by the terms of this Agreement, the Services Agreement or as may be required by law.

1.2 Business Associate shall implement and maintain appropriate safeguards to prevent the use or disclosure of Protected Health Information received from Covered Entity other than as provided herein. Business Associate shall provide Covered Entity with information concerning such safeguards as Covered Entity may from time to time reasonably request, and shall, upon reasonable written request, permit Covered Entity to have access for inspection and copying, at the expense of Covered Entity, to Business Associate's facilities used for the maintenance or processing of Protected Health Information, and to its books, records, practices, policies and procedures concerning the use and

disclosure of Protected Health Information, to determine Business Associate's compliance with this Agreement.

1.3 Business Associate shall report to Covered Entity any use or disclosure of Protected Health Information in its possession of which it becomes aware that is not permitted by the terms of this Agreement, the Services Agreement or as may be required by law.

1.4 Business Associate shall ensure that any subcontractors or agents to whom it provides Protected Health Information received from or on behalf of Covered Entity agree to the same restrictions and conditions that apply to Business Associate under this Agreement with respect to such information in its possession.

1.5 Upon the written request from Covered Entity, Business Associate shall make available within 30 days of its receipt of such request Protected Health Information maintained by Business Associate in a Designated Record Set as defined in the HIPAA Privacy Rule (a "Designated Record Set") necessary for Covered Entity to respond to individual's requests for access to information about them as required by law.

1.6 Upon written request from Covered Entity, Business Associate shall incorporate any amendments or corrections or deletions to Protected Health Information maintained by Business Associate in a Designated Record Set in its possession in accordance with HIPAA.

1.7 Upon written request from Covered Entity, Business Associate shall make available within 30 days of its receipt of such request the information required for Covered Entity to provide an accounting of disclosures in accordance with the HIPAA Privacy Rule.

1.8 Business Associate shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information received from Covered Entity available to the Secretary of Health and Human Services for the purposes of determining Covered Entity's compliance with the HIPAA Privacy Rule.

1.9 Upon the termination of this Agreement, Business Associate shall return or destroy all Protected Health Information received from or created on behalf of Covered Entity, if feasible. If return or destruction of all Protected Health Information is not feasible, Business Associate shall extend the protections of this Agreement so long as Business Associate maintains Protected Health Information, and shall not further disclose such Protected Health Information.

## 2. Permitted Uses and Disclosures.

2.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of Covered Entity as specified in the Services Agreement, provided that such use or disclosure would not violate the privacy regulation of HIPAA Privacy Rule, or as otherwise required by law.

2.2 Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

3. Obligations of Covered Entity.

3.1 Covered Entity shall provide Business Associate with the notice of privacy practices for Protected Health Information that Covered Entity produces as required under HIPAA, as well as any changes to such notice.

3.2 Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by individuals to use or disclose Protect Health Information about them, if such changes affect Business Associate's permitted or required uses and disclosures.

3.3 Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522.

3.4 Covered Entity shall notify Business Associate of any laws or regulations applicable to Covered Entity with which Business Associate must comply in fulfilling Business Associate's obligations under this Agreement.

4. Term and Termination.

4.1 This Agreement shall become effective on the Effective Date and shall terminate when the Services Agreement terminates.

4.2 Any material breach of a provision of this Agreement is grounds for termination by the non-breaching party. However, the non-breaching party shall provide a written notice of the alleged breach and afford the breaching party an opportunity to cure said alleged breach upon mutually agreeable terms.

4.3 Notwithstanding anything to the contrary of this Agreement, Subsection 1.9 above, if applicable, and the parties' obligations regarding Protected Health Information previously disclosed shall survive any termination or expiration of this Agreement.

5. Miscellaneous.

5.1 Entire Agreement. This Agreement together with the related agreements referred to herein contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all other and prior agreements.

5.2 Amendments. No amendment shall be effective unless in writing and signed and dated by the parties hereto.

5.3 Notices. All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received (A) when personally delivered, or (B) on the day specified for delivery when deposited with a courier service such as Federal Express for delivery to the intended addressee, or (C) three (3) business days following the day when deposited in the United States mails, registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

**If to Covered Entity:**      Attn: Janice R. Zeller  
The Shepley Clinic  
Covered Entity  
Mumantown, NJ  
Address  
901-759-0101  
Telephone No.  
901-759-1588  
Fax No.

**If to Business Associate:**      Attn: Michael Custode, President, CEO.  
**meridianEMR, Inc.**  
354 Eisenhower Parkway  
Livingston, New Jersey 07039

Either party may from time to time by written notice to the other designate another place for receipt of future notices.

5.4 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the Effective Date.

COVERED ENTITY The Spangola Clinic  
By: [Signature]  
Name: William V. Spangola, M.D.  
Title: Owner

**meridianEMR, INC.**

By: [Signature]  
Name: Michael J. Custode  
Title: President, CEO

[Signature Page to Business Associate Agreement]

**Exhibit B**

**Implementation and Software Support Services**

**Training Provided**

meridianEMR will train Customer on meridianEMR™ software for the number of days listed in Exhibit A, and for the payment of these services as listed on this Exhibit. Training days are defined as one seven (7) hour day. Any additional hours trained on same day will be deducted from total days included in agreement. Hours are counted if some training is done over the Internet or phone. Hours of training provided by physicians to practice's physicians also will be deducted from total days included in agreement. meridianEMR non-physician personnel will travel to Customer's primary location as agreed upon to provide these services for the payment for travel costs as listed on this Exhibit. Any physician travel must be approved by meridianEMR, and will be billed at a higher level than in Exhibit A.

**Additional Training**

If both parties agree additional training services are required, meridianEMR's standard pricing, including travel costs, will be in effect, and billed separately.

**Software Installation**

meridianEMR to install meridianEMR™ application software on the equipment listed in Exhibit A, for the payment of these services as listed on this Exhibit.

**Internet Connection**

Customer understands and agrees that a proper Internet connection (per meridianEMR Internet Requirements on Exhibit C) is operational at each site a Local EMR Server is required, and/or where meridianEMR software is desired to be used..

**Software Covered**

The software for which maintenance and support is offered under our Agreement are the computer programs listed on Exhibit A. Customer agrees to maintain the software at the latest update levels required by meridianEMR, and any prior update levels shall not be deemed to be covered by this agreement.

**Software Support**

During the term of this agreement meridianEMR shall remedy any defect in the Software that is attributed by meridianEMR and which substantially impairs Customer's permitted use of software. A defect is a reproducible failure of the software to perform in accordance with meridianEMR documentation. Provision of such remedy shall be initiated after Customer has provided meridianEMR with written notice of its claim of any such defect. meridianEMR will use best effort to the circumstances to correct any such defect.

meridianEMR shall have no obligation for corrections of difficulties or defects due to Customer system changes, templates designed and implemented by Customer, the computer environment (including Customer's network), use of Software on equipment not approved, or other causes external to the software.

Initials 

## Exhibit B

### Phone and e-mail Support

meridianEMR will provide assistance by telephone or email to answer questions during the Basic Service Hours set forth on Exhibit D. meridianEMR shall also provide such services at times other than the Basic Service Hours, as requested by Customer, subject to meridianEMR personnel availability at meridianEMR then current rates.

### Software Updates

Whenever meridianEMR makes updates to the Software available at no additional charges to its Customers, generally including changes, modifications, (either to computer code, templates or documentation) enhancements, upgrades or additions, Customer agrees to install software within the reasonable time required by meridianEMR. meridianEMR reserves the right to define the addition of a major function to the Software as a new product and not an update.

### Access to Facilities and System

The Customer agrees to provide meridianEMR with access to its facilities and necessary equipment and data for meridianEMR to perform maintenance, and with sufficient support and test time so that meridianEMR is able to duplicate any problem reported, to certify whether or not the problem is with the Software, and if so, to correct the problem and to certify to the Customer that the problem has been corrected.

### Data Storage and Hosting Services

meridianEMR will provide off-site storage of all Customer patient data entered into meridianEMR™ at an off-site HIPAA secured facility. This data is encrypted both on the local server and when it is transmitted to our off-site storage facility. All data will be treated as confidential information by all meridianEMR or third party hosting employees, complying with all HIPAA regulations.

Your data will be backed up monthly, and a secured CD is available upon request. This dual data save environment allows you the ability to securely access your medical records from anywhere you have Internet access. The fees for this service are currently included in the annual support fees paid to meridianEMR.

### Term

Support Services per this exhibit will commence 30 days after the commencement date on the Business Services Agreement and continue for 365 days from that date. After this initial period, these support services will automatically continue as an annual renewal, based on the payment for these services, in accordance with the annual support fees at that time.

### Invoices

All invoices for support services are due upon presentation. If Customer fails to pay an invoice for support services within 15 days of the date of the invoice, this action shall be considered a material breach of the agreement, and shall be sufficient cause for immediate termination of support.



**Exhibit C**

**Minimum Installation Requirements for meridianEMR™**

meridianEMR™ PC Requirements

- PC with Intel Pentium 4 Processor or higher
- 2.0ghz Processor Speed or higher
- 512MB Memory – 1GB Preferred and required if PM System Running Simultaneously
- 30GB disk
- Windows XP Professional
- Keyboard and Mouse
- \*Monitor (Touch Screen Preferred & Recommended for Efficiency & Speed if Used By Nurses)

meridianEMR™ NoteBook & Tablet PC Requirements

- Notebook or Tablet PC with Centrino Processor (Motion Computing Tablet Recommended)
- 1GB Main Memory
- 40GB disk
- Windows XP Professional
- Keyboard (Recommended)
- \*Display (Touch Screen Preferred & Recommended for Efficiency & Speed)

Other Hardware Requirements

- \*Display must accommodate MINIMUM of 1,024 X 768 screen size
- Scanner For Images – Recommend a flat bed scanner with Automatic Feeder at 12PPM or greater & USB connection (ex: Fujitsu FI 4010CU Scanner)
- Laser Printer w/Multiple Tray Feature (ex: Xerox Phaser 3150 B/W USB Laser Printer w/adjustable tray size)
- Fax Modem must be Multi-Tech Modem # MT5634ZBA V.92 AND must be installed on a dedicated standard "analog" fax line ("POTS") – normally this modem is installed near our LINUX server.

meridianEMR™ Antivirus & Firewall Requirements

Mandatory to have antivirus software installed on all meridianEMR client machines (Norton Antivirus, etc), configured to automatically download and install all virus upgrades.

Highly recommended: All meridianEMR mobile PCs (Notebooks/Tablets) should have a personal firewall installed unless they will always be run from inside a "secured" network (i.e.: from a network protected by a firewall). (If a machine will be taken out of the office and attached to any other network [home, hospital, etc], then the personal firewall must be installed).

meridianEMR™ Internet Requirements

- Cable Connection
  - T1 Connection
  - DSL Connection
- (Dial-Up Line Connection is NOT Acceptable)

Initials WES

**Exhibit D**

**Basic Software Support Service Hours – As of 3-01-05**

The Basic Hours for meridianEMR™ phone support as of the above date:

Eastern Standard Time      8:30AM to 5:30PM

Monday through Friday

Except Following Holidays: New Years Day, Good Friday, Memorial Day, 4<sup>th</sup> of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Eve and Christmas Day

Initials 

**EXHIBIT B**

Events Public

Printed: 6/15/11 9:12:54 PM

Page 1 of 1

Printed For: Chris Bartlett

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6/1/2011 1:11:46 PM CDT, the meridianEMR server's configuration account for memr-1048-1 was logged in. This was done using Remote Desktop from a computer at network address 192.168.5.227. This network address belongs to Dr Shappley's office network. (Page 2)

6/1/2011 2:14:55 PM CDT; 2:15:21 PM CDT; 2:18:03 PM CDT, Microsoft System Center Virtual Machine Manager P2V Agent was attempted to be installed and failed. Three unsuccessful attempts were made to install this software. (Page 3)

6/1/2011 2:20:08 PM CDT, Microsoft System Center Virtual Machine Manager P2V Agent was successfully installed. (Page 4)

6/1/2011 6:53:25 PM CDT, Microsoft System Center Virtual Machine Manager P2V Agent was successfully uninstalled. (Page 4)

6/2/2011 8:28:27 AM CDT (9:28:27 AM EDT), A server attempted to connect to our monitoring system claiming to be memr-1048-1 from internet address 66.208.198.33. The monitoring system rejected the connection as it only allows one server to connect per configuration and it already had a server talking to us for memr-1048-1. Periodically during times the Clone was trying to talk to our monitoring system, the clone server and the real server swapped as to which one the monitoring system allowed the connection from. (Page 5)

6/2/2011 8:28:57 AM CDT (9:28:57 AM EDT), A server connected to us from internet address 66.208.198.33 with the name UCMeridian using the connection credentials for EMR server memr-1048-1. This server began synchronizing data with us as server memr-1048-1. This continued until 10:42:53 AM CDT (11:42:53 AM EDT). During this time the real EMR server memr-1048-1 was also communicating with us from internet address 66.208.198.34 using the same credentials and synchronizing data. Both 66.208.198.33 and 66.208.198.34 are internet addresses assigned to Dr Shappley's internet connection. (Page 6)

6/2/2011 8:41:34 AM CDT, user account Urochart was logged in to clone server UCMeridian. (Page 7)

6/2/2011 10:42:53 AM CDT (11:42:53 AM EDT), clone stopped talking to the meridianEMR master server in Newton NJ. (Page 6)

6/2/2011 10:43:38 AM CDT (11:43:38 AM EDT), clone stopped talking to monitoring server. (Page 5)

6/3/2011 3:58:26 PM CDT (4:58:26 PM EDT), clone resumed talking to us. Continued without interruption until 6/6/2011. (Page 5)

6/6/2011 8:53:56 AM CDT (9:53:56 AM EDT), clone stopped talking to monitoring system. (Page 5)

6/8/2011 4:00:42 PM CDT (5:00:42 PM EDT), clone resumed talking to monitoring system. (Page 5)

6/8/2011 9:28:49 PM CDT, the meridianEMR server disaster recovery account was logged in to clone server UCMeridian. (Page 8)

6/9/2011 7:47:07 AM CDT (8:47:07 AM EDT), last contact by clone UCMeridian server. (Page 5)

From: hostmon01@meridianemr.net  
Subject: [alert] memr-1048-1 - Security log Successful Logon:  
Date: June 1, 2011 3:44:47 PM EDT  
To: <mdobrykowski@meridianemr.com>, <alerts@mythtech.net>

---

User Name: <meridianEMR server configuration account - account name removed for security>

Domain: MEMR-1048-1

Logon ID: (0x0,0x1B74BF7F)

Logon Type: 10

Logon Process: User32

Authentication Package: Negotiate

Workstation Name: MEMR-1048-1

Logon GUID: -

Caller User Name: MEMR-1048-1\$

Caller Domain: WORKGROUPNAME

Caller Logon ID: (0x0,0x3E7)

Caller Process ID: 5044

Transited Services: -

Source Network Address: 192.168.5.227

Source Port: 49252

6/1/2011 1:11:46 PM  
Sender: hostmon01@meridianemr.net  
Mime-Version: 1.0  
Content-Type: text/plain; charset="iso-8859-1"  
Date: Wed, 1 Jun 2011 15:44:47 -0400  
Message-ID: <20110601194447432.55E9435D120136D0@hostmon01>  
X-Mailer: ICS SMTP Component V6.12

Test : memr-1048-1 - Security log  
Method: check NT Event Log  
Status : Warning  
Event Time : 6/1/2011 1:11:46 PM  
Event Source: Security  
Event ID: 528

Failed P2V Install  
Printed: 6/12/11 7:08:27 PM

Page 1 of 1  
Printed For: Chris Bartlett

---

Events from Application Event Log for memr-1048-1

Source: MsiInstaller  
Date: 6/1/2011 2:14:55 PM  
Event ID: 11708  
Task Category: None  
Level: Information  
Keywords: Classic  
User: SYSTEM  
Computer: MEMR-1048-1  
Description:  
Product: Microsoft System Center Virtual Machine Manager P2V Agent -- Installation failed.

Source: MsiInstaller  
Date: 6/1/2011 2:15:21 PM  
Event ID: 11708  
Task Category: None  
Level: Information  
Keywords: Classic  
User: SYSTEM  
Computer: MEMR-1048-1  
Description:  
Product: Microsoft System Center Virtual Machine Manager P2V Agent -- Installation failed.

Source: MsiInstaller  
Date: 6/1/2011 2:18:03 PM  
Event ID: 11708  
Task Category: None  
Level: Information  
Keywords: Classic  
User: SYSTEM  
Computer: MEMR-1048-1  
Description:  
Product: Microsoft System Center Virtual Machine Manager P2V Agent -- Installation failed.

P2V Install and Remove  
Printed: 6/12/11 9:16:12 PM

Page 1 of 1  
Printed For: Chris Bartlett

---

Events from Application Event Log for memr-1048-1

\*\*\* Install \*\*\*

Source: MsiInstaller  
Date: 6/1/2011 2:20:08 PM  
Event ID: 11707  
Task Category: None  
Level: Information  
Keywords: Classic  
User: SYSTEM  
Computer: MEMR-1048-1  
Description:  
Product: Microsoft System Center Virtual Machine Manager P2V Agent -- Installation completed successfully.

\*\*\* Remove \*\*\*

Source: MsiInstaller  
Date: 6/1/2011 6:53:25 PM  
Event ID: 11724  
Task Category: None  
Level: Information  
Keywords: Classic  
User: SYSTEM  
Computer: MEMR-1048-1  
Description:  
Product: Microsoft System Center Virtual Machine Manager P2V Agent -- Removal completed successfully.

**EXHIBIT C**



Monitoring Syslog  
Printed: 6/12/11 9:52:01 PM

Page 1 of 1  
Printed For: Chris Bartlett

---

Log lines from monitoring system syslog. Only relivant lines are included, all lines are on file

\*\*\* first contact \*\*\*

[6/2/2011 9:28:27 AM] Sys 66.208.198.33: Agent "memr-1048-1" already connected!

\*\*\* alternation between clone and real server, repeats any time the clone is running until last contact by clone server \*\*\*

[6/2/2011 9:30:33 AM] Sys 66.208.198.33: Connection established (RMA memr-1048-1)

[6/2/2011 9:31:19 AM] Sys 66.208.198.34: Agent "memr-1048-1" already connected!

[6/2/2011 9:34:20 AM] Sys 66.208.198.34: Connection established (RMA memr-1048-1)

[6/2/2011 9:38:05 AM] Sys 66.208.198.33: Agent "memr-1048-1" already connected!

\*\*\* times the clone stopped and started talking to us

[6/2/2011 11:43:38 AM] Sys 66.208.198.33: Agent "memr-1048-1" already connected! \*\*\* stopped  
\*\*\*

[6/3/2011 4:58:26 PM] Sys 66.208.198.33: Agent "memr-1048-1" already connected! \*\*\* started  
\*\*\*

[6/6/2011 9:53:56 AM] Sys 66.208.198.33: Agent "memr-1048-1" already connected! \*\*\* stopped  
\*\*\*

[6/8/2011 5:00:42 PM] Sys 66.208.198.33: Agent "memr-1048-1" already connected! \*\*\* started  
\*\*\*

\*\*\* last contact by clone \*\*\*

[6/9/2011 8:47:07 AM] Sys 66.208.198.33: Agent "memr-1048-1" already connected!

UCMeridianTomcatStartStop  
Printed: 6/12/11 9:19:26 PM

Page 1 of 1  
Printed For: Chris Bartlett

---

Times are recorded in military time Eastern Daylight Time. Log events from meridianEMR master sync server log. Only relivant lines are included, all log lines are on file.

\*\*\* Clone server communication start and stop \*\*\*

2011-06-02 09:28:56,997 - SuperServlet: UCmeridian: 109: Connection from 66.208.198.33, serverName: UCmeridian

2011-06-02 09:28:56,997 - SuperServlet: UCmeridian: 109: Server called with query string: handler=challenge-handler,practice-id=1048

2011-06-02 09:28:57,059 - SuperServlet: UCmeridian: 109: Handler to be called: packet-query-handler

2011-06-02 09:28:57,059 - SuperServlet: UCmeridian: 109: checkChallenge session.getId(): <ID string removed for security>

2011-06-02 09:28:57,059 - SuperServlet: UCmeridian: 109: executeQuery: <Sync data request Query removed for security>

2011-06-02 11:42:53,476 - SuperServlet: UCmeridian: 79: SuperServlet Time: handler: status-handler: 219 msec

\*\*\* Real server communication start and stop \*\*\*

2011-06-02 00:00:01,106 - SuperServlet: memr-1048-1 173677: 375: DBProxy(12055916).execute - Statement # 1, after execute call

2011-06-02 23:59:10,944 - SuperServlet: memr-1048-1: 735: SuperServlet Time: handler: status-handler: 0 msec

**EXHIBIT D**

From: hostmon01@meridianemr.net  
Subject: [alert] memr-1048-1 - Security log Successful Logon:  
Date: June 2, 2011 9:45:20 AM EDT  
To: <mdobrygowski@meridianemr.com>, <alerts@mythtech.net>

---

User Name: Urochart  
Domain: UCMERIDIAN  
Logon ID: (0x0,0xA8AF9)  
Logon Type: 2  
Logon Process: User32  
Authentication Package: Negotiate  
Workstation Name: UCMERIDIAN  
Logon GUID:-  
Caller User Name: UCMERIDIAN\$  
Caller Domain: WORKGROUPNAME  
Caller Logon ID: (0x0,0x3E7)  
Caller Process ID: 408  
Transited Services: -  
Source Network Address: 127.0.0.1  
Source Port: 0

6/2/2011 8:41:34 AM  
Sender: hostmon01@meridianemr.net  
Mime-Version: 1.0  
Content-Type: text/plain; charset="iso-8859-1"  
Date: Thu, 2 Jun 2011 09:45:20 -0400  
Message-ID: <20110602134520138.6A03793729DC66CF@hostmon01>  
X-Mailer: ICS SMTP Component V6.12

Test : memr-1048-1 - Security log  
Method: check NT Event Log  
Status : Warning  
Event Time : 6/2/2011 8:41:34 AM  
Event Source: Security  
Event ID: 528

**EXHIBIT E**

From: hostmon01@meridianemr.net  
Subject: [alert] memr-1048-1 - Security log Successful Logon:  
Date: June 8, 2011 10:41:32 PM EDT  
To: <mdobrygowski@meridianemr.com>, <alerts@mythtech.net>

---

User Name: <meridianEMR server disaster recovery account - account name removed for security>

Domain: UCMERIDIAN

Logon ID: (0x0,0x2BE370)

Logon Type: 2

Logon Process: User32

Authentication Package: Negotiate

Workstation Name: UCMERIDIAN

Logon GUID: -

Caller User Name: UCMERIDIAN\$

Caller Domain: WORKGROUPNAME

Caller Logon ID: (0x0,0x3E7)

Caller Process ID: 408

Transited Services: -

Source Network Address: 127.0.0.1

Source Port: 0

6/8/2011 9:28:49 PM  
Sender: hostmon01@meridianemr.net  
Mime-Version: 1.0  
Content-Type: text/plain; charset="iso-8859-1"  
Date: Wed, 8 Jun 2011 22:41:32 -0400  
Message-ID: <20110609024132398.56B2613E72465C16@hostmon01>  
X-Mailer: ICS SMTP Component V6.12

Test : memr-1048-1 - Security log  
Method: check NT Event Log  
Status : Warning  
Event Time : 6/8/2011 9:28:49 PM  
Event Source: Security  
Event ID: 528