

**Fill in this information to identify the case:**

Debtor 1 Fayette Memorial Hospital Association, Inc.  
Debtor 2 \_\_\_\_\_  
(Spouse, if filing) \_\_\_\_\_  
United States Bankruptcy Court for the: Southern District of Indiana, Indianapolis Division  
Case number 18-07762-JJG-11

E-Filed on 08/05/2019  
Claim # 216

## Modified Form 410 Proof of Claim

04/16

**Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.**

**Filers must leave out or redact** information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

**Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.**

### Part 1: Identify the Claim

1. <b>Who is the current creditor?</b>		<u>ORCHARD SOFTWARE CORPORATION</u> Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. <b>Has this claim been acquired from someone else?</b>		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. <b>Where should notices and payments to the creditor be sent?</b>  Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	<b>Where should notices to the creditor be sent?</b>	<b>Where should payments to the creditor be sent? (if different)</b>	
	<u>ORCHARD SOFTWARE CORPORATION</u> Name <u>701 CONGRESSIONAL BLVD SUITE 360</u> Number Street <u>CARMEL</u> <u>IN</u> <u>46032</u> City State ZIP Code Contact phone <u>(800) 856-1948</u> Contact email <u>accountsreceivable@orchardsoft.com</u>  Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____	_____ Name _____ Number Street _____ City State ZIP Code _____ Contact phone _____ _____ Contact email _____	
4. <b>Does this claim amend one already filed?</b>		<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Claim number on court claims registry (if known) <u>95</u> Filed on <u>03/19/2019</u> MM / DD / YYYY	
5. <b>Do you know if anyone else has filed a proof of claim for this claim?</b>		<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?  No  
 Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: \_\_\_\_\_

7. How much is the claim? \$ 121,278.56. Does this amount include interest or other charges?  
 No  
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information.  
  
Services Performed \_\_\_\_\_

9. Is all or part of the claim secured?  No  
 Yes. The claim is secured by a lien on property.  
**Nature of property:**  
 Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.  
 Motor vehicle  
 Other. Describe: \_\_\_\_\_  
  
**Basis for perfection:** \_\_\_\_\_  
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)  
  
**Value of property:** \$ \_\_\_\_\_  
**Amount of the claim that is secured:** \$ \_\_\_\_\_  
**Amount of the claim that is unsecured:** \$ \_\_\_\_\_ (The sum of the secured and unsecured amounts should match the amount in line 7.)  
  
**Amount necessary to cure any default as of the date of the petition:** \$ \_\_\_\_\_  
  
**Annual Interest Rate** (when case was filed) \_\_\_\_\_ %  
 Fixed  
 Variable

10. Is this claim based on a lease?  No  
 Yes. Amount necessary to cure any default as of the date of the petition. \$ 0.00

11. Is this claim subject to a right of setoff?  No  
 Yes. Identify the property: \_\_\_\_\_

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?  No

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Yes. Check one:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____ 0.00
<input type="checkbox"/> Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____ 0.00
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____ 0.00
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____ 0.00
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____ 0.00
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)( ) that applies.	\$ _____ 0.00

\* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

13. Is all or part of the claim entitled to administrative priority pursuant to 11 U.S.C. § 503(b)(9)?  No

Yes. Indicate the amount of your claim arising from the value of any goods received by the Debtor within 20 days before the date of commencement of the above case, in which the goods have been sold to the Debtor in the ordinary course of such Debtor's business. Attach documentation supporting such claim.

\$ \_\_\_\_\_ 0.00

**Part 3:** Sign Below

**The person completing this proof of claim must sign and date it. FRBP 9011(b).**

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

**A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.**

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 08/05/2019  
MM / DD / YYYY

QUENTIN LAW  
Signature

**Print the name of the person who is completing and signing this claim:**

Name QUENTIN LAW  
First name Middle name Last name

Title CFO

Company ORCHARD SOFTWARE CORPORATION  
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address \_\_\_\_\_  
Number Street

\_\_\_\_\_ City State ZIP Code

Contact phone \_\_\_\_\_ Email \_\_\_\_\_

Attachment 1 - F078 FAYETTE REG. HEALTH - ADD-ON OF PURCHASE AGREEMENT.pdf

Description -

Orchard Software Corporation  
701 Congressional Blvd., STE 360  
Carmel, IN 46032  
(800) 856-1948



Invoice Number: 0146954-IN  
Invoice Date: 9/30/2018  
Invoice Due Date: 10/30/2018

Salesperson: Will Renn  
Customer Number: F078

**Sold To:**

Fayette Regional Health System  
Attn: Accounts Payable  
1941 Virginia Ave.  
Connersville, IN 47331-2833

**Ship To:**

Fayette Regional Health System  
Attn: Accounts Payable  
1941 Virginia Ave.  
Connersville, IN 47331-2833

**Confirm To:**

Customer P.O.	Ship VIA	F.O.B.	Terms			
			Net 30 days			
Item Number	Unit	Ordered	Shipped	Back Ordered	Price	Amount
/INST ESFT		1.00	1.00	0.00	9,600.00	9,600.00
Instrument Intf eSoftware						
Middleware Interface ( Bactec FX / BD Epicenter)						

If paying by ACH, please use the following Banking Information:  
Bank Name: CIBC  
Account Name: Orchard Software Corporation  
Routing #: 071006486  
Account #: 2428717

Net Invoice: 9,600.00  
  
Sales Tax: 0.00  
**Invoice Total:** 9,600.00

Attachment 2 - F078 Fayette Regional Health Purchase Agreement 10.26.17.pdf

Description -

**Orchard Software Corporation ("Orchard")  
Laboratory Information System  
Purchase Agreement for Fayette Regional Health  
System("CLIENT")**

**Written on October 9, 2017 and valid if signed by October 30, 2017**

This Purchase Agreement ("Agreement") is dated this 27 day of October, 2017 (the "Effective Date"), and governs the acquisition of an Orchard® Harvest™ Laboratory Information System ("System") by Fayette Regional Health System("CLIENT") and defines the on-going business relationship related to CLIENT's acquisition and use of the System.

- I. **Configuration:** The configuration for CLIENT is as follows: Fifteen (15) concurrent Harvest Client Licenses.
- II. **Hardware Components:**
1. CLIENT will provide the servers and workstation hardware at its own cost and expense. Minimum specifications are outlined in Attachment A.
  2. Ancillary Hardware: Provided By CLIENT as outlined in Attachment A.
  3. Ancillary Hardware: Provided By Orchard as outlined in Attachment A in consideration of payment of the relevant fees by CLIENT.
  4. CLIENT will provide all necessary cabling, phone lines, dedicated fax line(s), and support services required to interface the System to CLIENT's existing LAN and/or WAN.
  5. NOTE: If any workstations on the System network require communications via a Wide Area Network, then CLIENT will be responsible for providing and maintaining a secure physical link of at least 512kbps (preferably T1), such as access to a network infrastructure or dedicated data line and all necessary terminating hardware between the remote workstations and the primary system network.
  6. CLIENT assumes all responsibility to provide network connectivity for all computers that are to connect to the System. This applies to computers located both on Local and Wide Area Networks. CLIENT is also responsible for SSL certificates and VPN deployments for those computers and users connecting to the System from a Wide Area Network connection.
  7. If CLIENT desires to deploy the System in either a Virtual Machine environment or Virtual Desktop Infrastructure, then Orchard can provide recommendations for the requirements of the System within these deployment options. Orchard is not responsible for the selection, installation, or support of either the Virtual environment or the VDI systems.

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III. Software:

1. **Software Components.** In consideration of CLIENT's payment of the relevant license fees to Orchard, Orchard will provide the following software components:
  - 1a. Application License for Orchard Harvest Laboratory Information System for 64-bit Microsoft Windows;
  - 1b. Fifteen (15) concurrent Harvest LIS Licenses;
  - 1c. Integrated Harvest LIS Microbiology Module;
  - 1d. Server and user licenses (as necessary) for remote access utilities;
  - 1e. Integrated Zetafax Software Module to allow for outbound faxing from 1 line
  - 1f. CLIENT shall receive a copy of all installed Software (to be used only for backup purposes).
2. **Right to Use.** Orchard hereby grants to CLIENT the right to use the above-listed licensed software on a non-exclusive basis until this Agreement is terminated pursuant to Section XV. Orchard represents and warrants to CLIENT that Orchard has the right to license the same.
3. **Documentation.** CLIENT shall have the right to copy and use written manuals and documentation of the software provided by Orchard under this Agreement (including, but not limited to, the Training Outline and technical Help Manual.) CLIENT shall have the right to excerpt and post such materials onto an Internet website for instructional or reference purposes only, and limited to the materials directly related to the Internet-enabled portions of the System described in this Agreement.
4. **Zetafax Software.** Orchard shall provide support for the Zetafax software as set forth in Section VIII, except that all fees related to upgrades, updates and/or new versions of the Zetafax software must be paid by CLIENT as directed by Orchard.
5. **Third Party Software.** All third party software provided by Orchard and required to operate the System is set forth in this Agreement. Orchard agrees and acknowledges that it hereby grants to CLIENT (and has all rights necessary to make such grant) all licenses and rights necessary to enable CLIENT to use such third party software to operate the System in the manner contemplated under this Agreement. To the fullest extent possible, Orchard will pass on to CLIENT all applicable warranties on such third party software so that CLIENT, either in its own name or through Orchard, may enforce the terms of any applicable warranty which has been extended to Orchard by such third party vendors to the same extent to which Orchard itself may enforce such warranties. Orchard will take such steps as may be reasonably requested by CLIENT to cooperate in the enforcement of such third party warranties. Except as specifically provided with respect to the Zetafax software, CLIENT will not be responsible for any fees for its use or maintenance of any third party software; however, in the case of a need for replacement of any licensed copies of third party software due to loss or destruction of the licensed back up copies, CLIENT will have to purchase new copies.
6. **Test Environment.** Orchard agrees to supply software at no additional charge to allow CLIENT to set up a test environment.

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IV. Interfaces:

1. In consideration of CLIENT's payment of the relevant fees to Orchard, Orchard will provide the interfaces listed below as part of this Agreement. The instrument interfaces listed below will be completed during the System installation outlined in this Agreement. The instruments must be installed and ready to interface prior to the completion of the System installation as documented in the Project Plan (as defined in Section V).
2. Orchard hereby grants to CLIENT the right to use the interfaces listed below on a non-exclusive basis until this Agreement is terminated pursuant to Section XV. Orchard represents and warrants to CLIENT that Orchard has the right to license the same.

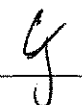
3. Main Site:

- 3a. Beckman Coulter ACL Elite
- 3b. Abbott CELL-DYN Ruby
- 3c. Sysmex XP 300
- 3d. Radiometer ABL 80
- 3e. Siemens CLINITEK 100
- 3f. VITROS 5600
- 3g. MicroScan autoScan
- 3h. Triage MeterPro (3)
- 3i. Streck ESR-Auto Plus
- 3j. Alere i

4. Other Interfaces:

- 4a. athenahealth Interfaces: Orchard Harvest LIS will receive patient demographic information and orders sent from the athenahealth to Orchard Harvest LIS. Test results and billing information will be sent from Orchard Harvest LIS to athenahealth. Details of implementation and go live will be included in the Project Plan. Orchard will take responsibility to lead the team comprised of representatives from athenahealth, Orchard, and CLIENT to successfully complete the interface.
- 4b. Blood Bank System Interface: Orchard Harvest LIS will send orders and demographics to a blood bank system. Orchard Harvest LIS will send hematology results to a blood bank system. Orchard Harvest LIS will accept results from a blood bank system. Orchard Harvest LIS will accommodate the pass through of billing information from a blood bank system. Details of implementation and go live will be included in the Project Plan. Orchard will take responsibility to lead the team comprised of representatives from the blood bank system vendor, Orchard, and CLIENT to successfully complete the interface.
- 4c. State Health Department Interface: Orchard Harvest LIS will send finalized patient results to the state reporting agency in HL7 2.5.1 format. Details of implementation and go live will be included in the Project Plan. Orchard will take responsibility to lead the team comprised of representatives from State Health Department, Orchard, and CLIENT to successfully complete the interface.
- 4d. Reference Laboratory Interfaces: See Options Section.
- 4e. Additional Interfaces will be quoted as requested.

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5. CLIENT shall be responsible for ensuring that each instrument, and/or other information system interfaced has, in working order, all necessary software and input/output ports for interfacing with the System.
6. CLIENT is responsible for all costs and expenses imposed by other vendors for their portions of an interface.
7. Orchard is not responsible for the interfacing limitations of host computer system or reference laboratory to be interfaced.
8. An interface between the System and any host computer system or reference laboratory requires cooperation of all parties – Orchard, CLIENT, and the host computer vendor or reference laboratory – to be successfully completed. It is CLIENT's responsibility to contact the other parties and secure a commitment to complete their portions of the interface prior to the start of the project.
9. Orchard will validate that the components Orchard provides to make an interface effective are in place and functioning correctly. If an interface is not functioning completely or correctly due to a component provided by another vendor, then CLIENT will not delay acceptance of the System. It is the responsibility of CLIENT to contact the vendor in order to assure that the device is in working order and that all software and components necessary to accomplish the interface are available and of the correct revision level.
10. If any instrumentation, with interfaces outlined in this Agreement, is not installed and ready to be interfaced prior to the completion of the System installation as outlined in the project plan, then Orchard will supply quotations for the interfaces to be completed at another time under a separate agreement.

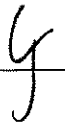
V. Installation and Training:

1. A Project Plan will be mutually agreed upon between CLIENT and Orchard and will be used as the primary coordination document for the entire installation project. Updates to the Project Plan will be made only upon the mutual agreement of CLIENT and Orchard.
2. Installation and training will begin based on the Project Plan agreed upon by CLIENT and Orchard.
3. Installation and training expenses, including airfare, hotel, and per diem, are included in the System purchase price.
4. Orchard's technical staff will set up all computer hardware provided by Orchard, establish all physical connections, and set up all licensed software on-site at CLIENT's facility.
5. Installation and training will consist of:
  - 5a. Two (2) persons to attend Harvest LIS System Administrator Training (Training held in Carmel, Indiana).
  - 5b. One (1) person to attend Harvest LIS Microbiology Training (Training held in Carmel, Indiana).

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- 5c. Up to eight (8) weeks of professional services time, which consists of dedicated installation and training time that may be completed on-site at CLIENT or remotely to facilitate the setup and installation of the system as described in the configuration as outlined in Section I. Configuration.
6. It is understood that installation and training may not be on contiguous time frames.
7. All travel arrangements for the CLIENT's employee(s) to the off-site training included within this Agreement will be scheduled in advance of the class. Once travel arrangements are made, any charges relating to changes requested by the CLIENT will be the responsibility of the CLIENT. This includes all changes, transfers, cancellations, etc. to hotel, transportation, and airfare.
8. All travel arrangements for Orchard's employee(s) to the CLIENT facility for the installation and training included within this agreement will be scheduled in advance of the time on-site. Once travel arrangements are made, any charges relating to changes made at the CLIENT's request will be the responsibility of the CLIENT. This includes changes, transfers, cancellations, etc. to hotel, transportation, and airfare.
9. On-site Working Week: A week consists of 32 on-site hours and 8 hours of travel for a total of 40 hours; hours available for scheduling are during a standard business week, Monday through Friday, and exclude weekends and holidays. Weeks with multiple Orchard staff members on-site will be counted as multiple weeks, one per person.
10. CLIENT will assign two people to act as project coordinators for the entire project: One person for laboratory decisions and one for IT decisions.
11. One Harvest LIS System Administrator and three operators will be trained and certified. Training will occur at Orchard's corporate office and on-site at CLIENT
12. Training will be coordinated between Orchard and CLIENT in advance. Individual Orchard Systems Engineers will not be expected to work more than 12 hours during a 24-hour period.
13. Completion of System installation is defined as delivery of hardware and software, training, and Orchard's verification of the System, for the System configuration outlined in this Agreement.
- VI. **No Included Software Modifications or Customizations:** No modifications or customizations to the version of the System current as of the Effective Date are included as part of this Agreement. CLIENT will receive all general release software upgrades as part of the standard support agreement, for so long as CLIENT maintains a support agreement.

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VII. **Modifications or Customizations at the Direction of CLIENT:** To the extent that the parties contract for modifications or customizations (all of which are outside the scope of this Agreement, as set forth in Section VI), Orchard shall own all such modifications or customizations even if made at the direction of and/or with the input of CLIENT. The parties agree that any and all intellectual property rights in and to such modifications or customizations (including but not limited to any copyrights) are owned solely by Orchard, and CLIENT hereby agrees to assign, convey, and otherwise transfer to Orchard free of charge all of its right, title, and interest in and to such intellectual property rights, and agrees to execute any documentation necessary to carry out such assignment, conveyance and transfer. For avoidance of doubt, the parties acknowledge that such modifications or customizations (and the accompanying intellectual property rights) shall be included within the software licensed to CLIENT hereunder, and may be used by CLIENT on a non-exclusive basis pursuant to the grant herein.

VIII. **Service and Support:**

1. For three full years from the date of purchase of System, online telephone software service and support will be provided by Orchard as part of (i.e., included in) the purchase price, including modem diagnostics and all general release software upgrades to the System. Orchard agrees that support pricing, for the System configuration outlined in this Agreement, shall not increase by more than 3.0% per year for years four and five, and no more than 4.0% per year for years six through ten.

1a. Following year three and provided that CLIENT is current on payment of all amounts due to Orchard under this Agreement or any other agreement between the parties, the annual Silver software support agreement for the System configuration outlined in this Agreement will be \$24,317.00 and is subject to increase if the System is expanded and per the terms above.

1b. System Expansion includes additional licenses or users of any type, modules, additional host interfaces, and reference laboratory interfaces.

1c. CLIENT is responsible for installation and maintenance of an Internet connection or VPN to the System to accommodate remote technical support by Orchard.

IX. **Hardware Warranty:** All new hardware components provided by Orchard are warranted by the original manufacturer and may be repaired or replaced at the option of the manufacturer. CLIENT should contact Orchard first so that a determination may be made as to the required corrective action.

X. **Representations and Warranties:** Orchard hereby represents and warrants that the licensed Software will conform in all material respects to the functional specifications included in this Agreement and the technical Help Manual supplied with the System for a period of ninety (90) days after the completion of System installation. In the event of a breach of this representation and warranty, Orchard will take such actions as may be necessary to conform the licensed Software to the functional specifications at no additional charge to CLIENT. THE WARRANTY SET FORTH IN THIS SECTION X IS THE ONLY WARRANTY MADE BY ORCHARD RELATING TO THE LICENSED SOFTWARE. ORCHARD EXPRESSLY DISCLAIMS, AND CLIENT HEREBY EXPRESSLY WAIVES, ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. ORCHARD DOES NOT WARRANT THAT THE LICENSED SOFTWARE WILL MEET CLIENT'S REQUIREMENTS OR THAT THE OPERATION OF THE LICENSED SOFTWARE WILL BE UNINTERRUPTED OR

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ERROR-FREE, OR THAT ERRORS IN THE LICENSED SOFTWARE CAN OR WILL BE CORRECTED. ORCHARD'S LIMITED WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF ORCHARD FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE INSTALLATION, USE OR PERFORMANCE OF THE LICENSED SOFTWARE.

XI. **Access to Source Code:** In the unlikely event that continued support of the CLIENT's System by Orchard or its successor is not available during any active support period during the term of this Agreement (i.e., a declaration of bankruptcy, cessation of business by Orchard or breach of support agreement by Orchard) a complete copy of the most current version of the System source code, with internal documentation, will be provided to CLIENT (in confidence) for the sole purpose of maintaining the licensed use of the System at CLIENT's laboratory location at the time of the Effective Date and to provide laboratory information for the CLIENT's patients only. Except for such individual use by CLIENT at its business location(s) for the purposes of maintaining its laboratory information system, such code and documentation shall at all times be maintained in confidence. No disclosure of such information shall be made other than that required to carry out the foregoing except by the authority of Orchard. No rights to all or any part of the source code shall be transferred to CLIENT pursuant to this Agreement other than rights of use by CLIENT explicitly provided in this Section XI.

XII. **Confidentiality of Patient Information:** Orchard represents and warrants that the software and related equipment or products referenced in this Agreement will operate in a manner that enables CLIENT to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing privacy, security, breach notification and enforcement rules at 45 C.F.R. Parts 160 and 164 ("HIPAA Rules"), the applicable provisions of the Health Information and Technology for Economic and Clinical Health ACT of 2009 ("HITECH") and any future implementing regulations and guidance issued by the Department of Health and Human Services.

In the normal course of business (installation and product support), Orchard may occasionally require access to protected healthcare information. Orchard warrants that all employees, agents, and representatives will hold confidential any and all information regarding CLIENT's clinical practices, administrative procedures, patients, and providers. Orchard will keep a record of all access by employees, agents, and representatives to the System and will limit access only to those individuals who have a compelling need in order to complete a specific and defined activity.

All data, including all protected healthcare information, created or collected by CLIENT as a result of its routine use of the System remains the property of CLIENT and its designated agents and representatives.

XIII. **Options (Not Included in this Agreement):**

1. CLIENT may contract, as a separate agreement, with Orchard for additional software, hardware, and support at any time during the term of this Agreement.

1a. **LabCorp Bidirectional Reference Laboratory Interface:** Orchard Harvest LIS will send patient demographics, test orders, and billing information from Orchard Harvest LIS to Reference Laboratory and receive patient test results sent from Reference Laboratory to Orchard Harvest LIS. Interface to be scheduled for delivery upon receipt of a project agreement and purchase order from Reference Laboratory or CLIENT. Implementation of this interface will be outlined in the Project Plan for this Agreement.

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- XIV. **Indemnification:** Neither party shall be responsible or liable for any act, omission, negligence, misfeasance, malfeasance, debt, or default of the other party, its employees, officers, directors, agents, representatives, physicians, other health care professionals or para-professionals, or any third party. Orchard at its expense agrees to indemnify, defend, and hold harmless CLIENT from any claim, judgment, costs, expenses, and attorneys' fees ("Claim") to the extent that such Claim is based on a claim that the Orchard software, hardware, or instrument interfaces used by CLIENT infringe any patent, copyright, license, or other property right of a third party. If as a result of any such claims CLIENT is enjoined from using the Orchard software, hardware, or other products, Orchard at its expense shall either procure the right for CLIENT to continue to use such software, hardware, or other products or discontinue the licenses granted herein and refund the purchase price paid by CLIENT.
- XV. **Term and Termination:** This Agreement is effective as of the Effective Date and shall continue until terminated as set forth herein. Grounds for termination are as follows:
1. This Agreement may be terminated by mutual agreement of the parties, effective at the time designated by the parties.
  2. Either party may terminate this Agreement upon a material breach of this Agreement by the other party, if the terminating party provides written notice to the other party specifying with particularity the details of the other party's material breach of this Agreement the other party does not cure such material breach within thirty (30) days after receipt of the written notice from the terminating party.
- XVI. **Effect of Termination:** Upon termination of this Agreement by any party for whatever reason, CLIENT shall have no further right to access and use the System, and CLIENT shall uninstall the licensed Software from its servers and workstation hardware. [If this Agreement is terminated by CLIENT based upon a breach by Orchard, and such termination occurs before completion of System installation, then Orchard shall refund the applicable pro rata amount of costs and fees paid by CLIENT to Orchard. If termination by CLIENT based upon a breach by Orchard occurs after the completion of System installation, or if this Agreement is terminated for any other reason, then no costs or fees shall be refunded to CLIENT; *provided, however,* that if CLIENT terminates this Agreement based upon a breach by Orchard within the twelve (12) months immediately following completion of System installation, then Orchard will refund to CLIENT the applicable pro rata amount of prepaid fees for service and support only.]
- XVII. **Employee Recruiting:** During the term of this Agreement and for a period of six (6) months after termination for any reason, each party agrees that it shall not directly or indirectly, in any way, solicit, offer employment to or hire any person who is employed by the other party, unless (i) the employee was terminated by the other party prior to the solicitation, employment or hiring, or (ii) the employee is hired as a result of the activity of a third party recruiter or hired after responding to a general advertisement or general solicitation for employment not targeted at the other party's employees.
- XVIII. **Assignment:** CLIENT may not assign this Agreement or any of its rights or delegate any of its obligations hereunder to any third party without the prior written consent of Orchard, except that CLIENT may transfer all of its rights and obligations under this Agreement in conjunction with a merger, consolidation or sale of substantially all of its assets to which this Agreement pertains upon written notice to Orchard. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assignees.

Client



Orchard



- XIX. **Proprietary Information Systems Applications:** Orchard acknowledges that Orchard employees and/or contractors may have an opportunity to view or interact with software applications currently under development at CLIENT. Orchard agrees that the systems under development are proprietary and may not be copied or replicated in any manner.
- XX. **Severability:** If any provision of this Agreement shall be unlawful, void, or for any reason, unenforceable, it shall be deemed severable from, and shall in no way affect the validity or enforceability of, the remaining provisions of this Agreement, which shall remain valid and enforceable according to its term.
- XXI. **Shipping and Freight Cost:** All goods will be shipped FOB destination, prepaid by Orchard.
- XXII. **Notices:** All notices or other communications required hereunder shall be in writing and shall be delivered via traceable carrier. All notices or communications shall be deemed effective upon notice of delivery. Orchard's address for notices is 701 Congressional Blvd., Suite 360, Carmel, Indiana 46032.
- XXIII. **Investment and Payment Terms:** Payment terms are as follows: Automatic electronic monthly payments of \$6,979.91 of the purchase price will be due the 1st of each month following the signing of the agreement for thirty-six (36) months. A single invoice outlining all amounts and due dates will be issued upon signing of the agreement. Sales tax will be collected when applicable. Any payments which are not submitted by the due date will incur a late payment penalty of one percent (1%) per month interest on the balance of the amount past due.
- XXIV. **Governing Law and Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana, without regard to its conflict of law provisions. Each party agrees that any and all disputes, claims or litigation arising from or related in any way to this Agreement shall be resolved exclusively by the courts in the State of Indiana, and (ii) each party waives any objections against and agrees to submit to the personal jurisdiction of the state and federal courts in and for Hamilton County, Indiana, including any objections or defenses it may have based upon an inconvenient forum.
- XXV. **Time Essence:** Time is of the essence in the payment and performance of this Agreement.

This Agreement contains all of the agreements and understandings between the parties with respect to the subject matter hereof. No agreement or other understanding in any way modifying the terms hereof will be binding unless made in writing as a modification or amendment to this Agreement and executed by both parties.

By signing below, each representative represents that they have been authorized by their respective company to enter into this contractual Agreement.

Signature Samantha Bell  
Printed Name Samantha Bell  
Title CFO  
Fayette Regional Health System  
Date 10/27/17

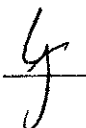
Signature [Signature]  
Printed Name Curt Johnson  
Title COO  
Orchard Software Corporation  
Date 11/1/17



## Attachment A Hardware Components:

1. CLIENT will provide the servers and workstation hardware at its own cost and expense. Minimum specifications are outlined below.
  - 1a. **Instrument, Faxing, and HL7 Workstation Configurations: Provided by CLIENT**
    - Operating System (OS) = Windows 7 or 10 Pro SP1, 64-bit
    - Processor Core Allocation= (2) 2.0 GHz
    - Random Access Memory (RAM)= 4 Gigabytes Statically Allocated
    - Storage= 80 Gigabytes
  - 1b. **Application Server Configuration: Provided by CLIENT**
    - Operating System (OS) = Windows 2012 R2 SP1, 64-bit or Later
    - Processor Core Allocation= Minimum 4. highest core speed possible
    - Random Access Memory (RAM)= 64 Gigabytes Statically Allocated
    - Drive letter C (OS Store) = 80 Gigabyte minimum
    - Drive letter H (Database local Storage) = 200 Gigabytes
    - Database Storage Performance= SSD preferred
    - Raid level 1 or 1+0 Required
2. **Ancillary Hardware: Provided By CLIENT.**
  - 2a. High Speed Laser Printer
  - 2b. One Laser Printer
3. **Ancillary Hardware: Provided By Orchard.**
  - 3a. All serial port expansion cards, hubs, and connectors necessary to establish the Orchard Harvest Network and all interfaces listed in this Agreement.
  - 3b. Eleven (11) Zebra ZD410D Label Printer.
  - 3c. One (1) Zebra AD420C Label Printer.
  - 3d. One (1) Symbol Bar Code Scanners with associated cables and software.
  - 3e. Modem to accommodate single line faxing; modem will be connected to one of the Orchard Harvest workstations.
4. CLIENT will provide all necessary cabling, phone lines, dedicated fax line(s), and support services required to interface the System to CLIENT's existing LAN and/or WAN.
5. NOTE: If any workstations on the System network require communications via a Wide Area Network, then CLIENT will be responsible for providing and maintaining a secure physical link of at least 512kbps (preferably T1), such as access to a network infrastructure or dedicated data line and all necessary terminating hardware between the remote workstations and the primary system network.
6. CLIENT assumes all responsibility to provide network connectivity for all computers that are to connect to the System. This applies to computers located both on Local and Wide Area Networks. CLIENT is also responsible for SSL certificates and VPN deployments for those computers and users connecting to the System from a Wide Area Network connection.
7. If CLIENT desires to deploy the System in either a Virtual Machine environment or Virtual Desktop Infrastructure, then Orchard can provide recommendations for the requirements of the System within these deployment options. Orchard is not responsible for the selection, installation, or support of either the Virtual environment or the VDI systems.

Client \_\_\_\_\_

Orchard 

# OrchardSoftware



*Harvest the Power*

## Orchard Harvest Laboratory Information System

### Executive Summary

Prepared for Fayette Regional Health System

Pricing valid through October 30, 2017

Orchard Software Corporation is providing this Executive Summary to Fayette Regional Health System (CLIENT) for the purchase of an Orchard® Harvest™ Laboratory Information System. This Executive Summary is based upon the discussions between both parties to date and may need to be updated as additional information becomes available.

Orchard is proposing our award winning Harvest LIS, which is Windows-based and utilizes process automation; robust instrument, EMR, and reference lab interfaces; and rules-based technology to improve efficiency, reduce errors, and increase reimbursements. Some of the highlighted features of Harvest LIS are:

- Business Logic/Rule-Based Decision Support Technology – Aids in decision making for order entry, splitting orders, auto-approval of patient results, reflexing additional testing, automatic comments, clinical follow-up recommendations, and result delivery.
- Interfaces – Orchard has already been interfaced to an estimated 700 different instruments, and nearly 100 different reference laboratories.
- Patient Reports – Customizable formats can present historical results in a graphical format, and you can easily format cumulative reports to satisfy the requests of individual providers.
- Result Delivery – Customizable reporting options to enhance your lab's value to providers and patients. Upon approval in the lab, reports may be automatically printed, faxed, and emailed, and/or sent to XYZ EMR to meet individual provider's desires.
- Administrative Reports – Streamlined administrative queries are a quick and easy source for information, giving you the data you need to monitor and increase productivity and quality in your lab. For increased control of lab data, Orchard offers browsers, which are data mining tools that make it very easy to create ad hoc reports and to schedule them to run automatically, without the need for complex programming or the help of the IT department.
- Quality Control – Configurable Westgard rules and extensive support for qualitative and quantitative QC make QC management quick and easy, and QC approval rules prevent patient results from being reported before QC results are approved.
- System Security – In today's HIPAA-conscious environment, security is an important concern for labs, and the robust security features assist your system administrator in managing security in a variety of ways.

# OrchardSoftware



*Harvest the Power*

Orchard Harvest Laboratory Information System

Executive Summary

Prepared for Fayette Regional Health System

Pricing valid through October 30, 2017

## **SOFTWARE: PROVIDED BY ORCHARD SOFTWARE**

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### **Orchard System Application Licensing**

- Includes (1) Orchard Harvest Laboratory Information System Application License.
- License for backup and remote access utilities.
- License for Orchard Harvest test environment.

**Fifteen (15) Orchard Harvest Laboratory User Licenses**

**Orchard Harvest Microbiology Module**

## **INTERFACES: PROVIDED BY ORCHARD SOFTWARE**

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### **Instrument Interfaces**

- Included as part of the System Installation
- Laboratory instruments at Fayette Regional Health System, at the time of System installation, will be interfaced to their capabilities (unidirectional, bi-directional, host query, or not at all) as part of the initial implementation. Does not include Automation line integration.
  - Approximately 12 instruments; a detailed list of instrumentation to be interfaced will be included within the purchase agreement.

### **athenahealth® EHR Interface**

- Orchard will receive patient demographics and orders sent from athenahealth.
- Orchard will send billing events and results to athenahealth.

### **Blood Bank System Interface**

- Multidirectional interface with blood bank system

# OrchardSoftware



*Harvest the Power*

## Orchard Harvest Laboratory Information System Executive Summary

Prepared for Fayette Regional Health System  
Pricing valid through October 30, 2017

### State Health Department Interface

- Orchard will send results to the state registry in HL7 ELR 2.5.1 format.

## **HARDWARE: PROVIDED BY CLIENT**

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- Orchard will provide the minimum hardware requirements as part of a separate document under Attachment A. Client to provide servers and workstations.
- Remote label printers as needed.

## **HARDWARE: PROVIDED BY ORCHARD**

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### Printers and Scanners

- One (1) Symbol Bar Code Scanner
- Eleven (11) Zebra ZD410D Plus Label Printers
- One (1) Zebra ZD420C Micro Label Printer

## **SUPPORT: PROVIDED BY ORCHARD**

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### Orchard Service & Support

- Three years of Silver service and support, with the first provided at no additional cost
- All general release software upgrades
- Phone support 24 hours a day, 7 days a week, and 365 days a year.
- Access to Orchard's online resource center.
- Access to web training sessions.
- Silver service and support following the initial three years is based on an annual rate of \$24,317.00 and may be adjusted per the terms of the contract.

# OrchardSoftware



*Harvest the Power*

## Orchard Harvest Laboratory Information System Executive Summary

Prepared for Fayette Regional Health System  
Pricing valid through October 30, 2017

### INSTALLATION & TRAINING: PROVIDED BY ORCHARD SOFTWARE

#### Orchard Harvest System Administrator Training

- One (1) week for two (2) CLIENT employees at Orchard Software in Carmel, Indiana, for Harvest System Administrator Training.
- Cost includes airfare, lodging, and meal expenses associated with training.

#### Orchard Harvest Microbiology Training

- One (1) week for one (1) CLIENT employee at Orchard Software in Carmel, Indiana, for Orchard Microbiology Training.
- Cost includes airfare, lodging, and meal expenses associated with training.

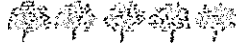
#### Professional Services

- Up to eight (8) weeks of professional services time, which consists of dedicated installation and training time that may be completed on-site at CLIENT or remotely to facilitate the setup and installation of the system.
- Costs include all travel, lodging, and meal expenses associated with on-site time.

#### Web Training Courses

- In advance of the on-site installation and training, client may complete web training sessions. The following six web courses are offered at no additional charge:  
Introduction to Orchard Harvest LIS; Using Order Patient Samples; Using Review Results; Using Release Stored Orders; Using Find a Patient; Using Quality Control

# OrchardSoftware



Harvest the Power

Orchard Harvest Laboratory Information System  
Executive Summary

Prepared for Fayette Regional Health System  
Pricing valid through October 30, 2017

## PROPOSED INVESTMENT & TERMS

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FINAL INVESTMENT *(Does not include any applicable taxes.)	<u>\$6,979.91* monthly</u>
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### ORCHARD PAYMENT TERMS

Orchard will spread the total investment out evenly over monthly payments for three years, details per the terms of the purchase agreement.

*NOTE: This document is not a contract; all finalized pricing, deliverables, and terms will be included in the purchase agreement. The purchase agreement will require signatures by both parties in order to be effective. If there is any discrepancy between this summary document and the final agreement, the final signed contract will supersede this Executive Summary.*

Attachment 3 - F078 FayetteRegionalHealth\_F078\_Epicenter\_PO\_071218.pdf

Description -





## OrchardSoftware



Date: July 10, 2018  
 From: Will Renn  
 To: Fayette Regional Health System **Harvest the Power**  
 Account Number: F078

### Subject: Quote for Analyzer Interface

*This document will serve as the quote for the item listed below:*

One (1) Bactec FX /Epicenter Interface: \$2,600.00

- A site visit is required to install the interface.
- Includes the necessary hardware (cables & connectors) and software
- On-site Working Week: A week consists of 32 on-site hours and 8 hours of travel for a total of 40 hours. Weeks with multiple Orchard staff members on-site will be counted as multiple weeks, one per person.
- Orchard personnel's main focus during this week on-site will be to install, test and validate the Bactec FX/Epicenter interface. If any time is remaining, the Orchard personnel will provide additional Harvest assistance.
- All hardware (workstations and server) must be in place and connected to the network.
- All instruments must be in place and operational prior to the Orchard Representative coming on site and is the sole responsibility of the client.
- Some analyzer interfaces require Harvest version 8.5 or later, and may require a software upgrade for proper installation
- Includes travel, transportation, lodging and meals.
- **Please allow eight (8) to ten (10) weeks for the scheduling of the site visit from the time Orchard receives this quote signed with a purchase order number.**

#### Payment Terms

Scheduling of the site visit for the delivery of the interface will be done upon receipt of payment or a signed purchase order along with a signed copy of this quote. Upon completion of the onsite time, an invoice will be sent with terms of net 30 days. Any delay in the testing or go live of the interface on the part of the other vendor or client will not cause delay in payment to Orchard for the project. Payment should be sent to the attention of Orchard Accounts Receivable at the following address: Orchard Software Corporation 701 Congressional Blvd., Suite 360 Carmel, IN 46032

**To expedite this process you may fax a signed copy of this document and the purchase order number to the attention of Will Renn at 1-317-573-2528 or via email at [ordets@orchardsoft.com](mailto:ordets@orchardsoft.com).**

_____	_____	_____	
Orchard Representative	Title	Date	
<u>Paul J Hummel</u>	<u>Team Leader - Lab</u>	<u>7-11-18</u>	
Client Representative	Title	Date	Purchase Order Number*

\*To be issued by the company responsible for payment

**PRICING VAILD UNTIL September 15, 2018**

Attachment 4 - F078 FAYETTE REG. HEALTH - REMAINING DUE ON PURCHASE  
AGREEMENT.pdf Description -

Orchard Software Corporation  
 701 Congressional Blvd., Ste  
 360  
 Carmel, IN 46032  
 (800) 856-1948



Order Number: 0013137  
 Order Date: 10/31/2017

Salesperson: Will Renn  
 Customer Number: F078  
 Confirm To:

Sold To:  
 Fayette Regional Health System  
 Attn: Accounts Payable  
 1941 Virginia Ave.  
 Connersville, IN 47331-2833

Ship To:  
 Fayette Regional Health System  
 Attn: Hospital  
 1941 Virginia Ave.  
 Connersville, IN 47331-2833

Customer P.O.	Ship VIA	F.O.B.	Terms			
Per Contract			Monthly payments			
Item Number	Unit	Ordered	Shipped	Back Order	Price	Amount
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due August 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due September 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due October 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due November 1, 2020)						

*+ 111,678.56 OPA / LIS CONTRACT - REMAINING OF*  
*9,600.00 1<sup>st</sup> CLAIM*  


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*+ 121,278.56 TOTAL CLAIM*  


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Net Order: 111,678.56

Sales Tax: 0.00

**Order Total: 111,678.56**

**Orchard Software Corporation**  
**701 Congressional Blvd., Ste**  
**360**  
**Carmel, IN 46032**  
**(800) 856-1948**



Order Number: 0013137  
 Order Date: 10/31/2017

Salesperson: Will Renn  
 Customer Number: F078  
 Confirm To:

**Sold To:**  
 Fayette Regional Health System  
 Attn: Accounts Payable  
 1941 Virginia Ave.  
 Connersville, IN 47331-2833

**Ship To:**  
 Fayette Regional Health System  
 Attn: Hospital  
 1941 Virginia Ave.  
 Connersville, IN 47331-2833

Customer P.O.	Ship VIA	F.O.B.	Terms			
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Item Number	Unit	Ordered	Shipped	Back Order	Price	Amount
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New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due October 1, 2019)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due November 1, 2019)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due December 1, 2019)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due January 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due February 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due March 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due April 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due May 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due June 1, 2020)						
New System Subscription	EACH	1.00	0.00	1.00	6,979.91	6,979.91
Harvest LIS (Due July 1, 2020)						

Continued

*deleted 8/5/19*  
*CL*