

MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**Agreement**”) is by and between Company and its affiliates and Client and is effective the earlier of i) the date of last signature on the Order or ii) execution of the Agreement (the “**Effective Date**”).

WHEREAS, Company performs certain services for its clients including Software-as-a-Service, professional services, training and other services;

WHEREAS, Client desires to receive certain services including but not limited to the Software-as-a-Service offerings described herein, and Company desires to provide Client such offerings, subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SERVICES. Subject to the terms and conditions of this Agreement and pursuant to a signed Order or SOW (defined herein) between the parties, Company shall perform certain Services for Client during the Term (as defined below). Services means any software-as-a-service offering, professional services, consulting, training, installation, or implementation services to be provided by Company (collectively, the “**SaaS Solution**”) solely related to the conduct of Client’s own internal business operations and in accordance with the terms of this Agreement. Company reserves the right, in its sole discretion, to modify, update, enhance, discontinue, add, adapt, or otherwise change (collectively “**modify**”, with any instance of one of the foregoing actions constituting a “**modification**”) any design or specification of any Services or Company’s policies, procedures, and requirements specified in or related to this Agreement (including its Documentation (as defined below) and any applicable maintenance and support guidelines). Company affiliates may fulfill orders pursuant to a signed Order between the parties which references this Agreement in which case the Company affiliate is bound by all of the terms and conditions of this Agreement as if it were Company.

SUPPORT. Company will provide Support as set forth in current Documentation (defined as the materials, excluding marketing materials, provided by Company in hard copy or electronic form describing the use and operation of the Services, including any manuals and programming tools, all as may be updated from time to time in Company’s sole discretion). Company will provide notice that a modification has been made to Company’s maintenance and support guidelines via email to Client, which notice shall direct Client to view Company’s website to review the specific modification made. Client shall be solely responsible for purchasing, maintaining and securing its Supported Environment (the minimum hardware, software, and connectivity configuration specified by Company that are used in conjunction with the Services).

RESTRICTIONS. Client may not: (i) market, sublicense, subcontract, resell, redistribute, reperform, or otherwise provide or allow any party other than Client and its Users (employees of Client authorized to utilize the Services) to have access to or use of the Services; (ii) make copies, modifications, or derivative works of, reverse engineer, disassemble, decompile, adapt or attempt to gain access to the source code of the Services, in whole or in part; or (iii) permit any third parties to access or use Services other than as authorized by Company in writing, and further acknowledges that unauthorized access by third parties may result in a security risk. All rights not expressly granted to Client are reserved to Company. Company reserves the right to suspend or terminate Services upon any violation of this section.

CLIENT OBLIGATIONS. Client shall at all times during the Term: (i) ensure compliance with any and all laws applicable to Client’s business; (ii) take appropriate measures to maintain adequate security of all passwords; (iii) set up, maintain, and operate in good repair all Client systems on or through which the Services are accessed or used; (iv) provide Company personnel with such access to Client’s premises and systems as is necessary to perform the Services; and (v) provide all cooperation and assistance as Company may reasonably request in a timely manner to enable Company to perform its obligations under and in connection with this Agreement. Any clinical information contained within the Services is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill and judgment of physicians, pharmacists, or other healthcare professionals in patient care. Client acknowledges that the professional duty to the patient in providing healthcare services lies solely with the healthcare professional providing patient care services. Client takes full responsibility for the use of information delivered in the Services in patient care and acknowledges that the use of the Services is in no way intended to replace or substitute for professional judgment of a medical professional.

PAYMENT, PAYMENT TERMS. Client shall pay to Company the fees set forth in the Order (the “**Fees**”) within thirty (30) days of the invoice date, except as otherwise stated in the Order executed by both parties. Client shall reimburse Company for travel and expenses. All amounts specified herein are net amounts to be paid and are exclusive of all duties, sales, use, or value-added taxes, customs duties, tariffs, or other similar taxes, assessments, or excises, however designated or levied, (except for taxes on Company’s net income), which shall be Client’s responsibility. All fees shall be non-refundable. Any amounts not paid when due shall bear interest at a rate of one and one-half percent (1.5%) per month, or the maximum legal rate, if less. If Client, in good faith, disputes any amount set forth on an invoice, Client shall provide written notice specifying the grounds for dispute to Company within thirty (30) days of the date of such invoice, and shall pay any undisputed portion of such invoice when due. Client’s failure to provide such notice shall constitute Client’s approval of such invoice. Company may restrict or withhold performance and discontinue maintenance, Support, Services, and/or access to any system until all amounts due to Company, or its affiliates are paid in full. Client shall reimburse Company for all costs of collection, including reasonable attorney’s fees.

TERM, TERMINATION.

- (a) **Term.** This Agreement commences on the Effective Date and shall continue until the termination of the last surviving Order, unless terminated in accordance with this Section.
- (b) **Initial Term.** The Initial Term starts on the Billing Start Date and goes for the Initial Term (# of months) indicated on the Order.
- (c) **Renewal.** Following completion of the Initial Term, this Agreement shall be automatically renewed for consecutive one (1) year terms (each a "Renewal Term", and together with the Initial Term, the "Term"), unless either party provides written notice to the other party, at least ninety (90) days prior to the end of the then-current Term that it has elected not to renew to this Agreement.
- (d) **Termination.** This Agreement may be terminated by either party as follows: (i) for material breach of this Agreement that remains uncured more than thirty (30) days after receipt of written notice of such breach; (ii) if either party makes an assignment of all or substantially all of its assets for the benefit of its creditors; or (iii) if either party files a voluntary petition for relief under 11 U.S.C. 101, et. seq. (the "**Bankruptcy Code**") or has an involuntary petition for relief under the Bankruptcy Code filed against it and an order for relief is entered in such case. Notwithstanding the foregoing, this Agreement may be terminated by Company if Client is a party to any other agreement with Company, or its affiliates, and fails to make payment to the respective party. Client agrees that Company nor its affiliates shall not be liable to Client or any third party for damages suffered by Client as a result of termination of this Agreement.
- (e) **Effect of Termination.** Upon termination of this Agreement for any reason: (a) all rights and obligations of each party shall immediately terminate; and (b) within thirty (30) days of the termination of this Agreement, Client shall return, or at Company's option and request destroy, all originals, copies, and summaries of Company Proprietary Information and related materials. In the event of termination additional services may be requested by Client and, if agreed to by Company, will be billed at Company's then-prevailing rates.

INTELLECTUAL PROPERTY.

- (a) **IP Ownership.** "**Company IP**" means, collectively and regardless of form: all intellectual property rights in and to the Services or any derivative thereof, and all other services and materials used by Company or its authorized representatives, including but not limited to, all manuals, reports, records, programs, and other materials delivered to Client or developed by Company in its performance hereunder; and all information and materials related to all of the foregoing and to Company's business, including all copyrights, trademarks, service marks, logos, patents, patent applications, Proprietary Information, and other intellectual property rights pertaining thereto. Client shall retain all ownership, right, title, and interest to all data they input into the SaaS Solution.
- (b) Client acknowledges that Company owns or has the right to license use of the Company IP in accordance with the terms hereof, and all right, title, and interest in and to the Company IP are and shall remain vested in Company or its third-party licensors. Client does not claim and shall not assert any right, title, or interest, or other ownership or proprietary rights, in or to any Company IP. In the event that any rights in and to the Company IP do not vest in Company by operation of law or otherwise, then Client assigns to Company all its right, title and interest in and to the Company IP. Client shall cooperate with Company in the protection of Company's worldwide proprietary rights and interests in the Company IP. Client shall take no action that jeopardizes Company's rights in the Company IP, and shall keep the Company IP free and clear of all claims, liens, and encumbrances of Client or its customers.

CONFIDENTIALITY.

- (a) **Definitions.** "**Confidential Information**" is, collectively and without regard to form, any information (including third-party information) which is not public and either party treats as confidential, information which is provided by one party to the other which is marked confidential, trade secret or other similar marking, all software (object or source code), information regulated by state or federal law concerning disclosure or use, and Trade Secrets. "**Trade Secrets**" are information which is defined as a trade secret under applicable law. For the purposes hereof with respect to Company. Confidential Information includes the Services and the terms of this Agreement. Each party agrees that it shall: (i) maintain the other's Confidential Information in the strictest confidence, including compliance with applicable law and reasonable remote access security requirements; (ii) not disclose, display, publish, transmit, or otherwise make available such Confidential Information or the benefit thereof, in whole or in part, except in confidence to its own employees on a need-to-know basis; and (iii) except as expressly permitted hereunder, not copy, duplicate, replicate, transform, or reproduce such Confidential Information. Upon termination of this Agreement, Client agrees to return or destroy any Confidential Information covered by the Agreement or any Statement of Work that is in Client's possession. The restrictions set forth herein shall apply during the Agreement Term, and shall remain in full force and effect after any termination hereof: (i) for Trade Secrets, as long as such information qualifies as a Trade Secret under applicable law; (ii) for all other Confidential Information, during a period of five (5) years after termination hereof; and (iii) for all other Company IP, during such period as permitted or required by applicable law.

Exceptions. Anything in this section notwithstanding, neither party shall be liable to the other for damages resulting from disclosure of any Confidential Information of the other: (i) which is lawfully received by a recipient prior to its disclosure hereunder and is not subject to a non-disclosure agreement known to the recipient; or (ii) which becomes part of the public domain through no act or failure to act by the recipient. In addition, if any law, regulation, or decree of any court or governmental unit requires disclosure of all or part of either party's Confidential Information, the disclosing party shall have no liability to the other party for such disclosure provided it gives the other party prompt notice of such disclosure requirement and allows the other party the opportunity to defend against such disclosure, as permitted by law.

LIMITED WARRANTY.

- (a) The SaaS Solution will operate substantially in accordance with the Documentation for a period of thirty (30) days after the Services are accessible by Client. Client's sole remedy for a breach of this Limited Warranty shall be to have Company re-perform the services or to repair, correct, or replace (at Company's sole discretion and expense) the Services, or any portion thereof, with a conforming version. This Limited Warranty shall not apply to problems that result from (i) factors outside of Company's reasonable control; (ii) any fault, negligence, or failure by Client or Users to comply with this Agreement or use the Services in accordance with applicable law and regulations or other instructions of Company, or any other causes external to the Services or Company; (iii) any actions or inactions by third parties; (iv) non-Company hardware, software, or equipment of Client or third parties, or errors in entering data; (v) the failure to obtain scheduled maintenance; or any failure of Client to use the most current release of the Services.
- (b) Company warrants that the Services related to professional services will be performed by qualified and appropriately trained personnel in a workmanlike manner.

DISCLAIMER OF WARRANTIES. THE LIMITED WARRANTY SET FORTH IN THIS SECTION IS MADE FOR THE BENEFIT OF THE CLIENT ONLY. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS", AND COMPANY MAKES NO, AND HEREBY DISCLAIMS ALL, OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE USE, MISUSE, OR INABILITY TO USE THE SERVICES (IN WHOLE OR IN PART) OR ANY OTHER PRODUCTS OR SERVICES PROVIDED OR TO BE PROVIDED BY COMPANY, OR OTHERWISE ARISING UNDER THIS AGREEMENT. COMPANY DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE. COMPANY DOES NOT PROVIDE ANY WARRANTIES REGARDING THE ACCURACY OF DATA OR INFORMATION PROVIDED BY THIRD PARTIES.

INDEMNIFICATION. Company will indemnify, defend and hold harmless Client from and against any and all losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) incurred by Client or such other person in connection with any claim or action by any third parties alleging that the Services infringe any United States patent, copyright or trade secret. Company's obligation related to indemnification is expressly conditioned upon the following: (i) Company shall be notified in writing by Client within five (5) days of any such claim or suit; (ii) Company shall have sole control of the defense or settlement of any such claim or suit; (iii) Client shall cooperate with Company in a reasonable way to facilitate the settlement or defense of any such claim or suit; and (iv) such claim or suit does not arise from any non-Company modifications or from combinations of Services with non-Company programming, hardware, software, or equipment not authorized in writing by Company. If any portion of the Services becomes, or in Company's opinion is likely to become, the subject of a claim of infringement, Company will, at its option: (i) procure for Client the right to continue using the Services; (ii) replace the Services with non-infringing services or software which do not materially impair the functionality of the Services; (iii) modify the Services so they become non-infringing and perform in a manner substantially similar to the original Services; or (iv) refund the unearned fees Client paid Company for such Services in accordance with the provisions of the Payment, Payment Terms Section, and Client will cease any infringing use of the Services. THIS SECTION STATES THE SOLE AND EXCLUSIVE REMEDY OF CLIENT AND THE ENTIRE LIABILITY OF COMPANY, ANY PARENT, SUBSIDIARY, AFFILIATE, OR LICENSOR, OR ANY OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, CONTRACTORS OR REPRESENTATIVES, FOR IP INFRINGEMENT.

LIMITATION OF LIABILITY. COMPANY'S MAXIMUM LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT SHALL BE LIMITED IN THE AGGREGATE TO THE TOTAL FEES PAYABLE BY CLIENT TO COMPANY HEREUNDER WITH RESPECT TO THE SERVICES PROVIDED DURING THE SIX (6) MONTHS PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL COMPANY, ANY PARENT, SUBSIDIARY, AFFILIATE, OR LICENSOR, OR ANY OF THEIR OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES, AGENTS, CONTRACTORS, SHAREHOLDERS, MEMBERS, OR REPRESENTATIVES, BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, USE OR GOODWILL REGARDING THIS AGREEMENT OR RESULTING FROM OR IN CONNECTION WITH COMPANY'S DEFAULTS HEREUNDER OR THE USE, MISUSE, OR INABILITY TO USE THE SERVICES OR OTHER PRODUCTS OR SERVICES HEREUNDER. THE PRECEDING LIMITATIONS APPLY REGARDLESS OF THE CAUSE OF ACTION OR THE THEORY OF LIABILITY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, EVEN IF COMPANY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. IN NO EVENT SHALL COMPANY BE LIABLE FOR PROCUREMENT COSTS OF SUBSTITUTE PRODUCTS OR SERVICES. THE PARTIES AGREE THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL SURVIVE AND CONTINUE IN FULL FORCE AND EFFECT DESPITE ANY FAILURE OF CONSIDERATION OR OF AN EXCLUSIVE REMEDY. IF APPLICABLE LAW LIMITS THE APPLICATION OF THIS SECTION, CLIENT'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMISSIBLE.

MISCELLANEOUS.

- (a) **Governing Law; Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Georgia, without regard to its rules governing conflicts of laws. The parties consent to the exclusive jurisdiction of the Superior Court of Fulton County, Georgia or the United States District Court for the Northern District of Georgia, subject to any applicable jurisdiction rules. Neither party may assert or raise a cause of action, claim, defense or counterclaim against the other party arising under this Agreement, more than two (2) years from the date that it accrued.
- (b) **Compliance with Laws.**
 - i. Client shall comply with all laws and regulations relevant to its business and obtain at its expense all necessary licenses, permits, and regulatory approvals required by any and all governmental authorities as may from time to time be required in connection with its activities related to this Agreement, including the import or export of technical data or other items, under laws of the United States and any other country affecting or regulating such import or export.

- ii. Company and Client agree to comply with the Business Associate requirements under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended from time to time, in accordance with the BAA which is attached hereto as Exhibit A.
 - iii. Each party represents that it and its employees that perform services in connection with the business relationship between the parties is not presently debarred, suspended, ineligible, or excluded from participation in any state or federal health care programs. Each party will periodically check itself and its employees for listing within applicable federal and state databases and will notify the other party if it discovers that it or any of its employees has become so debarred, suspended, ineligible, or excluded (such a person, an “**Excluded Person**” or such an entity, an “**Excluded Entity**”). Neither party shall allow an Excluded Person to provide services to the other party. If a party becomes an Excluded Entity, the other party may terminate its relationship with the Excluded Entity.
- (c) **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, except this Agreement may be assigned without consent pursuant to a change of control (an acquisition of all or substantially all of either party’s assets or business) upon written notice to the other party; provided, however, such surviving party agrees that this Agreement binds the parties, as well as their successors, legal representatives, and permitted assigns.
- (d) **Authority to Sign.** The parties hereto represent and warrant that the Order and/or this Agreement has been signed by the parties’ or its affiliates’ duly authorized representatives as of the Effective Date, and each represents and warrants to the other that it and its affiliates are authorized and legally free to enter into this Agreement.
- (e) **Affiliates.** Company affiliates may fulfill orders pursuant to a signed Order between the parties which references this Agreement in which case the Company affiliate is bound by all of the terms and conditions of this Agreement as if it were Company. Client agrees that: (a) any claim that Client may have under the Order will be only against the Company entity that entered into the Order with Client, and (b) other Company affiliates shall not have any liability related to such Order. Client will indemnify and hold Company harmless for any and all costs associated with Client’s violation of this provision.
- (f) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to constitute one and the same instrument. The parties hereby agree that signatures transmitted and received via facsimile or other electronic means shall be treated as original signatures for all purposes of this Agreement.
- (g) **Force Majeure.** Except for obligations of payment, neither party shall be liable for any delay or failure in performing hereunder if such failure arises, directly or indirectly, out of causes beyond the reasonable control of such party, including acts of God, fire, flood, strikes, war, lightning, power surges or failures, terrorism, or acts or omissions of communications carriers. Performance shall be deferred until such cause of delay is removed, provided that the delayed party shall promptly notify the other party of such occurrence in writing.
- (h) **Notices.** All notices required hereunder shall be made in writing and shall be deemed to be effectively given if made as follows: (i) if hand-delivered, when received; or (ii) if mailed for overnight or second-day delivery, when delivered by the overnight carrier, as demonstrated by receipt confirmation provided by such carrier. Each party may change its notices address by giving written notice in the manner set forth herein.
- (i) **Permission for Data Aggregation.** Client agrees that Company and its affiliates may utilize data that comes into the possession of Company under this Agreement for the purpose of aggregating statistics that may be helpful for Client’s benefit, improving the Services and solutions, for research and trend analysis, and for other lawful purposes, as determined by Company. Company shall only aggregate data in a manner that is compliant with HIPAA and applicable legislation regarding private personal information. The data utilized or shared pursuant to this provision that is not directly connected to the provision of Services under this Agreement shall not contain any Protected Health Information, as such term is defined by HIPAA.
- (j) **Independent Contractors.** Company and Client are independent contractors under this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, franchisor-franchisee or agency relationship, or to authorize any party to enter into any commitment or agreement binding on the other party except as expressly stated herein. The parties have no authority to make statements, warranties, or representations, or to create any liabilities on behalf of the other.
- (k) **Non-Solicitation of Employees.** Client agrees that it will not, during the Term and for a period of one (1) year after, solicit for employment, attempt to employ or affirmatively assist any other person or entity in employing or soliciting for employment any person employed or hired as an employee who was introduced to the parties during the performance of this Agreement. For the purposes of this provision, employment shall be deemed to include consulting or contract work as an independent contractor. Notwithstanding the foregoing, a general advertisement to which an employee responds shall not be deemed a breach of this Section.
- (l) **Severability; Waiver.** If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision(s) will, rather than be stricken in their entirety, be deemed superseded by a valid, enforceable provision, to the extent possible, that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect. Any failure or delay by either party hereto to detect, protest, or remedy any breach of this Agreement, or to exercise any right or remedy shall not constitute a waiver or impairment of any such term or condition, or be deemed a waiver of any further, prior, or future right or remedy hereunder. A waiver may only occur pursuant to the prior written express permission of an authorized officer of the other party.
- (m) **Survival.** All provisions of this Agreement that by their nature are intended to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

- (n) **Entire Agreement.** The Order, this Agreement, the Exhibits annexed hereto, any mutually-executed Statements of Work that refer to this Agreement, and any other agreements for additional services that refer to this Agreement, together constitute the entire agreement and understanding of the parties, whether oral or written, relating to the subject matter hereof; are intended as the parties' final expression and complete and exclusive statement of the terms hereof, superseding all prior or contemporaneous agreements, representations, promises and understandings, whether written or oral; and may be amended or modified only by an instrument in writing signed by both parties. Until executed by Company, this Agreement constitutes an offer by Client. In case of any conflict between this Agreement and any Exhibit, Statement of Work, or other amendment hereto, the provisions of this Agreement shall control.
- (o) **Additional Terms and Conditions.** Any modules and/or packages purchased by Client shall include the additional terms and conditions at the following links: www.brightree.com/contracts or www.matrixcare.com/contracts. Such additional terms and conditions are incorporated into and form a part of this Agreement. Company may update the additional terms and conditions by posting an updated version to the online terms links and upon its posting, Client shall be responsible for compliance with such updated additional terms and conditions.

EXHIBIT A
HIPAA Business Associate Addendum

This HIPAA Business Associate Addendum (“**Addendum**”) supplements and is made a part of the Master Services Agreement (“**Agreement**”) by and between Client and Company, and is effective as of the Effective Date of the Agreement.

RECITALS

Client wishes to disclose certain information, some of which may constitute Protected Health Information (as defined below), to Company pursuant to the terms of the Agreement.

Client and Company intend to protect the privacy and provide for the security of PHI disclosed to Company pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“**HIPAA**”), as amended by the Health Information Technology for Economic and Clinical Health (“**HITECH**”) Act, Public Law 111-005, and their respective implementing regulations, including the Privacy Rule, the Security Rule, the Breach Notification Standards adopted by the U.S. Department of Health and Human Services, as they may be amended from time to time, at 45 C.F.R. part 164, subpart D, as well as related state laws and/or regulations (the preceding collectively referred to as the “**HIPAA Regulations**”), all as may be amended from time to time.

The HIPAA Regulations require Client to enter into an agreement with Company containing specific requirements with respect to the disclosure of PHI and Electronic PHI, as set forth in, but not limited to, Title 45, Sections 164.308(b)(1), 164.310, 164.312, 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations (“**CFR**”), and as contained in this Addendum.

In consideration of the mutual promises below and the exchange of information pursuant to the Agreement, the parties agree as follows:

1. Definitions.

Unless otherwise provided, all capitalized terms in the Agreement will have the same meaning as provided under the HIPAA Regulations.

- a. “**Breach**” shall have the meaning given to such term under the Security Rule, 45 CFR Section 164.402.
- b. “**Business Associate**” shall have the meaning given to such term under the Privacy Rule, 45 CFR Section 160.103.
- c. “**Covered Entity**” shall have the meaning given to such term under the Privacy Rule, 45 CFR Section 160.103.
- d. “**Data Aggregation**” shall have the meaning given to such term under the Privacy Rule, 45 CFR Section 164.501.
- e. “**Designated Record Set**” shall have the meaning given to such term under the Privacy Rule, 45 CFR Section 164.501.
- f. “**Electronic Protected Health Information**” or “**Electronic PHI**” shall have the meaning given to such term under the Privacy Rule, 45 CFR Section 160.103.
- g. “**Privacy Rule**” shall mean the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164.
- h. “**Protected Health Information**” or “**PHI**” means any information, whether oral or recorded in any form or medium, that: (i) relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual, and identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (ii) otherwise conforms to the meaning given to such term under the Privacy Rule, 45 CFR Section 160.103, that is created, received, maintained, or transmitted on behalf of Client by Company pursuant to this Addendum.
- i. “**Security Incident**”, as provided in 45 C.F.R. 164.304, shall mean the attempted or successful unauthorized access, use, disclosure, modification or destruction of information or interference with system operations in an information system.
- j. “**Security Rule**” shall mean the Standards for Privacy of Individually Identifiable Health Information codified at 45 C.F.R. Part 160 and Part 164, Subparts A and C.
- k. “**Unsecured Protected Health Information**” shall have the meaning given to such term under the Security Rule, 45 CFR Section 164.402.

2. Rights and Obligations of Company.

- a. **Permitted Uses.** Company may use Protected Health Information for the purpose of performing Company’s obligations under the Agreement, including this Addendum, and as permitted by law. Company shall not use Protected Health Information in any manner that would constitute a violation of the Privacy Rule if Company were to carry out one or more of Client’s obligation(s) under the Privacy Rule, in accordance with the requirements of the Privacy Rule that apply to use by Client, except that Company may use Protected Health Information (i) for the proper management and administration of Company, or (ii) to carry out the legal responsibilities of Company.
- b. **Permitted Disclosures.** Company agrees, to the extent that Company is to carry out one or more of Client’s obligation(s) under the Privacy Rule, to comply with the requirements of the Privacy Rule that apply to Client in the performance of such obligation(s). Company shall not disclose Protected Health Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Client, except that: (i) Company may disclose Protected Health Information in a manner permitted pursuant to the Agreement, including this Addendum, and (ii) Company may disclose PHI for proper management and administration of Company or to carry out Company’s legal responsibilities, provided the disclosures are (a) required by law or (b) Company obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Company of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. **Appropriate Safeguards.** In accordance with the Security Rule, Company shall implement such appropriate administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of the Electronic PHI that it creates, receives, maintains or transmits on behalf of Client as are necessary to prevent its use or disclosure other than as permitted by the Agreement, including this Addendum.

- d. Reporting of Breach.** Company shall report to Client any Security Incident, Breach of Unsecured Protected Health Information, or any other use or disclosure of Protected Health Information other than as provided for by the Agreement, including this Addendum, within five (5) business days of learning of such use or disclosure. Notifications related to the breach of Unsecured Protected Health Information shall be in writing and shall include: (i) the identification of each individual whose Unsecured Protected Health Information was or is reasonably believed by Company to have been accessed, acquired, used or disclosed during the Breach; and (ii) any other available information that Client is required to include in notification to the individual under 45 CFR 164.404(c), such as a brief description of the incident and the nature of the information disclosed, and the status of Company's investigation of the matter and mitigation efforts. Company shall take prompt corrective action to cure any deficiencies in its systems as required by applicable federal and state laws and regulations.
- e. Company's Agents.** Company shall ensure that any agents, including subcontractors, to whom it provides Protected Health Information, agree in writing to the same restrictions and conditions that apply to Company with respect to such PHI. Company shall ensure that any such agent, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Client.
- f. Access to Protected Health Information.** To the extent Company maintains PHI in a Designated Record Set, if an Individual makes a request for access directly to Company, Company shall, within ten (10) business days, forward such request in writing to Client. Company shall make Protected Health Information maintained by Company in Designated Record Sets, if any, available to Client for inspection and copying to enable Client to fulfill its obligations under the Privacy Rule, including, but not limited to, 45 CFR Section 164.524. Client shall be responsible for making all determinations regarding the grant or denial of an Individual's request for PHI and Company will make no such determinations. Except as required by law, only Client will release and be responsible for releasing PHI to an Individual pursuant to such a request.
- g. Amendment of PHI.** To the extent Company maintains PHI in a Designated Record Set, if an Individual makes a request for an amendment of his or her PHI or record directly to Company, Company shall, within ten (10) business days, forward such request in writing to Client. Company shall make such Protected Health Information available to Client for amendment and incorporate any such amendment to enable Client to fulfill its obligations under the Privacy Rule, 45 CFR Section 164.526. Client shall be responsible for making all determinations regarding the grant or denial of an Individual's request for an amendment, and except as required by law, Company will make no such determinations.
- h. Accounting Rights.** Within ten (10) days of notice by Client of a request for an accounting of disclosures of Protected Health Information, Company and its agents or subcontractors shall make available to Client the information required to provide an accounting of disclosures to enable Client to fulfill its obligations under the Privacy Rule, 45 CFR Section 164.528. Client will be responsible for preparing and delivering the accounting to the Individual. Except as required by law, Company will not provide an Accounting of its Disclosures directly to any Individual. As set forth in, and as limited by, 45 CFR Section 164.528, Company shall not be required to provide an accounting to Client of disclosures: (i) to carry out treatment, payment or health care operations, as set forth in 45 CFR Section 164.506; (ii) to individuals of Protected Health Information about them as set forth in 45 CFR Section 164.502; (iii) to persons involved in the individual's care or for other notification purposes as set forth in 45 CFR Section 164.510; (iv) for national security or intelligence purposes as set forth in 45 CFR Section 164.512(k)(2); (v) to correctional institutions or law enforcement officials as set forth in 45 CFR Section 164.512(k)(5); or (vi) as part of a limited data set in accordance with 45 CFR Section 164.514(e). Company agrees to implement a process that allows for an accounting to be collected and maintained by Company and its agents or subcontractors for at least six (6) years prior to the request, but not before the effective date of the Agreement; however, to the extent that Company uses or maintains electronic health records and the HIPAA Regulations require that those records be maintained for only three (3) years, Company shall only be required to maintain them for that period. At a minimum, such information shall include: (i) the date of disclosure; (ii) the name of the entity or person who received Protected Health Information and, if known, the address of the entity or person; (iii) a brief description of Protected Health Information disclosed; and (iv) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or a copy of the individual's authorization, or a copy of the written request for disclosure, as applicable.
- i. Governmental Access to Records.** Company shall make its internal practices, books and records relating to the use and disclosure of Protected Health Information available to the Secretary of the U.S. Department of Health and Human Services or his or her agents or authorized designees for purposes of determining compliance with the Privacy Rule.
- j. Minimum Necessary.** Company shall only request, use and disclose, to the extent practicable, the minimum amount of Protected Health Information necessary to accomplish the purpose of the request, use or disclosure.
- k. Audits, Inspection and Enforcement.** Within thirty (30) days of a written request by Client, Company shall allow Client to conduct a reasonable inspection of the facilities, systems, policies and procedures relating to the use or disclosure of Protected Health Information pursuant to this Addendum for the purpose of determining whether Company has complied with this Addendum; provided, however, that: (i) Company and Client shall mutually agree in advance upon the scope, timing and location of such an inspection; (ii) Client and its agents shall protect the confidentiality of all confidential and proprietary information of Company to which Client has access during the course of such inspection; and (iii) Client shall execute a nondisclosure agreement with terms mutually agreed upon by the parties, if requested by Company.
- l. Remuneration in Exchange for Protected Health Information.** Company may not receive direct or indirect remuneration in exchange for Protected Health Information unless permitted by Client or by the various exceptions contained in the HIPAA Regulations, as may be amended from time to time, or for purposes such as Company functions under the Agreement, treatment of the subject Individual, provision of such Individual's Protected Health Information to him or her, research activities where the price charged reflects only the cost of preparation and transmittal of the data, or public health activities.

3. Obligations of Client.

Changes in Authorization. Client shall inform Company, in a timely manner, of any changes in, or withdrawal of, any authorization provided to Client by any Individual pursuant to 45 CFR § 164.508, to the extent that such changes or withdrawal may affect Company's use or disclosure of PHI. In addition, Client shall notify Company, in a timely manner, of any restriction to the use or disclosure of PHI that Client has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Company's use or disclosure of PHI. Client shall promptly notify Company of any breach by Client of any obligation under the HIPAA Regulations as such breach relates to PHI as defined herein. Client shall not request of Company that it use or disclose PHI in any manner that would not be permissible under the HIPAA Regulations if done by Client, and Company is not required to use or disclose PHI in any manner that would not be permissible under the HIPAA Regulations if so used or disclosed by Client.

4. Termination.

a. Material Breach. A breach by Company of any material provision of this Addendum shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement by Client pursuant to its terms.

b. Reasonable Steps to Cure Breach. If Client knows of a pattern of activity or practice of Company that constitutes a material breach or violation of Company's obligations under the provisions of this Addendum and does not terminate this Agreement pursuant to Section 4(a) above, then Client shall take reasonable steps to cure such breach or end such violation as applicable. If Client's efforts to cure the breach or end the violation are unsuccessful, Client may (i) terminate the Agreement, if feasible, or (ii) if termination of the Agreement is not feasible, Client may report Company's breach or violation to the Secretary of the Department of Health and Human Services.

c. Effect of Termination. Upon termination of the Agreement for any reason, Company shall return or destroy all Protected Health Information that Company still maintains in any form, and shall retain no copies of such Protected Health Information. If Company determines that return or destruction of PHI is not feasible, the parties shall continue to extend the protections of Sections 2(a), 2(b), 2(c), 2(e) and 3 of this Addendum to such information, and Company shall limit further use of such PHI to those purposes that make the return or destruction of such PHI infeasible.

5. Amendment to Comply with Law.

The parties acknowledge that state and federal laws relating to data security and privacy of health information are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of the HIPAA Regulations. Upon the request of either party, the other party agrees to promptly enter into negotiations concerning the terms of an amendment to this Addendum embodying written assurances consistent with the standards and requirements of the HIPAA Regulations or other applicable laws. Either party may terminate this Agreement upon thirty (30) days prior written notice in the event that the other party: (i) does not promptly enter into negotiations to amend this Addendum when requested pursuant to this Section 5; or (ii) does not enter into an amendment to this Addendum providing assurances regarding the safeguarding of PHI sufficient to satisfy the standards and requirements of the HIPAA Regulations.

6. No Third-Party Beneficiaries.

Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Client, Company and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

7. Interpretation.

The provisions of this Addendum shall prevail over any provisions in the Agreement that may conflict, or appear inconsistent, with any provision in this Addendum. This Addendum and the Agreement shall be interpreted as broadly as necessary to implement and comply with the HIPAA Regulations. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies, and is consistent, with the HIPAA Regulations.

EXHIBIT B
Company Maintenance and Support Guidelines

1. **Support:** Maintenance and support service is not intended to replace or in any way augment training on the Software. If Client is having problems utilizing the System due to inadequate user knowledge, Client should contact Company to arrange for further user training. During the Term of the Agreement, Support provided to Client shall comprise the following:

- a) **Hot Line** – Company shall provide a telephone number for Client’s use 24 hours a day, 7 days a week. Direct customer service and technical support will be available Monday through Friday 8:00 a.m. to 8:00 p.m., Eastern Time. On-call support will be available for calls made outside these hours. Messages placed on the on-call system will be answered within 60 minutes by on-call Company personnel. Client must designate a finite number of “Power Users” (based on the table below) who shall be entitled to contact Hot Line support. Power Users must complete all Company initial training successfully. Client’s non-Power Users must funnel all support issues to the Company Hot Line via a Power User.

Licensed # of Concurrent Users	Maximum Allowable # of Power Users for Hot Line Access
1-6	3
7-19	4
20+	5

- b) **Online Error Reporting** – Client will have an online error reporting tool allowing all non-emergency errors to be reported to Company and staged for response. Company will monitor daily, Monday thru Friday, 8:00 a.m. to 8:00 p.m. ET, the online error reporting log and communicate back to Client within 24 business hours the plan of action for evaluation and correction.
- c) **Error Correction** – Company will use commercially reasonable efforts to correct all verifiable and reproducible Errors in the System reported by Client in writing to Company. Company will utilize remote diagnostic procedures whenever possible for Error diagnosis and Error Correction. Company may not issue Error Corrections for all Errors.

2. **Problem Resolution:** All problems, Errors, or issues communicated to Company will be managed according to the following decision tree:

- a) **Determination of Cause** – Company will determine as quickly as possible the cause of the problem, Error, or issue.
- b) **Company Problem** – If the problem, Error or issue is determined to be a problem in the System or Software, Company will inform Client within 24 hours after such determination and advise Client of the Error classification and any work-around, if applicable, to correct the problem, Error, or issue. There will be no charge for this support.
- c) **Client Problem** – If the problem, error or issue is not related to the Software or System, Company will provide a plan to the Client for correction within 72 hours after such determination. The charge for the determination of a non-Company problem is \$250.00 per incident.

3. **Service Levels:** The System will be available 24 hours a day, 365 days per year, except for Downtime, Scheduled Maintenance, New Functionality release or as otherwise provided in this Agreement.

- (i) **“Downtime”** shall mean sustained access loss within the System for 60 consecutive minutes due to the failure of Company to provide the System for such period. Downtime shall not include any access loss or network unavailability during Scheduled Maintenance or New Functionality Release. Client acknowledges and represents that the System is not used in connection with a time-critical or mission-critical function of its business and that, therefore, Downtime will not result in any significant damage to the business of the Client for which Company is liable to Client.
- (ii) **“Scheduled Maintenance”** – the System may be unavailable for up to ten (10) hours per month in order for Company to provide maintenance and upgrades to the System.
- (iii) **“New Functionality Release”** – the System may be unavailable for a period of 8-12 consecutive hours during a new release of functionality, including service packs and “hot fixes”. Announcements regarding the timing of the release and the unavailability of the System will be provided to Client at least one week in advance. New functionality deployments will be executed during off-hours over the weekend unless an emergency necessitates otherwise.

4. **Exclusions:** Notwithstanding anything in the Agreement or Company’s Maintenance and Support Guidelines to the contrary, Company shall have no obligation to provide Support to any person other than Client’s authorized personnel trained on the System, and shall have no responsibility or liability of any kind, whether for breach of warranty, contract or otherwise, arising or resulting from: (a) any version of the System other than the then-current unmodified version; (b) any problems which are not Errors; (c) Client’s failure to correctly install or operate any updates or other modifications to the System provided by Company; (d) problems caused by failed Internet connections or other hardware, software or equipment that is not owned, controlled or operated by Company, or by failure by Client to provide and maintain the Supported Environment or security authorization; (e) nonconformities resulting from misuse, abuse, negligence, revision, modification, or improper or unauthorized use of all or any part of the BSP Services or Software, or problems caused by Client’s or other third-party products, services or equipment; (f) modification, amendment, revision, or change to the BSP Services or Software by any party other than Company or Company’s authorized representatives; or (g) data or data input, output or integrity, all of which shall be deemed under Client’s exclusive control. Any use of or reliance on data or data output are Client’s sole responsibility.