



GENERAL TERMS AND CONDITIONS AGREEMENT

PLEASE PRINT AND RETAIN A COPY OF THIS DOCUMENT FOR YOUR RECORDS

Company desires to purchase Products and Services from DeliverHealth Solutions, LLC (“DeliverHealth”) as identified on the Order (as defined below) submitted by Company to DeliverHealth. If DeliverHealth accepts such Order, the Parties will have entered into a binding contract on the terms and conditions set forth in this General Terms and Conditions Agreement (“Agreement”) which shall govern the Parties’ rights and obligations with respect to the applicable transaction. This Agreement consists of the General Terms and Conditions, and all applicable Schedules and exhibits hereto DeliverHealth and Company are sometimes referred to individually as a “Party” and collectively as the “Parties”. *Neither Party shall be bound by any preprinted provisions of any purchase order, acknowledgment, nor other similar form.*

Agreement

In consideration of the mutual covenants stated below, and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties agree as follows:

1. DEFINITIONS.

In addition to the terms defined elsewhere in this Agreement, the following terms used in this Agreement shall have the meanings set forth below:

- 1.1. **“Affiliates”** means any entity that is directly or indirectly controlled by, under common control with, or in control of a Party. For these purposes, an entity shall be treated as being controlled by another if that other entity (i) has fifty percent (50%) or more of the votes in such entity, or (ii) is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.
- 1.2. **“Authorized User(s)”** are those individuals who are authorized, subject to the terms and conditions of this Agreement, to access and use the DeliverHealth Software and/or Cloud Services, which individuals are limited to those authorized under the applicable Schedule or Order.
- 1.3. **“Company PO”** means a Company-generated purchase order for Software and/or Services, that (i) references the quote number and date of the applicable DeliverHealth Quote against which the purchase order is issued, or (ii) sets forth, in detail, the Software licenses and/or Services that Company seeks to purchase (including number of license units and license type), the price associated with each item, and includes a cross-reference to this Agreement.
- 1.4. **“Cloud Service”** means a DeliverHealth proprietary subscription-based software as a service (SaaS) offering specified in an Order. Any software provided by DeliverHealth which is sited at Company (for example client software to access the Cloud Services) is considered Software and subject to the terms governing Software. Cloud Services may also include a DeliverHealth Affiliate’s proprietary software product or third-party software loaded on a DeliverHealth owned or DeliverHealth controlled server by DeliverHealth and accessed by Company under a license granted in this Agreement, or for third-party software, licensed under a separate license if provided to Company.
- 1.5. **“Data”** means the audio, image, and/or text data input, all data elements output (e.g. interpretation of clinical contents in xml or other format), associated transcripts or medical reports, whether in draft or final form, any information received from Company under any Order under this Agreement, or any other clinical information received by DeliverHealth from Company under this Agreement.
- 1.6. **“DeliverHealth Products”** means the DeliverHealth Software and DeliverHealth, collectively.
- 1.7. **“DeliverHealth Quote”** means a DeliverHealth-generated quotation for Software, and/or Services, that lists the Software licenses and/or Services that Company seeks to purchase (including number of license units and license type), and the price associated with each item.
- 1.8. **“DeliverHealth Software” or “DH Platform”** means the object code version of any DeliverHealth proprietary software product specified in an Order, including all corrections, modifications, enhancements, Updates and Upgrades (if any) thereto that DeliverHealth may provide to Company under this Agreement, and all related Documentation.
- 1.9. **“Documentation”** means the administrative guide and user’s guide provided by DeliverHealth to Company to facilitate the use of the DeliverHealth Products and Cloud Services.

- 1.10. **“Effective Date”** means the date when the Order has been validly accepted by both Parties as per the requirements contained in the Order document.
- 1.11. **“Managed Services”** means the Services provided in a Statement of Work or Order in combination with the DH Platform. DeliverHealth may as necessary and at its discretion utilize various hardware, equipment, software, and labor (such as an independent contractor or vendor) to perform the Services as indicated in the Order. If applicable to an Order, the Managed Services are subject to an Expected Volume, meaning the volume set forth on the applicable Order that DeliverHealth relies upon in its delivery of the Services. Services will be provided onshore, in Canada, or multishore as provided in the Order.
- 1.12. **“Medical Price Index” (or “MPI”)** means the Medical Price Index as maintained by FAIRHealth®.
- 1.13. **“Order”** means an order for Software licenses, and/or Services that is (a) issued by Company in the form of a DeliverHealth Quote or Company PO signed by Company (physically or electronically), and (b) accepted by DeliverHealth. An Order includes any applicable Statement of Work and will include the DeliverHealth Platform and/or Services independent and/or in combination with the DH Platform.
- 1.14. **“Professional Services”** means any installation, project management and/or consulting services provided by DeliverHealth pursuant to an Order, as specified in an Order and which may be more fully described in a Statement of Work.
- 1.15. **“Schedule”** means each of the schedules set forth as an Exhibit to the Order of this Agreement as applicable. Schedules are a part of this Agreement and define the specific terms that apply to the applicable DeliverHealth Products and Services
- 1.16. **“Services”** means Training Services, Professional Services, Cloud Services and/or Clinical Documentation, Coding and Digital Health Services, as applicable.
- 1.17. **“Software”** means DeliverHealth Software and third-party software, collectively.
- 1.18. **“Statement of Work” or “SOW”** means the supplement to an Order, setting forth, in more detail, the Professional Services and/or Training Services purchased under the Order.
- 1.19. **“Term”** is defined in Section 6.1 of these General Terms and Conditions.
- 1.20. **“Training Services”** means any training services provided by DeliverHealth pursuant to an Order, as specified in an Order.
- 1.21. **“Update”** means a release of DeliverHealth Software, that may include minor feature enhancements, and/or bug fixes and/or fixes of minor errors and/or corrections, and typically is identified by an increase in a release or version number to the right of the first decimal (for example, an increase from Version 5.1 to 5.2 or from Version 5.1.1 to 5.1.2). “Update” shall not be construed to include Upgrades.
- 1.22. **“Upgrade”** means a release of DeliverHealth Software, that may include some feature enhancements and/or additional capabilities (functionality) over versions of the DeliverHealth Software previously supplied to Company, and typically is identified by an increase in the release or version number to the left of the decimal (for example, an increase from Version 5.2 to Version 6.0). Upgrades do not include new software and/or products that DeliverHealth, in its sole discretion, designates and markets as being independent from the previously purchased DeliverHealth Software.
2. **SCOPE OF AGREEMENT.** Company agrees to purchase from DeliverHealth, and DeliverHealth agrees, subject to the terms and conditions of this Agreement, to supply to Company the Software licenses, and Services, as specified in each Order. DeliverHealth may accept an Order by fulfilling it.
3. **GRANT OF RIGHTS.**
- 3.1. **Software.**
- 3.1.1. **License Grant.** Subject to the terms and conditions of this Agreement, DeliverHealth grants to Company, and Company accepts, a limited, non-exclusive, non-transferable, non-sub-licensable license to permit its Authorized Users to use the DeliverHealth Software and / or Cloud Services listed in the applicable Order, strictly in accordance with the license grant specified in the applicable Schedule, provided such use is (i) commensurate with the intended use of the DeliverHealth Software (as prescribed in this Agreement and the applicable Documentation), and (ii) solely for Company’s internal business purposes.
- 3.2. **Proprietary Rights; Restrictions.** Notwithstanding any use of the term “sale,” “purchase” or other similar terms in this Agreement, DeliverHealth and its licensors retain all right, title and interest in and to the Software, Services and Documentation, and any derivative works thereof, including, but not limited to, all patent, copyright, trade secret, trademark and other intellectual property rights associated therewith. Without limiting the generality of the foregoing, Company will not itself, directly or indirectly, and will not permit Authorized Users, other employees or contractors, or any third party to (i) access the Cloud Services with software or means other than as described in this Agreement, (ii) submit any automated or recorded requests to the Cloud Services except as otherwise provided in this Agreement, (iii) modify, port, translate, or create derivative works of the Software, Services, or Documentation, (iv) decompile, disassemble, reverse engineer or attempt to reconstruct, identify or discover any source code, underlying ideas, or algorithms of the Software or Services by any means, (v) sell, lease, license, sublicense, copy, assign, transfer, share, market, or distribute the Software, Services or Documentation, except as expressly permitted in this Agreement, (vi) grant any access to, or use of, the DeliverHealth Software or Services on a service bureau, timesharing or application service

provider basis, (vii) remove any proprietary notices, labels or marks from the Software, Services or Documentation, (vii) release to a third party the results of any benchmark testing of the Software or Services, or (viii) defeat or circumvent any controls or limitations contained in or associated with the use of the Software. In no event shall anything in this Agreement or in DeliverHealth's conduct or course of dealing convey any license, by implication, estoppel or otherwise, under any patent, copyright, trademark or other intellectual property right not explicitly licensed. All rights not expressly granted to Company under this Agreement are reserved by DeliverHealth and/or its licensors.

3.3. **Authorized Users.** Company is responsible for each Authorized User's compliance with the terms of this Agreement and applicable SOW/Order shall ensure each Authorized User's compliance with the terms of this Agreement. Company will be liable for any act or omission by an Authorized User that, if performed or omitted by Company, would be a breach of this Agreement. Company shall promptly notify DeliverHealth upon learning of any actual or suspected unauthorized possession or use of any Software or Cloud Services supplied under this Agreement.

4. **SERVICES.** Subject to the terms and conditions of this Agreement, DeliverHealth will provide the Services as may be specified in an Order.

4.1. **Cloud Services.** Cloud Services will be as further described in, and will be provided by DeliverHealth in accordance with, the applicable Schedule.

5. **PAYMENT AND DELIVERY.**

5.1. **Expenses.** Prices do not include travel expenses that may be incurred in the course of providing Services, including, but not limited to, transportation, meals, lodging and other living expenses. Company shall pay or reimburse DeliverHealth for all such charges and expenses reasonably incurred.

5.2. **Taxes.** Company shall pay all taxes, duties, import and export fees, and any other charges or assessments, except the withholding of income taxes, which are applicable to the performance of this Agreement, and shall reimburse DeliverHealth for any encumbrance, fine, penalty, or other expense which DeliverHealth may incur as a result of Company's failure to pay any such taxes, duties, fees, charges, or assessments. For purposes of this Agreement, the term "taxes" shall include, but is not limited to any and all assessments and other governmental charges, impositions and liabilities, including taxes based upon or measured by gross receipts, income, profits, sales, use, value added, ad valorem, consumption, transfer, franchise and withholding taxes, except taxes imposed on the net income of DeliverHealth, together with all interest, penalties and additions imposed with respect to such amounts. If any applicable law requires Company to withhold an amount from any payment to DeliverHealth hereunder, Company shall effect such withholding, remit such amount to the appropriate taxing authority, and supply DeliverHealth with the tax receipt evidencing the payment of such amount to the government within sixty (60) days of its receipt by Company. To the extent that an income tax convention between the country of DeliverHealth and the country of Company permits, upon the filing of a proper application, for a reduction or elimination of such withholding tax, the Parties shall cooperate in the completion and filing of such application. Company shall provide to DeliverHealth, and DeliverHealth shall complete and return to Company, all applicable forms required by the governing tax authority in order to secure the reduction or elimination of withholding tax as authorized by the convention.

5.3. **Payment.** Except as otherwise set forth in the applicable Order or Schedule, Company shall pay all invoices issued in U.S. dollars, either by mail or wire transfer, within fifteen (15) days of the date of invoice in accordance with the remittance information contained on the invoice. Interest shall accrue at the rate of one- and one-half percent (1.5%) per month on any amounts past due. Company shall reimburse DeliverHealth for all reasonable costs incurred (including reasonable attorneys' fees) in collecting past due amounts from Company. Company is responsible for payment of all fees invoiced by DeliverHealth in addition to any third-party leasing fees that Company may have with a financing/leasing company. DeliverHealth reserves the right to suspend Services to Company in the event any invoice is past due. Company must notify DeliverHealth within thirty (30) days of the date of invoice if it disputes any amount contained in an invoice. Notwithstanding the foregoing, if Company elects not to renew annually-contracted auto-renewing Maintenance Services, Company shall not be required to pay the invoice for subsequent annual renewals, provided any requirements in the applicable Schedule or Order for prior written notice of non-renewal are met.

5.4. **Annual Adjustment.** Each year, effective as of each anniversary of the Order Effective Date, DeliverHealth may increase the fees described in the Order by an amount equal to the higher of 3% or MPI from the prior year.

5.5. **Company Purchase Orders.** Company agrees to pay DeliverHealth's invoices without a purchase order reference. Company acknowledges and agrees that if it is Company's standard practice to issue unsigned purchase orders, such purchase orders are valid and binding. Neither Party shall be subject to provisions of any pre-printed terms on or attached to purchase orders generated by Company, or any Company policies, regulations, rules, or the like, including those set forth in any Company-sponsored registration system, regardless if such requires affirmative acknowledgement from a DeliverHealth representative.

5.6. **Audit.** Company shall keep full, true and accurate records and accounts to support its use of the Software and Cloud Services, as applicable, under this Agreement. DeliverHealth, or a third party appointed by DeliverHealth, will have the right, not more than once a year and upon reasonable notice, to conduct an audit of Company's systems and records, to confirm compliance with the terms of this Agreement. Any audit will be performed during Company's normal business hours. If an audit reveals that Company's Software or Cloud Services usage exceeds its usage rights, as granted by DeliverHealth, Company shall pay DeliverHealth for all such excess usage, based on DeliverHealth's standard pricing in effect at the time of the audit. If such excess usage exceeds five percent (5%) of the authorized usage, Company shall also pay DeliverHealth's reasonable costs of conducting the audit. Nothing in this Section 5.6 will limit any other remedy available to DeliverHealth.

6. TERM; TERMINATION.

- 6.1. **Term.** This Agreement commences on the Effective Date and, term of this Agreement is 3 years and will automatically renew annually unless terminated earlier in accordance with the terms hereof, will continue in effect, unless the Parties otherwise agree in writing (“**Term**”). Each Party’s rights and obligations related to DeliverHealth Software licenses and/or Services delivered pursuant to an Order shall be limited to the duration or term of such DeliverHealth Software license or Service as specified in the applicable Schedule or Order.
- 6.2. **Order Term.** An Order may contain an initial period beginning on the Order Effective Date and continuing for the duration of the Order Term (“**Initial Order Term**”) specified in the Order (which may be designated in the Order as the Order Term, Service Term or by other indication of duration). Upon expiration of an Initial Term, an Order shall automatically renew for annual periods unless either party gives One Hundred Eighty (180) days’ advance notice to the other party of its intent not to renew such Order.
- 6.3. **Termination for Cause.** Either Party may terminate this Agreement or any Order upon written notice if the other Party commits a material breach of this Agreement or such Order and fails to cure such breach within thirty (30) days of receipt of written notice describing such breach. Notwithstanding the foregoing, DeliverHealth may terminate this Agreement and/or any Order immediately upon written notice to Company if Company (a) infringes DeliverHealth’s intellectual property rights, (b) commits, or permits any third party to commit, any breach of confidentiality obligations under Section 8 (“**Confidentiality**”), or (c) Company has a receiver appointed to handle its assets or affairs, admits that it is insolvent, or is otherwise unable to pay its debts as they mature, or ceases to do business in the ordinary course.
- 6.4. **Effect of Termination.** Upon termination of this Agreement, all Orders issued under this Agreement will immediately terminate. Upon the termination of an Order, all DeliverHealth Software licenses and Services under such Order shall immediately terminate, and Company shall immediately (a) cease use of the applicable DeliverHealth Software (in any form, including partial copies in its possession or under its control) and/or Services, (b) return to DeliverHealth or destroy all copies of the DeliverHealth Software and certify in writing to DeliverHealth that no copies have been retained by Company within ten (10) days of any expiration or termination, and (c) pay any outstanding amounts due to DeliverHealth.
- 6.5. **Survival.** Notwithstanding anything to the contrary in this Section 6, the provisions of Sections 1, 3.2, 3.3, 5, 6.4, 6.5, 8, 9, 10, 11, 12, and 14 of these General Terms and Conditions shall survive expiration or termination of this Agreement.

7. **HIPAA.** The Parties agree to the Business Associate Terms and Conditions attached hereto as **Exhibit A** and made a part of this Agreement, wherein DeliverHealth may be referred to as “**Business Associate**” and Company may be referred to as “**Covered Entity**.”

8. CONFIDENTIALITY.

8.1. **Definition.** Subject to the exceptions contained in this Section 8.1, “**Confidential Information**” shall mean (a) all information disclosed by a Party or its Affiliates (the “**Disclosing Party**”), in whatever tangible form or otherwise, to the other Party or its Affiliates (the “**Receiving Party**”) that is clearly marked “**confidential**” or with some other proprietary notice, (b) all information disclosed orally or otherwise in intangible form by the Disclosing Party and designated as confidential or proprietary at the time of the disclosure, and (c) the DeliverHealth Software, Documentation, and information provided as part of any Services. Notwithstanding the above, information shall not be deemed Confidential Information to the extent that it (i) was generally known and available in the public domain at the time it was disclosed or subsequently becomes generally known and available in the public domain through no fault of the Receiving Party, (ii) was rightfully known to the Receiving Party at the time of disclosure without any obligation of confidentiality, (iii) is disclosed with the prior written approval of the Disclosing Party, (iv) was independently developed by the Receiving Party without any use of the Confidential Information of the Disclosing Party, or (v) is protected health information or any other personally identifiable information, the protection of which is governed by the Business Associate Terms and Conditions identified in Exhibit A. The obligation not to use or disclose Confidential Information will remain in effect until one of these exceptions occurs.

8.2. **Permitted Disclosure.** Notwithstanding any other provision of this Agreement, disclosure of Confidential Information shall not be precluded if such disclosure (a) is in response to a valid order of a court or other governmental body, provided, however, that the responding Party shall first have given notice to the other Party hereto and shall have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued, (b) is otherwise required by law, or (c) is otherwise necessary to establish rights or enforce obligations under this Agreement, but only to the extent that any such disclosure is necessary.

8.3. **Use and Obligations.** The Receiving Party will not use the Disclosing Party’s Confidential Information for purposes other than as provided in this Agreement. The Receiving Party shall protect the Disclosing Party’s Confidential Information, to prevent its unauthorized use, disclosure, or publication to third parties, by using the same degree of care, but no less than a reasonable degree of care, as the Receiving Party uses to protect its own Confidential Information of a like nature. Confidential Information received by a Receiving Party hereto may be disclosed to and used by such Receiving Party’s employees, agents and contractors in accordance with the terms and conditions of this Agreement, and each Party shall be liable for any act or omission by its Affiliates, and its and their respective employees, agents and contractors, which, if performed or omitted by such Party, would be a breach of this Agreement. Each Party agrees that its Affiliates, and its and their respective employees, agents and contractors, shall be bound by the terms of an agreement protecting against

unauthorized use or disclosure of Confidential Information that is at least as protective of the Disclosing Party's rights as this Agreement. No Confidential Information shall be disclosed to any person who does not have a need for such information.

8.4. Return of Confidential Information. The Receiving Party shall return to the Disclosing Party, or destroy, all Confidential Information of the Disclosing Party in tangible form (i) upon the written request of the Disclosing Party, or (ii) upon the expiration or termination of this Agreement, whichever comes first. In both cases, the Receiving Party shall, upon request, promptly certify in writing that it has complied with the obligations of this Section 8.4. Notwithstanding the foregoing, each Party may retain a copy of the Confidential Information in electronic format in accordance with its corporate security and/or disaster recovery procedures.

9. DATA. Company is solely responsible for obtaining all necessary consents under applicable laws and regulations in order to allow DeliverHealth to use the Data in accordance with this Section 9. Company hereby grants DeliverHealth the right to use Company de-identified Data in accordance with 45 C.F.R. §164.514 for the sole purpose of training and updating eSOne software. This usage is intended to enhance the delivery of services and technology specific to Company. DeliverHealth shall own all intellectual property rights in all enhancements and improvements to its software and services that result from such use of the Data.

10. LIMITED WARRANTIES.

10.1. DeliverHealth Software Warranty. DeliverHealth warrants that upon initial installation of the DeliverHealth Software (in the case of DeliverHealth Software that, pursuant to the applicable Order, is to be installed by DeliverHealth) or initial delivery of the DeliverHealth Software to Company (in all other cases), and for a period of ninety (90) days thereafter (the "Software Warranty Period"), the DeliverHealth Software will operate in all material respects in conformity with its Documentation. Company's sole and exclusive remedy and DeliverHealth's sole obligation for any breach of the warranty set forth in this Section 10.1 will be for DeliverHealth, at DeliverHealth's option, to undertake reasonable efforts to correct or replace the nonconforming DeliverHealth Software reported by Company during the Software Warranty Period, or to accept a return of and refund to Company, the monthly fees paid by Company to DeliverHealth for the period of time when Company reports the problem to DeliverHealth to the point of termination of any such license to the nonconforming DeliverHealth Software.

10.2. Limitation of Warranties. The warranties set forth in this Section 10 ("Limited Warranties") shall not apply, and DeliverHealth shall have no warranty obligation or liability with respect to, (a) any DeliverHealth Product that (i) is damaged through no fault of DeliverHealth, (ii) is modified by anyone other than DeliverHealth, (iii) is used for any purpose other than its intended purpose (as specified in the Documentation), (iv) is used with equipment not specified as compatible with the DeliverHealth Product in such DeliverHealth Product's Documentation, (v) is used with software not specified as compatible with said DeliverHealth Product in the DeliverHealth Product's Documentation, (vi) Company fails to properly install or maintain, (b) any computer malfunction not attributable to the DeliverHealth Products or DeliverHealth, (c) any incorrect use of the DeliverHealth Products, or (d) any willful misconduct or negligent action or omission of Company.

10.3. Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION 10 ("LIMITED WARRANTIES") ARE EXCLUSIVE AND THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND DELIVERHEALTH HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT AND TITLE. DELIVERHEALTH DOES NOT GUARANTEE THAT THE SOFTWARE OR SERVICES WILL YIELD ANY PARTICULAR BUSINESS OR FINANCIAL RESULT, OR THAT THE SERVICES WILL BE PERFORMED WITHOUT ERROR OR INTERRUPTION. DELIVERHEALTH MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT TO ANY THIRD-PARTY SOFTWARE. UNDER NO CIRCUMSTANCES SHALL DELIVERHEALTH'S THIRD PARTY SUPPLIERS OF ANY COMPONENT OF THE DELIVERHEALTH SOFTWARE, CLOUD SERVICES BE RESPONSIBLE OR LIABLE TO COMPANY OR ITS AFFILIATES FOR ANY DAMAGES, DIRECT OR OTHERWISE, ARISING UNDER THIS AGREEMENT OR OTHERWISE ARISING FROM THE TRANSACTIONS CONTEMPLATED HEREIN. SUCH THIRD-PARTY SUPPLIERS ARE THIRD PARTY BENEFICIARIES OF THE FOREGOING SENTENCE.

10.4. Company acknowledges its responsibility to regularly back-up data and to adequately test prior to deployment each production version of the Software in a configuration that reasonably simulates Company's planned production environment. For Cloud Services, DeliverHealth shall have no obligation to maintain Data for Company beyond the data retention period specified in the Documentation.

11. LIMITATION OF LIABILITY.

11.1. The following provisions set out the exclusions and limitations of liability of DeliverHealth and its Affiliates, and their respective officers, agents, contractors and employees, to Company and its Affiliates, and their respective officers, agents, customers, contractors and employees, under or in connection with this Agreement, and/or in connection with any tortious act or omission including without limitation negligence and/or breach of duty including statutory duty arising under or in connection with this Agreement.

11.2. Nothing in this Agreement shall be taken to exclude or limit DeliverHealth's liability for fraud or fraudulent misrepresentation, for intentional or criminal misconduct; for death, personal injury or tangible property damage caused by its negligence in providing services at Company locations; or to the extent that such exclusion or limitation is not otherwise permitted by law.

11.3. Subject to the foregoing provisions of this Section, DeliverHealth shall not be liable for loss of profits or revenues, loss of anticipated savings, loss of customers, or loss of use of any software or data, nor for any special, consequential or indirect loss or damage, costs, expenses or other claims for consequential compensation, howsoever caused, which arise out of or in connection with this Agreement or the Services.

11.4. Save for DeliverHealth's liability under the second subsection of this Section 11 ("Limitation of Liability"), which shall not be excluded or limited under this Agreement, the Parties, having assessed the risks, agree that DeliverHealth's total liability shall not exceed for each consecutive 12 months period ("Annual Period") of this Agreement (the first period commencing on the Effective Date) an aggregate amount equal to 100% of the amount paid by the Company during the corresponding Annual Period.

12. INDEMNIFICATION. DeliverHealth shall, at its own expense, defend or, at its option, settle, any action brought against Company by a third party, during the Term, to the extent it is based on a claim that the DeliverHealth Software and/or Cloud Services infringes any United States patent, copyright or trademark, or misappropriates a trade secret of such third party. DeliverHealth will indemnify Company against any damages and losses that are attributable to such claim or action and are assessed against Company in a final judgment. DeliverHealth shall have the foregoing obligations only if Company provides DeliverHealth with (a) a prompt written request to undertake the defense in such claim or action, (b) sole control and authority over the defense and settlement thereof, and (c) all available information and assistance necessary to settle and/or defend any such claim or action. If the DeliverHealth Software and/or Cloud Services becomes, or in the opinion of DeliverHealth, is likely to become, the subject of an infringement claim or action, DeliverHealth may, at its option, (a) procure, at no cost to Company, the right to continue using the DeliverHealth Software and/or Cloud Services, (b) replace or modify the DeliverHealth Software and/or Cloud Services to render it non-infringing, provided there is no material loss of functionality, or (c) if, in DeliverHealth's reasonable opinion, neither (a) nor (b) above are commercially feasible, terminate Company's right to use such DeliverHealth Software and/or Cloud Services and (i) with respect to perpetual DeliverHealth Software licenses, refunding the license fees Company paid for such DeliverHealth Software, depreciated on a straight-line sixty (60) month basis from the delivery date, and (ii) with respect to Cloud Services, or term licenses or maintenance and support fees for DeliverHealth Software, refund any prepaid and unused fees paid by the Company for the infringing DeliverHealth Software and/or Cloud Services. DeliverHealth will have no obligation or liability under this Section for any claim or action resulting from any of the following: (a) any claim or action that would have arisen due to Company's business activities without use of the particular technology employed by the DeliverHealth Software and/or Cloud Services, or (b) any claim or action resulting from any of the following: (i) modifications to the DeliverHealth Software and/or Cloud Services by a party other than DeliverHealth, (ii) the combination of the DeliverHealth Software and/or Cloud Services with other products, processes, or materials not provided by DeliverHealth if the DeliverHealth Software and/or Cloud Services itself would not infringe, (iii) specifications or requirements supplied by Company that were used for the configuration of the DeliverHealth Software and/or Cloud Services, or (iv) where Company continues allegedly infringing activities after being provided with modifications that would have avoided the alleged infringement. This Section states the sole obligation and exclusive liability of DeliverHealth (express, implied, statutory or otherwise), and the sole remedy of Company, for any third-party claims or actions of infringement of any intellectual property or other proprietary right.

13. MISCELLANEOUS.

13.1. Assignment. Company shall not assign or otherwise transfer its rights, obligations or remedies under this Agreement, in whole or in part, to a third party unless such assignment is approved in writing by DeliverHealth. Notwithstanding the foregoing, either Party may assign its rights and obligations hereunder to a third party in connection with (i) a merger with, (ii) the sale of substantially all of its assets to, (iii) a consolidation with, or (iv) the sale or intercompany assignment of a substantial part or all of its business utilizing this Agreement, provided (a) the assigning Party provides the other Party with prompt written notice of such sale, merger or consolidation, and (b) the assignee agrees to be bound by all terms and conditions set forth by this Agreement. Any such assignment by Company shall not increase the scope of any license or Service without the prior written consent of DeliverHealth.

13.2. Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, acts of God, governmental acts or orders or restrictions, acts of terrorism, war, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party and not due to its fault or negligence.

13.3. Notices. All notices hereunder shall be sent by the notifying Party, in writing, to the other Party (Attention: General Counsel) at its address set forth above (or such other address as it may communicate to the notifying Party in writing). Notice shall be deemed delivered and effective (i) when delivered personally, (ii) five (5) days after posting when sent by certified United States mail (return receipt requested), or (iii) one (1) day after posting when sent by reputable private overnight courier (e.g., DHL, Federal Express, etc.).

13.4. Relationship between the Parties. In all matters relating to this Agreement, Company and DeliverHealth shall act as independent contractors. Except as may be otherwise expressly permitted hereunder, neither Party will represent that it has any authority to assume or create any obligation, expressed or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity. DeliverHealth shall at all times have the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all work to be performed by DeliverHealth hereunder unless otherwise provided herein. DeliverHealth shall, at all times, be responsible for the compliance of its third parties involved in the delivery of the Services in accordance with the terms and conditions of this Agreement. Nothing in this Agreement shall be construed to create any contractual relationship between Company and any such third parties, nor any obligation on the part of Company, to pay or to ensure the payment of any money due any such third party.

13.5. Non-Solicitation. Neither Party shall solicit or cause to be solicited the employment of an employee of the other Party working under any Order or SOW during this Agreement and for a period of no less than 12 months after the termination of this Agreement or completion of that Order or SOW, whichever is applicable. Any general outreach of opportunities posting on conventional media such as the company's website and employment posting boards shall not be considered a direct solicitation under the terms of this Agreement.

13.6. Governing Law. This Agreement shall be governed by the laws of the State of Delaware, USA, without regard to choice of law rules, and Company hereby submits to the jurisdiction of the federal and state courts located in said State and the applicable service of

process. The official text of the Agreement and any Addendum or any notices given on accounts or statements required hereby shall be in English. In Canada, Province of Quebec for all contracts drafted in English, both Parties agree to write this document in English.

13.7. Injunctive Relief. Each Party acknowledges that any use or disclosure of Confidential Information by a Receiving Party in breach of this Agreement or any violation of DeliverHealth's, its Affiliates' or their respective licensors' intellectual property rights may cause irreparable damage to the non-breaching Party, for which remedies other than injunctive relief may be inadequate, and the breaching Party agrees that it shall not object to the non-breaching Party seeking injunctive or other equitable relief to restrain the alleged breach or violation. The Parties further agree that in the event such equitable relief is granted in the United States, they will not object to courts in other jurisdictions granting provisional remedies enforcing such United States judgments.

13.8. Partial Invalidity; Waiver. If any provision of this Agreement or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the Parties shall use reasonable efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision. Any deviation by a Party from the terms and conditions required under applicable laws, rules and regulations shall not be considered a breach of this Agreement. Neither a failure of a Party to exercise any power or right given such Party hereunder or to insist upon strict compliance by the other Party with its obligations hereunder, nor any custom or practice of the other Party at variance with the terms hereof, shall constitute a waiver of a Party's right to demand exact compliance with the terms of this Agreement.

13.9. Publicity. Each Party is authorized to use the name and logo of the other Party on its website solely to identify such Party's relationship. In addition, either Party may refer to the existence of the Agreement or the relationship of the Parties in connection with a press release related to regulatory filings. DeliverHealth may include Company's name in DeliverHealth's customer list, and may identify Company as its customer in its sales presentations, marketing materials, advertising, promotion and similar public disclosures. Any additional statements regarding the relationship of the Parties hereunder shall require mutual written consent.

13.10. Entire Agreement; Headings; Counterparts. This Agreement, its Schedules, Exhibits, Amendments, and all Orders issued hereunder constitute the entire agreement and understanding between the Parties with respect to the subject matter hereof, and supersede all prior agreements, arrangements and undertakings between the Parties. No addition to or modification of any provision of this Agreement shall be binding upon the Parties unless made by a written instrument signed by a duly authorized representative of each of the Parties. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in counterparts and via electronic transmission, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

13.11. Order of Precedence. In the event of a conflict between or among the provisions in this Agreement, the order of precedence shall be as follows: (i) General Terms and Conditions, (ii) Business Associate Terms and Conditions, and (iii) each SOW and Order (except for any Order-specific invoicing or delivery terms which may supersede those in the applicable Schedule).

13.12. No Third-Party Beneficiaries. Except as expressly stated otherwise in this Agreement, nothing in this Agreement is intended to create any rights in, or confer any benefits upon, any person or entity other than the Parties to this Agreement.

13.13. Export Controls; Government Use. Company shall comply with all applicable export and import laws and regulations and, unless authorized by applicable governmental license or regulation, shall not directly or indirectly export or re-export any technical information or software subject to this Agreement to any prohibited destination. If software or services are being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), the software, services and related documentation are "commercial items" as that term is defined at 48 C.F.R. 2.101. The software and documentation consists of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the software and documentation with only those rights set forth herein.

13.14. Foreign Corrupt Practices Act. Company shall comply with all applicable laws or regulations in all countries in which Company conducts business. The fact that in some countries certain laws prohibiting particular conduct are not enforced in practice or that violation is not subject to public criticism or censure, will not excuse noncompliance with those laws. Furthermore, Company confirms by way of signature of this Agreement that Company has knowledge and understanding of the Foreign Corrupt Practices Act of the United States of America ("FCPA") and shall comply with the FCPA at all times.

13.15. HHS Audit Right. Until the expiration of four (4) years after the furnishing of Services under this Agreement, DeliverHealth shall make available, upon written request of the Secretary of the Department of Health and Human Services ("Secretary"), or upon request of the Comptroller General, or any of their duly authorized representatives, this Agreement and the books, documents and records of DeliverHealth that are necessary to certify the nature and extent of the costs for which Company seeks reimbursement. DeliverHealth further agrees that if DeliverHealth carries out any of the duties of this Agreement through a subcontract with a value or cost of ten thousand dollars (\$10,000) or more over a twelve (12) month period with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four (4) years after furnishing services pursuant to such subcontract, the related organization shall make available to the Secretary or the Comptroller General, as the case may be, or any of their duly authorized representatives, the subcontract, and such books and documents and records of such organization that are necessary to verify the nature and extent of such costs.

13.16. Discount Reporting Obligations. Any discount or rebate, including a single discounted item or bundled discounts, received by Company hereunder is a "discount or other reduction in price," as such terms are defined under (i) the discount exception of the Medicare/Medicaid Anti-Kickback Statute (42 U.S.C. § 1320a 7b(b)(3)(A)) ("Discount Exception") and (ii) the "safe harbor" regulations

regarding discounts or other reductions in price set forth in 42 C.F.R. § 1001.952(h) (“Discount Safe Harbor”), on the products or services purchased by Company under the terms of this Agreement. Under the Discount Exception or Discount Safe Harbor, Company may have an obligation to accurately report the net cost actually paid by Company, under any state or federal program which provides cost- or charge-based reimbursement for the products or services covered by this Agreement, or as otherwise requested or required by any governmental agency.

Exhibit A

HIPAA BUSINESS ASSOCIATE ADDENDUM

Business Associate Terms and Conditions

WHEREAS, DeliverHealth (or “Business Associate”) may, pursuant to the agreement to which this **HIPAA Business Associate Addendum** is attached (the “Agreement”), perform certain services on behalf of or for Company (or “Covered Entity”) that require DeliverHealth to access, create and use health information that is subject to the Health Insurance Portability and Accountability Act of 1996, Subtitle D of the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations, as amended (collectively, “HIPAA”); and

WHEREAS, this Exhibit A, which is attached to and made part of the Agreement, serves to establish the responsibilities of both Parties regarding Protected Health Information (“PHI”), and to bring this Agreement into compliance with HIPAA.

NOW, THEREFORE, the Parties agree to the following additional terms and conditions to those otherwise in the Agreement:

AGREEMENT

1. Definitions. Capitalized terms used in this Exhibit A, but not otherwise defined, shall have the same meanings ascribed to them in HIPAA.
2. No Third-Party Beneficiary. Nothing in this Exhibit A is intended, nor shall be deemed, to confer any benefits on any third party.
3. Permitted Uses and Disclosures. Except as otherwise specified herein, Business Associate may use and/or disclose PHI to perform the functions, activities, or services for or on behalf of Covered Entity as specified in this Agreement or a Required by Law, but shall not otherwise use or disclose PHI. Business Associate will not use or disclose PHI in a manner that would violate HIPAA if done by Covered Entity. Except as otherwise limited in this Agreement, Business Associate may:
 - a. use PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, and except as otherwise limited by this Exhibit A or the Agreement, as permitted by HIPAA.
 - b. disclose PHI for the proper management and administration of Business Associate and to carry out the legal responsibilities of Business Associate, provided that the disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom PHI is disclosed that the PHI will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of PHI has been breached.
 - c. use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. §164.504(e)(2)(i)(B).
 - d. use PHI to create de-identified health information in accordance with 45 C.F.R. §164.514(b) and may disclose deidentified health information for any purpose permitted by law.
 - e. use PHI to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. §164.502(j)(1).
4. Responsibilities of Business Associate. Business Associate agrees:
 - a. to use appropriate safeguards, and to comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of protected health information other than as provided for by the Agreement.
 - b. to report to Covered Entity promptly, but in no case longer than fifteen (15) business days, any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware, including a Breach of Unsecured PHI as required by 45 C.F.R. § 164.410, and any successful Security Incident of which it becomes aware. The Parties acknowledge and agree that this section 4.b. constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence or attempts of Unsuccessful Security Incidents for which no additional notice to Covered Entity shall be required. “Unsuccessful Security Incidents” means, without limitation, pings and other broadcast attacks on Business Associate’s firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use, or disclosure of PHI. The contact information for the Business Associate and Covered Entity employees to whom reports of unauthorized use or disclosure of PHI, Breaches of Unsecured PHI and successful Security Incidents under this Section shall be made as provided below (as such information may be updated from time to time between the parties). Notification shall be made using the methods as provided in the relevant Underlying Agreement.

Business Associate:

Legal Department

DeliverHealth Solutions, LLC
2450 Rimrock Rd., Suite 101
Madison, WI 53713
Email: security.compliance@deliverhealth.com

Covered Entity:

[Employee Name and Title]

[Company Name]

[Street Address]

[City, State, Zip]

[Phone]

[Email]

- c. to take reasonable steps to mitigate, to the extent practicable, any known harmful effect of a use or disclosure of PHI in violation of the requirements of this Exhibit A. Upon request, Business Associate shall promptly provide Covered Entity with information reasonably related to its discovery, investigation and mitigation activities associated with a Breach that affects Covered Entity.
 - d. to make PHI about an Individual contained in any Designated Record Set of Covered Entity maintained by Business Associate available to Covered Entity for Covered Entity to comply with an Individual's right of access to their PHI in compliance with 45 C.F.R. §164.524; provided, however, that unless otherwise expressly set forth in the Agreement, Covered Entity acknowledges that Business Associate does not maintain any Designated Record Set on behalf of Covered Entity..
 - e. to make PHI about an Individual contained in any Designated Record Set of Covered Entity maintained by Business Associate available to Covered Entity for amendment and incorporate any amendment(s) to PHI that Covered Entity directs, in accordance with 45 C.F.R. §164.526; provided, however, that unless otherwise expressly set forth in the Agreement, Covered Entity acknowledges that Business Associate does not maintain any Designated Record Set on behalf of Covered Entity..
 - f. to make the information required to provide an accounting of disclosures of PHI with respect to the Individual available to Covered Entity in response to a request from an Individual in accordance with 45 C.F.R. §164.528.
 - g. to the extent this Agreement requires Business Associate to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 C.F.R. Part 164, to comply with the requirements of Subpart E that apply to Covered entity in the performance of such obligation(s).
 - h. to make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to the Secretary of the Department of Health and Human Services or his/her designee (the "Secretary"), in a time and manner designated by the Secretary, for purposes of determining Covered Entity's compliance with the HIPAA.
 - i. to ensure that any Subcontractors that create, receive, maintain, or transmit PHI on behalf of Business Associate agree to substantially the same restrictions and conditions that apply to Business Associate with respect to such information in accordance with 45 C.F.R. § 164.502(e)(1)(ii).
 - j. if Business Associate knows of a pattern of activity or practice of a Subcontractor that constitutes a material breach or violation of HIPAA, to take reasonable steps to cure the breach or end the violation, as applicable, and if such steps are unsuccessful, terminate the contract or arrangement with such entity, if feasible.
 - k. to the extent required by the "minimum necessary" requirements of HIPAA, Business Associate shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.
 - l. to refrain from receiving any remuneration in exchange for any Individual's PHI unless such exchange (i) is pursuant to a valid authorization that includes a specification of whether the PHI can be further exchanged for remuneration by the entity receiving PHI of that Individual, or (ii) satisfies one of the exceptions enumerated in the HIPAA regulations and specifically Section 13405(d)(2) of the HITECH Act.
 - m. to refrain from marketing activities that would violate HIPAA and specifically Section 13406 of the HITECH Act.
 - n. to provide training to applicable employees as required by HIPAA.
5. Responsibilities of Covered Entity. Covered Entity shall:

- a. provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. §164.520, as well as any changes to such notice.
- b. provide Business Associate, in writing, with any changes in, or revocation of, permission by Individual to the use or disclosure of PHI, if such changes affect Business Associate's permitted or required uses or disclosures. Upon receipt by Business Associate of such notice of changes, Business Associate shall cease the use and disclosure of any such Individual's PHI except to the extent it has relied on such use or disclosure, or where an exception under HIPAA expressly applies.
- c. notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522.
- d. not request or require Business Associate to use and/or disclose PHI in a manner not permitted by HIPAA.

6. Termination.

- a. Termination for Cause. Either Party may immediately terminate this Agreement if such Party (the "Non-Breaching Party") determines that the other Party (the "Breaching Party") has breached a material term of this Exhibit A. Alternatively, the Non-Breaching Party may choose to provide the Breaching Party with written notice of the existence of an alleged material breach and afford the Breaching Party an opportunity to cure the alleged breach. Failure to cure the material breach within thirty (30) days of the written notice constitutes grounds for immediate termination of this Agreement.
- b. Effect of Termination.
 - (1) Except as provided in paragraph (2) of this Section 6(b), upon termination of this Agreement for cause, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This Section 6(b)(1) shall apply to PHI that is in the possession of Business Associate and its Subcontractors or agents. Business Associate, its Subcontractors or agents shall retain no copies of the PHI.
 - (2) In the event that Business Associate reasonably determines that returning or destroying the PHI is infeasible, Business Associate shall extend the protections of this Exhibit A to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

7. Indemnification.

Business Associate shall reimburse, indemnify and hold harmless Covered Entity for all Reasonable Indemnification Amounts (as defined in this paragraph) to the extent resulting from the negligence of the Business Associate that causes a breach of this Business Associate Addendum, Security Incident or Breach of PHI maintained by Business Associate or Business Associate's agent or Subcontractor, subject to the provisions of the Agreement. "Reasonable Indemnification Amounts" means: fines or settlement amounts owed to a state or federal government agency; the cost of any notifications to individuals or government agencies; credit monitoring for affected individuals; damages or settlement amounts payable to affected individuals; and reasonable attorneys' fees paid by Covered Entity. Notwithstanding the foregoing or any contrary provisions set forth in the Agreement, in no event shall Business Associate's obligations for Reasonable Indemnification Amounts exceed an aggregate amount of Five Hundred Thousand (\$500,000.00) Dollars.