CLINICFLOW TERMS OF SERVICE

Last updated: November 20, 2026

These ClinicFlow Terms of Service (this "Agreement") are an agreement between ClinicFlow Inc., a Texas corporation, with an address at 5900 Balcones Drive, Suite 9507, Austin, Texas 78731 ("ClinicFlow"), and the medical practice, hospital or other health care organization named in the account registration or the Order ("Customer"). ClinicFlow and Customer are each a "party" and collectively the "parties". Customer accepts this Agreement, which takes effect on the date Customer first accepts it ("Effective Date"), by (a) checking a box or clicking a button indicating acceptance when creating an account or placing an Order, (b) signing an Order that references this Agreement, or (c) using the ClinicFlow Modules. The individual who accepts this Agreement for Customer represents and warrants that they are authorized to bind Customer; if they are not, they may not accept this Agreement or use the ClinicFlow Modules.

ClinicFlow has developed and owns a AI voice agent platform that answers and places telephone calls for medical practices, including appointment scheduling, together with related dashboard and integration software ("ClinicFlow Platform"). Customer may use the ClinicFlow Platform modules purchased in an Order ("ClinicFlow Modules") on the terms of this Agreement.

In consideration of the mutual promises in this Agreement, the parties agree as follows:

1. Provision of ClinicFlow Modules.

1.1 Access Right. Subject to the terms and conditions of this Agreement and Customer's compliance therewith, on and from the Go-Live Date until the end of the Term, ClinicFlow shall provide Customer with access to the ClinicFlow Modules for use in accordance with the terms of this Agreement and any documentation and instructions provided by ClinicFlow from time to time. If applicable, such access shall only be granted to Customer's clinics listed in the Order (as that list may be updated through an Add-On or other Order) and no other clinics. Customer shall ensure that all clinics using and accessing the ClinicFlow Modules are located in the United States of America.

1.2 Support. ClinicFlow will be responsible for hosting and supporting the ClinicFlow Modules. ClinicFlow may modify the ClinicFlow Modules in any manner and for any reason during the Term. However, although ClinicFlow's objective is to continually improve the ClinicFlow Modules, ClinicFlow shall not be required to customize or modify the ClinicFlow Modules for Customer in any manner.

1.3 Cooperation. Customer shall provide all information, personnel and assistance as reasonably requested by ClinicFlow to deploy, host and maintain the ClinicFlow Modules under this Agreement.

1.4 EHR Integration. The parties shall cooperatively work together to integrate the relevant ClinicFlow Module into Customer's Electronic Health Record (EHR) and/or Electronic Medical Record (EMR) platform ("Customer Platform"). Customer shall provide ClinicFlow with such reasonable access to Customer's systems and software to complete such integration. Customer shall remain responsible and liable for the Customer Platform, and maintenance thereof.

1.5 Add-Ons and Orders. Customer may purchase additional ClinicFlow Modules, features, clinic locations, providers or languages (each, an "Add-On") at any time through the ClinicFlow Dashboard or ClinicFlow's website, or by a written request (email to suffice) that ClinicFlow accepts. Each Add-On is an Order. Unless the parties agree otherwise in writing, an Add-On (a) is charged at ClinicFlow's then-current price shown at the time of purchase, (b) starts when ClinicFlow makes it available to Customer, and (c) ends and renews with Customer's then-current Initial Term or Renewal Term. Each Order is part of this Agreement. An Order signed by both parties controls over this Agreement, for the subscription it covers, to the extent it expressly says so; no other Order, purchase screen or invoice changes this Agreement.

2. Other Customer Responsibilities; Restrictions; and Representations.

2.1 Use of ClinicFlow Modules. Customer shall be solely responsible and liable for: (a) access and use of the ClinicFlow Modules by the Authorized Users and Patients; (b) all Customer Data; (c) the results obtained from use of the ClinicFlow Modules; (d) conclusions, decisions, or actions made based on use of the ClinicFlow Modules; and (e) ensuring that use of the ClinicFlow Modules by Authorized Users and Patients complies with all applicable Laws.

2.2 Conduct of Business. Each party shall comply with all applicable Laws in connection with the activities to be conducted by each of them as contemplated under this Agreement. Customer shall be solely responsible for the practice of medicine and the conduct of its business. Customer acknowledges and agrees that any use of the ClinicFlow Modules will not diminish Customer's responsibility for exercising proper medical treatment and patient care in conformance with applicable Laws. Customer shall be solely responsible for verifying the accuracy of all protected health information obtained from and input into the ClinicFlow Modules.

2.3 Restrictions. Customer shall not, and shall not permit any other person or entity to, access or use the ClinicFlow Modules except as expressly permitted by this Agreement.

Without limiting the generality of the foregoing, Customer shall not and shall ensure that each Authorized User does not: (a) copy, modify, or create derivative works or improvements of the ClinicFlow Modules; (b) except as expressly permitted under this Agreement, rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any ClinicFlow Modules to any person or entity, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service; (c) reverse engineer, disassemble, decompile, decode or adapt the ClinicFlow Modules, or otherwise attempt to derive or gain access to the source code of the ClinicFlow Modules; (d) bypass or breach any security device or protection used by the ClinicFlow Modules; (e) input, upload, transmit, or otherwise provide to or through the ClinicFlow Modules any information or materials that are unlawful or injurious; (f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the ClinicFlow Modules or ClinicFlow's provision of services to any third party; (g) access or use the ClinicFlow Modules for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable Law (including the Laws that govern the making and sending of calls and text messages); (h) access or use the ClinicFlow Modules for purposes of competitive analysis of the ClinicFlow Platform, the development, provision, or use of a competing software service or product, or any other purpose that is to ClinicFlow's detriment or commercial disadvantage; or (i) use the ClinicFlow Modules to offer or otherwise make fraudulent goods, services, schemes, or promotions available to others.

2.4 Monitoring. The ClinicFlow Modules may contain technological measures that are designed to monitor or prevent use of the ClinicFlow Modules in contravention of this Agreement, and such measures may suspend or disable access to the ClinicFlow Modules in the event of any breach or suspected breach by Customer of this Agreement.

2.5 Call Recording and Disclosures. The ClinicFlow Modules record and transcribe calls, including any part of a call that an AI Call Agent transfers to Customer's personnel. Each AI Call Agent states in its opening statement, on every inbound and outbound call, that it is a virtual assistant and that the call is on a recorded line. Customer may ask ClinicFlow to add wording that a state's Law requires, but shall not instruct ClinicFlow to remove or delay that statement. Customer shall (a) inform its personnel who receive transferred calls that those calls are recorded, and Customer consents to that recording on behalf of itself and its personnel; (b) obtain any consent required for calls and text messages that the ClinicFlow Modules place or send at Customer's direction, including under the Telephone Consumer Protection Act, and provide for such calls and messages only telephone numbers that the Patient gave to Customer; (c) promptly tell ClinicFlow of any Patient request to stop calls or text messages that Customer receives outside the ClinicFlow Modules; and (d) describe the ClinicFlow Modules in its Notice of Privacy Practices

to the extent required by Law. ClinicFlow does not give legal advice about the disclosures or consents that any state's Law requires.

3. Consideration and Compliance.

3.1 Fees. Customer shall pay ClinicFlow the fees stated in each Order (or, where an Order does not state a fee, ClinicFlow's then-current price at the time of the Order) for the rights and benefits granted to Customer under this Agreement, in accordance with the payment terms in the Order or, if the Order states none, in Exhibit A. If Customer provides a payment card or bank account, Customer authorizes ClinicFlow and its payment processor to charge it for all fees and taxes when due. Such fee is fair market value and commercially reasonable. Fees exclude taxes, which Customer shall pay (other than taxes on ClinicFlow's income). Amounts unpaid when due accrue simple interest at the lesser of 1.5% per month and the maximum rate permitted by Law, and any interest charged or collected in excess of that maximum shall be credited against principal or refunded. ClinicFlow may suspend access to the ClinicFlow Modules on ten (10) days' notice if any amount is more than thirty (30) days past due. Fees do not change during the Initial Term or a Renewal Term, except for Add-Ons. ClinicFlow may increase fees for any Renewal Term by notice given at least ninety (90) days before the end of the then-current Initial Term or Renewal Term.

3.2 No Inducements. The parties acknowledge and agree that this Agreement, and any consideration paid hereunder, is not contingent upon Customer's use of or recommending the ClinicFlow Platform or ClinicFlow Modules, including after the Term. Customer has not been offered or paid any remuneration, directly or indirectly, overtly or covertly, in cash or in kind to: (a) refer any individual or provider to use the ClinicFlow Platform; or (b) purchase, lease, order, or arrange for or recommend purchasing or ordering the ClinicFlow Platform or ClinicFlow Modules.

3.3 Notification. Customer shall immediately notify ClinicFlow in writing in the event of any of the following: (a) Customer is listed by any federal or state agency as excluded, debarred, suspended or otherwise ineligible to participate in any Federal Health Care Program, as defined in 42 U.S.C. § 1320a-7b(f), and/or is debarred by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 335a(a) or (b); (b) Customer is convicted of any crime or found civilly liable for violating any federal, state, or local laws applicable to Customer or ClinicFlow; (c) the license of any of Customer's individual clinicians to practice their licensed profession in any state is restricted, suspended, revoked, or otherwise limited; (d) Customer is excluded from any federal contracting by the U.S. General Services Administration; (e) Customer is being investigated by any federal or state agency; or (f) Customer has any actual or potential conflicts of interest that affect Customer's obligations under this Agreement.

4. Term; Suspension and Termination.

4.1 Term. This Agreement starts on the Effective Date. The Initial Term starts on the Go-Live Date and lasts for the period stated in the Order or, if none is stated, in Exhibit A ("Initial Term"). The period from the Effective Date to the Go-Live Date is part of the Term, and fees accrued during it are payable. THIS AGREEMENT RENEWS AUTOMATICALLY. Unless otherwise stated in the Order, at the end of the Initial Term and each Renewal Term this Agreement automatically renews for a further 12-month period (each a "Renewal Term"), unless a party cancels automatic renewal by giving the other party a non-renewal notice at least sixty (60) days before the end of the then-current Initial Term or Renewal Term, or this Agreement is terminated earlier in accordance with this Section 4. Renewal does not require any action by Customer. The period from the Effective Date through the end of the Initial Term and all Renewal Terms is the "Term". Customer may cancel automatic renewal through the ClinicFlow Dashboard or by email to ClinicFlow under Section 8.4. ClinicFlow will email Customer a reminder between 30 and 60 days before the non-renewal deadline, stating the renewal date, the non-renewal deadline date, the length of the Renewal Term, any fee increase, and how to cancel automatic renewal.

4.2 Suspension or Termination by ClinicFlow. ClinicFlow may at any time, without liability, suspend, terminate, or otherwise deny Customer's or an Authorized User's access to or use of the ClinicFlow Modules if ClinicFlow believes in good faith that Customer has failed to comply with this Agreement, or that the provision of any ClinicFlow Module or any other activities contemplated under this Agreement may result in ClinicFlow or Customer failing to comply with applicable Law, injury or death to any person, an allegation against ClinicFlow or Customer of any infringement or misappropriation of a third party's Intellectual Property Rights, or ClinicFlow receiving a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires ClinicFlow to do so. ClinicFlow may also terminate this Agreement for convenience upon ninety (90) days' written notice to Customer.

4.3 Termination for Breach. Either party may terminate this Agreement upon at least 30 days' written notice to the other party in the event the other party materially breaches this Agreement and fails to cure such breach within 30 days of the non-breaching party notifying the breaching party of the breach. Notwithstanding the foregoing, Customer may terminate this Agreement in accordance with Section 4(B) of the BAA, and this Agreement shall terminate automatically upon any termination of the BAA.

4.4 Immediate Termination. In the event Customer is no longer licensed to provide health care services, this Agreement shall automatically terminate.

4.5 Effect of Termination or Expiration. Upon the expiration or termination of this Agreement for any reason, unless otherwise agreed in a separate written agreement between the parties: (a) all rights and licenses granted to Customer to the ClinicFlow Modules shall immediately terminate; (b) at ClinicFlow's request, Customer shall return to ClinicFlow or destroy any and all copies of all Confidential Information and any records or information related to the ClinicFlow Platform then in Customer's possession or control; (c) ClinicFlow's obligations under this Agreement shall terminate, except as provided in clauses (d) and (e) and in the BAA; (d) Sections 2.1, 2.5, 4.5, 5, 6, 7, and 8 shall survive, including Section 9 to the extent applicable to the foregoing; (e) for thirty (30) days after the effective date of termination or expiration, Customer may export Customer Data from the ClinicFlow Dashboard or ask ClinicFlow by email to return it, and after that period ClinicFlow shall destroy Customer Data that constitutes protected health information in accordance with Section 4(D) of the BAA; (f) ClinicFlow shall retain all right, title and interest in and to De-identified Data in accordance with Section 5.5, which shall not be subject to return or destruction; and (g) all fees accrued through the effective date of termination shall become immediately due and payable, and no fees shall be refunded except where Customer terminates under Section 4.3 for ClinicFlow's uncured material breach.

5. Intellectual Property.

5.1 ClinicFlow Platform. As between the parties, ClinicFlow shall retain all right, title and interest in and to: (a) the ClinicFlow Platform (including the ClinicFlow Modules) and all modifications, improvements, updates and derivative works thereto (including any modifications made as a result of any feedback provided by Customer); (b) all source code, object code, Trademarks (except for Trademarks owned or controlled by Customer as of the Effective Date), and data and content contained therein or available therewith, excluding Customer Data; (c) any documentation relating to the ClinicFlow Platform in any form; (d) any feedback, input or suggestions relating to the ClinicFlow Platform that may be provided to ClinicFlow by Customer or its personnel from time to time, including technical and usage information relating to the ClinicFlow Modules provided by Customer or its personnel (excluding any protected health information other than De-identified Data); (e) all De-identified Data, as provided in Section 5.5; and (f) all Intellectual Property Rights embodied in any of the foregoing ("ClinicFlow IP"). To the extent Customer obtains any right, title or interest in or to the ClinicFlow IP, Customer hereby assigns to ClinicFlow all such right, title and interest.

5.2 Customer Trademarks. Customer shall retain all right, title and interest in and to the Customer Trademarks. Customer hereby grants ClinicFlow a non-exclusive license to use Customer Trademarks to: (a) incorporate the Customer Trademarks into AI Call Agents or other components of the ClinicFlow Modules as instructed by Customer from time to time during the

Term, and (b) use Customer's name and logo in ClinicFlow's marketing and investor materials, including on ClinicFlow's website and in presentations to existing or prospective partners, customers or investors during the Term and thereafter. Customer may withdraw this permission by email at any time, and ClinicFlow shall stop new uses within thirty (30) days. ClinicFlow shall comply with any instructions and guidelines regarding ClinicFlow's usage of Customer's Trademarks provided to ClinicFlow in writing from time to time.

5.3 Marketing. Customer hereby consents to ClinicFlow's: (a) use of evidence about physician satisfaction and clinical efficiency in ClinicFlow's marketing materials relating to the ClinicFlow Platform, and (b) use of the results and outcomes of Customer's use of the ClinicFlow Platform in a case study in ClinicFlow's marketing materials, with approval from Customer, which shall not be unreasonably withheld. ClinicFlow may also use and publish aggregated statistics and performance metrics derived from Customer's use of the ClinicFlow Platform that do not identify Customer by name, without Customer's approval, provided that such statistics and metrics contain no protected health information and, if derived from protected health information, constitute De-identified Data. No marketing material under this Section 5.3 shall include protected health information.

5.4 Customer Data. As between the parties, Customer shall continue to own any and all data, including protected health information, entered or input into the ClinicFlow Modules by or on behalf of Patients, Customer and Customer's Authorized Users, and any outputs from such data generated by the ClinicFlow Modules and made available to Customer as part of the ClinicFlow Modules (together, "Customer Data"). Customer Data does not include De-identified Data. Commencing on the Effective Date, Customer hereby grants to ClinicFlow a non-exclusive, worldwide, royalty-free license, sublicensable to ClinicFlow's Affiliates and subcontractors solely to assist ClinicFlow, to: (a) use the Customer Data to provide Customer with access to the ClinicFlow Platform, as may be updated, modified or improved upon from time to time; (b) use the Customer Data to create De-identified Data in accordance with Section 2(E) of the BAA; and (c) otherwise fulfill ClinicFlow's obligations and responsibilities and conduct its activities as contemplated under this Agreement. ClinicFlow shall not permit its subcontractors to use call recordings, transcripts or other Customer Data to train or improve their own models or for their own purposes.

5.5 De-identified Data. As between the parties, ClinicFlow shall own all right, title and interest in and to De-identified Data. ClinicFlow may retain, store, use, disclose, license and otherwise exploit De-identified Data, and shall own all models and other materials developed from it, for any lawful purpose, including to develop, train, test, improve, provide and commercialize ClinicFlow's products and services for ClinicFlow's other customers, during the

Term and in perpetuity thereafter, without any obligation to account to or compensate Customer. ClinicFlow's creation, use and disclosure of De-identified Data shall be subject to Section 2(E) of the BAA, including its prohibition on re-identification. This Section 5.5 shall survive the expiration or termination of this Agreement.

5.6 Business Associate Addendum. Each party shall comply with all applicable Laws concerning privacy, security and confidentiality of all patient records, including HIPAA. ClinicFlow will function as a "business associate" of Customer that is a "covered entity" under HIPAA. The Business Associate Addendum attached as Exhibit B ("BAA") is incorporated into and forms part of this Agreement, and each party's acceptance of this Agreement (including Customer's electronic acceptance) is its acceptance of the BAA. To the extent that any of the provisions set forth in the BAA conflict with any of the other provisions in this Agreement: (a) the BAA shall control to the extent necessary for compliance with HIPAA; (b) Section 2(E) of the BAA shall control with respect to De-identified Data; and (c) with respect to any other matters, the other provisions set forth in this Agreement shall control. The provisions of the BAA shall survive termination or expiration of this Agreement.

5.7 Reservation. Except as expressly set forth in this Agreement, nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights of either party, whether expressly, by implication, estoppel, or otherwise.

6. Confidentiality.

6.1 Exclusions. Confidential Information shall not include information which the Receiving Party can demonstrate by competent written evidence: (a) is in, or becomes part of, the public domain through no fault or act of the Receiving Party; (b) was received by the Receiving Party from a third party under no duty of confidentiality to the Disclosing Party; or (c) was independently developed by the Receiving Party without the use of, or reliance on, the Confidential Information. In addition, De-identified Data, the technical and usage information described in Section 5.1(d), and the aggregated statistics described in Section 5.3 shall not be Confidential Information of Customer.

6.2 Obligation. The Receiving Party agrees that, from time to time, it may be exposed to Confidential Information and, as such, shall maintain the confidentiality of such Confidential Information, and shall not disclose any such Confidential Information to any third parties without the prior written consent of the Disclosing Party, except as permitted by Section 6.3. The Receiving Party shall take reasonable steps to protect the Confidential Information from unauthorized disclosure. The Receiving Party agrees that its confidentiality obligations under this Section 6 also

extend to information regarding the Confidential Information obtained by the Receiving Party prior to entering into this Agreement.

6.3 Use and Disclosure. All Confidential Information is deemed confidential and proprietary to the Disclosing Party. The Receiving Party may use the Confidential Information only as permitted to perform its obligations and exercise its rights under this Agreement and the BAA, including, in the case of ClinicFlow, under Sections 5.4 and 5.5 of this Agreement and Section 4(D) of the BAA. The Receiving Party shall not disclose or provide any of the Confidential Information to any person or third party, except to officers, employees, Affiliates, contractors, subcontractors (including hosting, telecommunications and AI service providers) and professional advisors of the Receiving Party having a need for such information in connection with this Agreement and who are subject to obligations of non-use and non-disclosure similar to the terms set forth herein. If the Receiving Party is requested or required by law or legal process to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with prompt oral and written notice, so that the Disclosing Party may seek a protective order or other appropriate remedy, and shall only furnish the applicable portion of the Confidential Information legally required.

7. Disclaimers; Limitations of Liability; Indemnity.

7.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that: (a) such party has the power and authority to enter into this Agreement; and (b) such party will comply with any and all applicable Laws, including HIPAA and other Laws applicable to privacy, protected health information, personally identifiable information, and data protection. Customer further represents and warrants that it has, and will maintain, all rights, consents, authorizations and notices required under applicable Law for ClinicFlow to receive, process and record Customer Data and calls as contemplated by this Agreement, and to create and use De-identified Data as provided in Section 5.5.

7.2 Mutual Disclaimer. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 7, NEITHER PARTY MAKES ANY OTHER REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AND EACH PARTY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ANY REPRESENTATIONS AND WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

7.3 ClinicFlow Disclaimer. EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS SECTION 7, THE CLINICFLOW MODULES ARE PROVIDED ON AN “AS IS” BASIS, AND

CLINICFLOW MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE CLINICFLOW PLATFORM ARISING FROM OR RELATING TO THIS AGREEMENT. CLINICFLOW DOES NOT GUARANTEE THAT CUSTOMER'S OR ITS PATIENTS' ACCESS TO THE CLINICFLOW PLATFORM WILL BE UNINTERRUPTED, ERROR-FREE OR SECURE OR THAT DEFECTS OR ERRORS CAN OR WILL BE CORRECTED. CLINICFLOW IS NOT A HEALTHCARE SERVICE PROVIDER AND DOES NOT MAKE ANY MEDICAL INTERPRETATION OR MEDICAL DECISION OR RECOMMEND ANY COURSE OF MEDICAL TREATMENT. CLINICFLOW DOES NOT WARRANT THAT THE CLINICFLOW PLATFORM WILL MEET CUSTOMER'S REQUIREMENTS. CLINICFLOW DOES NOT WARRANT THE APPROPRIATENESS OF THE CLINICFLOW PLATFORM FOR ANY PARTICULAR SYSTEM OR APPLICATION. CLINICFLOW MAKES NO REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE COMPLETENESS OR ACCURACY OF ANY INFORMATION OR CONTENT MADE AVAILABLE OR USED BY THE CLINICFLOW PLATFORM. AS BETWEEN THE PARTIES, CUSTOMER ASSUMES THE ENTIRE RISK, AND CLINICFLOW DISCLAIMS ALL LIABILITY, AS TO THE QUALITY AND PERFORMANCE OF THE CLINICFLOW PLATFORM.

THE CLINICFLOW PLATFORM IS A SUPPLEMENTAL TOOL ONLY. IT IS NOT INTENDED TO REPLACE ANY TOOL, SOFTWARE, OR CUSTOMER'S OR ITS PHYSICIANS' PROFESSIONAL JUDGMENT. CLINICFLOW DOES NOT CONTROL OR INTERFERE WITH THE PRACTICE OF MEDICINE. CUSTOMER ACKNOWLEDGES AND AGREES THAT CLINICFLOW IS NOT A HEALTH CARE PROVIDER AND THAT CUSTOMER SHALL ENSURE THAT IT REMAINS SOLELY RESPONSIBLE FOR ALL MEDICAL OR HEALTH CARE RELATED INFORMATION OR SERVICES PROVIDED TO ANY PATIENT. THE CLINICFLOW PRODUCT IS NOT INTENDED FOR USE IN ANY INHERENTLY DANGEROUS APPLICATIONS.

7.4 Exclusion of Certain Damages. EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS, CUSTOMER'S OBLIGATIONS UNDER SECTION 7.6, A PARTY'S INFRINGEMENT OR MISAPPROPRIATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS (EXCLUDING ANY CLAIM ARISING FROM THE USE, DISCLOSURE OR SECURITY OF CUSTOMER DATA), AND LIABILITY THAT CANNOT BE LIMITED UNDER APPLICABLE LAW, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (A) EACH PARTY, ITS AFFILIATES, SUBCONTRACTORS AND THIRD PARTY LICENSORS, AND THEIR RESPECTIVE OWNERS, OFFICERS, DIRECTORS AND EMPLOYEES, SHALL NOT BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL, EXEMPLARY, ENHANCED OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND, OR ANY LOST PROFITS, REVENUE OR LOSS OF GOODWILL OR REPUTATION, IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING THE BAA), WHETHER ALLEGED AS A BREACH OF CONTRACT, TORT (INCLUDING THE SOLE, JOINT OR CONCURRENT NEGLIGENCE OF THE PARTY WHOSE LIABILITY IS EXCLUDED), STRICT LIABILITY OR OTHERWISE, EVEN IF THE PARTY HAS BEEN

ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY; AND (B) TO THE EXTENT A PARTY'S LIABILITY UNDER THE FOREGOING HAS NOT ALREADY BEEN EXCLUDED, IN NO EVENT SHALL A PARTY'S CUMULATIVE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO TORT (INCLUDING SOLE, JOINT OR CONCURRENT NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO CLINICFLOW UNDER THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE FIRST EVENT THAT GAVE RISE TO THE RELEVANT LIABILITY.

7.5 Mutual Indemnity. Each party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other party and its respective officers, directors, employees, agents, partners, equity holders, successors, and assigns (collectively, the "Indemnified Parties") from and against any and all claims, causes of action, lawsuits or investigations brought by a third party ("Third Party Claims") and shall pay any liabilities, losses, damages, penalties, assessments, judgments, awards or costs, including reasonable attorneys' fees and costs associated with such Third Party Claims (collectively, "Losses"), arising out of, resulting from, or relating to the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party in the performance of its obligations under this Agreement. The foregoing obligation to defend, indemnify and hold harmless shall not apply with respect to any Third Party Claims or Losses to the extent they arise from the Indemnified Party's breach of this Agreement.

7.6 Customer Indemnity. Customer shall defend, indemnify and hold harmless ClinicFlow and its Affiliates and its and their respective representatives, successors and assigns (collectively, the "ClinicFlow Indemnified Parties") from and against Third Party Claims and shall pay any Losses, in each case to the extent arising from or relating to: (a) any assertion that any Customer Data or other data or content provided to ClinicFlow under this Agreement infringes or otherwise violates any applicable Law or any Intellectual Property Rights, confidentiality or privacy rights of any patient or other third party; (b) any assertion that Customer did not have the authority to bind a clinic to all applicable terms and conditions of this Agreement (if applicable); (c) the medical practice of and delivery of services provided by, and the conduct of the business of, Customer; (d) the Customer Platform; (e) any claim relating to call recording, call disclosures, consent or telephone communications, including under the Telephone Consumer Protection Act or state recording laws, except to the extent caused by ClinicFlow's failure to give the opening statement required by Section 2.5 or to honor an opt-out recorded in the ClinicFlow Modules; and (f) Customer's breach of its representations in Section 7.1 or of its obligations under the BAA. The foregoing obligation to defend, indemnify and hold harmless shall not apply with respect to any Third Party Claims or Losses to the extent they arise from ClinicFlow's breach of this Agreement. SUBJECT ONLY TO THE PRECEDING SENTENCE, CUSTOMER'S OBLIGATIONS UNDER

THIS SECTION 7.6 APPLY EVEN IF THE THIRD PARTY CLAIM OR LOSSES ARISE IN PART FROM THE NEGLIGENCE (WHETHER SOLE, JOINT, CONCURRENT OR COMPARATIVE) OR STRICT LIABILITY OF ANY CLINICFLOW INDEMNIFIED PARTY, BUT NOT TO THE EXTENT ARISING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF A CLINICFLOW INDEMNIFIED PARTY.

7.7 Allocation of Risk. The provisions of this Agreement allocate the risks between the parties, and the parties would not have entered into this Agreement without the terms set forth in this Section 7.

8. Miscellaneous.

8.1 Non-Solicitation. During the Term and six months thereafter, Customer shall not, and shall not assist any other person to, directly or indirectly, recruit or solicit for employment or engagement as a contractor any person then or within the prior six months employed or engaged by ClinicFlow and involved in any respect with the ClinicFlow Platform or the performance of this Agreement.

8.2 No Authority. Neither party shall bind or purport to bind the other party in any manner, or make any representations, warranties, guarantees, covenants or commitments on behalf of the other party.

8.3 Assignment. Customer may not, without the prior written consent of ClinicFlow, assign or transfer all or any part of its rights or obligations under this Agreement, including by merger, change of control or operation of law. ClinicFlow may assign this Agreement without Customer's consent, including (a) to its Affiliate, or (b) to a third party in connection with a merger, acquisition of all or substantially all of the business or assets of such party to which this Agreement relates (whether by sale of stock, assets or otherwise), consolidation, change of control or other similar transaction. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns and transferees.

8.4 Notices. All notices which are required or may be given pursuant to this Agreement shall be in writing (email to suffice) and shall be deemed to have been duly delivered: (a) when delivered, if delivered personally to the intended recipient; (b) one business day after being sent, if sent by overnight delivery via an international courier service; or (c) when sent by email, unless the sender receives notice that the email was not delivered and, in each case of (a) through (c), addressed to a party at the following address for such party:

(i) if to ClinicFlow,

ClinicFlow Inc.
5900 Balcones Drive, Suite 9507, Austin, Texas 78731
Attn: Legal Notices
Email: csaifi@clinicflowai.com and npatel@clinicflowai.com

(ii) if to Customer, to the email address of Customer's account owner in the ClinicFlow Dashboard or the notice address in the Order, as Customer may update it from time to time.

or to such other address(es) as may be furnished in writing by any such party to the other party in accordance with the provisions of this Section 8.4. ClinicFlow may also give notices under this Agreement, including notices of fee changes and of updates under Section 8.17, in the ClinicFlow Dashboard.

8.5 Governing Law. This Agreement and any dispute or claim, including non-contractual disputes or claims, arising out of or in connection with this Agreement or its subject matter or formation shall be governed by and construed in accordance with the substantive Laws, but not the choice of law rules, of the State of Texas, except as to matters governed by U.S. federal law, in which case U.S. federal law shall be the governing law. Each party hereby irrevocably and unconditionally consents to submit any actions, suits or proceedings based upon, arising out of or relating to this Agreement and the matters contemplated hereby to the Eleventh Business Court Division of the State of Texas, or, if such Court does not have jurisdiction with respect to such action, then to the exclusive jurisdiction of the state courts sitting in Harris County, Texas and the United States District Court for the Southern District of Texas, Houston Division.

8.6 Injunctive Relief. The parties acknowledge and agree that irreparable damage would occur if a party breaches its obligations with respect to Intellectual Property Rights or confidentiality and, as such, the parties will be entitled to seek injunctive relief to prevent such breaches and to enforce specifically the performance of the relevant provisions, this being in addition to any other remedy to which any party is entitled at Law or in equity.

8.7 Further Assurances. From time to time after the Effective Date, each party shall promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such documents reasonably requested by the other party and take such other actions as may reasonably be necessary to appropriately consummate or evidence the transactions contemplated hereby.

8.8 Electronic Acceptance. Customer's acceptance of this Agreement or of any Order by electronic means, including by checking a box or clicking a button, is an electronic signature under the Electronic Signatures in Global and National Commerce Act and the Texas Uniform Electronic Transactions Act and has the same effect as a handwritten signature. ClinicFlow shall keep a record of each acceptance, including the version of this Agreement accepted, and shall provide a copy to Customer on request. An Order or amendment may also be signed in counterparts and delivered electronically.

8.9 Severability; Waiver. Should any part of this Agreement be deemed invalid or unenforceable, such determination will not affect the validity or enforceability of any other part of this Agreement. If there is any waiver of any breach or failure to enforce any of the provisions of this Agreement, it shall not be deemed a future waiver of such provisions or a waiver of any other provision of this Agreement.

8.10 No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties and does not confer on third parties any remedy, claim, reimbursement, claim of action or other right in addition to those existing without reference to this Agreement.

8.11 Entire Agreement. This Agreement, including its Exhibits and all Orders, shall constitute the entire agreement between the parties with respect to the subject matter hereof and will supersede all prior negotiations, agreements, and understandings of the parties of any nature, whether oral or written, with respect to such subject matter. Any terms in a Customer purchase order, vendor portal or similar document shall have no effect.

8.12 Expenses. All fees and expenses incurred in connection with the transactions contemplated hereby shall be paid by the party incurring such fees and expenses.

8.13 Independent Contractors. It is expressly understood that the relationship between ClinicFlow and Customer is that of independent contractors, and nothing contained herein shall be deemed to create a joint venture, partnership, or other relationship. Neither ClinicFlow nor Customer shall have the authority to bind the other party to any third party or otherwise to act in any way as the representative of the other party, unless otherwise expressly agreed to in writing signed by the parties.

8.14 Interpretation. In this Agreement: (a) headings are for convenience only and do not affect the interpretation of this Agreement; (b) the singular includes the plural and vice versa; (c) the words "such as", "including", "particularly" and similar expressions are not used as, nor are intended to be interpreted as, words of limitation; (d) a reference to a thing includes a part of that thing; (e) no rule of construction applies to the disadvantage of a party because that party

was responsible for the preparation of this Agreement; and (f) the word "or" shall not be exclusive and means "and/or".

8.15 Force Majeure. ClinicFlow shall not be liable for any failure or delay in performance caused by events beyond its reasonable control, including failures of telecommunications carriers, internet or hosting providers, or third-party AI service providers, acts of God, labor disputes, or governmental action, provided that it uses reasonable efforts to resume performance. This Section 8.15 does not excuse Customer's payment obligations.

8.16 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE BAA. EACH PARTY ACKNOWLEDGES THAT IT HAS HAD THE OPPORTUNITY TO CONSULT COUNSEL OF ITS CHOICE, THAT IT HAS READ AND UNDERSTANDS THIS WAIVER, AND THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO THE OTHER PARTY TO ENTER INTO THIS AGREEMENT.

8.17 Updates to this Agreement. ClinicFlow may update this Agreement, including the BAA, by posting the updated version on its website and notifying Customer under Section 8.4 at least thirty (30) days before the update takes effect. An update takes effect at the start of Customer's next Renewal Term, if ClinicFlow gives the notice at least thirty (30) days before the non-renewal deadline for that term; otherwise the update takes effect at the start of the following Renewal Term, except that an update required by Law (including HIPAA) or that applies only to new ClinicFlow Modules or features takes effect on the date stated in the notice. If an update that takes effect during a term materially and adversely affects Customer, Customer may terminate this Agreement by notice given within thirty (30) days after ClinicFlow's notice, and ClinicFlow shall refund any prepaid fees for the period after termination. Except as provided in this Section 8.17, this Agreement may be amended only by a written amendment signed by both parties. ClinicFlow may update Exhibit B under this Section 8.17 only (a) to comply with a change in HIPAA or other Law, or (b) in a way that does not reduce ClinicFlow's obligations or Customer's rights under Exhibit B. Any other change to Exhibit B takes effect only when Customer affirmatively accepts it, including by checking a box.

9. Definitions. The following capitalized terms used herein shall have the meanings set forth below:

9.1 "Affiliate" means an entity that directly or indirectly controls, is controlled by, or is under common control with, a party to this Agreement. For purposes of the foregoing, "control" means the right or power, directly or indirectly, to direct or cause the direction of the

management and policies of the entity, whether through the ownership of voting securities, by contract or otherwise.

9.2 "ClinicFlow Dashboard" means the web-based dashboard of the ClinicFlow Modules made accessible to Customer for use by its Authorized Users.

9.3 "Authorized Users" means Customer's employees, clinicians, consultants, contractors or agents (a) who are authorized by Customer to access and use the ClinicFlow Dashboard under the rights granted to Customer pursuant to this Agreement; and (b) for whom access to the ClinicFlow Dashboard has been granted hereunder.

9.4 "Confidential Information" means all information that is disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally, in writing or through review of the Disclosing Party's records, data, materials, or otherwise, and that is designated as confidential, regardless of the form in which it is disclosed, or which ought to be considered confidential, including any information disclosed by the Disclosing Party that relates to the Disclosing Party's products, know-how, trade secrets, patents, inventions, procedures, methods, strategies, plans, revenues, employees, or business in general, or the terms of this Agreement.

9.5 "Customer Data" has the meaning set forth in Section 5.4.

9.6 "De-identified Data" has the meaning set forth in Section 1(F) of the BAA, and includes combined data described in Section 2(E)(5) of the BAA.

9.7 "Go-Live Date" means the go-live date determined under the Order or, if the Order does not determine it, under Exhibit A, including any deemed Go-Live Date.

9.8 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act of the American Recovery and Reinvestment Act of 2009, and the regulations promulgated thereunder (as amended and codified at 45 C.F.R. Parts 160, 162 and 164).

9.9 "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

9.10 "Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state,

local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

9.11 “Order” means an online order, sign-up, checkout or in-app purchase made through the ClinicFlow Dashboard or ClinicFlow’s website, an Add-On, or an order form or quote signed by both parties, in each case stating the ClinicFlow Modules, fees, clinic locations or term that Customer purchases.

9.12 “Patient” means a patient or prospective patient of Customer or its physicians.

9.13 “Term” has the meaning set forth in Section 4.1.

9.14 “Trademark” means any trademark, trade name, service mark, service name, brand, domain name, social media account, internet keyword, sponsored advertising keyword, trade dress, logo, slogan, or other indicia of origin or ownership or designations of a party, including registrations and applications therefor and the goodwill and activities associated with each of the foregoing.

Exhibit A: Standard Order Terms

These terms apply to each Order except to the extent the Order states otherwise.

Topic	Description
ClinicFlow Modules	As selected in the Order, which may include AI Call Center/Scheduling ("AI Call Agent"): automate appointment scheduling with conversational AI technology integrated into the EMR agreed upon by the Parties.
Fees (Section 3.1)	AI Call Agent Pricing • Per-minute fee at the rate stated in the Order. Following the end of each calendar month, ClinicFlow shall charge Customer based on the total call time in the previous calendar month. The entire length of the call, regardless of whether the Patient is speaking, is included in the calculation of call time (the speech-to-text ClinicFlow Module continues to operate throughout the call). • Per Provider Fee, if any: as stated in the Order, per provider per month • EHR Integration Fee, if any: as stated in the Order (one-time fee, charged or invoiced on the Effective Date) • EHR Maintenance Fee, if any: as stated in the Order, per month, beginning on the Go-Live Date and charged or invoiced monthly with the other fees • Additional Language Fees (per language selected by Customer): the one-time setup fee and monthly maintenance fee per language shown at the time the language is added, charged or invoiced when the language is added and, for the maintenance fee, monthly from the date the language goes live
Payment Terms (Section 3.1)	Fees are charged to Customer's payment method on file when due or, if ClinicFlow invoices Customer, are payable within 30 days of the invoice date.
Customer Clinics (Section 1.1)	The clinic locations listed in the Order or in the ClinicFlow Dashboard.
Term (Section 4.1)	The Initial Term shall commence on the first day the services are first utilized in a live clinical setting ("Go-Live Date"); provided that, if the services have not been utilized in a live clinical setting within ninety (90) days after the Effective Date for reasons not attributable to ClinicFlow, the Go-Live Date shall be deemed to be the ninetieth (90th) day after the Effective Date. The Initial Term shall continue for twelve (12) months after the Go-Live Date, and shall renew in accordance with Section 4.1.

Exhibit B

Business Associate Addendum

This Business Associate Addendum (this "Agreement") is part of the ClinicFlow Terms of Service (the "Underlying Agreement") between ClinicFlow Inc. ("Business Associate") and the Customer that accepts the Underlying Agreement ("Covered Entity"), and takes effect on the Effective Date of the Underlying Agreement ("Effective Date"). Covered Entity's acceptance of the Underlying Agreement, including electronic acceptance, is its acceptance of this Agreement, and Business Associate accepts this Agreement by providing services under the Underlying Agreement. References in the Underlying Agreement to the "BAA" mean this Agreement.

RECITALS

A. Covered Entity and Business Associate are parties to the Underlying Agreement, pursuant to which Business Associate agrees to perform certain services on behalf of Covered Entity.

B. In performing services on behalf of Covered Entity, Business Associate may create, access, receive, maintain or transmit Covered Entity's Protected Health Information (defined below).

C. The parties wish to enter into this Agreement to set forth their understanding with regard to Business Associate's Use and Disclosure of Protected Health Information in accordance with the business associate agreement requirements of the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 ("HITECH"), and all applicable implementing regulations, including, without limitation, the Standards for Privacy of Individually Identifiable Health Information (the "Privacy Rule"), Notification in the Case of Breach of Unsecured Protected Health Information ("Breach Notification Rule"), and the Security Standards for the Protection of Electronic Protected Health Information (the "Security Rule") found at Title 45, Parts 160 and 164 of the Code of Federal Regulations (all such laws and regulations collectively, "HIPAA").

D. The parties further wish to set forth the terms on which Business Associate may create, retain and use information that has been de-identified in accordance with HIPAA.

AGREEMENTS

In consideration of the Recitals and the mutual agreements which follow, Covered Entity and Business Associate agree as follows:

1) **Definitions.** Capitalized terms used in this Agreement, but not otherwise defined, shall have the same meaning as those terms in the Privacy Rule, Breach Notification Rule, or the Security Rule.

   A) **Breach** has the same meaning as defined in 45 C.F.R. § 164.402.

   B) **Protected Health Information** or **"PHI"** has the same meaning as defined in 45 C.F.R. § 160.103.

C) **Electronic Protected Health Information** or **"ePHI"** has the same meaning as defined in 45 C.F.R. § 160.103.

D) **Individual** has the same meaning as defined in 45 C.F.R. § 160.103.

E) **Unsecured Protected Health Information** has the same meaning as defined in 45 C.F.R. § 164.402.

F) **De-identified Data** means health information that Business Associate has de-identified from PHI in accordance with 45 C.F.R. § 164.514(a)–(b) and Section 2(E) of this Agreement, and that does not identify an Individual and with respect to which there is no reasonable basis to believe it can be used to identify an Individual. De-identified Data is not PHI.

G) **Related Data** means data derived from PHI that continues to constitute PHI. Related Data does not include De-identified Data.

2) **Responsibilities of Business Associate.**

A) Prohibition on Unauthorized Use or Disclosure of PHI. Business Associate shall not use or disclose any PHI received from or on behalf of Covered Entity except as permitted or required by this Agreement, the Underlying Agreement, or by law, or as otherwise authorized in writing by Covered Entity.

B) Minimum Necessary. Business Associate shall not request, use or disclose more than the minimum amount of PHI necessary to accomplish the purpose of the Use, Disclosure, or request.

C) Use and Disclosure of PHI. Except as described in Sections 2(D) and 2(E), Business Associate may access, Use, Disclose, create, receive, maintain, and transmit PHI only for the purposes outlined in the Underlying Agreement, including Data Aggregation services relating to the health care operations of Covered Entity.

D) Use of PHI for Business Associate's Operations.

(1) Business Associate may use PHI it creates for, or receives from, Covered Entity to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities.

(a) Business Associate's proper management and administration does not include the use or disclosure of PHI by Business Associate for Marketing purposes, or to support Marketing as described under 45 C.F.R. § 164.508.

(b) Business Associate's proper management and administration does not include the Sale of PHI by Business Associate as described under 45 C.F.R. § 164.502. The use or disclosure of De-identified Data in accordance with Section 2(E) is not a Sale of PHI.

(2) Business Associate may disclose PHI for the purposes described in Section 2(D)(1) only if:

(a) The disclosure is Required by Law; or

(b) Business Associate obtains reasonable assurances, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall: (a) hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it, or as Required by Law; and (b) notify Business Associate, who shall in turn promptly notify Covered Entity, of any occurrence of which the person or organization becomes aware in which there was a privacy or security incident or the confidentiality of such PHI was breached.

E) De-identification of PHI; Retention and Use of De-identified Data.

(1) **Authorization.** As permitted by 45 C.F.R. § 164.502(d), Covered Entity authorizes Business Associate to use PHI to create De-identified Data. Business Associate shall de-identify PHI only by one of the following methods:

(a) removing all identifiers listed at 45 C.F.R. § 164.514(b)(2)(i), with respect to the Individual and the Individual's relatives, employers and household members, where Business Associate has no actual knowledge that the remaining information could be used, alone or in combination with other information, to identify an Individual ("Safe Harbor"); or

(b) obtaining a written determination from a person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods, in accordance with 45 C.F.R. § 164.514(b)(1), that the risk is very small that the information could be used to identify an Individual ("Expert Determination").

(2) **Information That Is Not De-identified Data.** The following remain PHI and are not De-identified Data: (a) voice prints and other biometric identifiers; (b) full-face photographs and comparable images; (c) audio recordings of an Individual's natural voice, unless the audio has been transformed (for example, by synthetic re-voicing or voice conversion) so that the Individual's voice cannot be recognized, all other identifiers have been removed from its content, and an Expert Determination specifically addresses the risk of re-identification from the transformed audio; and (d) transcripts, notes or other free text from which every identifier listed at 45 C.F.R. § 164.514(b)(2)(i) has not been removed, unless covered by an Expert Determination.

(3) **Documentation.** Business Associate shall document the de-identification method used for each data set and shall retain each Expert Determination and its supporting analysis for six (6) years from the date of its creation or the date it was last in effect, whichever is later.

(4) **Ownership and Use.** As between the parties, and notwithstanding any provision of the Underlying Agreement assigning ownership of data or outputs to Covered Entity, Business Associate shall own all De-identified Data. Business Associate may retain, store, use, disclose, license and otherwise exploit De-identified Data for any lawful purpose, including to develop, train, test, improve, provide and commercialize Business Associate's products and services for Business Associate's other customers, in perpetuity and without any obligation to account to or compensate Covered Entity.

(5) **Combination.** Business Associate may combine De-identified Data with de-identified data derived from information of its other customers or from other sources, and the result shall also be De-identified Data owned by Business Associate, provided the combined data continues to meet the requirements of Section 2(E)(1).

(6) **Re-identification Prohibited.** Business Associate shall not re-identify, or attempt to re-identify, any Individual from De-identified Data, and shall not link De-identified Data with other information for that purpose. Any code or other means of record identification that Business Associate assigns shall comply with 45 C.F.R. § 164.514(c) and shall not be disclosed.

(7) **Downstream Recipients.** Before disclosing De-identified Data to any third party, Business Associate shall require that third party, by written contract, not to re-identify or attempt to re-identify any Individual, and not to further disclose the De-identified Data except under the same restriction.

(8) **Loss of De-identified Status.** If Business Associate learns that any De-identified Data can reasonably be used to identify an Individual, Business Associate shall (a) treat that data as PHI under this Agreement, (b) report the matter to Covered Entity to the extent required by Section 2(K), and (c) promptly de-identify that data again or destroy it.

(9) **De-identified Data Provided by Covered Entity.** Unless otherwise agreed upon by the parties, in the event that Covered Entity provides Business Associate with de-identified data, Business Associate shall not be given access to, nor shall Business Associate attempt to develop on its own, any keys or codes that can be used to re-identify the data.

(10) **Survival.** This Section 2(E) shall survive the termination or expiration of this Agreement and of the Underlying Agreement. Section 4(D) does not apply to De-identified Data.

(11) **Models.** Business Associate shall not use PHI, as opposed to De-identified Data, to train or fine-tune any machine learning model that is used to provide services to any customer other than Covered Entity. All models, weights and other materials trained or developed using De-identified Data are owned exclusively by Business Associate and are not PHI or Related Data, and Covered Entity has no ownership interest in them.

F) Safeguarding of PHI.

(1) Business Associate shall use appropriate safeguards and comply with the Security Rule, with respect to ePHI, to prevent access, use, or disclosure of ePHI other than as provided for by this Agreement.

(2) To the extent Business Associate is to carry out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations. This includes using appropriate safeguards to prevent inappropriate or unauthorized access, use, or disclosure of PHI.

(3) Business Associate shall review and modify its privacy and security safeguarding measures as needed to continue providing reasonable and appropriate protection of PHI.

(4) Business Associate shall maintain documentation of privacy and security safeguarding measures as required by HIPAA (45 C.F.R. § 164.316).

(5) Upon Covered Entity's reasonable written request, not more than once in any twelve (12) month period, Business Associate shall respond to a written security questionnaire regarding its safeguards. Business Associate's responses are confidential and may be used by Covered Entity only to evaluate Business Associate's compliance with this Agreement.

(6) Business Associate shall store PHI only in the United States and shall require its Subcontractors that store PHI to do the same.

G) Subcontractors. If at any time PHI received from, or created or received by Business Associate on behalf of, Covered Entity is provided or made available by Business Associate to any of its Subcontractors, then Business Associate shall require each such Subcontractor to agree in writing to the same restrictions and conditions on the Use or Disclosure of PHI as are imposed on Business Associate by this Agreement and applicable law, including the Privacy Rule, Breach Notification Rule, and Security Rule. Business Associate shall ensure that all such Subcontractors that create, receive, maintain, or transmit PHI implement reasonable and appropriate safeguards to protect such PHI.

H) Compliance with Electronic Transactions and Code Set Standards. If Business Associate conducts any Standard Transaction for, or on behalf of, Covered Entity, Business Associate shall comply, and shall require any Subcontractor conducting such Standard Transaction to comply, with each applicable requirement of Title 45, Part 162 of the Code of Federal Regulations. Business Associate shall not enter into, or permit its Subcontractors to enter into, any agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:

(1) changes the definition, Health Information condition, or use of a Health Information element or segment in a Standard;

(2) adds any Health Information elements or segments to the maximum defined Health Information Set;

(3) uses any code or Health Information elements that are either marked "not used" in the Standard's Implementation Specification(s) or are not in the Standard's Implementation Specification(s); or

(4) changes the meaning or intent of the Standard's Implementation Specification(s).

I) Access to PHI.

(1) Business Associate agrees to take actions necessary to satisfy Covered Entity's obligations under the Privacy Rule to provide Individuals access to their PHI (45 C.F.R. § 164.524).

(2) Promptly, and no later than fifteen (15) business days after receipt of Covered Entity's written request, Business Associate agrees to make available PHI held by Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the manner designated by Covered Entity, to the Individual, Covered Entity, or a third party as directed by Covered Entity.

J) Amendment or Correction to PHI.

(1) Business Associate agrees to take actions necessary to satisfy Covered Entity's obligations under the Privacy Rule regarding amendment of PHI.

(2) At the direction of Covered Entity, Business Associate agrees to amend or correct PHI held by Business Associate, which Covered Entity has determined to be part of Covered Entity's Designated Record Set, in the time and manner reasonably designated by Covered Entity.

K) Reports of Nonpermitted Uses or Disclosures, Security Incidents or Breaches.

(1) **Reports of Nonpermitted Use or Disclosure.** Business Associate agrees to promptly report to Covered Entity any Use or Disclosure of PHI not provided for by this Agreement and cooperate with Covered Entity in its investigation of such event.

(2) **Reports of Security Incidents.** For purposes of this Section, "Security Incident" has the meaning given in 45 C.F.R. § 164.304. Business Associate agrees to promptly notify Covered Entity of any Security Incident involving PHI of which it becomes aware and to cooperate with Covered Entity in the investigation. The parties agree that this Section constitutes notice by Business Associate of the ongoing existence of unsuccessful Security Incidents, such as pings, port scans and unsuccessful log-on attempts, that do not result in unauthorized access, Use or Disclosure of PHI, for which no further notice is required.

(3) **Reports Related to Breach of Unsecured PHI** (45 C.F.R. §§ 164.410, 164.504(e)(2)(ii)(C), 164.314(a)(2)(i)(C)).

(a) Following the discovery of a Breach of Unsecured PHI, Business Associate shall notify Covered Entity of the Breach without unreasonable delay, and no later than the earlier of (i) sixty (60) days after its discovery and (ii) any shorter period required by applicable state law.

(b) Business Associate's notice shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during or as a result of the Breach. Business Associate shall also provide Covered Entity with at least: (a) a description of the Breach, including the date of the Breach and the date of discovery, if known; (b) a description of the types of Unsecured PHI involved; (c) any steps Individuals should take to protect themselves from potential harm; (d) a brief description of what Business Associate is doing to investigate the Breach, mitigate harm to Individuals, and protect against further Breaches; and (e) any other available information that Covered Entity is required to include in its notification to Individuals under 45 C.F.R. § 164.404(c). Business Associate shall

promptly supplement such notice as additional information becomes available, even if it becomes available after Individuals have been notified.

(c) Business Associate agrees to cooperate with Covered Entity in the investigation of a Breach of Unsecured PHI and to cooperate with and participate in, to the extent requested by Covered Entity, the notification of Individuals, the media, and the Secretary.

(d) In the event that a Breach of Unsecured PHI is caused by Business Associate's breach of this Agreement, the parties may agree in writing that Business Associate will provide such notification as may be required of Covered Entity by 45 C.F.R. §§ 164.404, 164.406, and 164.408. Covered Entity shall have the right to review, direct, and approve or reject the contents or manner of such notification. Business Associate shall bear the reasonable costs of such notification only to the extent the Breach was caused by Business Associate's breach of this Agreement, subject to the limitations of liability in the Underlying Agreement.

L) Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

M) Tracking and Accounting of Disclosures.

(1) So that Covered Entity may meet its accounting obligations under the Privacy Rule, Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures in accordance with 45 C.F.R. § 164.528. For each such Disclosure, Business Associate will record: (a) the Disclosure date; (b) the name and, if known, address of the person or entity to whom the Disclosure was made; (c) a brief description of the PHI disclosed; and (d) a brief statement of the purpose of the Disclosure. For repetitive disclosures to the same person or entity for a single purpose, Business Associate may provide the Disclosure information for the first disclosure, the frequency, duration or number of the disclosures, and the date of the last disclosure.

(2) Business Associate will make this log available to Covered Entity, or at Covered Entity's request to the Individual, within thirty (30) days of Covered Entity's written request.

(3) Business Associate must retain the Disclosure information for the six-year period preceding Covered Entity's request.

N) Audit. For purposes of determining Business Associate's or Covered Entity's compliance with HIPAA, Business Associate shall make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary of Health and Human Services as required by 45 C.F.R. § 164.504(e)(2)(ii)(I). To the extent legally permitted, Business Associate shall notify Covered Entity of any request from the Secretary concerning Covered Entity's PHI. Covered Entity's rights to audit, inspect or obtain information about Business Associate's safeguards are limited to Sections 2(F)(5) and 2(K).

O) Response to Subpoena. In the event Business Associate receives a subpoena or similar notice or request from any judicial, administrative or other party which would require the production of PHI received from, or created for, Covered Entity, Business Associate shall promptly forward a copy to Covered Entity to afford Covered Entity the opportunity to respond as it determines appropriate under its state and federal obligations.

3) **Covered Entity's Obligations.**

A) Notice of Privacy Practices. Covered Entity shall notify Business Associate of any limitation in its Notice of Privacy Practices, to the extent such limitation affects Business Associate's permitted Uses or Disclosures.

B) Individual Permission. Covered Entity shall notify Business Associate of changes in, or revocation of, permission by an Individual to Use or Disclose PHI, to the extent such changes affect Business Associate's permitted Uses or Disclosures.

C) Restrictions. Covered Entity shall notify Business Associate of any restriction on the Use or Disclosure of PHI to which Covered Entity has agreed, to the extent such restriction affects Business Associate's permitted Uses or Disclosures.

D) Requests. Covered Entity shall not request Business Associate to Use or Disclose PHI in any manner that would not be permissible under the Privacy Rule if Used or Disclosed by Covered Entity.

E) Authority and Consents. Covered Entity represents and warrants that its Notice of Privacy Practices and any required consents or authorizations permit the Uses and Disclosures of PHI contemplated by this Agreement and the Underlying Agreement, including Business Associate's creation and use of De-identified Data, and that Covered Entity has not agreed to any restriction that would limit them, except as notified to Business Associate in writing before the Effective Date.

4) **Term and Termination; Effect of Termination.**

A) Term. This Agreement shall take effect upon the Effective Date and shall remain in effect until all PHI is returned to Covered Entity or destroyed in accordance with the terms of this Agreement. Section 2(E) shall survive as stated in Section 2(E)(10).

B) Termination. If either party reasonably determines in good faith that the other party has materially breached any of its obligations under this Agreement, the nonbreaching party shall have the right to:

(1) exercise any of its rights to reports, access and inspection under this Agreement;

(2) require the breaching party to submit to a plan of monitoring and reporting, as the parties reasonably agree is necessary to maintain compliance with this Agreement;

(3) provide the breaching party with a forty-five (45) day period to cure the breach; and/or

(4) if the breaching party fails to cure the breach within forty-five (45) days after written notice, or if cure is not possible, terminate this Agreement and, if Business Associate is the breaching party, the Underlying Agreement.

C) Notice. Before exercising any of these options, the nonbreaching party shall provide written notice to the breaching party describing the violation and the action it intends to take.

D) Effect of Termination; Return or Destruction of PHI. Upon termination, cancellation, expiration, or other conclusion of this Agreement or the Underlying Agreement, Business Associate shall, and shall ensure that its Subcontractors that possess PHI or Related Data shall, return or destroy such PHI and Related Data under Section 4(D)(1) or 4(D)(2), at Covered Entity's election made in writing within thirty (30) days after such conclusion (and, if Covered Entity makes no election, by destruction), or, to the extent Business Associate reasonably determines that return or destruction is infeasible, comply with Section 4(D)(3). De-identified Data is not subject to this Section 4(D).

(1) **Return.** Return PHI and any Related Data to Covered Entity in whatever form or medium Business Associate received it from or created it on behalf of Covered Entity. In such case, no copies of such PHI or Related Data shall be retained. PHI and Related Data shall be returned as promptly as possible, but not more than thirty (30) days after the effective date of the conclusion of this Agreement or the Underlying Agreement. Within such thirty (30) day period, Business Associate shall certify in writing to Covered Entity that the return has been completed.

(2) **Destruction.** Destroy the PHI and any Related Data using technology or a methodology that renders it unusable, unreadable, or indecipherable to unauthorized individuals, as specified by HHS in its guidance at http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brguidance.html. Acceptable methods include: (a) for paper, film, or other hard copy media, shredding or destruction such that the PHI or Related Data cannot be read or reconstructed; and (b) for electronic media, clearing, purging or destruction consistent with the standards of the National Institute of Standards and Technology (NIST). Redaction is specifically excluded as a method of destruction. Destruction shall be completed, and certified in writing to Covered Entity, within thirty (30) days after the effective date of the conclusion of this Agreement or the Underlying Agreement.

(3) **Infeasibility.** To the extent return or destruction of PHI or Related Data is infeasible, including PHI held in backup or archival systems until overwritten in the ordinary course and PHI that Business Associate must retain to comply with applicable law, Business Associate shall notify Covered Entity in writing of the conditions that make return or destruction infeasible, extend the protections of this Agreement to such PHI and Related Data, and limit further Uses and Disclosures to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains it.

(4) **Wind-down De-identification.** Before returning or destroying PHI under Section 4(D)(1) or 4(D)(2), and within the same thirty (30) day period, Business Associate may create De-identified Data from such PHI in accordance with Section 2(E). Any PHI used for that purpose shall then be returned or destroyed as required by this Section 4(D).

5) **Miscellaneous.**

A) Automatic Amendment. Upon the effective date of any amendment to HIPAA, the Privacy Rule, the Breach Notification Rule or the Security Rule promulgated by HHS with regard to PHI, this Agreement shall automatically amend so that the obligations imposed on Business Associate remain in compliance with such regulations.

B) Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with HIPAA.

C) Conflicts. Any provision of the Underlying Agreement that is directly contradictory to one or more terms of this Agreement ("Contradictory Term") shall be superseded by the terms of this Agreement only to the extent of the contradiction, as necessary for the parties' compliance with HIPAA and to the extent that it is reasonably impossible to comply with both the Contradictory Term and the terms of this Agreement. In addition, Section 2(E) shall control over any provision of the Underlying Agreement concerning the ownership, license or use of data or outputs, solely with respect to De-identified Data.

D) Independent Contractor Status. In performing the services and satisfying the obligations of this Agreement, Business Associate shall at all times be an independent contractor for Covered Entity, and nothing in this Agreement shall be construed as creating an agency, employment, joint venture, partnership or other relationship. Covered Entity shall neither have nor exercise any control or direction over Business Associate. Business Associate shall avoid taking any action or making any representation or warranty with respect to its relationship with Covered Entity which is inconsistent with its independent contractor status.

E) Integration. This Agreement, together with Sections 5.4, 5.5 and 7.1 of the Underlying Agreement, contains the entire understanding between the parties relating to the Use and Disclosure of PHI and De-identified Data, and supersedes any prior agreements on that subject matter. Except as provided in Section 5(C), the Underlying Agreement shall govern all other matters, including the limitations and exclusions of liability set forth therein, which shall apply to claims arising under this Agreement.

F) Waiver. No delay or failure of either party to exercise any right or remedy available hereunder, at law or in equity, shall act as a waiver of such right or remedy, and any waiver shall not waive any subsequent right, obligation, or default.