MASTER SERVICES AGREEMENT

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

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

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

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

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

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

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

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

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

TERM, TERMINATION.

(a) **Term.** This Agreement commences on the Effective Date and shall continue until the termination of the last surviving Order, unless terminated in accordance with this Section.

(b) **Initial Term.** The Initial Term starts on the Billing Start Date and goes for the Initial Term (# of months) indicated on the Order.

(c) **Renewal.** Following completion of the Initial Term, this Agreement shall be automatically renewed for consecutive one (1) year terms (each a "**Renewal Term**", and together with the Initial Term, the "**Term**"), unless either party provides written notice to the other party, at least ninety (90) days prior to the end of the then-current Term that it has elected not to renew to this Agreement.

(d) **Termination**. This Agreement may be terminated by either party as follows: (i) for material breach of this Agreement that remains uncured more than thirty (30) days after receipt of written notice of such breach; (ii) if either party makes an assignment of all or substantially all of its assets for the benefit of its creditors; or (iii) if either party files a voluntary petition for relief under 11 U.S.C. 101, et. seq. (the "**Bankruptcy Code**") or has an involuntary petition for relief under the Bankruptcy Code filed against it and an order for relief is entered in such case. Notwithstanding the foregoing, this Agreement may be terminated by Company if Client is a party to any other agreement with Company, or its affiliates, and fails to make payment to the respective party. Client agrees that Company nor its affiliates shall not be liable to Client or any third party for damages suffered by Client as a result of termination of this Agreement.

(e) **Effect of Termination.** Upon termination of this Agreement for any reason: (a) all rights and obligations of each party shall immediately terminate; and (b) within thirty (30) days of the termination of this Agreement, Client shall return, or at Company's option and request destroy, all originals, copies, and summaries of Company Proprietary Information and related materials. In the event of termination additional services may be requested by Client and, if agreed to by Company, will be billed at Company's then-prevailing rates.

INTELLECTUAL PROPERTY.

(a) **IP Ownership**. "**Company IP**" means, collectively and regardless of form: all intellectual property rights in and to the Services or any derivative thereof, and all other services and materials used by Company or its authorized representatives, including but not limited to, all manuals, reports, records, programs, and other materials delivered to Client or developed by Company in its performance hereunder; and all information and materials related to all of the foregoing and to Company's business, including all copyrights, trademarks, service marks, logos, patents, patent applications, Proprietary Information, and other intellectual property rights pertaining thereto. Client shall retain all ownership, right, title, and interest to all data they input into the SaaS Solution.

(b) Client acknowledges that Company owns or has the right to license use of the Company IP in accordance with the terms hereof, and all right, title, and interest in and to the Company IP are and shall remain vested in Company or its third-party licensors. Client does not claim and shall not assert any right, title, or interest, or other ownership or proprietary rights, in or to any Company IP. In the event that any rights in and to the Company IP do not vest in Company by operation of law or otherwise, then Client assigns to Company all its right, title and interest in and to the Company IP. Client shall cooperate with Company in the protection of Company's worldwide proprietary rights and interests in the Company IP. Client shall take no action that jeopardizes Company's rights in the Company IP, and shall keep the Company IP free and clear of all claims, liens, and encumbrances of Client or its customers.

CONFIDENTIALITY.

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

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

LIMITED WARRANTY.

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

(b) Company warrants that the Services related to professional services will be performed by qualified and appropriately trained personnel in a workmanlike manner.

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

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

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

MISCELLANEOUS.

(a) **Governing Law; Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Georgia, without regard to its rules governing conflicts of laws. The parties consent to the exclusive jurisdiction of the Superior Court of Fulton County, Georgia or the United States District Court for the Northern District of Georgia, subject to any applicable jurisdiction rules. Neither party may assert or raise a cause of action, claim, defense or counterclaim against the other party arising under this Agreement, more than two (2) years from the date that it accrued.

(b) Compliance with Laws.

i. Client shall comply with all laws and regulations relevant to its business and obtain at its expense all necessary licenses, permits, and regulatory approvals required by any and all governmental authorities as may from time to time be required in connection with its activities related to this Agreement, including the import or export of technical data or other items, under laws of the United States and any other country affecting or regulating such import or export.

ii. Company and Client agree to comply with the Business Associate requirements under the Health Insurance Portability and Accountability Act of 1996 ("**HIPAA**"), as amended from time to time, in accordance with the BAA which is attached hereto as Exhibit A.

iii. Each party represents that it and its employees that perform services in connection with the business relationship between the parties is not presently debarred, suspended, ineligible, or excluded from participation in any state or federal health care programs. Each party will periodically check itself and its employees for listing within applicable federal and state databases and will notify the other party if it discovers that it or any of its employees has become so debarred, suspended, ineligible, or excluded (such a person, an "**Excluded Person**" or such an entity, an "**Excluded Entity**"). Neither party shall allow an Excluded Person to provide services to the other party. If a party becomes an Excluded Entity, the other party may terminate its relationship with the Excluded Entity.

(c) Assignment. This Agreement may not be assigned by either party without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, except this Agreement may be assigned without consent pursuant to a change of control (an acquisition of all or substantially all of either party's assets or business) upon written notice to the other party; provided, however, such surviving party agrees that this Agreement binds the parties, as well as their successors, legal representatives, and permitted assigns.

(d) Authority to Sign. The parties hereto represent and warrant that the Order and/or this Agreement has been signed by the parties' or its affiliates' duly authorized representatives as of the Effective Date, and each represents and warrants to the other that it and its affiliates are authorized and legally free to enter in to this Agreement.

(e) Affiliates. Company affiliates may fulfill orders pursuant to a signed Order between the parties which references this Agreement in which case the Company affiliate is bound by all of the terms and conditions of this Agreement as if it were Company. Client agrees that: (a) any claim that Client may have under the Order will be only against the Company entity that entered into the Order with Client, and (b) other Company affiliates shall not have any liability related to such Order. Client will indemnify and hold Company harmless for any and all costs associated with Client's violation of this provision.

(f) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to constitute one and the same instrument. The parties hereby agree that signatures transmitted and received via facsimile or other electronic means shall be treated as original signatures for all purposes of this Agreement.

(g) Force Majeure. Except for obligations of payment, neither party shall be liable for any delay or failure in performing hereunder if such failure arises, directly or indirectly, out of causes beyond the reasonable control of such party, including acts of God, fire, flood, strikes, war, lightning, power surges or failures, terrorism, or acts or omissions of communications carriers. Performance shall be deferred until such cause of delay is removed, provided that the delayed party shall promptly notify the other party of such occurrence in writing.

(h) Notices. All notices required hereunder shall be made in writing and shall be deemed to be effectively given if made as follows: (i) if hand-delivered, when received; or (ii) if mailed for overnight or second-day delivery, when delivered by the overnight carrier, as demonstrated by receipt confirmation provided by such carrier. Each party may change its notices address by giving written notice in the manner set forth herein.

(i) Permission for Data Aggregation. Client agrees that Company and its affiliates may utilize data that comes into the possession of Company under this Agreement for the purpose of aggregating statistics that may be helpful for Client's benefit, improving the Services and solutions, for research and trend analysis, and for other lawful purposes, as determined by Company. Company shall only aggregate data in a manner that is compliant with HIPAA and applicable legislation regarding private personal information. The data utilized or shared pursuant to this provision that is not directly connected to the provision of Services under this Agreement shall not contain any Protected Health Information, as such term is defined by HIPAA.

(j) Independent Contractors. Company and Client are independent contractors under this Agreement, which shall not be construed to create any employment relationship, partnership, joint venture, franchisor-franchisee or agency relationship, or to authorize any party to enter into any commitment or agreement binding on the other party except as expressly stated herein. The parties have no authority to make statements, warranties, or representations, or to create any liabilities on behalf of the other.

(k) Non-Solicitation of Employees. Client agrees that it will not, during the Term and for a period of one (1) year after, solicit for employment, attempt to employ or affirmatively assist any other person or entity in employing or soliciting for employment any person employed or hired as an employee who was introduced to the parties during the performance of this Agreement. For the purposes of this provision, employment shall be deemed to include consulting or contract work as an independent contractor. Notwithstanding the foregoing, a general advertisement to which an employee responds shall not be deemed a breach of this Section.

(l) Severability; Waiver. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision(s) will, rather than be stricken in their entirety, be deemed superseded by a valid, enforceable provision, to the extent possible, that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect. Any failure or delay by either party hereto to detect, protest, or remedy any breach of this Agreement, or to exercise any right or remedy shall not constitute a waiver or impairment of any such term or condition, or be deemed a waiver of any further, prior, or future right or remedy hereunder. A waiver may only occur pursuant to the prior written express permission of an authorized officer of the other party.

(m) Survival. All provisions of this Agreement that by their nature are intended to survive the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

(n) Entire Agreement. The Order, this Agreement, the Exhibits annexed hereto, any mutually-executed Statements of Work that refer to this Agreement, and any other agreements for additional services that refer to this Agreement, together constitute the entire agreement and understanding of the parties, whether oral or written, relating to the subject matter hereof; are intended as the parties' final expression and complete and exclusive statement of the terms hereof, superseding all prior or contemporaneous agreements, representations, promises and understandings, whether written or oral; and may be amended or modified only by an instrument in writing signed by both parties. Until executed by Company, this Agreement constitutes an offer by Client. In case of any conflict between this Agreement and any Exhibit, Statement of Work, or other amendment hereto, the provisions of this Agreement shall control.

(o) Additional Terms and Conditions. Any modules and/or packages purchased by Client shall include the additional terms and conditions at the following links: www.brightree.com/contracts or www.matrixcare.com/contracts#HH. Such additional terms and conditions are incorporated into and form a part of this Agreement. Company may update the additional terms and conditions by posting an updated version to the online terms links and upon its posting, Client shall be responsible for compliance with such updated additional terms and conditions.

EXHIBIT A
HIPAA Business Associate Addendum

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

RECITALS

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

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

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

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

1) DEFINITIONS

a) Terms used, but not otherwise defined, in this Business Associate Agreement (the "Agreement") shall have the same meaning as those terms in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH") and their implementing regulations (the "Electronic Transaction Rule," the "Privacy Rule," the "Security Rule," and the "Breach Notification Rule" as set forth at 45 CFR Parts 160, 162 and 164, and collectively, the "HIPAA Rules").

b) "**Business Associate**" shall mean **Company**.

c) "**Covered Entity**" shall mean **Client**.

2) OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

a) Business Associate agrees not to use or disclose Protected Health Information including electronic Protected Health Information other than as permitted or required to perform the services under the Master License and Services Agreement (the "Services"), as permitted or required by this Agreement, as permitted by HIPAA, or as Required by Law.

b) Business Associate agrees to use appropriate safeguards to prevent use or disclosure of electronic Protected Health Information other than as provided for by this Agreement. Business Associate agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic Protected Health Information that it creates, receives, maintains or transmits from or on behalf of Covered Entity. Business Associate further agrees to ensure that any agent, including a subcontractor, to whom it provides such information, agrees to implement reasonable and appropriate safeguards to protect such information. Business Associate shall comply with 45 CFR §§ 164.308, 164.310, 164.312, and 164.316 of the Security Rule as such regulations are amended from time to time.

c) Business Associate agrees to report to Covered Entity (i) any use or disclosure of Protected Health Information in violation of this Agreement of which it becomes aware and (ii) any security incident of which it becomes aware. Business Associate agrees to report to Covered Entity any Breach of Unsecured Protected Health Information, as such terms are defined at 45 CFR § 164.402, in accord with Section 2(d) of this Agreement.

d) Business Associate agrees that, with the exception of law enforcement delays that satisfy the requirements under 45 CFR § 164.412 or as otherwise required by applicable state law, Business Associate shall notify Covered Entity in writing without unreasonable delay and in no case later than sixty (60) calendar days upon discovery of a Breach of Unsecured Protected Health Information, as such terms are defined at 45 CFR § 164.402. Such notice must include, to the extent possible, the name of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been, accessed, acquired, or disclosed during such breach. Business Associate shall also provide, to the extent possible, Covered Entity with any other available information that Covered Entity is required to include in its notification to individuals under 45 CFR § 164.404(c) at the time of Business Associate's notification to Covered Entity or as promptly thereafter as such information becomes available. For purposes of this Agreement, a Breach of Unsecured Protected Health Information shall be treated as discovered by Business Associate as of the first day on which such breach is known to Business Associate (including any person, other than the individual committing the breach, who is an employee, officer, or other agent of Business Associate, as determined in accordance with the federal common law of agency) or should reasonably have been known to Business Associate following the exercise of reasonable diligence.

e) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity agrees to substantially the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such Protected Health Information.

f) Business Associate agrees to make internal practices, books, and records, including policies and procedures relating to the use and disclosure of Protected Health Information received from, or created, received, maintained or transmitted by Business Associate from or on

behalf of Covered Entity available to the Secretary, for purposes of the Secretary's determining Covered Entity's compliance with the Privacy Rule, if and to the extent Required by Law.

g) Business Associate agrees to document such disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.

h) Business Associate agrees to provide to Covered Entity information collected to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528. In the event the request for an accounting of disclosures is delivered directly to Business Associate, Business Associates shall, as soon as practicable, forward such request to Covered Entity.

i) Business Associate agrees to meet the requirements of 45 CFR § 164.504 if it knows of a pattern of activity or practice of one of its subcontractors that constitutes a material breach or violation of the subcontractor's obligation under a contract or other arrangement with the Business Associate.

3) GENERAL USE AND DISCLOSURE PROVISIONS

a) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform the Services for, or on behalf of, Covered Entity provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity except as otherwise permitted by the Privacy Rule. Business Associate agrees to limit, to the extent practicable and except as permitted by 45 CFR § 164.502(b)(2), its uses, disclosures and requests of Protected Health Information under this Agreement to the minimum necessary to accomplish the intended purpose of such use, disclosure or request in accord with HIPAA, HITECH and the HIPAA Rules.

4) SPECIFIC USE AND DISCLOSURE PROVISIONS

a) Business Associate and its affiliates may use Protected Health Information (i) for the proper management and administration of Business Associate or its affiliates, (ii) to carry out the legal responsibilities of Business Associate, (iii) to provide data aggregation services relating to the healthcare operation of the Covered Entity or other covered entities to permit the creation of data for analyses that related to the health care operations of the respective covered entities; and/ or (iv) to review and/or improve Business Associate Services.

b) Business Associate may disclose Protected Health Information (i) for the proper management and administration of Business Associate and its affiliates, (ii) to other covered entity(ies) or health care provider(s) for the payment activities or healthcare operation activities of the entity that received the Protected Health Information if that entity has or had a relationship with the individual, or (iii) to carry out Business Associate's legal responsibilities if (a) the disclosures are either permitted or Required By Law or (b) Business Associate obtains reasonable assurances from the person to whom such information is disclosed that such information 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 becomes aware in which the confidentiality of such information has been breached.

c) Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR § 164.512(j)(1).

d) Business Associate and its affiliates may de-identify Protected Health Information in accord with 45 CFR § 164.514 and use it in any manner determined by Business Associate.

5) OBLIGATIONS OF COVERED ENTITY

a) Covered Entity shall notify Business Associate of any limitation(s) in the notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520 within five (5) business days of the imposition of said limitation, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, within five (5) business days of such changes, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

c) Covered Entity shall notify Business Associate of any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522 within five (5) business days of such restriction, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

d) Covered Entity shall limit its uses, disclosures and requests of Protected Health Information under this Agreement to the minimum necessary to accomplish the intended purpose of such use, disclosure or request in accord with HIPAA, HITECH, and the HIPAA Rules.

e) Electronic Protected Health Information transmitted or otherwise transferred from Covered Entity to Business Associate must be encrypted by a process that renders the electronic Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of HITECH § 13402 and any implementing guidance.

6) PERMISSIBLE REQUESTS BY COVERED ENTITY

a) Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity.

7) TERM AND TERMINATION

a) **Term.** The Term of this Agreement shall be effective as of the date on which the Master License and Services Agreement is signed, or, if earlier, as of the date on which any Protected Health Information is provided by Covered Entity to Business Associate or created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such Protected Health Information, in accordance with the termination provisions in this Section 7.

b) **Termination for Cause.** Upon one Party's knowledge of a material breach by the other Party, the non-breaching Party shall:

i) Provide a reasonable opportunity for Business Associate to cure the material breach or end the violation;

ii) Immediately terminate this Agreement (and any underlying agreement) if Business Associate has breached a material term of this Agreement and cure is not possible; or

iii) If neither termination nor cure is feasible, the non-breaching Party may report the violation to the Secretary of the U.S. Department of Health and Human Services.

c) **Effect of Termination.**

i) Except as provided Section 7(c)(2), upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information except as retained pursuant to Section 4, as set forth in this Section 7, or as permitted by applicable law.

ii) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. If the return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

8) MISCELLANEOUS

a) **Regulatory References.** A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

b) **Amendment.** The Parties mutually agree to enter into good faith negotiations to amend this Agreement from time to time in order for each of the Parties to comply with the requirements of the HIPAA Rules and any other applicable law as may be in effect.

c) **Survival.** The respective rights and obligations of Business Associate under Section 7(c) of this Agreement shall survive the termination of this Agreement.

d) **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit the Parties to comply with the HIPAA Rules.

e) **Scope.** This Agreement shall apply only if and to the extent MC is a "business associate" to a "covered entity" as such terms are defined at 45 CFR § 160.103, and MC does not, merely by signing this agreement, concede that it holds such legal status.