



PRIVIS HEALTH MASTER SERVICES AGREEMENT

This Privis Health Master Services Agreement (the “**Agreement**”) is by and between Privis Health, Inc. (“**Privis**”) and the party (“**Customer**”) specified in a written agreement between the parties for the Software or Services that references this Agreement (each, an “**SOW**”).

1. Definitions.

“**Affiliate**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“**Authorized Users**” means all Persons authorized by Customer to access and use the Services through Customer’s account under this Agreement, which Persons may include Affiliates of Customer.

“**Customer Data**” means any and all information, data, materials, works, expressions or other content, including any that are (a) uploaded, submitted, posted, transferred, transmitted or otherwise provided or made available by or on behalf of Customer or any Authorized User for Processing by or through the Hosted Services, or (b) collected, downloaded or otherwise received by Privis or the Hosted Services for Customer or any Authorized User pursuant to this Agreement, including the applicable SOW, or as otherwise agreed upon by the parties. For the avoidance of doubt, Customer Data includes all Personal Information but does not include any Privis Materials.

“**Documentation**” means all documentation Privis makes available to Customer relating to the Services, including all user manuals, operating manuals and other instructions, specifications, documents and materials, in any form or media, that describe any component, feature, requirement or other aspect of the Services, including any functionality, testing, operation or use thereof as existed on the Effective Date and any future modifications or additions thereto.

“**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.

“**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.

“**Losses**” means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, experts’ fees and the reasonable cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.



“**Process**” means to perform any operation or set of operations on any data, information, material, work, expression or other content, including to (a) collect, receive, input, upload, download, record, reproduce, store, organize, combine, log, catalog, cross-reference, manage, maintain, copy, adapt, alter, translate or make other improvements or derivative works, (b) process, retrieve, output, consult, use, disseminate, transmit, submit, post, transfer, disclose or otherwise provide or make available, or (c) block, erase or destroy. “**Processing**” and “**Processed**” have correlative meanings.

“**Privis Materials**” means all devices, documents, data, know-how, methods, processes, software and other inventions, works, technologies and materials, including any and all Software, Documentation, computer hardware, programs, reports and specifications, client software and deliverables that are proprietary to Privis and provided or used by Privis in connection with performing the Services, provided, however, Privis Materials will not include any items, information or materials provided or owned by or on behalf of Customer.

“**Privis Personnel**” means all employees, Representatives and agents of Privis, all Subcontractors and all employees and agents of any Subcontractor, involved in the performance of Services.

“**Representatives**” means, with respect to a party, that party’s and its Affiliates’ respective employees, officers, directors, consultants, agents, independent contractors, service providers, sublicensees, subcontractors and legal advisors and, with respect to Privis and Privis’s Subcontractors, and, with respect to Customer, its independent contractors or service providers that are Authorized Users.

“**Service Error**” means any failure of any Hosted Service to be Available or otherwise perform in accordance with this Agreement and the Specifications.

“**Services**” means the services provided by Privis that are specified in the applicable SOW. Services may include: (a) the hosting and management of the Software and other services for remote electronic access and use by the Customer and its Authorized Users, in each case as described in the Availability Exhibit, available at www.privishealth.com/documents, incorporated herein by reference (“**Hosted Services**”); (b) maintenance and support services as described in the Support Exhibit, available at www.privishealth.com/documents, incorporated herein by reference (“**Support Services**”); or (c) any other Services as described in the applicable SOW.

“**Software**” means the population health and care coordination technology platform that Privis makes available to Customer over the internet. The Software includes modules and tools for data aggregation, data analytics, and care management and care coordination workflows to interconnect a virtual care team to coordinate a patient care plan and population health workflow.

“**Specifications**” means the specifications for the Services set forth in the applicable SOW, any addenda thereto and, to the extent consistent with and not limiting of the foregoing, the Documentation.

“**Third-Party Materials**” means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, equipment, or components of or relating to the Services that are not proprietary to Privis.



2. Services.

2.1 Services. Privis shall perform the applicable Services for Customer during the periods specified in the applicable SOWs.

2.2 Subcontracting. Privis may subcontract the provision of the Services, in whole or in part, without Customer's prior written consent, provided that Privis shall ensure each subcontractor engaged by Privis or one of its subcontractors (each, a "**Subcontractor**") complies with all relevant terms of this Agreement, including all provisions relating to Customer Data, Personal Information or other Confidential Information of Customer.

3. Software Access and Restrictions.

3.1 Access and Use. Subject to and conditioned on Customer's and its Authorized Users' compliance with the terms and conditions of this Agreement, including payment of all amounts owed, Privis hereby grants Customer a non-exclusive, non-transferable right to access and use the Software during the Term, in the United States, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use ("**Permitted Use**"). Customer may also prepare, reproduce, print, download, and use as many copies of the Specifications and Documentation as may be necessary or useful for the Permitted Use.

3.2 Restrictions. Privis acknowledges and agrees that the rights of Customer will extend to Affiliates of Customer, but Customer shall not otherwise, and shall not permit any other Person to access or use the Hosted Services or Privis Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement expressly permits: (a) rent, lease, lend, sell, license, assign, distribute, publish, transfer or otherwise make any Hosted Services or Privis Materials available to any third party, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service, in each case except as expressly permitted by this Agreement; (b) use or authorize the use of the Services or Documentation in any manner or for any purpose that is unlawful under applicable Law; (c) reverse engineer or otherwise attempt to derive source code or other trade secrets from the Hosted Services or Privis Materials; (d) create derivative works based on the Hosted Services or Privis Materials; (e) copy, frame or mirror any part or content of the Hosted Services, other than copying or framing on Customer's own intranet for its internal business purposes; or (f) access the Hosted Services or Privis Materials to (i) build a competitive product or service, (ii) reproduce any features, functions or graphics of the Hosted Services or Privis Materials, (iii) resell the Hosted Services, or (iv) monitor its availability, performance or functionality, or for any other benchmarking or competitive purposes.

4. Service Preparation. Promptly following execution of an SOW, the parties will hold a project kick-off meeting to schedule any applicable implementation Services, and to introduce the members of their respective implementation teams. Customer will make available at such meeting its executive sponsor for the SOW, as well as its project manager and any appropriate key personnel. Customer is responsible for any amounts payable to, and consents or other authorizations from its EMR vendor and any other vendors, service providers, or other technology partners, in each case that are necessary for Privis to



provide the Services, and Customer represents and warrants that it shall obtain such consents and authorizations prior to giving Privis access to any third-party software or services.

5. Term and Termination.

5.1 Term. The initial term (“**Initial Term**”) of this Agreement commences as of the Effective Date and, unless this Agreement is terminated earlier pursuant to any of its express provisions, will continue in effect for three years following such date.

5.2 Renewal. Upon the expiration of the Initial Term, this Agreement will automatically renew for successive one-year terms (each a “**Renewal Term**” and, collectively, together with the Initial Term, the “**Term**”) unless and until either party provides written notice of non-renewal to the other party at least sixty days prior to the end of the Initial Term or then-current Renewal Term.

5.3 Termination for Cause. In addition to any right of termination set forth elsewhere in this Agreement:

(a) either party may terminate this Agreement or any SOW by written notice to the other party effective as of the date specified in such notice, if the other party materially breaches this Agreement or such SOW and such breach: (i) cannot be cured; or (ii) being capable of cure, remains uncured 30 days after the breaching party receives written notice thereof;

(b) Privis may terminate this Agreement or any SOW by written notice to Customer effective as of the date specified in such notice, if any fees or other amounts due and payable to Privis remain unpaid 90 days following the date of the applicable invoice therefor; and

(c) Either party may terminate this Agreement and all SOWs, effective immediately, by written notice to the other party if that party: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (iii) files or has filed against it a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

5.4 Effect of Termination; Data Retention. Unless otherwise expressly provided in this Agreement or the applicable SOW:

(a) upon and after the termination or expiration of this Agreement or one or more SOWs: (i) subject to the continuing rights, licenses and obligations of either party under this Agreement, including this **Section 5** and **Section 7.2**, or any SOW, all licenses granted hereunder will immediately terminate and the respective parties shall cease all activities concerning, including all use of, in the case of Customer, the expired or terminated Hosted Services and related Privis Materials, and, in the case of Privis, the Customer Data (for clarity, nothing in this Agreement or any SOW requires Privis to return Customer Data that has been aggregated with data from other customers of Privis, and Privis may use such aggregated data as described in **Section 7.2**); and (ii) Customer shall pay to Privis all charges and amounts due and payable to Privis, if any, that accrued prior to the termination or expiration.



(b) notwithstanding any provisions of this Agreement or any SOW to the contrary, upon Customer's termination of this Agreement or any SOW for breach pursuant to **Section 5.3(a)**, Customer shall have the right and option to continue to access and use the Services under each applicable SOW for a period not to exceed one year from the effective date of such termination pursuant to the terms and conditions of this Agreement, provided that it pays applicable Fees set forth in each such SOW.

5.5 Survival. The provisions set forth in the following Sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: **Sections 1, 4, 5.4-5.5, 6-9, 12.1, and 13-17**.

6. Fees and Expenses.

6.1 Fees. The fees and other amounts payable by Customer to Privis under this Agreement will be set forth in the applicable SOW, shall be payable in US dollars, and are non-refundable and non-cancellable. Any minimum fees set forth in the SOW are due in advance. Unless otherwise expressly set forth in the applicable SOW, for any implementation, training, or other professional Services, fees are exclusive of any travel or other out-of-pocket expenses incurred by Privis in performance of such Services. Customer must pay Privis all amounts by check or wire transfer, without setoff of any kind. Customer may issue a purchase order consistent with this Agreement, but a purchase order is not required. If Customer issues a purchase order, then it shall be for the full amount owed, and any additional or conflicting terms appearing in a purchase order shall not amend this Agreement or otherwise be binding on Privis.

6.2 Taxes. All fees and amounts payable pursuant to this Agreement are exclusive of taxes. Customer shall be solely responsible for all sales, service, value-added, use, excise, consumption and any other taxes, duties and charges of any kind, if any, imposed by any federal, state or local governmental entity on any amounts payable by Customer under this Agreement, other than any taxes imposed on, or with respect to, Privis's income, revenues, gross receipts, personnel, real or personal property or other assets. If Customer claims exemption from any taxes, it must provide valid evidence of such exemption prior to the Effective Date. The parties shall reasonably cooperate to more accurately determine each party's tax liability and to minimize such liability to the extent legally permissible.

6.3 Payment Terms.

(a) Customer shall pay all invoiced amounts within 30 days after the date of each invoice.

(b) Customer shall make payments to the address or account specified in the applicable SOW or such other address or account as is specified by Privis in writing from time to time.

6.4 Audits. During the Term and for one year after, each party shall maintain complete and accurate books and records regarding its business operations relevant to the calculation and payment of amounts due and any other information relevant to such party's compliance with this Section. During the Term and for one year after, upon a party's (the "**Requesting Party**") reasonable request, the other party (the "**Audited Party**") shall make such books and records, and appropriate personnel, available during normal business hours for inspection and audit by the Requesting Party or an independent accountant to determine the Audited Party's compliance with this Section, provided that the Requesting Party shall:



- (a) provide the Audited Party with prior written notice of any audit at least 30 days in advance;
- (b) undertake an audit no more than once per calendar year, except for good cause shown; and
- (c) conduct or cause to be conducted such audit in a manner designed to minimize disruption of the Audited Party's normal business operations.

The Requesting Party may take copies and abstracts of materials audited, provided that such material is deemed Confidential Information of the Audited Party. The Requesting Party will pay the cost of such audits unless an audit reveals a discrepancy of 10% or more, in which case the Audited Party shall reimburse the Requesting Party for the reasonable cost of the audit. The Audited Party shall immediately upon written notice from the Requesting Party pay the Requesting Party the amount of any overpayment revealed by the audit, together with any reimbursement payable pursuant to the preceding sentence.

7. Ownership.

7.1 Ownership of Customer Data. Customer shall provide Customer Data to Privis as required for Privis to perform the Services. Privis may Process the Customer Data to perform the Services during the Term, and as otherwise permitted by the Agreement or Customer or any Affiliate. As between Customer and Privis, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto.

7.2 License to Customer Data. Customer and each of its Affiliates licensed hereunder hereby grants Privis a perpetual, irrevocable, royalty-free, fully-paid up, non-exclusive, transferable, and sublicensable license to execute, reproduce, display, perform, distribute, prepare derivative works of, and otherwise use Customer Data on an aggregated, anonymized basis for research, publications, R&D/development/testing of new capabilities and other business purposes, provided, however, no such use, reproduction, display, distribution or other disclosure will allow for identification of Customer or any Affiliate, or either of their clients, unless otherwise approved by Customer or the applicable Affiliate or client.

7.3 Ownership of Privis Materials. As between Customer and Privis, Privis is and will remain the sole and exclusive owner of all right, title and interest in and to the Privis Materials, including all Intellectual Property Rights relating thereto. Privis agrees that Customer may retain archival copies of Privis Materials and other Confidential Information for regulatory compliance and other appropriate purposes permitted by this Agreement, and nothing herein shall be interpreted to require Customer to remove any such materials or information from customary backups maintained by Customer, provided Customer shall not, following termination of the applicable SOW, use any such materials or information for further production purposes and the confidentiality obligations under this Agreement will continue to apply to such materials and information.

7.4 Feedback. If Customer or its employees provide Privis with any comments, suggestions or any other feedback regarding the Services or Privis Materials ("**Feedback**"), Privis may use such Feedback at its discretion, incorporate any suggested changes or modifications into its products and services and distribute such products and services without any obligation or recourse to Customer. All Feedback shall become the sole intellectual property of Privis.

7.5 No Implied Rights. Except for the limited license expressly provided in this Section, nothing contained in this Agreement shall be construed as (a) granting Privis or any third party any right,



title, or interest in or to any Customer Data or (b) granting Customer or any third party any right, title, or interest in or to any Privis Materials, in each case whether by implication, estoppel or otherwise.

8. Confidentiality.

8.1 Confidential Information. In connection with this Agreement, each party (as the “**Disclosing Party**”) may disclose or make available Confidential Information to the other party (as the “**Receiving Party**”). Subject to **Section 8.2**, “**Confidential Information**” means confidential or proprietary information in any form or medium (whether oral, written, electronic or other) that the Disclosing Party identifies as such or that a reasonable person would understand to be confidential or proprietary, including information consisting of or relating to the Disclosing Party’s patients, technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations. Without limiting the foregoing, (a) all Customer Data (including all Personal Information) is and will remain the Confidential Information of Customer and (b) the Hosted Services, Software, Specifications and Documentation are and will remain the Confidential Information of Privis.

8.2 Exclusions. Subject to **Section 8.3**, Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party’s or any of its Representatives’ noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party’s knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

8.3 Personal Information Exception. Notwithstanding the provisions of **Section 8.2** or any other provisions of this Agreement, none of the exclusions set forth in **Section 8.2** apply to any Personal Information, whether provided by or on behalf of Customer to Privis or the Services for Processing and regardless of whether such Personal Information may be publicly available or otherwise qualify for exclusion under any of the other provisions of **Section 8.2**. The preceding sentence does not prohibit or limit Privis from any use or disclosure of any information that may be the same as any Personal Information but which was: (a) obtained by Privis without access to, reference to or use of any Customer Data; and (b) at all times maintained separately from and not in any way combined, commingled, compared, benchmarked or in any way associated with any Customer Data.

8.4 Confidentiality and Use. The Receiving Party shall for the Term and thereafter:

(a) not access or use, or permit the access or use of, Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

(b) not use or permit the use of any of the Disclosing Party’s Confidential Information, directly or indirectly, in any manner to the detriment of the Disclosing Party or to obtain any competitive advantage over the Disclosing Party, provided, however, the foregoing shall not be interpreted to restrict



the authority of a Party to use Confidential Information in order to appropriately enforce the terms of this Agreement;

(c) except as may be permitted by and subject to its compliance with **Section 8.5**, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this **Section 8.4**; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this **Section 8.4**;

(d) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;

(e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this **Section 8**;

(f) notify the Disclosing Party in writing promptly of any unauthorized disclosure or use of the Disclosing Party's Confidential Information and reasonably cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights and other rights therein, at the expense of the Disclosing Party.

8.5 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy, or waive its rights under **Section 8.4**; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this **Section 8.5**, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall use reasonable efforts to disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment. No such compelled disclosure by the Receiving Party will otherwise affect the Receiving Party's obligations hereunder with respect to the Confidential Information so disclosed.

8.6 Return or Destruction of Confidential Information. Upon Disclosing Party's written request at any time and subject to any contrary obligations under applicable Law, Receiving Party shall promptly return or destroy and erase from all systems it directly or indirectly uses or controls (a) all originals and copies of all documents, materials and other embodiments and expressions in any form or medium that contain, reflect, incorporate or are based on Disclosing Party's Confidential Information, in whole or in part, or (b) in the case of Privis as Receiving Party, solely such specific Customer Data, databases or other collections or articles of Customer's Confidential Information as Customer may reasonably request. Receiving Party shall provide a written statement to Disclosing Party certifying that it



has complied with the requirements of this **Section 8.6**. Notwithstanding the foregoing, Privis is not required to return or destroy or erase any Customer Data described in **Section 7.2**.

9. Personal Information.

9.1 Definition and Permitted Use.

(a) For purposes of this Agreement, “**Personal Information**” means any information that any of the Privis Personnel collects, receives or obtains, from or on behalf of Customer or any of its Authorized Users that does or can identify a specific individual or by or from which a specific individual may be identified, contacted or located, such as the individual’s name, address, social security number, etc., provided in each case that such information is subject to an applicable privacy Law, including those set forth in this Section. Personal Information includes such information of or pertaining to Customer’s personnel, directors, officers, agents, suppliers, contractors, investors or customers and all “nonpublic personal information,” as defined under the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.), “protected health information” as defined under the Health and Insurance Portability and Accountability Act of 1996 (42 U.S.C. § 1320d), and “Personal Data” as that term is defined in EU Data Protection Directive (Directive 95/46/EEC) on the protection of individuals with regard to processing of personal data and the free movement of such data, and all rules and regulations issued under any of the foregoing.

(b) Privis shall not cause any Personal Information to be Processed in any manner or for any purpose other than the performance of the Services, or otherwise in accordance with Customer’s instructions. The Agreement constitutes such initial instructions and each use of the Hosted Service then constitutes further instructions. Privis will use reasonable efforts to follow any other Customer instructions, as long as they are required by Law, technically feasible, and do not require changes to the Hosted Service. If any instructions are not technically feasible or require changes to the Hosted Service, or Privis otherwise cannot comply with an instruction or is of the opinion that an instruction infringes Law, Privis will use reasonable efforts to notify Customer (email permitted). Privis may also process Personal Information where required to do so by applicable Law. In such a case, Privis shall inform Customer of that legal requirement before processing unless prohibited by Law from giving such notice.

9.2 Consents. Customer is solely responsible for obtaining any relevant authorizations, consents, and permissions for the processing of Customer Data by Privis, including, where applicable, approval to use Privis as a data processor, and Customer represents and warrants that it has obtained the same with respect to any Personal Information. Where authorizations, consents, instructions, or permissions are provided by Customer, these are provided not only on behalf of the Customer, but also on behalf of any other Affiliate or other data controller using the Hosted Service (each, a “**Controller**”). Where Privis informs or gives notice to Customer, such information or notice is deemed received by those Controllers using the Hosted Service and it is Customer’s responsibility to forward such information and notices to the relevant Controllers.

9.3 HIPAA and BAA. With respect to PHI of Customer received by Privis, Customer and Privis agree to the terms of the Business Associate Agreement attached hereto (the “**BAA**”), the terms of which are incorporated herein by reference. With respect to PHI of Customer received by a third-party Subcontractor while serving as a subcontractor (as defined under 45 C.F.R. § 160.103) to Privis, Privis and



such Subcontractor have agreed to the terms of a Business Associate Agreement which contains terms that are substantially similar to the BAA.

10. Security.

10.1 Protection of Customer Data. Throughout the Term and at all times in connection with its actual or required performance of the Services hereunder, Privis shall:

- (a) maintain and enforce an information security program including safety and physical and technical security policies and procedures with respect to its Processing of Customer Data;
- (b) provide technical and organizational safeguards against accidental, unlawful or unauthorized access to or use, destruction, loss, alteration, disclosure, transfer, or Processing of such information that ensure a level of security appropriate to the risks presented by the Processing of Customer Data and the nature of such Customer Data, consistent with industry practice and standards;
- (c) continuously monitor its systems for potential areas where security could be breached;
- (d) promptly report to Customer any breach of security or unauthorized access to Customer Data that Privis detects or becomes aware of; and
- (e) use diligent efforts to correct the cause of such breach of security or unauthorized access in a timely manner.

Without limiting the generality of the foregoing, Privis and Customer will work together to formulate a plan to rectify all security breaches and unauthorized access concerning Customer Data.

10.2 Security Audits. During the Term, Privis shall:

- (a) maintain complete and accurate records relating to its data protection practices and the security of the Customer Data, including any backup, disaster recovery or other policies, practices or procedures relating to the same; and
- (b) upon Customer's reasonable request, make all such records, appropriate personnel and relevant materials available during normal business hours for inspection and audit by Customer or an independent data security expert (which shall not include any third-party auditors who are either a competitor of Privis or not suitably qualified or independent), provided that Customer shall: (i) give Privis prior written notice of any such audit at least 30 days in advance; (ii) undertake such audit no more than once per calendar year, except for good cause shown; and (iii) conduct or cause to be conducted such audit in a manner designed to minimize disruption of Privis's normal business operations and that complies with the terms and conditions of all data confidentiality, ownership, privacy, security and restricted use provisions of this Agreement. Customer may, but is not obligated to, perform such security audits, which may, at Customer's option and request, include documentation about Privis's performance of penetration and security tests.



11. Legal Compliance.

11.1 Medicare Access. If the Secretary of Health and Human Services (“HHS”) or the Comptroller General of the United States or their representatives determines this Agreement is a contract described in Section 1861(v)(1) of the Social Security Act, 42, U.S.C. Section 1395x(v)(1)(I) as amended from time to time, then the parties agree that the Comptroller General of the United States, the Secretary of HHS, and their duly authorized representatives will have, pursuant to 42 C.F.R. § 420.302, upon request, until the expiration of four years after the Services under this Agreement are furnished, access to this Agreement and any other contract for the performance of any part of this Agreement, the cost or value of which is \$10,000 or more over a 12-month period, between a party and a subcontractor, or any organization related to a party. Any contract between a party and a subcontractor with a value of \$10,000 or more will contain a provision with language substantially similar to the language of this Section.

11.2 Excluded Provider. Privis represents and warrants that it (i) is not excluded, debarred or otherwise ineligible to participate in Medicare, Medicaid or any other federal or state healthcare programs or in any federal or state procurement or non-procurement programs; and (ii) has not been convicted of a criminal offense related to the provision of federal health care items or services that could lead to debarment or exclusion.

12. Indemnification.

12.1 General Indemnification. Customer shall defend, indemnify and hold harmless Privis, and its officers, directors, employees, agents, contractors, permitted successors and permitted assigns (each of the foregoing Persons, a “**Privis Indemnitee**”) from and against any and all Losses incurred by the Privis Indemnitee arising out of or relating to any claim, suit, action or proceeding (each, an “**Action**”) by a third party to the extent that such Losses do or are alleged to arise out of or result from Customer’s or any of its Affiliates’ breach of any representation, warranty, or covenant under this Agreement.

12.2 Infringement Indemnification by Privis. Privis shall indemnify, defend and hold harmless Customer, and its officers, directors, employees, agents, contractors, permitted successors and permitted assigns (each of the foregoing Persons, a “**Customer Indemnitee**”) from and against all Losses arising out of or resulting from any Action by a third party (other than an Affiliate of the Customer Indemnitee) that does or are alleged to arise out of or result from a claim that any of the Services, or Customer’s or any Authorized User’s use thereof, actually does or threatens to infringe, misappropriate or otherwise violate any Intellectual Property Right or other right of a third party, provided however, that Privis shall have no liability or obligation for any Action or Losses to the extent that such Action or Losses arise out of or result from any:

(a) alteration or modification of the Hosted Services or Software by or on behalf of Customer or any Authorized User without Privis’s written authorization (each, a “**Customer Modification**”), provided that no infringement, misappropriation or other violation of third party rights would have occurred without such Customer Modification;

(b) use of the Hosted Services by Customer or an Authorized User pursuant to this Agreement in combination with any apparatus, hardware, software or service not provided, authorized or approved by or on behalf of Privis in writing, if no violation of third party rights would have occurred without such combination;



(c) access to or use of the Hosted Services that is expressly prohibited by this Agreement or otherwise outside the scope of access or manner or purpose of use described or contemplated anywhere in this Agreement, the Specifications or the applicable SOW;

(d) material breach of this Agreement by Customer or material noncompliance herewith by any Authorized User; or

(e) violation of any applicable Law by Customer or any of its Authorized Users.

12.3 Mitigation.

(a) If Privis receives or otherwise learns of any threat, warning or notice alleging that all, or any component or feature, of the Services violates a third party's rights, Privis shall promptly notify Customer of such fact in writing and take all commercially reasonable actions necessary to ensure Customer's continued right to access and use such Services and otherwise protect Customer from any Losses in connection therewith.

(b) If any of the Services or any component or feature thereof is ruled to infringe or otherwise violate the rights of any third party by any court of competent jurisdiction, or if any use of any Services or any component thereof is threatened to be enjoined, or in either party's opinion, is likely to be enjoined or otherwise the subject of an infringement or misappropriation claim, Privis shall, at Privis's sole cost and expense: (i) procure for Customer the right to continue to access and use the Services to the full extent contemplated by this Agreement and the Specifications; or (ii) modify or replace all components, features and operations of the Services that infringe or are alleged to infringe ("**Allegedly Infringing Features**") to make the Services non-infringing while providing equally or more suitable features and functionality, which modified, and replacement services shall constitute Services and be subject to the terms and conditions of this Agreement.

(c) If Privis determines that neither of the remedies set forth in **Section 12.3(b)** is reasonably available with respect to the Allegedly Infringing Features then Privis may direct Customer to cease any use of the Allegedly Infringing Features or terminate the applicable SOW, provided that in the event of termination, Privis shall refund to Customer any prepaid fees for Services that have not been provided.

13. Limitations of Liability.

13.1 EXCLUSION OF INDIRECT DAMAGES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PRIVIS OR ANY OF ITS LICENSORS OR SUBCONTRACTORS HAVE ANY LIABILITY FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR EXEMPLARY DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF REVENUE, BUSINESS PROFITS, BUSINESS INTERRUPTION, DATA, BUSINESS INFORMATION, OR GOODWILL, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF OR RESULTING FROM THE AGREEMENT OR THE USE OF OR INABILITY TO USE THE SERVICES OR PRIVIS MATERIALS, REGARDLESS OF THE CAUSE OF ACTION, EVEN IF PRIVIS IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES AND KNOWN DEFECTS.

13.2 CAP ON MONETARY LIABILITY. IN NO EVENT SHALL PRIVIS'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AGGREGATE FEES AND REIMBURSABLE EXPENSES UNDER THE APPLICABLE SOW



IN THE YEAR PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14. Representations and Warranties.

14.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that:

(a) it is a duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

(b) it has, and throughout the Term and any additional periods during which it does or is required to perform the Services will retain, the full right, power and authority to enter into this Agreement and perform its obligations hereunder;

(c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and

(d) when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

14.2 Additional Privis Warranties. Privis represents, warrants and covenants to Customer that:

(a) neither Privis's grant of the rights or licenses hereunder nor its performance of any Services or other obligations under this Agreement does or at any time will conflict with or violate any Law applicable to Privis, and Privis shall promptly notify Customer in writing if it becomes aware of any change in any applicable Law that would preclude Privis's performance of its obligations hereunder;

(b) the Software and Services will substantially conform to and perform in accordance with the Specifications and all requirements of this Agreement; and

(c) Privis will perform all applicable Services in a timely, professional and workmanlike manner with a level of care, skill, practice and judgment consistent with generally recognized industry standards and practices for similar services.

Customer's sole and exclusive remedies and Privis's entire liability for breach of the warranties under this Section will be (i) the re-performance of the deficient Service or repair or replacement of the deficient Software, and (ii) if Privis fails to re-perform the Services or repair or replace the deficient Software, then Customer may terminate the applicable SOW, provided that any termination must occur within 90 days of Customer's initial written notice to Privis of the breach of the applicable warranty. Such period for termination shall be equitably extended if Privis is diligently working toward a resolution of the breach but has not resolved the breach by such deadline.

14.3 DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF.



15. Insurance.

15.1 Required Coverage. At all times during the Term and for a period of three years thereafter, Privis shall procure and maintain, at its sole cost and expense, all insurance coverage required by applicable Law, and in any event insurance coverage in the following types and amounts:

(a) Commercial General Liability with limits no less than \$1 million per occurrence and \$2 million in the aggregate, including bodily injury and property damage and products and completed operations and advertising liability, which policy will include contractual liability coverage insuring the activities of Privis under this Agreement;

(b) Cyber Liability Insurance, including first party and third-party coverage, with limits no less than \$5 million per occurrence;

(c) Worker's Compensation and employers' liability insurance with limits no less than the greater of (i) \$1 million and (ii) the minimum amount required by applicable Law each accident, including occupational disease coverage;

(d) Commercial Automobile Liability with limits no less than \$1 million, each occurrence combined single limit of liability for bodily injury, death and property damage, including owned and non-owned and hired automobile coverages, as applicable; and

(e) Errors and Omissions/Professional Liability with limits no less than \$2 million per occurrence or per claim.

15.2 Policy Terms. All insurance policies required pursuant to this Section shall:

(a) be issued by insurance companies with an AM Best's Financial Performance Rating (FPR) of no less than A+/A++ and a minimum Financial Size Category (FSC) of IX or higher (if FPR is A/A-, then FSC must be XII or higher);

(b) provide that such insurance carriers give Customer at least 30 days' prior written notice of any cancellation or non-renewal of, or material change in, the coverage, scope or amount of such policy and, prior to any such cancellation, non-renewal or material change in coverage, Privis shall have new insurance policies in place that meet the requirements of this Section;

(c) waive any right of subrogation of the insurers against the Customer or any of its Affiliates;

(d) provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of Customer shall be excess and non-contributory; and

(e) name Customer and Customer's Affiliates, including, in each case, all successors and permitted assigns, as additional insureds.

15.3 Coverage. To the extent any insurance coverage required under this Section is purchased on a "claims-made" basis, such insurance shall cover all prior acts of Privis during the Term and any



additional periods during which Privis does or is required to perform the Services, and such insurance shall be continuously maintained until at least four years beyond the expiration or termination of the Term, or Privis shall purchase “tail” coverage, effective upon termination of any such policy or upon termination or expiration of the Term, to provide coverage for at least four (4) years from the occurrence of either such event.

15.4 Certificates of Insurance. Upon Customer’s written request, Privis shall provide Customer with copies of the certificates of insurance and policy endorsements for all insurance coverage required by this Section. Privis shall not do anything to invalidate such insurance. Privis shall give 30 days’ prior written notice to Customer of any cancellation, non-renewal or material change in coverage, scope, or amount of any insurance policy required by or affecting the Customer’s rights or remedies under this Agreement.

15.5 Non-waiver. This Section is not intended to and shall not be construed in any manner as waiving, restricting or limiting the liability of either party for any obligations under this Agreement (including any provisions hereof requiring a party to indemnify, defend and hold harmless the other party).

16. Force Majeure.

16.1 No Breach or Default. Provided such failure or delay could not have been avoided through reasonable efforts, in no event will either party be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by any circumstances beyond such party’s reasonable control (a “**Force Majeure Event**”), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation, provided further, a party affected by a Force Majeure Event shall use reasonable efforts to address any such failure and to limit any such delay.

17. Miscellaneous.

17.1 Further Assurances. Upon a party’s reasonable request, the other party shall, at the requesting party’s sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

17.2 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

17.3 Public Announcements. Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement or otherwise use the other party’s trademarks, service marks, trade names, logos, domain names or other indicia of source, affiliation or sponsorship, in each case, without the prior written consent of the other party, which



consent may be granted or withheld in a party's sole discretion, provided, however, Customer may disclose to Affiliates and clients of Customer that Customer has access to the Services, and Privis may identify Customer on its customer lists.

17.4 Notices. Except as otherwise expressly set forth in this Agreement, all notices, requests, consents, claims, demands, waivers and other communications under this Agreement have binding legal effect only if in writing and addressed to a party as follows (or to such other address or such other person that such party may designate from time to time in accordance with this Section):

If to Privis:	Privis Health, Inc. 2000 Aerial Center Parkway Morrisville, NC 27560
If to Customer:	To the address set forth on the most current SOW

Notices sent in accordance with this Section shall be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; and (c) on the third day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

17.5 Interpretation. For purposes of this Agreement, (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and *vice versa*; and (e) words denoting any gender include all genders.

17.6 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

17.7 Entire Agreement. This Agreement, including all SOWs, and any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

17.8 Assignment. Neither party shall assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without the other party's prior written consent, which consent shall not unreasonably be withheld or delayed, provided that either party shall have the right, without the other party's consent, to assign or otherwise transfer this Agreement in whole or in part in connection with any merger, consolidation or reorganization involving that party, or a sale of all or substantially all of that party's business or assets relating to this Agreement.

17.9 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective Affiliates, successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.



17.10 Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

17.11 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

17.12 Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware.

17.13 Dispute Resolution; Waiver of Jury Trial. The parties expressly agree to attempt to settle any and all controversies or claims arising out of or relating to this Agreement or the breach thereof (“**Dispute**”) through consultation and negotiation in good faith in the spirit of mutual cooperation. If such resolution does not occur and a party wishes to escalate to a formal dispute resolution forum, such party must submit the dispute to binding arbitration at an agreed-upon site in Morrisville, NC, under the then-prevailing rules of the American Arbitration Association. Notwithstanding the foregoing, either party may bring an action in court to enjoin actual or threatened infringement or misuse of intellectual property or other proprietary rights. If for any reason a claim proceeds in court rather than in arbitration, then the parties hereby consent to personal jurisdiction and exclusive venue in the courts situated in Morrisville, NC, and hereby waive any right to jury trial, or to object to personal jurisdiction or venue. Service of process, summons, notice or other document by mail to such party’s address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court. ANY CAUSE OF ACTION OR CLAIM CUSTOMER MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES OTHERWISE SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

17.14 Equitable Relief. Each party acknowledges and agrees that a breach or threatened breach by such party of any of its obligations under this Agreement may cause the other party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other party will be entitled to seek equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.



17.15 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

17.16 Counterparts. This Agreement and any SOW may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same instrument.



BUSINESS ASSOCIATE AGREEMENT

The parties acknowledge and agree that Privis (“**Business Associate**”) is a “Business Associate” of Customer (“**Covered Entity**”) under the Health Insurance Portability and Accountability Act and its implementing regulations (45 C.F.R. Parts 160-164), as amended (including by the Health Information Technology for Economic and Clinical Health (HITECH) Act) (“**HIPAA**”). This Business Associate Agreement (the “**BAA**”) is intended to satisfy Covered Entity’s obligation under 45 C.F.R. Section 164.504(e) and is hereby incorporated into the Privis Health Master Services Agreement between Covered Entity and Business Associate pursuant to which Covered Entity will disclose Protected Health Information to Business Associate (the “**Agreement**”). Capitalized terms used in this BAA and not otherwise defined herein shall have the meanings set forth in HIPAA, which definitions are hereby incorporated by reference.

1. Definitions.

“*Breach*” shall have the same meaning as is set forth in 45 C.F.R. § 164.402.

“*Data Aggregation*” shall have the meaning, with respect to Protected Health Information created or received by Business Associate in its capacity as a business associate (as defined under 45 C.F.R. § 160.103, as amended from time to time) of Covered Entity, the combining of such Protected Health Information by the Business Associate with the Protected Health Information received by the Business Associate in its capacity as a business associate of another covered entity (as defined under 45 C.F.R. § 160.103, as amended from time to time), to permit data analyses that relate to the health care operations (as defined under 45 C.F.R. § 164.501, as amended from time to time) of the respective covered entities.

“*Designated Record Set*” shall have the same meaning as is set forth in 45 C.F.R. § 164.501, as such provision is currently drafted and as it is subsequently updated, amended, or revised.

“*Electronic Protected Health Information*” or “*E-PHI*” shall have the same meaning as is set forth in 45 C.F.R. § 160.103 solely as it relates to information received from the Covered Entity or created or received by the Business Associate for or on behalf of the Covered Entity.

“*Individual*” shall have the same meaning as is set forth in 45 C.F.R. § 160.103.

“*Privacy Rule*” shall mean the Health Insurance Portability and Accountability Act of 1996 Privacy Rule set forth in 45 C.F.R. part 160 and part 164, subparts A and E.

“*Protected Health Information*” shall have the same meaning as is set forth in 45 C.F.R. § 160.103 solely as it relates to information received from the Covered Entity or created or received by the Business Associate for or on behalf of the Covered Entity and shall include but is not limited to E-PHI.

“*Reportable Compromise*” means the acquisition, access, use, or disclosure of Unsecured Protected Health Information by Business Associate, its agents, contractors or employees in a manner not permitted under this BAA, which compromises the security or privacy of Unsecured Protected Health Information. For purposes of this BAA, a “Reportable Compromise” does not include (i) any unintentional acquisition, access, or use of Protected Health Information by Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority, provided there is no further



inappropriate use or disclosure; (ii) any inadvertent disclosure by a person who is authorized to access Protected Health Information at Covered Entity or Business Associate to another person authorized to access Protected Health Information at Covered Entity or Business Associate, provided there is no further inappropriate use or disclosure. Any circumstances in which an individual has intentionally acquired, accessed or disclosed Unsecured Protected Health Information in a manner that violates this BAA is a Reportable Compromise.

"Required by Law" shall have the same meaning as is set forth in 45 C.F.R. § 164.103.

"Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

"Security Rule" shall mean the Health Insurance Portability and Accountability Act of 1996 Security Rule set forth in 45 C.F.R. part 160 and part 164, subparts A and C.

"Unsecured Protected Health Information" shall have the same meaning as is set forth in 45 C.F.R. § 164.402 solely as it relates to information received from the Covered Entity or created or received by the Business Associate for or on behalf of the Covered Entity.

2. Permitted Uses and Disclosures of Protected Health Information. Business Associate may (i) use and disclose Protected Health Information as necessary to perform the designated functions under the Agreement, subject to the restrictions below, (ii) use and disclose Protected Health Information as Required By Law and as specifically permitted herein, (iii) use Protected Health Information for Business Associate's proper management and administrative services or to carry out its legal responsibilities, subject to the terms of this BAA and the policies and procedures of the Covered Entity; and (iv) use Protected Health Information to provide Data Aggregation services as requested by Covered Entity for its health care operations, to the extent such Data Aggregation services are specifically provided for under the Agreement. Business Associate will notify Covered Entity in the event that Business Associate receives an order, subpoena, warrant or similar judicial process directing disclosure of Protected Health Information.

3. Obligations and Activities of the Business Associate. The Business Associate hereby agrees:

a. Not to disclose the Protected Health Information other than as permitted or required by this BAA or as otherwise Required by Law;

b. To use appropriate safeguards to prevent use or disclosure of Protected Health Information not expressly permitted by this BAA or as Required by Law;

c. To implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of E-PHI in accordance with 45 C.F.R. part 164, subpart C;

d. To mitigate, to the extent reasonably practicable, any harmful effects of which the Business Associate becomes aware that arise out of the use or disclosure of Protected Health Information by the Business Associate that is in violation of this BAA;



e. To report to the Covered Entity any use or disclosure of the Protected Health Information not specifically permitted by this Agreement or any security incident of which it becomes aware;

f. To ensure that any agent, including but not limited to any subcontractor or employee, to whom the Business Associate provides any Protected Health Information agrees to the same restrictions as apply throughout this Agreement to the Business Associate with respect to the Protected Health Information. Notwithstanding the foregoing, the Business Associate shall only disclose that Protected Health Information to such agents as is reasonably necessary to perform or to fulfill a specific function required or permitted under this Agreement;

g. To ensure that any agent, including without limitation any subcontractor, to whom the Business Associate provides E-PHI created, received, maintained or transmitted from or on behalf of the Covered Entity agrees to implement reasonable and appropriate safeguards to protect such E-PHI;

h. To make available to the Secretary all internal practices, books and records, including but not limited to policies and procedures relating to the use and disclosure of Protected Health Information necessary to allow the Secretary to determine whether the Covered Entity is in compliance with the Privacy Rule;

i. To document all disclosures of Protected Health Information and such other information related to the disclosure of Protected Health Information as may reasonably be necessary for the Covered Entity to respond to any request by an Individual for an accounting of disclosures of Protected Health Information as permitted by 45 C.F.R. § 164.528;

j. To provide to the Covered Entity, or an Individual, all information collected in accordance with Section 3(i) of this Agreement;

k. If the Business Associate maintains Protected Health Information in a Designated Record Set, (A) to provide access to Protected Health Information to the Covered Entity or, as directed by the Covered Entity, to an Individual, contained in such Designated Record Set, as required by 45 C.F.R. § 164.524; and (B) to make any amendment(s) to Protected Health Information contained in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526;

l. Business Associate may request from Covered Entity and disclose to its affiliates, agents and subcontractors (i) when practical, the information contained in a "limited data set," as such term is defined at 45 C.F.R. §164.514(e)(2), or, (ii) subject to the requirements of 45 C.F.R. §164.502(b), to the minimum necessary amount of PHI to accomplish the intended purpose of such use, request or disclosure.

4. Subcontractors. Business Associate may contract with subcontractors to create, receive, maintain or transmit Protected Health Information on behalf of Business Associate provided that such subcontractors agree to appropriately safeguard the Protected Health Information and to comply with the same restrictions, conditions and requirements that apply to Business Associate by entering into a contract or other arrangement with Business Associate that complies with 45 C.F.R. §164.314(a)(2). Further, Business Associate shall ensure that such subcontractors shall immediately report to Business Associate any security incident, any use and/or disclosure of the Protected Health Information that is not permitted or required by this BAA, or any Reportable Compromise of which the subcontractor becomes aware.



5. Permitted Uses and Disclosures by the Business Associate. Except as otherwise limited by this Agreement, the Business Associate may use or disclose the Protected Health Information to perform functions, activities or services for, or on behalf of, the Covered Entity as set forth in this Agreement, provided that such use or disclosure, if made by the Covered Entity, would not violate the Privacy Rule or the minimum necessary policies and procedures of the Covered Entity.

6. Specific Use and Disclosure Provisions. Except as otherwise limited by this Agreement, the Business Associate may:

a. Use the Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate;

b. Disclose the Protected Health Information for the proper business administration of the Business Associate, provided that: (A) any such disclosure is Required by Law, or (B) the Business Associate obtains reasonable assurances from the person to whom the information is disclosed (the "Third Party") that (i) the Protected Health Information will remain confidential and will only be used or further disclosed for the purpose for which it was disclosed to such Third Party or as may otherwise be Required by Law, and (ii) the Third Party agrees to notify the Business Associate of any instances of which the Third Party becomes aware in which the confidentiality of the Protected Health Information has been Breached;

c. Use the Protected Health Information to provide Data Aggregation services to the Covered Entity, as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

d. Use the Protected Health Information to report violations of law to appropriate federal and state authorities, consistent with 45 C.F.R. § 154.502(j)(1);

e. Comply with any limitations on uses and disclosures agreed by Covered Entity in accordance with 45 C.F.R. § 164.522, provided that such limitations have been communicated to Business Associate as provided in Section 7 below;

f. Aggregate Covered Entity's data with data from Business Associate's other clients to create benchmark information against which the Covered Entity's data will be compared by Business Associate and reported to Covered Entity for quality assurance, health care operations and research purposes;

g. Business Associate may provide data aggregation services relating to the health care operations of Covered Entity, as an Underlying Service; and

h. Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI of an Individual without Covered Entity's prior written approval and notice from Covered Entity that it has obtained from the Individual, in accordance with 45 C.F.R. §164.508, a valid authorization that includes a specification of whether the PHI can be further exchanged for remuneration by Business Associate. The foregoing shall not apply to Covered Entity's payments to Business Associate for services delivered by Business Associate to Covered Entity.

7. Obligations of the Covered Entity. The Covered Entity shall notify the Business Associate of:



a. any limitation(s) in its notice of privacy practices, as required by 45 C.F.R. § 164.520, to the extent that such limitation(s) may affect the Business Associate's use or disclosure of the Protected Health Information;

b. any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such change or revocation may affect the Business Associate's use or disclosure of Protected Health Information; and

c. any restriction(s) on the use or disclosure of Protected Health Information that the Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction(s) may affect the Business Associate's use or disclosure of Protected Health Information.

8. Permissible Requests of the Covered Entity. The Covered Entity shall not request the Business Associate to use or disclose any Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except as may otherwise be provided by Section 5 of this BAA.

9. Breach Notification. Without unreasonable delay, and in no case later than 30 days after the discovery thereof, the Business Associate shall notify the Covered Entity of a Breach of Unsecured Protected Health Information in accordance with the requirements of 45 C.F.R. § 164.410.

10. HITECH Compliance. The parties agree that the requirements of the HITECH Act that relate to security and/or privacy and that are made applicable with respect to Covered Entity shall also be applicable to Business Associate and shall be deemed incorporated into this BAA. In the event Business Associate discovers any Reportable Compromise, Business Associate shall notify Covered Entity within twenty-four (24) hours after discovery and will comply with all reasonable directions of Covered Entity relating to reporting of such events. Business Associate shall provide Covered Entity with all information available to Business Associate relating to the Reportable Compromise in order to allow Covered Entity to assess potential notifications under the HITECH Act and related regulations and to facilitate provision of such notifications where Covered Entity determines that such notifications are appropriate or required. In the event that the parties agree that notification of the Reportable Compromise must be given to individuals or government authorities, the parties will mutually agree on the notifications. Business Associate will not provide any notice to third parties (including, without limitation, patients or governmental authorities) of any Reportable Compromise in connection with this BAA unless the form of such notice has been approved in writing by Covered Entity, provided, however, this provision shall not be interpreted to prohibit Business Associate from notifying its legal counsel or its insurers of any Reportable Compromise, and this provision shall not be interpreted to prohibit Business Associate from providing any notifications which Business Associate is expressly required by law to provide.

11. Effect of Termination.

a. The term of this BAA shall commence as of the date of the Agreement and shall continue for so long as the Agreement remains effective. Any breach of this BAA shall be deemed a breach of the Agreement.

b. Except as provided in Section 11.c. of this BAA, upon termination of the Agreement for any reason, the Business Associate shall return or destroy all Protected Health Information. This provision



shall apply to all Protected Health Information that is in the possession of any subcontractor or agent of the Business Associate. The Business Associate shall retain no copies of the Protected Health Information for its records.

c. In the event that returning or destroying the Protected Health Information is not feasible, within ten (10) days of any termination hereof the Business Associate shall provide written notice to the Covered Entity setting forth the conditions that the Business Associate believes make return or destruction of the Protected Health Information not feasible and the Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as the Business Associate maintains such Protected Health Information.

12. Miscellaneous.

a. Regulatory References. Any reference made herein to any provision of law or regulation shall be a reference to such section as in effect and as same may be amended from time to time.

b. Amendment. This BAA may not be amended except in a writing signed by both parties hereto. Both parties hereto agree that this BAA shall be amended to comply with any and all state or federal laws, rules, or regulations, including without limitation any future laws, rules or regulations, including without limitation the Privacy Rule, the Security Rule and the HITECH Act.