

TERMS AND CONDITIONS

Termination

1. Termination for Cause. This Agreement may be immediately terminated by either party, as set forth below, upon the occurrence of any of the following events:

(a) By the non-breaching party upon any breach by the other party of any material provision of this Agreement which the breaching party fails to cure within thirty (30) days after written notice.

(b) By the other party upon a party being charged, indicted, or convicted of any crime punishable as a felony involving moral turpitude, immoral conduct or professional misconduct or negligence, including but not limited to fraud against federal or state government.

(c) By either party upon any change in state or federal laws or regulations, or the interpretation thereof, that materially and adversely changes the duties or responsibilities of either party under this Agreement, unless the parties agree on a mutually acceptable amendment to this Agreement.

(d) By either party in the event its qualified regulatory counsel reasonably concludes that any portion of this Agreement or any dealings with third parties taken pursuant to this Agreement, is or may be in violation of any legal requirements, or any subsequent enactment by any federal, state or local authority.

(e) By either party upon exclusion of the other party from participation in the Federal Healthcare Programs (as defined below).

(f) By either party with respect to any of that party's software or services in the event that party no longer provides such software and/or services to its clients.

(g) By either party in that party's reasonable discretion for any poor representation or misrepresentation by the other party, including without limitation of its brand, products or services.

2. Effect of Termination. Upon expiration or termination of this Agreement, each party shall cease to be an authorized End User of the other party's software and: (a) immediately discontinue all customer education concerning the other party's software and services; (b) immediately return all advertising, information, and documentation related to the other party's software and services; and (d) provide all reasonably requested

assistance and information in order to provide for a smooth transition for existing End Users.

Miscellaneous

1. Invoice Late Payment. On any invoice not paid within thirty (30) days, the party submitting the invoice may assess and the other party shall pay a service charge accruing thereafter until the date of payment equal to the lesser of (i) the rate of one and one-half percent (1.5%) per month or (ii) the maximum lawful interest rate applicable. In the event any such account is in arrears for more than sixty (60) days for any reason and in addition to other available remedies, the party submitting the invoice shall be entitled to immediately place the other party on support hold. No Support Services will be provided while on support hold, although fees shall continue to accrue.

2. Taxes. Each party will provide the other party with an IRS Form 1099 or other form reasonably necessary to enable the receiving party to identify income from the other party and to pay any taxes owed by the receiving party on such amounts. Fees do not include, and as between the parties the party accessing the other party's software shall be solely responsible for, any and all applicable sales, use, privilege, excise, ad valorem, value added, and other taxes, excluding any taxes measured upon the other party's income or assets, imposed by any governmental authority relating in any way to the use or the license of such software or to its sale of any of the other party's services under this Agreement.

3. Limits of Authority. Each party retains all authority and control over their respective businesses, policies, operations and assets. The parties expressly acknowledge that neither party is able to, and does not guarantee any particular results under this Agreement.

4. No Inducement to Refer. The parties enter into this Agreement with the intent of conducting their relationship in full compliance with applicable federal, state and local law, including the Medicare/Medicaid Anti-fraud and Abuse Amendments and federal and state physician self-referral laws. Notwithstanding any unanticipated effect of any of the provisions herein, neither party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of these provisions.

5. License. To the extent required by law, each party is, and for the Term will remain, fully licensed to fulfill its

obligations hereunder without restriction or subject to any disciplinary or corrective action.

6. Participation in Federal Healthcare Programs. Each party is, and all of its respective personnel are, and for the Term will remain, eligible to participate in Medicare, Medicaid, CHAMPUS/TRICARE and other federal healthcare programs (together, the “Federal Healthcare Programs”), and have not been, and during the Term will not be, excluded by the Department of Health and Human Services Office of the Inspector General (the “OIG”) as set forth on the List of Excluded Individuals/Entities, or excluded by the General Services Administration as set forth on the Excluded Parties List System [see <http://exclusions.oig.hhs.gov/> and <https://www.epls.gov/>].
7. Records. Each party shall maintain proper records and such other reports as may be agreed upon by the parties or required by applicable state and federal laws, in accordance with applicable confidentiality requirements.
8. No Violation. Neither party is, nor during the Term will be, in breach of any other contract, obligation or covenant that would affect its ability to perform hereunder and, as a result of entering into this Agreement, will not breach any such contract, obligation or covenant.
9. Designated Representatives. Each party shall provide the other party with access to all relevant personnel required for the performance of the other party’s respective duties and exercise of rights hereunder, including without limitation designation of a representative who has authority on that party’s behalf.
10. Insurance. Each party will maintain insurance having appropriate limits and coverage sufficient to insure its obligations under this Agreement within industry-accepted reasonable standards and, upon request of the other party, shall provide copies of applicable certificates of insurance as proof thereof. The provisions of this Section shall be deemed continuing and shall survive the termination or expiration of this Agreement.
11. Non-Solicitation. Each party agrees that during the Term and for a period of twelve (12) months following the termination or expiration of this Agreement, it shall not, directly or indirectly, induce or attempt to induce any employee or independent contractor of the other party to terminate his or her employment or contractual relationship with such party. In the event either party breaches this Section of this Agreement, the breaching party agrees to pay the other party, as liquidated damages, which the parties agree is not a penalty, an amount equal to the compensation paid to such employee or independent contractor by the non-breaching party during the last full month such individual was employed by or an independent contractor of the non-breaching party, multiplied by twelve (12). The provisions of this Section shall be deemed continuing and shall survive the termination or expiration of this Agreement.
12. Non-Disclosure. Except as required by law neither party shall, without obtaining the prior written consent of the party disclosing any information hereunder (each, as applicable, a “Disclosing Party”), disclose or permit its agents, employees, representatives or affiliates to disclose, information relating to the business methods, business policies, procedures, technical information, intellectual property, techniques or trade secrets, or other knowledge or processes of or developed by the Disclosing Party or the Disclosing Party’s affiliates, or any other confidential information relating to or dealing with their respective business operations, activities or affairs (“Confidential Information”). Notwithstanding the foregoing, Confidential Information shall not include any information that (i) is in the possession of the party receiving such information (each such party, as applicable, a “Receiving Party”) without obligation of confidence prior to its disclosure by the Disclosing Party, (2) is independently developed by the Receiving Party without use of the Confidential Information of the Disclosing Party, (3) is or becomes publicly available without breach of the confidentiality obligations set forth herein, or (4) is rightfully received by the Receiving Party without obligation of confidence from a third party having the right to so disclose such information. In making permitted or required disclosure of Confidential Information, the Receiving Party shall: (i) give prior written notice of the intended disclosure to the Disclosing Party, (ii) make such disclosure only to the extent required, and (iii) upon the Disclosing Party’s request, give the disclosing party a copy of the disclosed materials and information. Immediately upon the termination of this Agreement, each party shall deliver to the other party all documents, computer discs and other forms of recorded information, including all copies thereof, containing the other party’s Confidential Information. The provisions of this Section shall survive the termination or expiration of this Agreement.
13. Employees and Subcontractors. The relationship between the parties shall at all times be deemed to be that of independent contractors. Neither party’s personnel shall be regarded as employees or agents of the other party, including without limitation for the payment of any and all employment taxes such as FICA, unemployment or worker’s compensation.
14. Severability. If any term or provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be deemed modified to the extent necessary to render it legal and valid, preserving to the fullest extent permitted the intent of the parties set forth in this Agreement, and such provision shall not in any way affect the validity of the remainder of this Agreement.
15. Governing Law. The interpretation and enforcement of this Agreement will be governed by the laws of Tennessee, without regard to any conflicts of law provisions contained therein.

16. Force Majeure. The parties shall be excused for failures and delays in the performance of their respective obligations under this Agreement due to any cause beyond the control and without the fault of such party, including without limitation, any act of God, war, terrorism, riot or insurrection, law or regulation, strike, flood, fire, explosion or inability due to any of the aforementioned causes to obtain necessary labor, materials or facilities. This provision shall not, however, release such party from using its best efforts to avoid or remove such cause and such party shall continue performance hereunder with the utmost dispatch whenever such causes are removed. Upon claiming any such excuse or delay for non-performance, such party shall give prompt written notice thereof to the other party, provided that failure to give such notice shall not in any way limit the operation of this provision.
17. Remedies; No Waiver. All rights, powers and remedies granted to either party by any particular term of this Agreement are in addition to, and not in limitation of, any rights, powers or remedies which it has under any other term of this Agreement, at common law, in equity, by statute, or otherwise. All such rights, powers and remedies may be exercised separately or concurrently, in such order and as often as may be deemed expedient by either party. No delay or omission by either party to exercise any right, power or remedy shall impair such right, power or remedy or be construed to be a waiver of or an acquiescence to any breach or default. A waiver by either party of any breach or default hereunder shall not constitute a waiver of any subsequent breach or default.
18. Access to Books and Records of Subcontractor. Upon the written request of the Secretary of the Department of Health and Human Services or the Comptroller General or any of their duly authorized representatives, each party will make available those contracts, books, documents and records necessary to verify the nature and extent of the costs of providing its services under this Agreement. Such inspection shall be available up to four (4) years after the rendering of such services. If either party carries out any of the duties of this Agreement through a subcontract with a value of \$10,000 or more over a twelve (12) month period with a related individual or organization, such party agrees to include this requirement in any such subcontract. This Section is included pursuant to and is governed by the requirements of Public Law 96-499, Sec. 952 (Sec. 1861(v)(1)(I) of the Social Security Act) and the regulations promulgated thereunder. No attorney-client, accountant-client or other legal privilege will be deemed to have been waived by either party or any other End User by virtue of this Agreement.
19. Authorization for Agreement. The execution and performance of this Agreement by each party have been duly authorized by all necessary laws, resolutions and entity action, and this Agreement constitutes the valid and enforceable obligations of each party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, or other creditors' rights generally, and by general equitable principles.
20. Assignment. Neither party shall assign this Agreement, or any portion hereof or any monies due or to become due under this Agreement, and neither party shall delegate any duties under this Agreement, without the prior written consent of the other party.
21. Successor in Interest. All of the rights, benefits, duties, liabilities and obligations of the parties hereto shall inure to the benefit of and be binding upon the parties and their permitted successors and assigns.
22. Amendments. Any amendments to this Agreement will be effective only if in writing and signed by authorized representatives of each party.
23. Entire Agreement. The parties herein acknowledge that no representation, inducement, promise or agreement, orally or otherwise, has been made by any party which is not embodied herein, and no other agreement, statement or promise relating to either party's software or services provided hereunder not contained in this Agreement shall be valid or binding. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. The terms of this Agreement will take precedence over any inconsistent terms which may be found in other documents as they now exist or as they may be amended in the future. The parties hereto do not intend to, and do not, by executing this Agreement, confer any benefit upon any person other than the parties hereto and their permitted successors and assigns.
24. Headings. The headings of the Sections and Articles of this Agreement are inserted for convenience of reference only and shall not in any manner affect the construction or meaning of anything herein contained or govern the rights or liabilities of the parties hereto.
25. Notices. All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery or delivery by overnight courier or, if mailed, upon the first to occur of actual receipt or seventy-two (72) hours after being placed in the United States mail, postage prepaid, registered or certified mail, receipt requested, addressed to the parties at the addresses set forth on the signature page. Notice of a change in address of one of the parties shall be given in writing to the other party as provided above, but shall be effective only upon actual receipt.
26. Duty to Cooperate. The parties acknowledge that the parties' mutual cooperation is critical to the ability to perform their respective duties hereunder successfully and efficiently. Accordingly, each party agrees to cooperate fully with the other in formulating and implementing goals and objectives.

27. Counterparts. This Agreement may be executed in exact counterparts and when so executed by the parties hereto shall be effective in accordance with the terms hereof. Signatures transmitted by facsimile transmission, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.

28. Attorneys’ Fees. Should either party hereto institute any action or proceeding in court to enforce any provision hereof or for damages by reason of an alleged breach of any provision of this Agreement or any schedule or exhibit to this Agreement, the prevailing party shall be entitled to recover from the losing party the prevailing

party’s costs, including without limitation such amount as the court may adjudge to be reasonable attorneys’ fees for services rendered to the prevailing party in such action or proceeding. The provisions of this Section shall be deemed continuing and shall survive any termination or expiration of this Agreement. The term “prevailing party” as used in this Section shall include, without limitation, any party who is made a defendant in litigation in which damages and/or other relief may be sought against such party and a final judgment or decree is entered in such litigation in favor of such party defendant.

29. Non-Discrimination. Neither party shall illegally discriminate on the basis of race, color, sex, age, religion, national origin, handicap, or payment source, or on any other basis prohibited by applicable law.