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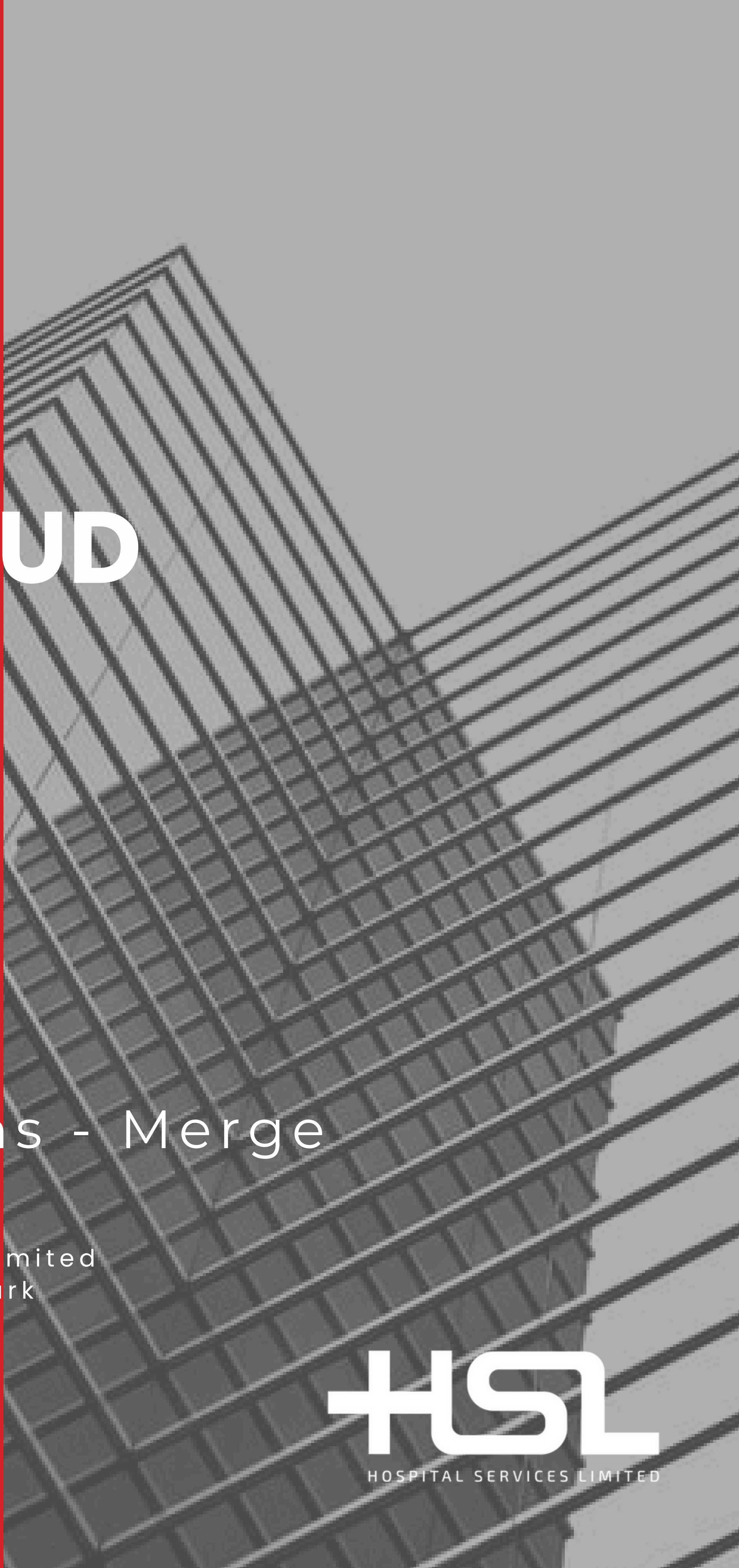
Terms & Conditions - Merge



Hospital Services Limited
Unit 11, Riverside Park
East Service Rd,
Raynesway, Derby
DE21 7RW

WWW.HSL.CO.UK

Merge Client Agreement

This Merge Client Agreement ("**MCA**") and applicable Transaction Documents are the complete agreement regarding each transaction under this MCA (together, the "**Agreement**") under which Client may order Software, SaaS, and other Services (collectively, "**Merge Products**") and third-party products and services ("**Non-Merge Products**"). Merge Products and Non-Merge Products are, together, the "**Products**."

Transaction Documents ("**TDs**") provide the specifics of transactions, such as charges and a description of and information about the Product. Examples of TDs include sales orders, support services agreements, statements of work, service descriptions, license information documents, licensed Software specifications, and supplements. There may be more than one TD applicable to a transaction. In the event of conflict, a TD prevails over the MCA and only applies to the specific transaction.

1. Software License

a. "**Software**" is executable Merge-branded computer software and related material and includes whole and partial copies. Software details are described in TDs. Software does not include Project Materials, as defined below.

b. "**Documentation**" means user and system administrator guides and manuals and similar documentation generally supplied by Merge to its licensees to assist them in the use of the licensed Software.

c. Software and Documentation are copyrighted and licensed, not sold.

d. Client is granted a nonexclusive license to:

(1) use the Software subject to the terms of the Agreement and up to the number of license entitlements Client acquires from Merge or a Merge reseller ("**Authorized Use**");

(2) make and install copies to support such Authorized Use; and

(3) make a backup copy.

e. For Software licensed on a subscription basis, the term of the license is as set forth in the applicable TD. Unless otherwise stated in the ordering TD, Software subscriptions renew automatically for consecutive one-year terms unless Client provides written notice to Merge not to renew at least 180 days prior to expiration of the then-current term. Non-Merge Software subscriptions renew upon mutual written agreement of the parties. For licenses for which there is no term set forth in a TD, the license is perpetual.

f. Software and Documentation may be used by Client, its employees, and contractors. Client may not rent or lease Software or provide commercial IT, hosting, or timesharing services to any third party. Client may not sublicense, assign, or transfer the license for any Software (except to the extent assignment or transfer may not be legally restricted or as is expressly permitted in a TD or as otherwise agreed by Merge in writing.) Additional rights may be available for additional fees or under different terms. The license granted for Software and Documentation is subject to Client:

(1) reproducing copyright notices and other markings on any copy;

(2) ensuring anyone who uses the Software: (i) does so only on Client's behalf within Client's Authorized Use; and (ii) complies with the license terms and this MCA;

(3) not reverse assembling, reverse compiling, translating, or reverse engineering the Software, except as expressly permitted by law without the possibility of contractual waiver; and

(4) not using any of the elements of the Software or related licensed material separately from the Software.

g. If a TD for Software ("**Principal Software**") states that "**Supporting Software**" is included with the Principal Software, Client may use the Supporting Software subject to any license limitations of the Principal Software and only to support the Principal Software.

h. This license applies to each copy of the Software and Documentation that Client makes.

i. An update, fix, or patch to the Software is subject to the terms governing the Software unless new terms are provided in an updated TD. Client accepts such new terms upon installation of the update, fix, or patch. If the Software is replaced by an update, Client agrees to promptly discontinue use of the replaced Software.

j. Entitlement metrics applicable to Software are defined in a TD.

k. Merge may, at its option, deliver Software to Client through an FTP or other electronic transmission or download, in which event Merge will provide Client with a password key (the "**Key**") necessary to download the Software, and provision of the Key to Client constitutes delivery of the Software.

2. SaaS

a. Merge Software-as-a-Service offerings ("**SaaS**") are those "as-a-service" Merge offerings that Merge makes available via a network, such as software as a service or infrastructure as a service.

b. SaaS is designed to be available 24/7, subject to maintenance. Merge will provide advance notice of scheduled maintenance. Technical support and service level commitments, if any, are specified in a TD.

c. When Merge accepts Client's order, Merge provides Client the authorizations specified in the TD. Merge provides the facilities, personnel, equipment, software, and other resources necessary to provide SaaS. Merge provides generally available user guides and documentation to support Client's use of the Merge SaaS.

d. Enabling Software is software that Client downloads to Client systems that facilitates the use of SaaS and is identified in a TD. Enabling Software is not part of SaaS and Client may use Enabling Software only in connection with use of the SaaS and in accordance with any licensing terms specified in a TD. The licensing terms will specify applicable warranties, if any. **Otherwise, Enabling Software is provided as-is, without warranties of any kind.**

e. Client will provide hardware, software, and connectivity to access and use SaaS, including any required Client-specific URL addresses and associated certificates.

f. Client's authorized users may access SaaS only to the extent of authorizations Client acquires. Client is responsible for use of SaaS by any user who accesses the SaaS with Client's account credentials.

g. The following acceptable use terms apply for use of SaaS by Client. SaaS may not be used for unlawful, harmful, obscene, offensive, or fraudulent Content (as defined below) or activity. Examples of prohibited activities are advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive, or deceptive messages, introducing viruses or harmful code, or violating third-party rights. Client may not: (i) reverse engineer any portion of SaaS; (ii) assign or resell direct access to SaaS to a third party outside Client's Enterprise, as defined below; or (iii) combine SaaS with Client's value add to create a Client-branded solution that Client markets to its end user customers unless otherwise agreed by Merge in writing.

2.1 Changes and Withdrawal of Merge SaaS

a. At any time and at Merge's discretion, Merge may change SaaS, including corresponding published descriptions.

b. The intent of any change is to: (i) make available additional features and functionality; (ii) improve and clarify existing commitments; or (iii) maintain alignment to current adopted operational and security standards or applicable laws. The intent is not to degrade the security or functionality of SaaS.

c. Changes are effective when published or on the specified effective date. Any changes that do not meet the conditions specified above will only take effect, and Client accepts, upon: (i) a new order; (ii) the term renewal date for SaaS that automatically renews; or (iii) notification from Merge of the change effective date for ongoing services that do not have a specified term.

d. Merge may discontinue future sales of the SaaS on six months' notice; however, Merge will continue to provide the SaaS for the remainder of Client's unexpired term or work with Client to migrate to another generally-available offering.

2.2 Term and Termination of SaaS

a. The term begins on the date Merge notifies Client that Client can access the SaaS. Unless otherwise stated in the ordering TD, Merge SaaS renews automatically for consecutive one-year terms unless Client provides written notice to Merge not to renew at least 180 days prior to expiration of the then-current term. Non-Merge SaaS renews upon mutual written agreement of the parties. For SaaS sold on a continuous use basis, the SaaS will continue to be available on a month-to-month basis until Client provides 30 days' written termination notice to the Merge. The SaaS will remain available until the end of the calendar month after such 30-day period.

b. Merge may suspend or limit, to the extent necessary, Client's use of Merge SaaS if Merge reasonably determines there is a: (i) material breach of Client's obligations; (ii) security breach; (iii) violation of law; or (iv) breach of the acceptable use terms set forth in Section 2 above. Merge will provide notice prior to a suspension as commercially reasonable. If the cause of a suspension can reasonably be remedied, Merge will provide notice of the actions Client must take to reinstate the Merge SaaS. If Client fails to take such actions within a reasonable time, Merge may terminate the Merge SaaS.

c. Client may terminate the Merge SaaS on 30 days' notice: (i) at the written recommendation of a government or regulatory agency following a change in either applicable law or the Merge SaaS; (ii) if a change to the Merge SaaS causes Client to be noncompliant with applicable laws; or (iii) if Merge notifies Client of a change to the Merge SaaS that has a material adverse effect on Client's use of the Merge SaaS, provided that Merge will have 90 days to work with Client to minimize such effect. In the event of any such Client termination above or a similar termination of non-Merge SaaS as permitted in the third-party agreement terms, Merge shall refund a portion of any prepaid amounts for the applicable SaaS for the period after the date of termination. Client may terminate the Merge SaaS for material breach of Merge's obligations by giving notice and reasonable time to comply. If the SaaS is terminated for any other reason, Client will pay to Merge, on the date of termination, the total amounts due per the Agreement. Upon termination, Merge may assist Client in transitioning Content to an alternative technology for an additional charge and under separately agreed terms.

3. Services – Other Services

a. Services are project or other labor-based Services, such as consulting, installation, customization and configuration, maintenance, Software support, and remote services Merge provides to Client. When Merge accepts Client's order, Merge will provide or make available the Services as described in a TD.

b. Services to support and maintain Products ("**Support Services**") are described in Merge's Support Guide at https://www.merative.com/content/dam/merative/terms/ancillary/Merge_Support_Services_Program_Terms.pdf and applicable terms in a TD, or as available under separate agreement.

c. Merge Support Services are provided for the standard version of the Products made generally available by Merge. Support Services for custom Products may be subject to additional fees as provided on the applicable TD. For Software licensed on a subscription basis, Support Services are included as part of the subscription for the duration specified in the applicable TD.

3.1 Service Deliverables Ownership and Licensing

a. When Merge provides deliverables, Client will own the copyright in works of authorship that Merge develops for Client as described in a TD ("**Project Materials**"). Project Materials exclude Existing Works, which are works of authorship delivered to Client, but not created, under the TD, and include any modifications or enhancements of such works made during the performance of the Services. Some Existing Works may be subject to a separate license agreement ("**Existing Licensed Works**"). Software is an example of an Existing Licensed Work and is subject to its Software terms.

b. Merge grants Client an irrevocable (subject to Client's payment obligations), nonexclusive, worldwide license to use, execute, reproduce, display, perform, and prepare derivatives of Existing Works that are not Existing Licensed Works. Merge retains an irrevocable, nonexclusive, worldwide, paid-up license to use, execute, reproduce, display, perform, sublicense, distribute, and prepare derivative works of Project Materials.

c. Implementation Plan. Merge may prepare an implementation plan for any Services ("**Implementation Plan**") set forth in a TD, and such an Implementation Plan may include, but not be limited to: (i) the mutually agreed series of milestones that must be accomplished and the target dates for such milestones; (ii) a detailed description of all activities to be performed by Merge and Client; (iii) a detailed description of all activities, if any, to be performed by third parties; (iv) a transition/implementation schedule; and (v) Merge's site requirements and preparation recommendations including, but not limited to, cooling needs, electrical power, space, lighting, rigging, and grounding requirements. Merge and Client may, as applicable, work together following execution of the TD to generate the Implementation Plan.

d. Client Cancellation. In the event a scheduled professional services engagement (including training) is cancelled, suspended, rescheduled, or otherwise delayed by Client (collectively, a "**Cancelled Engagement**"), Merge may invoice Client for (i) the non-refundable out-of-pocket expenses incurred in anticipation of performing the Cancelled Engagement, and (ii) a Cancelled Engagement occurring within 15 business days of the engagement's scheduled start date and not attributable to a force majeure event, for the reasonable costs of personnel assigned to the Cancelled Engagement, but only to the extent that such personnel have not been redeployed to other engagements and only for a period equal to the number of business days of the Cancelled Engagement, not to exceed two weeks.

3.2 Services Termination

a. Either party may terminate a Service if a material breach concerning the Service is not remedied within a reasonable time.

b. Merge will provide at least 180 days' notice prior to discontinuation of standard Services offerings.

c. Client agrees to pay charges for Services provided through the effective date of termination.

d. If Client terminates without cause (if allowed by the applicable TD) or Merge terminates for breach, Client will:

  (1) meet all minimum commitments as specified in a TD;

  (2) pay termination or adjustment charges specified in a TD; and

  (3) pay any additional costs Merge reasonably incurs because of early termination, such as costs relating to subcontracts or resource reallocation.

  Merge will take reasonable steps to mitigate any such additional costs.

e. Specific termination rights for a Service may be specified in a TD.

4. Embedded System

a. An "**Embedded System**" is a Merge-branded Software and hardware combined solution. Unless otherwise provided, terms that apply to Software apply to the Software component of an Embedded System. Client may not use or transfer an Embedded System's Software component independently of the Embedded System.

b. Merge transfers title to hardware to Client or Client's lessor upon shipment. Merge bears risk of loss until delivery to the carrier for shipment. Merge pays for insurance on Client's behalf until delivery to Client's location. Client must report any loss in writing to Merge within 10 business days of delivery and follow the claim procedure.

c. Embedded System parts removed or exchanged for upgrade, warranty service, or maintenance are Merge property and must be returned to Merge promptly. A replacement assumes the warranty or maintenance status of the replaced part. An Embedded System may include parts that are not new and in some instances Embedded Systems may have been previously installed. Regardless, Merge's warranty terms apply. Client will promptly install or allow Merge to install mandatory engineering changes. Client may only acquire Embedded Systems for use within Client's Enterprise in the country where acquired and not for resale, lease, or transfer.

5. Content and Related Security

a. "**Content**" consists of all data, software, and information that Client or its authorized users provides, authorizes access to, or inputs to the SaaS or information or data Client may provide, make available, or grant access to in connection with Merge providing other Services. Client grants the rights and permissions to Merge, its affiliates, and contractors of either, to use, provide, store, and otherwise process Content solely for the purpose of providing SaaS or other Services. Use of SaaS or other Services will not affect Client's ownership or license rights in Content.

b. Merge, its affiliates, and contractors of either may access and use the Content solely for the purpose of providing and managing the applicable SaaS or other Services. Merge will treat all Content as confidential by only disclosing to Merge employees and contractors to the extent necessary to provide the SaaS or perform other Services.

c. In the event Merge acts in the capacity of a Business Associate of Client in the course of providing Services to Client, the parties agree to the provisions of the Business Associate Addendum attached to this MCA as Exhibit A.

d. Client is responsible for obtaining all necessary rights permissions, and consents to enable, and grants such rights and permissions to, Merge, its affiliates, and contractors of either to use, provide, store, and otherwise permit processing of Content in the SaaS or to provide other Services. Client will make disclosures and obtain consents required by law before Client provides, authorizes access to, or inputs individuals' information, including personal or Protected Health Information, in such Content for processing in SaaS or use by Merge in providing other Services.

e. Client is responsible for adequate backup of Content on Client-managed systems prior to providing or allowing access to Merge to provide Services.

f. Merge Technical and Organizational Measures ("**TOMs**"), at https://www.merative.com/content/dam/merative/terms/privacy/Technical_and_Organizational_Measures_(TOMs).pdf apply for generally available standard SaaS and other Services as identified in a TD. For purposes of this MCA, references to Merative in the TOMs are deemed to mean Merge. At Merge's discretion, Merge may change the TOMs from time to time and the change will be effective when published or on the specified effective date. The intent of any change is to improve and clarify existing commitments and maintain alignment to current adopted operational and security standards or applicable laws. The intent is not to degrade the security or functionality.

g. The specific security features and functions of SaaS or other Services are described in the applicable TD. Client is responsible for selecting, ordering, enabling, and using available data protection features appropriate to support Client's use of SaaS. Client is responsible for assessing the suitability of the SaaS for the Content and Client's intended use or the use of Content with Services. Client acknowledges that the use of SaaS and other Services meets Client's requirements and processing instructions required to comply with applicable laws.

h. Merge's Data Processing Addendum ("**DPA**") is available at https://www.merative.com/content/dam/merative/terms/privacy/Data_Processing_Addendum.pdf. For purposes of this MCA, references to Merative in the DPA are deemed to mean Merge. A DPA Exhibit(s) specifies how Merge will process personal data contained in Content. The DPA and applicable DPA Exhibit(s) apply to personal data contained in Content, if and to the extent: (i) the European General Data Protection Regulation (EU/2016/679) ("**GDPR**"); or (ii) other data protection laws identified at https://www.merative.com/content/dam/merative/terms/privacy/Data_Protection_Laws.pdf apply. Upon request by either party, Merge, Client, or affiliates of either, will enter into additional agreements as required by law in the prescribed form for the protection of personal or regulated personal data included in Content. The parties agree (and will ensure that their respective affiliates agree) that such additional agreements are subject to the terms of the Agreement.

i. For Merge SaaS with self-managed features, Client may remove Content at any time. Otherwise, Merge will return or remove Content from Merge computing resources upon the expiration or cancellation of the Merge SaaS, other Services, or earlier upon Client's request. Merge may charge for certain activities performed at Client's request (such as delivering Content in a specific format.) Merge does not archive Content; however, some Content may remain in backup files until expiration of such files as governed by Merge's backup retention practices.

6. Warranties

a. Merge warrants that the Software, when used in its specified operating environment, conforms to its specifications. The warranty period for the Software is 12 months from the effective date of the TD under which the Software is licensed or the initial license term if less than 12 months, unless another warranty period is specified in a TD.

b. During the Software warranty period, Merge provides maintenance and support services ("**Support Services**") entitling Client to defect correction information, restrictions, bypasses, and new releases and versions Merge makes generally available and as further described at http://www.merative.com/support. Unless Client elects to discontinue Support Services by providing Merge at least 180 days' prior written notice, annual Support Services automatically renew until Support Services for a version or release is withdrawn. If Client elects to continue Support Services for Software at a designated Client site, Client must maintain Support Services for all uses and installations of the Software at that site. Merge Support Services are provided for the standard version of Merge Products made generally available by Merge.

c. Merge warrants that it provides the SaaS and Services using commercially reasonable care and skill and as described in an applicable TD, including any completion criteria. Project Materials will comply with the TD at the time of delivery. The warranty for SaaS or Services ends when the SaaS or Services end.

d. Merge warrants that Embedded Systems used in their specified operating environment conform to their official published specifications. During its warranty period, Merge will repair or exchange the Embedded System without charge, as specified in the TD. Non-Merge hardware is not warrantied by Merge and may have a separate warranty provided by the manufacturer. Client may purchase warranty service upgrades and post warranty support where available. For Embedded Systems, post warranty support includes Support Services.

e. If Software or an Embedded System does not function as warrantied during its warranty period and Merge is unable to repair or replace it with a functional equivalent, Client may return it to Merge and upon such return receive a refund of the amount Client paid (for recurring charges, up to 12 months' charges) and Client's license or right to use terminates.

f. **Merge does not warrant uninterrupted or error-free operation of a Merge Product or that Merge will correct all defects, that the Products will operate in the combinations that Client may select for use with all Non-Merge Products used by Client, or prevent third-party disruptions or unauthorized third-party access to a Merge Product. These warranties are the exclusive warranties from Merge and replace all other warranties, including the implied warranties or conditions of satisfactory quality, merchantability, non-infringement, and fitness for a particular purpose. Merge warranties will not apply if there has been misuse, modification, damage not caused by Merge, or failure to comply with written instructions provided by Merge. Non-Merge Products and trial products are sold under the Agreement as-is, without warranties of any kind. Third parties may provide their own warranties to Client for Non-Merge Products.**

7. Charges, Taxes, and Payment

a. Client's right to use Software or SaaS is contingent on Client paying applicable charges as specified in a TD under which Client acquired the entitlements. Client is responsible for acquiring additional entitlements in advance of any increase of its use.

b. Client agrees to pay all applicable charges specified in a TD for a Merge Product or Non-Merge Product, including shipping charges when specified in a TD, and charges for use in excess of its entitlements. Charges are exclusive of any customs or other duty, tax, and similar levies imposed by any authority resulting from Client's acquisitions under the Agreement and will be invoiced in addition to such charges. Merge will not invoice taxes for those transactions for which Client has presented a valid exemption certificate and appropriately claimed tax exempt status. Client shall reimburse Merge for travel and other out-of-pocket expenses incurred by Merge as required to perform professional services. Amounts, are due as set forth in a TD and payable within 30 days of the invoice date to an account specified by Merge and late payment fees may apply. Prepaid Services must be used by Client within two years of the date of the applicable TD, unless further extended by written mutual agreement of the parties and unless such delay is attributable to the fault of Merge or to a force majeure event.

c. The fees for SaaS and Support Services renewal terms may be set forth in the TD pursuant to which Client obtains the SaaS or associated Product, and the annual Support Services fee is due in full at the commencement of each annual renewal term. Merge reserves the right to suspend SaaS or Support Services in the event Client is more than 30 days late in payment of any SaaS or Support Services fee. Merge shall increase charges for Software subscriptions, SaaS and/or Support Services by a minimum of five percent of the then current charges upon each anniversary date, or upon renewal, unless otherwise stated in the TD. In the event Client has multiple Support Services annual renewal dates, Merge may adjust the dates for Suppport Services renewals and issue prorated invoices to synchronize Client's renewal dates for Support Services.

d. Merge does not give credits or refunds for any prepaid, one-time charges, or other charges already due or paid, except as may be specified in the applicable TD.

e. Merge will invoice: (i) recurring charges at the beginning of the selected billing frequency term; (ii) overage and usage charges in arrears; and (iii) one-time charges upon Merge's acceptance of an order.

f. Merge may change all other recurring charges, labor rates, and minimum commitments on 45 days' advance notice. If Merge commits to pricing as specified in a TD, Merge will not change such pricing during the specified term. A change applies on the invoice date or the first day of the charging period or new term on or after the effective date Merge specifies in the notice.

8. Entitlement Verification

a. Client will maintain, and provide upon request, records, system tools output, and access to Client's premises, as reasonably necessary for Merge and its independent auditor to verify Client's compliance with the Agreement. Verification will be conducted in a manner that minimizes disruption to Client's business and may be conducted on Client's premises, during normal business hours. Merge will have a written confidentiality agreement with the independent auditor.

b. Client will promptly order and pay charges at Merge's then-current rates associated with: (i) any deployments or usage in excess of authorizations indicated on or by any annual report or verification; (ii) applicable Support Services for such excess deployments for the lesser of the duration of such excess use or two years; and (iii) any additional charges and other liabilities determined as a result of such verification, including but not limited to taxes, duties, and regulatory fees.

9. Liability and Intellectual Property Protection

a. Merge's entire liability for all claims related to the Agreement will not exceed the amount of any actual direct damages incurred by Client up to the amounts paid (if recurring charges, up to 12 months' charges apply) for the Merge Product or Service that is the subject of the claim, regardless of the basis of the claim. **Merge will not be liable for special, incidental, exemplary, indirect, or economic consequential damages, or lost profits, business, value, revenue, goodwill, or anticipated savings.** These limitations apply collectively to Merge, its affiliates, contractors, and suppliers.

b. The following amounts are not subject to the above cap: (i) third-party payments related to infringement claims described in paragraph c., below; and (ii) damages that cannot be limited under applicable law.

c. If a third party asserts a claim against Client that a Merge Product acquired under the Agreement infringes a copyright, Merge will defend Client against that claim and pay amounts finally awarded by a court against Client or included in a settlement approved by Merge. To obtain Merge's defense against and payment of infringement claims, Client must promptly: (i) notify Merge in writing of the claim; (ii) supply information requested by Merge; and (iii) allow Merge to control, and reasonably cooperate in, the defense and settlement, including mitigation efforts. Merge's defense and payment obligations for infringement claims extend to claims of infringement based on open-source code that Merge selects and embeds in a Merge Product.

d. Merge has no responsibility for claims based on Non-Merge Products, items not provided by Merge, or any violation of law or third-party rights caused by Content or any Client materials, designs, specifications, or use of a non-current version or release of a Merge Product when an infringement claim could have been avoided by using a current version or release.

10. Termination

a. Either party may terminate this MCA: (i) without cause, on at least 30 days' notice to the other, after expiration or termination of its obligations under each TD; or (ii) immediately for cause if the other is in material breach of the Agreement or any TD, provided the one who is not complying is given notice and reasonable time to comply. Except as otherwise set forth herein, any terms that by their nature extend beyond termination of this MCA or a TD remain in effect until fulfilled and apply to the parties' successors and assignees.

b. Termination of this MCA does not terminate TDs for transactions in effect and not affected by the cause of a material breach, and provisions of this MCA as they relate to such TDs remain in effect until fulfilled or otherwise terminated in accordance with their terms.

c. Merge may terminate Client's license to use Software or an Embedded System if Client fails to comply with the Agreement. Failure to pay is a material breach. Client will promptly return or destroy all copies of the Software and Embedded System, as applicable, after either party has terminated the license.

11. Confidentiality

Confidential information exchanged in connection with the Agreement is subject to the applicable confidentiality agreement in place between the parties (or, if the parties have not executed a confidentiality agreement, the one set forth at: https://www.merative.com/content/dam/merative/terms/ancillary/2-Way_Non-Disclosure_Agreement_(2NDA).pdf applies), which is incorporated into, and subject to, this MCA. This paragraph does not apply to Content.

12. Governing Laws and Geographic Scope

a. Both parties agree to the application of the laws of the State of Delaware, United States, without regard to conflict of law principles. Each party waives any right to a jury trial in any proceeding arising out of or related to the Agreement.

b. The rights and obligations of each party are valid only in the country where the transaction is performed (or for SaaS or remotely delivered Services, the country of Client's business address) or, if Merge agrees, the country where the Merge Product or Non-Merge Product is placed in productive use, except all licenses are valid as specifically granted.

c. Each party is also responsible for complying with: (i) laws and regulations applicable to its business and Content; and (ii) import, export, and economic sanction laws and regulations, including the defense trade control regime of the United States of America and any applicable jurisdiction that prohibits or restricts the import, export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses, or end users. Merge will not serve as Client's exporter or importer, except as required by data protection laws, for: (i) any Content; or (ii) use of any portion of SaaS from a country outside Client's business address.

d. If any provision of the Agreement is invalid or unenforceable, the remaining provisions remain in full force and effect. Nothing in the Agreement affects statutory rights of consumers that cannot be waived or limited by contract. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under the Agreement.

13. General

a. Merge is an independent contractor, not Client's agent, joint venturer, partner, or fiduciary, and does not undertake to perform any of Client's regulatory obligations or assume any responsibility for Client's business or operations. Client is responsible for its use of Merge Products and Non-Merge Products. Merge is acting as an information technology provider only. Each party is responsible for determining the assignment of its and its affiliates' personnel and their respective contractors, and for their direction, control, and compensation.

b. Client may not use Products if failure or interruption of the Products could lead to death, serious bodily injury, or property or environmental damage.

c. Client acknowledges and agrees that Merge is not engaged in the practice of medicine and is not determining appropriate medical use of any of the Merge Products and Services. All medical treatment and diagnostic decisions related to or connected with the Merge Products and Services, including those arising from the analysis of images, are solely the responsibility of Client and its professional healthcare providers. Client shall indemnify, hold harmless, and, if requested by Merge, defend Merge and its affiliates from and against all claims brought by a third party to the extent such claim is based upon or arises out of or is connected with any of the following: (a) professional malpractice, misdiagnosis, or any other medical treatment matter whatsoever in connection with the use by Client, Client personnel, customers, or any third parties, of any Product or Service, except to the extent that the claim is the direct result of a negligent action or omission of Merge or its agents or any defect of the Merge Software; (b) use of the Products by Client or any authorized user other than as authorized under the Agreement; or (c) any unlawful, negligent, or willful acts or omissions of Client or of any authorized user.

d. Client acknowledges that the Products are not intended to replace the skill and judgment of a qualified medical practitioner and should only be used by professionals who have been appropriately trained. Client shall be responsible for the security and privacy of the Product configuration and data and for taking measures necessary to avoid security breaches (including hacker attacks) of the Products.

e. Client accepts a TD (including associated service description or license information documents) by ordering, renewing, using, or making a payment for, the Merge Product or Non-Merge Product.

f. Merge represents and warrants that it (a) is not excluded, debarred, or otherwise ineligible to participate in any U.S. federal health care program as defined in 42 U.S.C. §1320a-7b(f) (the "**Federal Healthcare Programs**"); (b) has not been convicted of a criminal offense related to the provision of health care items or services and has not been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs, and (c) is not under investigation or otherwise aware of any circumstances which may result in Merge being excluded from participation in the Federal Healthcare Programs.

g. Merge maintains a robust code of conduct and related guidelines covering conflicts of interest, market abuse, anti-bribery and corruption, and fraud. Merge and its personnel comply with such policies and require contractors to have similar policies.

h. Merge, its affiliates, and contractors of either require use of business contact information and certain account usage information. This information is not Content. Business contact information is used to communicate and manage business dealings with the Client. Examples of business contact information include name, business telephone, address, email, user ID, and tax registration information. Account usage information is required to enable, provide, manage, support, administer, and improve Merge Products. Examples of account usage information include reported errors and digital information gathered using tracking technologies, such as cookies and web beacons, during use of Merge Products. The Merge Privacy Statement at https://www.merative.com/content/dam/merative/terms/privacy/Privacy_Statement.pdf provides additional details with respect to Merge's collection, use, and handling of business contact and account usage information. When Client provides information to Merge and notice to, or consent by, the individuals is required for such processing, Client will notify individuals and obtain consent.

i. Merge resellers who use or make available Merge Products or Non-Merge products are independent from Merge and unilaterally determine their prices and terms. Merge is not responsible for their actions, omissions, statements, or offerings.

j. Merge may offer Non-Merge Products, or a Merge Product may enable access to Non-Merge Product, that may require acceptance of third-party terms presented to the Client. Linking to or use of Non-Merge Products constitutes Client's agreement with such terms. Third-party terms and privacy practices govern use of non-Merge SaaS or other Service, including Content Client may provide or to which Client grants access, or input. Merge will invoice Client for charges due and submit Client's order details to the third-party provider for the enablement and delivery of the Non-Merge Product. Merge is not a party to any third-party agreement and is not responsible for Non-Merge Products. Ongoing access to Non-Merge Products may be discontinued at any time if the third party discontinues or Merge no longer makes available such Non-Merge Products.

k. A Merge Product or Non-Merge Product or feature of a Merge Product or Non-Merge Product is considered a "**trial product"** when Merge makes such product or features available to Client at no charge, with limited or pre-release functionality or for a limited time, to try available functionality (such as beta, trial, evaluation, no-charge, or designated trial products.) A trial product is excluded from available service level agreements and may not be supported. Merge may change or discontinue a trial product at any time and without notice. For any trial product that is provided as pre-release, Merge is not obligated to release a generally available product. Client is responsible to return a trial Product or place an order under generally available terms for acquiring Products beyond the trial period.

l. Neither party may assign the Agreement, in whole or in part, without the prior written consent of the other. Assignment by Merge in conjunction with the sale of the portion of Merge's business that includes a product or service is not restricted.

m. This MCA applies to Merge and Client (accepting this MCA) and their respective Enterprise companies that provide or acquire Products under this MCA. The parties shall each coordinate the activities of their own Enterprise companies under this MCA. Enterprise companies consist of: (i) companies within the same country that Client or Merge control (by owning greater than 50% of the voting shares); and (ii) any other entity that controls, is controlled by, or is under common control with Client or Merge and has agreed to a participation agreement.

n. All notices under this MCA must be in writing and sent to the business address(es) specified below unless a party designates in writing a different address. The parties consent to the use of electronic means for communications as a signed writing. Any reproduction of this MCA made by reliable means is considered an original. This MCA supersedes any course of dealing, discussions, or representations between the parties.

o. No right or cause of action for any third party is created by the MCA or any transaction under it. Neither party will bring a legal action arising out of or related to the Agreement more than two years after the cause of action arose. Neither party is responsible for failure to fulfill its non-monetary obligations due to causes beyond its control. Each party will allow the other reasonable opportunity to comply before it claims the other has not met its obligations. Where approval, acceptance, consent, access, cooperation, or similar action by either party is required, such action will not be unreasonably delayed or withheld.

p. Merge may use personnel and resources in locations worldwide, including third-party contractors to support the delivery of Products and Services. Client's use of Products may result in the transfer of Content, including personally identifiable information, across country borders. A list of countries where Content may be transferred and processed is described in the applicable service description or license information document for the Product. Merge is responsible for the obligations under the Agreement even if Merge uses a third-party contractor and will have appropriate agreements in place to enable Merge to meet its obligations.

EXHIBIT A

Business Associate Addendum

This Business Associate Addendum ("**Addendum**") supplements and is made a part of the MCA and applicable transaction document(s), between Client and Merge Healthcare Solutions Inc. ("**Merge**") for the services that will be processing Protected Health Information of individuals governed by U.S. laws and regulations (collectively, the "**Agreement**"). Merge and Client may be referred to individually as a "**Party**" or collectively as the "**Parties**".

RECITALS

Client is a "covered entity", or a "business associate" to one or more "covered entities" as such terms are defined by HIPAA (defined below).

Merge is a "business associate" or a "subcontractor business associate" as such terms are defined by HIPAA (defined below). Client and Merge are Parties to the Agreement pursuant to which Merge provides certain services to Client. In connection with those services, the Parties anticipate that it may be necessary for Merge to create, receive, maintain, transmit, use, or disclose certain Protected Health Information from, or on behalf of, Client ("**Client PHI**") that is subject to protection under the privacy, security and breach notification requirements of the Health Insurance Portability and Accountability Act of 1996, as amended, including by the Health Information Technology for Economic & Clinical Health Act of the American Recovery and Reinvestment Act of 2009 ("**HITECH Act**"), certain regulations promulgated by the United States Department of Health and Human Services at 45 C.F.R. Parts 160 and 164, and certain regulations promulgated pursuant to the HITECH Act (collectively, "**HIPAA**").

The purpose of this Addendum is to help facilitate the Parties' compliance with the requirements of HIPAA, as applicable when Merge is acting as a business associate or subcontractor business associate of Client.

Client acknowledges that Merge may act in a capacity other than as a business associate or subcontractor business associate and that this Addendum only applies to the extent that Merge is acting as a business associate or subcontractor business associate for Client. Hereinafter, however, Merge is referenced as "Business Associate."

The Parties agree as follows:

1. Definitions. Unless otherwise provided in this Addendum, capitalized terms have the same meaning as set forth in HIPAA.

2. Applicability. This Addendum is applicable solely to Protected Health Information that is Client PHI. Client will not provide Business Associate with access to, or direct Business Associate to create, receive, maintain, transmit, use, or disclose, Client PHI unless a description of the Client PHI, its location and any requirements related to such Client PHI are mutually agreed upon in the applicable transaction document.

3. Minimum Necessary Disclosures. In accordance with HIPAA, Client shall limit its uses, disclosures, and requests of Client PHI to Business Associate to the minimum necessary to accomplish the services Business Associate is performing for Client. Business Associate shall further limit its use, disclosures, and requests of Client PHI to the minimum necessary Client PHI to perform or have performed the services Business Associate is performing for Client. In each case, Client shall exercise reasonable discretion to determine what constitutes minimum necessary Client PHI.

4. Scope of Use of Client PHI. Business Associate shall not create, receive, maintain, transmit, use, or disclose Client PHI for any purpose other than as permitted or required by this Addendum or as Required By Law; provided that to the extent Business Associate is to carry out Client's obligations under the Privacy Rule as agreed by the Parties in writing, Business Associate will comply with the requirements of the Privacy Rule that apply to Client in the performance of those obligations.

5. Permitted Uses and Disclosures. Unless otherwise limited in this Addendum, in addition to any other uses and/or disclosures permitted or required by this Addendum, Business Associate may:

5.1 create, receive, maintain, transmit, use, and disclose Client PHI as necessary to provide the services and perform its obligations under the Agreement;

5.2 create, receive, maintain, transmit, use, and disclose Client PHI for the proper management and administration of Business Associate, including, but not limited to, data analysis necessary to review, improve, or validate a product, feature, or service offered in connection with the services, or to carry out the legal responsibilities of Business Associate, provided that, with respect to disclosures, (i) the disclosures are Required by Law or (ii) any third party to which Business Associate discloses Client PHI provides written reasonable assurances in advance that: (a) the information will be held confidentially and used or further disclosed only for the purpose for which it was disclosed to the third party; and (b) the third party will promptly notify Business Associate of any instances of which it becomes aware in which the confidentiality of the Client PHI has been compromised;

5.3 create, receive, maintain, transmit, use, and disclose Customer PHI to provide Data Aggregation services;

5.4 create de-identified data sets from the Client PHI, provided that the method of de-identification complies with HIPAA (the "**De-Identified Data**"), and create, receive, maintain, transmit, use, and disclose De-Identified Data, for any purpose permitted by applicable law; and

5.5 create Limited Data Sets from the Client PHI in accordance with HIPAA, and create, receive, maintain, transmit, use, and disclose such Limited Data Sets pursuant to a separate Data Use Agreement between the parties for any purpose permitted by applicable law.

6. Safeguards for the Protection of Client PHI. Business Associate shall: (i) use safeguards that are designed to appropriately prevent the use or disclosure (other than as provided by this Addendum) of Client PHI; and (ii) implement administrative, physical, and technical safeguards that are designed to reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Client PHI. If Business Associate agrees at the request of Client to provide customized safeguards, such safeguards will be documented in applicable statements of work or in comparable contract documents describing the services to be performed. In all cases, Business Associate shall comply with the Security Rule requirements for business associates in 45 C.F.R. Parts 160 and 164 (Subparts A & C).

7. Reporting of Unauthorized Uses or Disclosures. In compliance with HIPAA, Business Associate shall report to Client:

7.1 any use or disclosure of Client PHI of which Business Associate becomes aware that is not provided for or permitted in this Addendum;

7.2 any Security Incident of which Business Associate becomes aware; provided, however, that the Parties acknowledge and agree that no additional notice is required by Business Associate to Client for the ongoing existence and occurrence of Unsuccessful Security Incidents. "**Unsuccessful Security Incidents**" means, without limitation, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denial of service attacks, and any combination of the above, so long as no such incident results in unauthorized access, use, disclosure, modification or destruction of Client PHI or intentional interference with system operations in an information system that contains Client PHI; and

7.3 any Breach of Unsecured Client PHI of which Business Associate becomes aware, without unreasonable delay and in no case later than 30 days following the discovery by Business Associate of such Breach. Business Associate shall provide Client with written notification of Breach in accordance with 45 C.F.R. § 164.410.

8. Use of Subcontractors. Business Associate shall cause each Subcontractor of Business Associate (including, without limitation, a Subcontractor that is an agent under applicable law) that creates, receives, maintains, transmits, uses, or discloses Client PHI on behalf of Client to sign a written agreement with Business Associate satisfying the requirements of 45 C.F.R.§§ 164.504(e) and 164.314(a)(2) and containing at least as restrictive provisions and conditions related to the protection of Client PHI as those that apply to Business Associate under this Addendum.

9. Authorized Access to and Amendment of Client PHI. Only to the extent that Business Associate maintains Client PHI in Designated Record Sets, Business Associate shall: (i) within 30 business days of a written request by Client for access to Client PHI about an Individual contained in any Designated Record Set of Client maintained by Business Associate, make available to Client, in accordance with 45 C.F.R. § 164.524, all such Client PHI held by Business Associate, including electronic access to Client PHI maintained by Business Associate in electronic form; and (ii) within 30 business days of a written request by Client to amend Client PHI, incorporate any amendments Client makes to Client PHI in accordance with 45 C.F.R. § 164.526. In the event that Business Associate receives a request for access to Client PHI directly from an Individual, Business Associate shall direct the Individual to contact Client directly.

10. Accounting of Disclosures of Client PHI. Business Associate shall keep records of disclosures of Client PHI made by Business Associate (the "**Disclosure Accounting**") during the term of this Addendum in accordance with 45 C.F.R. § 164.528. Business Associate shall provide the Disclosure Accounting to Client within 45 days of receiving a written request therefor from Client. Business Associate shall comply with, and assist Client in compliance with, additional requirements of 42 U.S.C.§13405(c), if and when applicable. In the event that Business Associate receives a request for a Disclosure Accounting of Client PHI directly from an Individual, Business Associate shall direct the Individual to contact Client directly.

11. Health and Human Services. Business Associate shall make its internal practices, books, and records related to the use and disclosure of Client PHI under the Agreement and this Addendum available to Secretary of the Department of Health and Human Services for the purpose of determining Client's compliance with 45 C.F.R. § 164.500 et seq.

12. Client Responsibilities. Client warrants that it has obtained and will obtain any consents, Authorizations, and/or other legal permissions required under HIPAA and other applicable law for the disclosure of Client PHI to Business Associate. Client shall notify Business Associate of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of Client PHI under this Addendum. Client shall not agree to any restriction on the creation, receipt, maintenance, transmission, use, or disclosure of PHI under 45 C.F.R. § 164.522 that restricts Business Associate's creation, receipt, maintenance, transmission, use, or disclosure of Client PHI under this Addendum unless such restriction is Required By Law or the parties mutually agree in writing to modify Business Associate's obligations under this Addendum or the applicable transaction document.

13. Future Protections of Client PHI. Upon the expiration or earlier termination of this Addendum for any reason, if feasible, Business Associate shall return to Client, or, at Client's direction, destroy, all Client PHI in any form. If Business Associate determines that such return or destruction is not feasible, Business Associate shall extend the protections of this Addendum to the Client PHI and shall limit further creation, receipt, maintenance, transmission, use, or disclosure to those purposes that make the return or destruction of the Client PHI infeasible.

14. Termination. Either Party (the "**Non-Breaching Party**") may terminate this Addendum upon 30 days' prior written notice to the other party (the "**Breaching Party**") in the event that the Breaching Party materially breaches this Addendum, and such breach is not cured to the reasonable satisfaction of the Non-Breaching Party within such 30-day period. In the event of termination of this Addendum, either Party may terminate those portions of the Agreement, and only those portions of the Agreement, that require Business Associate to create, receive, maintain, transmit, use, or disclose Client PHI, in accordance with and subject to any rights to cure and payment obligations specified in the Agreement.

15. Effect on Agreement. This Addendum is not intended to, nor is it construed to, reduce or diminish any of Business Associate's or Client's obligations under the Agreement. Accordingly, except as set forth in the section entitled "Termination" or to the extent expressly inconsistent with this Addendum, all other terms of the Agreement remain in full force and effect and are not modified, diminished, or reduced hereby. In the event of a conflict between this Addendum and the Agreement, including the applicable transaction document, with respect to the privacy and security of Client PHI or compliance with HIPAA, the terms more protective of Client PHI control. In all other cases, the terms of the Agreement control.

16. No Intended Third Party Beneficiaries. There are no intended third party beneficiaries under this Addendum.

17. Independent Contractor Status. The Parties acknowledge and agree that Business Associate is at all times acting as an independent contractor of Client and not as an agent or employee of Client under this Addendum.

18. Assignment. Neither Party may assign this Addendum, in whole or in part, without the prior written consent of the other. Any attempt to do so is void. Neither Party will unreasonably withhold such consent. The assignment of this Addendum, in whole or in part, to any majority-owned subsidiary in the United States or to a successor organization by merger or acquisition does not require the consent of the other. It is not considered an assignment for Business Associate to divest a portion of its business in a manner that similarly affects all of its clients.

19. Future Amendments. Any future amendments to HIPAA affecting the required provisions of business associate agreements are hereby incorporated by reference into this Addendum as if set forth in this Addendum in their entirety, effective on the later of the effective date of this Addendum or such subsequent date as may be specified by HIPAA. No other amendment to this Addendum is valid unless agreed to in writing by both Parties.