

## SERVICES AGREEMENT

This Services Agreement (the "Agreement") is effective on the last date signed below (the "Effective Date"), between FinThrive Revenue Systems, LLC ("FinThrive" or "Vendor"), located at 7950 Legacy Drive, Suite 900, Plano TX 75024, Attention: Legal/Contracting, and the entity executing below ("Client").

Client is a customer of Samba located at 11301 Old Georgetown Road. Rockville, MD 20852. FinThrive and Samba have an agreement where FinThrive can provide Healthcare Solutions Portal Services to Samba Clients. Client is interested in Healthcare Solutions Portal Services and is entering into this Agreement for FinThrive to provide these services. FinThrive will provide these services to Client subject to the acceptance of the terms and conditions set forth here.

Accordingly, the parties agree as follows:

**1. Term and Termination.** The effective date of this Agreement shall be the Effective Date written above. The initial term of this Agreement is for 12 months (the "Initial Term") and shall be automatically renewed for successive one-year periods (each a "Renewal Term", and together with the Initial Term and any prior Renewal Terms, the "Term") unless either party notifies the other in writing, at least 60 days prior to the expiration of the Initial Term or applicable Renewal Term, of its intention not to renew. After the Initial Term, either party may terminate this Agreement without cause upon 60 days prior written notice to the other party. Within 30 days after termination, Client will pay all fees and other charges due to FinThrive under this Agreement through the date of termination.

### **2. Compensation.**

2.1 Payment for FinThrive Service(s). Client shall pay FinThrive the fees set forth in the SOW as consideration for the FinThrive Service(s). The parties acknowledge that any modification to the "Clients" set forth in the SOW may require a change in fees charged, and that any change in fees not otherwise provided for in the SOW shall be mutually agreed to by the parties in writing.

2.2 Taxes Excluded. Unless otherwise stated, FinThrive fees do not include any local, state, federal or foreign taxes, levies or duties of any nature ("Taxes"). Client is responsible for paying all Taxes, excluding only Taxes based upon FinThrive's net income. If FinThrive has the legal obligation to pay or collect Taxes for which Client is responsible under this section, the appropriate amount shall be invoiced to and paid by Client unless Client provides FinThrive with a valid tax exemption certificate authorized by the appropriate taxing authority.

2.3 Terms of Payment. FinThrive shall submit invoices for the services set forth in the SOW. Client shall remit payment within 30 days of the invoice date on any undisputed invoice. If Client does not pay any undisputed amount it owes when due, then Client shall pay interest on that unpaid amount at the rate of 1.5%, compounded monthly, or the maximum amount allowable by law, whichever is less. Additionally, FinThrive reserves the right to suspend the services set forth in the SOW in the event Client has any unpaid, undisputed fee 60 days or more past-due with FinThrive or any of its Affiliates.

2.4 Expenses. Client shall reimburse FinThrive for all reasonable business expenses FinThrive incurs in performing the services set forth in the SOW, including reasonable travel and lodging expenses.

2.5 Consumer Price Index ("CPI"). FinThrive, in its sole discretion, may annually increase the fees set forth in the SOW by an amount equal to the greater of: (i) the Annual CPI; or (ii) 5%. "Annual CPI" means average CPI for the previous 12-month Period in the Professional Services Component of the Medical Index of the "All cities-All urban consumers" index of the Consumer Price Index prepared by the Bureau of Labor Statistics of the United States Department of Labor.

2.6 Third-Party Pass-Through Fees. FinThrive shall pass through to Client any third-party licensing fees applicable to the services set forth in the SOW. Any third-party licensing fees shall be set forth in the SOW or through written notice prior to any such fee becoming due and owing.

**3. Confidentiality.** Each party acknowledges that certain information it will acquire from the other party is of a special and unique character and constitutes Confidential Information. For purposes of this Agreement, "Confidential Information" includes, but is not limited to, the Product(s); the programs and materials of the Product(s), any copy or portion thereof, on magnetic or optical media or in any other form; any information not generally known about the business or not readily ascertainable by proper means by others, including competitors or the general public; and includes trade secrets, FinThrive passwords, and the terms and provisions of this Agreement. Having acknowledged the foregoing, each party agrees: (i) to exercise the same degree of care and protection (but no less than a reasonable degree of care and protection) with respect to the other party's Confidential Information as each party exercises with respect to its own Confidential Information; and (ii) not to, directly or indirectly, disclose, copy, transfer or allow access to any Confidential Information of the other party without the other party's prior written consent. In addition, neither party shall, without obtaining the prior written consent of the other party, disclose the terms and conditions of this Agreement to any third party, except as required by legal procedures or by applicable law. Each party recognizes that the other party's remedy at law for breach of this Section would be inadequate, and agrees that such party shall be entitled to appropriate equitable relief, including but not limited to, injunctive relief which remedy shall be non-exclusive. FinThrive may immediately terminate this Agreement upon breach by Client of this Section at the sole discretion of FinThrive.

**4. Warranty.**

4.1 Warranties of FinThrive. FinThrive represents and warrants that: (i) the FinThrive Service(s) will be performed in a professional manner; (ii) any FinThrive Technology provided under this Agreement will reasonably conform in all material respects to the specifications agreed to by the parties during the term of the applicable SOW (the "Warranty Period").

4.2 Sole and Exclusive Remedy. Client's sole and exclusive remedy, and FinThrive's sole and exclusive liability, for a breach of the representations and warranties in Section 7.1 are: (i) the specific support services in the applicable SOW; (ii) repeating or reprocessing of the FinThrive Service(s) (if possible) by FinThrive at no additional charge; or (iii) termination pursuant to the terms of Section 10.2.

4.3 Disclaimers. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT, FINTHRIVE EXPLICITLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED BY LAW, USAGE OF TRADE, COURSE OF DEALING OR OTHERWISE, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE TECHNOLOGY IS PROVIDED "AS IS." CLIENT UNDERSTANDS AND AGREES THAT NEITHER FINTHRIVE NOR ITS SUPPLIERS IS ENGAGED IN THE PRACTICE OF MEDICINE. THE SERVICES ARE NOT A SUBSTITUTE FOR PROFESSIONAL MEDICAL REVIEW AND JUDGMENT. CLIENT AND THE CLIENTS ARE RESPONSIBLE FOR VERIFYING THE ACCURACY OF ALL PATIENT, VISIT AND OTHER INFORMATION AND/OR DATA IN OR GENERATED BY THE TECHNOLOGY OR THE SERVICES BEFORE ACTING ON OR ALLOWING IT TO BE USED FOR CLINICAL PURPOSES. FINTHRIVE IS NOT RESPONSIBLE FOR AND SHALL HAVE NO LIABILITY FOR CLAIMS BY CLIENT OR OTHERS RELATING TO: (I) THE ACCURACY OF DATA ORIGINATING FROM THIRD PARTY CONTENT DATABASES OR SYSTEMS THAT HAVE BEEN INTEGRATED WITH FINTHRIVE TECHNOLOGY, (II) ANY DATA ENTERED OR PROVIDED BY CLIENT OR ANY USER OF TECHNOLOGY, INCLUDING THE ACCURACY OF CODES, (III) ANY BODILY INJURY OR DEATH RESULTING FROM CLIENT'S OR ANY HEALTHCARE PROVIDER'S RELIANCE ON THE PATIENT INFORMATION IN OR GENERATED BY THE TECHNOLOGY OR THE SERVICES, OR (IV) BACKUP AND RECOVERY OF ANY DATABASE AND ANY STORED DATA.

4.4 Third-Party Providers' Warranties. FinThrive Technology may contain content provided by third-parties (each, a "Third-Party Provider"). To the extent permitted or required by a Third-Party Provider, FinThrive will pass through all terms and conditions from Third-Party Providers directly to Client including any warranties.

**5. Limitation of Liability.** Client acknowledges that FinThrive's consulting services are advisory in nature and that should Client desire to implement any recommendations made, Client is solely responsible for the results therefrom. Client is solely responsible for its compliance with state and federal statutes, laws, regulations, policies or other governmental regulations including Medicare reimbursement, and accurate and complete code assignment. FinThrive is not liable for claims attributable to any errors, omissions, or other

inaccuracies in the information or material contained in the Client Data or data FinThrive receives from third-parties. EXCEPT FOR CLIENT'S FAILURE TO PAY FOR THE FINTHRIVE SERVICE(S), THE MAXIMUM LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF LEGAL THEORY (WHETHER IN CONTRACT, TORT OR OTHERWISE), SHALL NOT EXCEED THE SUM OF FEES RECEIVED BY FINTHRIVE OVER THE IMMEDIATELY PRECEDING SIX MONTHS FOR THE SPECIFIC FINTHRIVE SERVICE WHICH GAVE RISE TO THE LIABILITY.

IN NO EVENT SHALL ANY PARTY TO THIS AGREEMENT BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE FINTHRIVE SERVICE(S) (including, without limitation, any damages for lost or damaged files or data, lost profits, lost savings, or loss of business opportunity or goodwill), EVEN IF INFORMED OF THE POSSIBILITY IN ADVANCE.

This limitation of liability is fundamental to this Agreement. The parties reviewed and bargained these terms and neither party would be willing to enter into this Agreement without this limitation.

**6. Force Majeure.** Neither party shall be responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay or failure is caused by a force majeure event, including fire, flood, war, terrorism, hurricane, act of God or other similar unforeseeable causes beyond its reasonable control.

**7. Compliance with Law.** The parties mutually represent that throughout the term of this Agreement their respective performance under this Agreement shall be, and shall remain, in compliance with all applicable federal, state and local laws and regulations.

**8. Entire Agreement.** This Agreement contains the entire agreement between Client and FinThrive and shall supersede all prior agreements, oral or written, pertaining to the Product(s).

**9. Counterparts/Facsimile/Electronic Mail.** This Agreement may be executed by the exchange of faxed executed copies, certified electronic signatures, or copies delivered by electronic mail in Adobe Portable Document Format or similar format, and any signature transmitted by such means for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same instrument.

**10. Survival.** All provisions of this Agreement that by their terms contemplate obligations intended to survive termination, will survive the termination of this Agreement, including but not limited to provisions relating to ownership, confidentiality, nondisclosure, limitation of liability, and warranty disclaimer.

**11. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without regard to choice of law rules.

**12. Assignment.** FinThrive may assign this Agreement to any third party, provided that such party assumes the obligations of FinThrive under this Agreement. FinThrive may also assign its right to payment under this Agreement or grant a security interest in the Agreement or such payment right to any third party without requiring that such third party be liable for the obligations of FinThrive under this Agreement.

**13. Waiver/Amendment/Modification.** The failure by either party to enforce any rights hereunder shall not be construed as a waiver of any rights of such party unless explicitly so stated in writing. No modifications or amendments to this Agreement, or any waiver of any rights under this Agreement, shall be effective unless in writing signed by the authorized representatives of both parties.

**14. Agreement Attachments.** The following attachments are to be considered an integral part hereof, and are incorporated into this Agreement by this reference:

Exhibit A: Business Associate Agreement  
SOW for Healthcare Solutions Portal Services

IN WITNESS WHEREOF, the parties have executed this Agreement through their duly authorized representatives as of the Effective Date.

**FINTHRIVE REVENUE SYSTEMS, LLC**

**CLIENT**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Client Legal Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Client Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Client Phone

\_\_\_\_\_  
Date

\_\_\_\_\_  
Client Tax ID

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## **EXHIBIT A TO THE SERVICES AGREEMENT BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement (the “BAA”), effective as of the Effective Date of the Agreement, is entered into by and between Client (the “Covered Entity”) and FinThrive Revenue Systems, LLC, a Delaware limited liability company (the “Business Associate”) (Covered Entity and Business Associate are each a “Party” and collectively, the “Parties”).

Business Associate offer services which assist customers in improving business processes, operating margin and cash flow. Business Associate and Covered Entity have entered into one or more agreements between each other, and may enter into additional agreements in the future (collectively, the “Services Agreements”), under which Business Associate may create, receive, maintain, or transmit Protected Health Information (the “PHI”), as defined in 45 C.F.R. § 160.103, for or on behalf of Covered Entity (the “BA Services”). In furtherance of the Services Agreements, Covered Entity wishes to disclose PHI to Business Associate pursuant to the terms of this BAA.

Business Associate is entering into this BAA on behalf of itself. The term “Business Associate” as used in this BAA includes, and is enforceable against, Business Associate.

Covered Entity is a “Covered Entity” under HIPAA (defined below); and Business Associate, as recipient of PHI from Covered Entity, may be deemed a “Business Associate” of Covered Entity under HIPAA. Accordingly, the Parties desire to impose certain requirements regarding the use and disclosure of PHI received by Business Associate under the Services Agreements as a result of BA Services performed after the Effective Date, pursuant to applicable requirements of:

- (i) the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act (Division A, Title XIII and Division B, Title IV of Pub. L. 111–5) (Title XIII of the American Recovery and Reinvestment Act of 2009);
- (ii) the Standard for Privacy of Individually Identifiable Health Information (codified at 45 C.F.R. Parts 160 and 164, subparts A and E) (the “Privacy Rule”);
- (iii) the Security Standards for the Protection of Electronic Protected Health Information (codified at 45 C.F.R. Parts 160 and 164, subparts A and C) (the “Security Rule”); and
- (iv) the requirements for Breach Notification for Unsecured Protected Health Information (codified at 45 C.F.R. Part 164, subpart D) (the “Breach Notification Rule”).

### **1. Definitions and Scope of BAA.**

1.1 Definitions. The term Services Agreements as used throughout this BAA includes any Statement(s) of Work (“SOW(s)”) attached to the Services Agreements. Capitalized terms used in this BAA, but not otherwise defined, shall have the meaning given them in the Privacy Rule, the Security Rule, or the Breach Notification Rule.

1.2 Scope. Covered Entity may disclose PHI to Business Associate for the limited purpose of carrying out the BA Services described in the SOW(s) attached to the Services Agreements, and Business Associate’s use and disclosure of such PHI, including by its employees and Subcontractors, is subject to the terms and conditions contained in this BAA. The use or disclosure of PHI by Business Associate (including, without limitation, its employees Subcontractors) is limited to the same extent that Covered Entity’s use or disclosure is limited by HIPAA as a Covered Entity.

### **2. Privacy Rule Permitted Uses and Disclosures.**

2.1 Permitted Uses and Disclosures of PHI. Except as provided in Sections 2.2 through 2.5 below, Business Associate may only use or disclose PHI to provide the BA Services for, or on behalf of Covered Entity, as specified in the Services Agreements, and limited to information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.

2.2 Use for Management and Administration. Except as otherwise limited in this BAA, Business Associate may, consistent with 45 C.F.R. 164.504(e)(4)(i), use PHI if necessary: (i) for the proper management and administration of Business Associate; or (ii) to carry out the legal responsibilities of Business Associate.

2.3 Disclosure for Management and Administration. Except as otherwise limited in this BAA, Business Associate may, consistent with 45 C.F.R. 164.504(e)(4)(ii), disclose PHI for the proper management and administration of Business Associate, provided: (i) the disclosure is Required by Law; or (ii) Business Associate obtains reasonable assurances from the person to whom the information is disclosed (the "Person") that it will be held confidentially and will be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the Person, and that the Person agrees to notify Business Associate in writing of any instances of which it becomes aware in which the confidentiality of the information has been breached.

2.4 Data Aggregation. Except as otherwise limited in this BAA, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B).

2.5 Reporting Violations. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. § 164.502(j)(1).

### **3. Privacy Rule Obligations and Activities.**

3.1 Limitations on Disclosure. Pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(A), Business Associate shall not use or disclose PHI other than as permitted or required by this BAA, the Services Agreements, or as Required by Law. Business Associate shall not use or disclose PHI in a manner that would violate the Privacy Rule if done by Covered Entity, unless expressly permitted to do so pursuant to the Privacy Rule and this BAA.

3.2 Appropriate Safeguards. Pursuant to 45 C.F.R. § 164.530(c), Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Services Agreements, this BAA, or as Required by Law. To the extent Business Associate will carry out one or more of Covered Entity's obligations under the Privacy Rules, Business Associate will comply with the Privacy Rules that apply to Covered Entity in the performance of such obligations.

3.3 Mitigation. Pursuant to 45 C.F.R. § 164.530(f), Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA.

3.4 Reporting of Improper Use or Disclosure/Breach Notification Reporting. Pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(C), Business Associate shall report to the Covered Entity any use or disclosure of PHI not provided for by this BAA after becoming aware of such use or disclosure. In the event of a Breach of Unsecured PHI as defined in 45 C.F.R. § 164.410 (a) and (b), Business Associate's notice to the Covered Entity will include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during such Breach. In accordance with 45 C.F.R. § 164.410(c), Business Associate will also provide to Covered Entity other available information that the Covered Entity is required to include in Covered Entity's notification to the affected Individual(s).

3.5 Business Associate's Agents. Pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(D), Business Associate shall ensure that any Subcontractors that create, receive, maintain or transmit PHI on behalf of the Business Associate agree in writing to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such PHI.

3.6 Access to PHI. Business Associate shall provide access, at the request of the Covered Entity, and in the time and manner reasonably designated by the Covered Entity, to PHI in a Designated Record Set, to the Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.524. In the event an Individual makes a request for access to PHI directly to Business Associate, Business Associate shall notify Covered Entity of the request and will cooperate with Covered Entity in order for Covered Entity to meet the requirements under 45 C.F.R. § 164.524.

3.7 Amendment of PHI. Business Associate shall make any amendment(s) to PHI contained in a Designated Record Set, in the time and manner reasonably directed by the Covered Entity pursuant to 45 C.F.R. § 164.526. If an Individual requests an amendment of PHI directly from Business Associate or its Subcontractors, Business Associate shall notify the Covered Entity of the request and shall cooperate with Covered Entity in order for Covered Entity to send the response to the Individual. Any denial of amendment of PHI maintained by Business Associate or its Subcontractors shall be the responsibility of the Covered Entity.

3.8 Accounting/Documentation of Disclosures. To the extent applicable, Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for the Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528. If an Individual makes a request for an accounting directly to Business Associate, Business Associate shall notify Covered Entity of the request and will cooperate with Covered Entity to enable Covered Entity to send the response to the Individual.

3.9 Governmental Access to Records. Pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(I), Business Associate shall make its internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of the Covered Entity available to the Secretary for purposes of determining Business Associate's or Covered Entity's compliance with the Privacy Rule.

3.10 Minimum Necessary. Pursuant to 45 C.F.R. § 164.502(b), when using or disclosing PHI or when requesting PHI from another Covered Entity or Business Associate, Business Associate shall use reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.

#### **4. Security Rule and HITECH Act Obligations.**

4.1 Business Associate Obligations. Business Associate shall implement the requirements set forth in this Section 4 with regard to Electronic Protected Health Information (the "EPHI").

4.2 Safeguards. Pursuant to 45 C.F.R. §§ 164.308, 164.310, and 164.312, Business Associate shall have in place Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity, and Availability of the EPHI that it creates, receives, maintains or transmits on behalf of Covered Entity pursuant to this BAA. Also, 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316, which relate to security, shall apply to Business Associate in the same manner that such sections apply to Covered Entity.

4.3 Subcontractors. Pursuant to 45 C.F.R. § 164.314(a)(2)(i)(B), Business Associate shall ensure that any Subcontractors that create, receive, maintain or transmit EPHI on behalf of the Business Associate agrees to implement reasonable and appropriate safeguards to protect such EPHI by entering into a business associate subcontractor agreement or other agreement that complies with this Section.

4.4 Security Incident Reporting. Business Associate shall promptly report to Client any Security Incident of which it becomes aware; provided however, that this Section 4.4 constitutes notice by Business Associate to Client of the ongoing existence and occurrence of attempts of Unsuccessful Security Incidents for which no additional notice to Client shall be required. "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 or disclosure of PHI.

#### **5. Covered Entity Responsibilities.**

- (i) Covered Entity is responsible for using appropriate safeguards to maintain and ensure the confidentiality, privacy, and security of Covered Entity's PHI transmitted to Business Associate pursuant to this BAA, in accordance with the standards and requirements of HIPAA and HITECH, until that PHI is received by Business Associate.

- (ii) Covered Entity will provide to Business Associate only the minimum amount of PHI necessary for Business Associate to perform the BA Services under the Services Agreements.
- (iii) Covered Entity will promptly notify Business Associate of any limitation(s) in its Notice of Privacy Practices in accordance with 45 C.F.R. §164.520, to the extent that limitation may affect Business Associate's use or disclosure of PHI;
- (iv) Covered Entity will promptly notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that those changes may affect Business Associate's use or disclosure of PHI; and
- (v) Covered Entity will promptly notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. §164.522, to the extent that restriction may affect Business Associate's use or disclosure of PHI.

## **6. Term and Termination.**

6.1 Term. This BAA is effective as of the last date signed below and expires on the date the last Services Agreement, or any renewal or amendment thereto, whichever is later, terminates or expires, unless earlier terminated by the Parties.

6.2 Termination for Cause. Upon Covered Entity's knowledge of a material breach of the terms of this BAA by Business Associate, Covered Entity shall either:

- (i) provide an opportunity for Business Associate to cure, and, if Business Associate does not cure the breach within 45 days, Covered Entity may immediately terminate this BAA and any SOWs attached to the Services Agreements under which PHI is accessed, used or disclosed by Business Associate; or
- (ii) immediately terminate this BAA and any SOWs attached to the Services Agreements under which PHI is accessed, used, or disclosed by Business Associate if the Parties have determined that cure is not possible.

6.3 Effect of Termination.

- (i) except as provided below in Section 6.3(ii) of this BAA, upon termination of this BAA for any reason, if feasible, Business Associate shall return or destroy all PHI received from, or created or received by the Business Associate on behalf of, the Covered Entity that the Business Associate still maintains in any form and retain no copies of such information; and
- (ii) where Business Associate asserts that returning or destroying the PHI is infeasible, Business Associate shall extend the protections of this BAA to that PHI and limit further uses and disclosures of that PHI to those purposes that make the return or destruction infeasible for so long as Business Associate maintains the PHI. Business Associate represents to Covered Entity that Business Associate maintains a backup copy for archival purposes of all data received from Covered Entity under the Services Agreements, including PHI, in an encrypted and secure format that is stored off-site.

## **7. Miscellaneous.**

7.1 Regulatory References. A reference in this BAA to a section in the Privacy, Security, or Breach Notification Rule means the section as in effect or as amended, and for which compliance is required.

7.2 Survival. The respective rights and obligations of Business Associate under Section 6.3(ii) of this BAA shall survive the termination of the BAA.

7.3 No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

7.4 No HIPAA Agency Relationship. It is not intended that an agency relationship (as defined under the Federal common law of agency) be established by this BAA, either expressly or by implication, between

Covered Entity and Business Associate for purposes of liability under HIPAA or the HITECH Act, or the Privacy, Security, or Breach Notification Rules. No terms or conditions contained in this BAA shall be construed to make or render Business Associate an agent of Covered Entity.

**8. Entire Agreement; Effect on Services Agreements.** This BAA, together with the Services Agreements, constitutes the entire agreement between the parties regarding use and disclosure of PHI. Except as specifically required to implement the purpose of this BAA or to the extent inconsistent with this BAA, all other terms of the Services Agreements shall remain in full force and effect. As of the last date signed below, this BAA supersedes and replaces any prior Business Associate Agreements between the parties, and is part of and incorporated by reference into each applicable Services Agreement.

**9. Construction.** This BAA shall be construed as broadly as necessary to implement and comply with HIPAA, the HITECH Act, and the Privacy, Security, and Breach Notification Rules. Any ambiguity in this BAA shall be resolved in favor of a meaning that complies with and is consistent with HIPAA, the HITECH Act, and the Privacy, Security, and Breach Notification Rules.

**10. Amendment of BAA.** The Parties agree to take such action as is necessary to amend this BAA from time to time in order for Covered Entity and Business Associate to comply with the requirements of the Privacy and Security Rules. Specifically, the Parties agree to negotiate in good faith any changes or modifications to this BAA as proposed or requested by either Party as may be necessary for the Parties to comply with their respective obligations under HIPAA, the HITECH Act, and the Privacy, Security, and Breach Notification Rules.

## SOW FOR HEALTHCARE SOLUTIONS PORTAL SERVICES

1. **Term.** The services provided under this SOW for Healthcare Solutions Portal Services (“HSP Services”) shall commence on the Effective Date (the “HSP Services Effective Date”) and continue for 12 months (the “HSP Services Term”).

2. **Client List.** The entity executing the Agreement (“Client”).

3. **Definitions.** The following definitions are in addition to those contained in the Agreement and shall pertain only to the HSP Services:

Live Date means completion of the setup deliverables of the respective Module and the delivery date of live status notification e-mail unless Client has submitted to Vendor a written list of issues within 10 days following receipt of the live status notification in which case the Live Date will commence upon the receipt of a signed document stating the issues have been resolved or the Parties have mutually agreed to a resolution and estimated date of completion. Client will not be put into production until they deliver sign off of live status. Each Client’s or Central Business Office’s (“CBO”) Live Date for each Module will be identified separately.

Module(s) means, for the purposes of this SOW, those products or services set forth within this SOW.

Module Start Date means the date or event listed in the table(s) in Section 4.1 below.

### 4. Fees and Payment Terms.

4.1 HSP Services Fees. HSP Services fee details:

Module(s) Included	Initial Setup Fee	Transaction Fee	Status	Module Start Date
Healthcare Solutions Portal	\$3,500	\$0.10 per Transaction	New	Live Date

\*The pricing grid above includes Pass Through Fees.

4.2 Setup Fee Payment Terms. Setup fees shall be invoiced and payable on or promptly after the HSP Services Effective Date and due within 30 days after invoice date.

4.3 Transaction Fee Payment Terms. The monthly transaction fees shall be invoiced beginning on the Module Start Date.

4.4 Live Status Notification. Vendor shall submit a live status notification email to Client to indicate the Go Live Date of the applicable Module. If Client is in Live Status for more than 10 business days after the Go Live Date and Vendor has not received written notification of issues that prevent the Module(s) from being used, then such Module is deemed accepted and the applicable Subscription Fees will be invoiced pursuant to the terms set forth in Section 4.2.

### 5. Description, Deliverables and Obligations by Module.

5.1 HSP Services. Vendor is assisting Client in an accelerated project set up for HSP Services in order to provide Client with a limited scope for the Modules as quickly as possible. Based on the limited scope of services being provided, Vendor and Client acknowledge a portion of the typical Module setup is bypassed to increase the speed of utilization. In the event the Client decides to pursue additional scope of Module functionality, both Parties will agree to an additional amendment accounting for the new scope and adjustment of fees.

5.2 Timeline. Vendor and Client will determine the project timeline at the onset of the project, which will be based on the scope and complexity. Vendor’s timeline will be based on Client delivering all required items to support the project.

5.3 Deliverables and Obligations. Vendor will complete the following deliverables:

- (i) Setup one administrator account per group;
- (ii) Provide companion guide and payer list;
- (iii) Provide user manual; and
- (iv) One virtual training session.

5.4 Requests or modifications. All requests or modifications to the standard setup and support of the Vendor Module will be approved by Vendor and Client; Client shall pay \$175 per hour for approved requests.