



**Arial® Emergency and Nurse Call  
Terms and Conditions**

Effective: May 1, 2023

The following terms and conditions apply if Client purchases Seller's Arial Emergency and Nurse Call system:

1. Perpetual Software; Usage Parameters. Client's access to and use of the Arial Software shall be governed by the terms of (a) the End User License Agreement posted at [www.securitashealthcare.com/eula](http://www.securitashealthcare.com/eula) (the "EULA"), and shall constitute "Perpetual Software" for purposes thereof, or (b) if Client has a separate written agreement with Seller expressly governing Client's access to and use of the Arial Software, then the terms of such written agreement. Subject to Client's right to make copies as set forth in the EULA, Client may install and use the Software on one (1) personal computer or in one (1) production server environment.
2. Arial Mobile App. The terms and conditions of this Section 2 shall apply if Client licenses the Arial Mobile Application from Seller as set forth on an Ordering Document.
  - a. License; Usage Parameters. Client's access to and use of the Arial Mobile App shall be governed by the terms of (a) the EULA and shall constitute "Perpetual Software" or "Subscription Software", as described in the product description or product title, for purposes thereof, or (b) if Client has a separate written agreement with Seller expressly governing Client's access to and use of the Arial Mobile App, then the terms of such written agreement. Notwithstanding anything to the contrary anywhere in the EULA or the Agreement, including without limitation license grant, Seller may discontinue the Arial Mobile App or support for the Arial Mobile App at any time.
  - b. License Fees; License Term. License Fees or Subscription Fees, as applicable, will be stated in the applicable Ordering Document or on the applicable app store where the Arial Mobile App (e.g., Google Play Store, Apple App Store, etc.) is available. Where the Arial Mobile App is licensed as Subscription Software, the applicable Subscription Term shall be stated in the product description or product title.
3. Backup-as-a-Service. The terms and conditions of this Section 3 shall apply if Client purchases Backup-as-a-Service from Seller as set forth on an Ordering Document.
  - a. General; License Grant. Backup-as-a-Service is a cloud-based data backup service owned and provided by Seller. Except as set forth herein, Client's access to and use of Backup-as-a-Service shall be governed by the terms of (a) EULA, and shall constitute "Cloud Services" for purposes thereof, or (b) if Client has a separate written agreement with Seller expressly governing Client's access to and use of the Backup-as-a-Service, then the terms of such written agreement. Seller will configure a data feed from Client's on-premises Arial Emergency and Nurse Call System ("**Arial System**") which will copy and transfer some or all data and configurations contained within Client's Arial System (the "**Client Content**") during the Subscription Term to Seller's cloud-based databases. The frequency of the Client Content transfer is configurable, but is not available more than once per day. The Backup-as-a-Services will create separate backup files for each Client Content transfer (e.g., if daily transfer, then unique file for each daily transfer; if weekly transfer, then unique file for each weekly transfer; etc.) (each, a "**Backup File**"). Subject to Section 3(g), Backup Files will be deleted ninety (90) days after creation. Seller shall maintain store the Client Content in its cloud-based databases in accordance with this Agreement.



- b. Client Content. Client hereby grants to Seller a worldwide, non-exclusive, royalty-free, fully-paid up, transferable, and sublicensable right to use, reproduce and store the Client Content in accordance with this Section 3(b). Except for the rights granted to Seller in Section 3(g), Client shall retain all rights in the Client Content.
- c. Backup Procedure. Client will not have direct access to Client Content stored with Backup-as-a-Service. In the event that Client requires a backup or restore from Backup-as-a-Service, Client shall contact Seller's Technical Support via phone at (800) 380-8883, or such other contact information provided by Seller from time-to-time. If Client has a current subscription to Backup-as-a-Service and a Support and Maintenance plan, then Seller will upload the Client Content to a working Client computer. If Client does not have a current Support and Maintenance plan, additional fees for professional services will be required.
- d. Effects of Termination. Upon termination or expiration of the Agreement, or the subscription term, Seller shall (i) cease providing the Cloud Services, including the automatic backup of Client Content, and (ii) may delete the Client Content in accordance with Section (h) below.
- e. Client Content Deletion. Upon termination or expiration of this Agreement or the subscription period, at any time, Seller may delete all Client Data contained within the Cloud Services. Any retained Client Content shall be retained and deleted per Seller's written document retention policy. Client Content will not be available to Client following the termination or expiration of the Agreement or the subscription term. If Client desires a copy of the Client Content, Client will be responsible to request a copy of the Client Content from Seller prior to the termination or expiration of the Agreement or the subscription term.
- f. HIPAA. If the Client Content contains protected health information, as defined by HIPAA, Seller shall comply with the terms of the Business Associate Agreement attached hereto as Appendix B.
- g. De-Identified Data. Client hereby grants to Seller a perpetual, worldwide, nonexclusive, royalty-free, fully-paid up, transferable, and sublicensable right to create, use, reproduce, store, display, disclose, and commercialize de-identified data created from Client Content for any internal or commercial purpose. Seller shall not re-identify or attempt to re-identify any the De-Identified Data. The term Client Content does not include and such de-identified data.
- h. Disclaimers and Limitations of Liability and Claims. In addition to all other disclaimers and limitations of liability and claims contained elsewhere in the Agreement:
  - i. SELLER DOES NOT WARRANT (AND SPECIFICALLY DISCLAIMS) THAT THE CLOUD SERVICES WILL BE AVAILABLE AT ANY PARTICULAR TIME, BE UNINTERRUPTED, ERROR-FREE OR WITHOUT DEFECT.
  - ii. CUSTOMER CONTENT MAY NOT BE AVAILABLE OR RESTORABLE IF: (1) THE CLOUD SERVICES HAVE NOT COMPLETED COPYING, AND TRANSFERRING (COLLECTIVELY, "**BACKUP**") THE CUSTOMER CONTENT FROM CUSTOMER'S ARIALSYSTEM; (2) ANY CUSTOMER CONTENT FROM THAT CUSTOMER DELETES FROM ITS ARIAL SYSTEM; (3) CUSTOMER MOVES CUSTOMER CONTENT TO A LOCATION THAT IS NOT SUBJECT TO AUTOMATIC BACKUP; (4) THE CUSTOMER CONTENT IS CORRUPTED; (5) THE CUSTOMER'S ARIAL SYSTEM IS UNABLE TO ACCESS THE INTERNET OR NETWORK SERVICE OR HAS EXPERIENCED INTERMITTENT OR SLOW INTERNET CONNECTION; (6) THE CUSTOMER'S ARIAL SYSTEM IS UNABLE TO MAKE A CONNECTION WITH THE CLOUD SERVICES; (7) CUSTOMER FAILS TO FOLLOW SELLER'S TECHNICAL REQUIREMENTS AND THE MANUALS OR USER GUIDES FOR UTILIZING THE CLOUD SERVICES; OR (8) CUSTOMER TERMINATES OR FAILS TO RENEW ITS SUBSCRIPTION TO THE CLOUD SERVICES, OR CUSTOMER'S ACCESS TO THE CLOUD SERVICES HAS OTHERWISE BEEN TERMINATED OR SUSPENDED.



- iii. CUSTOMER ACKNOWLEDGES AND AGREES THAT NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SELLER OR ANY SELLER EMPLOYEE, PARTNER OR AGENT WILL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF SELLER'S OBLIGATIONS HEREUNDER.
  - iv. IN NO EVENT WILL SELLER BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY COST TO PROCURE SUBSTITUTE PRODUCTS OR SERVICES, CUSTOMER CONTENT, LOST OR DAMAGED CUSTOMER CONTENT OR THE COST OF RETRIEVING LOST CUSTOMER CONTENT.
  - v. Backup-as-a-Service Limitation of Liability. SELLER, ITS AGENTS, AND ITS LICENSORS SHALL NOT BE LIABLE TO CUSTOMER OR TO ANY THIRD-PARTY FOR ANY LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, LOST DATA, LOSS OF CUSTOMER CONTENT, FAILURE OF ANY SECURITY MECHANISMS, INTERRUPTION OF BUSINESS OR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING PUNITIVE DAMAGES OR LOST REVENUE, LOST PROFITS OR REPUTATIONAL DAMAGES), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), CIVIL LIABILITY, STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. IN NO EVENT SHALL SELLER'S, ITS AGENTS', AND ITS LICENSORS' ENTIRE AGGREGATE LIABILITY TO CUSTOMER IN CONNECTION WITH OR RELATING TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, CIVIL LIABILITY OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID OR PAYABLE BY CUSTOMER TO SELLER FOR BACKUP-AS-A-SERVICE UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE PARTIES AGREE THAT THE LIMITATIONS SPECIFIED IN THIS SECTION SHALL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE AND AGREE THAT SELLER HAS SET ITS PRICES AND ENTERED INTO THIS AGREEMENT IN RELIANCE UPON THE LIMITATIONS OF LIABILITY SPECIFIED HEREIN, WHICH ALLOCATE THE RISK BETWEEN CUSTOMER AND SELLER AND FORM A BASIS OF THE BARGAIN BETWEEN THE PARTIES.
4. Community Insights. If Client purchases a subscription to Seller's Community Insights services (the "**Community Insights Services**") from Seller as set forth on an Ordering Document, then the terms of this Section 4 shall apply.
- a. General. Seller's Community Insights Services help Client make timely decisions on its residents' level of care based upon information collected from Client's Arial System. Client shall provide Seller with a monthly, or such other frequency as mutually agreed upon by the parties, feed of information collected by Client's Arial System in the manner specified by Seller, which may be changed from time-to-time (the "**Client Information**"). Using the Client Information, Seller will create the following monthly reports for Client (the "**Reports**"): (i) the Community Insight Care indexing report, which summarizes the number and duration of calls by room number; and (ii) the Resident Report Card, which analyzes the number and duration of calls by room number and compares the same to number and duration of calls received by other residents at the Client's Facility. Seller may retain the Client Information for a period of one (1) year from the date such Client Information is provided to Seller. Seller may add, revise, replace, or discontinue any Report at any time in its sole discretion. Seller will provide the Reports to Client via secure, encrypted file



- transfer service, or an alternative secure delivery method as determined by Seller from time-to-time.
- b. Consultative Meetings. Once per quarter during the Initial Subscription Term, Seller will meet with Client for one (1) hour personalized consultative meetings to familiarize Client with the Community Insights Services and discuss the reports (a “**Consultative Meeting**”). The Consultative Meeting shall take place via web conference and shall be attended by senior management of Client.
  - c. Not Medical Advice. The Community Insights Services provide Client with insights based upon Client’s data to allow Client to make decisions concerning the care levels it provides and the fees that it charges its residents. The Community Insights Services are not and shall not be construed as medical advice or recommendations by Seller as to the care Client provides to its residents. Client agrees and acknowledges that it is solely responsible for the care of its residents. The Community Insights Services and any other information provided by Seller is not disseminated for the purposes of, nor may it be relied upon or used for, communicated as, or otherwise deemed to be the rendering or medical advice or for any other purposes requiring professional license or oversight.
  - d. Ownership. Except for the rights granted in this Section 4, Client shall retain all rights in the Client Information.
  - e. De-Identified Data. Client hereby grants to Seller a perpetual, worldwide, nonexclusive, royalty-free, fully-paid up, transferable, and sublicensable right to create, use, reproduce, store, display, disclose, and commercialize de-identified data created from Client Information for any internal or commercial purpose. Seller shall not re-identify or attempt to re-identify any the De-Identified Data. The term Client Information does not include such de-identified data.
  - f. Fees. In consideration for the provision of the Community Insights Services, Client shall pay the subscription fee specified on the applicable Ordering Document. STANLEY shall invoice Client and Client shall pay the amounts on such invoice per the terms of the Agreement. Seller may suspend or terminate the Community Insights Services if any payment is not paid when due. Seller may modify or increase the subscription fee by providing Client with written notice at least sixty (60) days in advance of the commencement of the next Subscription Renewal Term.
  - g. Term. The initial term of Client’s subscription to the Community Insights Services shall be one (1) year from purchase (the “**Subscription Initial Term**”) and shall thereafter automatically renew for successive one (1) year renewal terms (each a “**Subscription Renewal Term**” and together with the Subscription Initial Term, the “**Subscription Term**”); provided that either party may elect to not renew the subscription by providing the other party thirty (30) day’s written notice prior to the end of the then-current Subscription Term.
  - h. Effect of Termination. Upon termination or expiration of this Agreement for any reason, Seller will cease providing Backup-as-a-Service and/or Community Insights Services, as applicable. Backup-as-a-Service data will be available to Client for a period of ninety (90) days post-termination, after which point it shall be deleted, subject to Seller’s rights herein.
  - i. HIPAA. Seller shall comply with the terms of the Business Associate Agreement attached hereto as Appendix B.
5. Arial Integration with PointClickCare Subscription. The terms and conditions of Appendix A hereto shall apply if Client purchases an Arial Integration with PointClickCare subscription from Seller as set forth on an Ordering Document.



**Appendix A**  
**Arial Integration with PointClickCare Annual Subscription**

1. **General.** Client must have Arial Software version 10.5 or higher to be eligible for integrating its Arial Software with Client's existing PointClickCare system. Annual Arial PointClickCare Integration subscription fees from Seller and any required Arial Software Upgrade fees shall be set forth in the Ordering Document. PointClickCare is not affiliated with Seller. PointClickCare has separate subscriptions and fees described in the following Client Integration Responsibilities section that Client is responsible for paying to PointClickCare that are not included in Seller's Ordering Document.
2. **Client Integration Responsibilities.**
  - a. PointClickCare Integrations
    - i. Client must have an active subscription to PointClickCare and purchase the "Integrations HL7 5-Pack" from PointClickCare.
      1. Transactions for these PointClickCare subscriptions and all fees related thereto are the sole responsibility of the Client.
      2. The Client must purchase the above products/services directly from PointClickCare.
      3. The purchase of the *54460 Integration to PointClickCare – 1 Year Subscription* by itself in no way entitles the Client to services from PointClickCare, nor does purchase of PointClickCare or the Integrations HL7 5-Pack by itself entitle Client to integrate with the Arial Software.
    - ii. Client must initiate the integration request through PointClickCare's customer portal by logging in using their existing PointClickCare login. PointClickCare will notify Seller of the integration request. Client must place an order for *54460 Integration to PointClickCare – 1 Year Subscription* directly with Seller.
  - b. All Integrations
    - i. Client must place the Arial Server on their domain so that incoming information from Internet-based services can be routed to the Arial Server. Client is responsible for purchasing and maintaining any domain names that may be required to allow this. Client is responsible for any IT service fees or costs that may be required to accomplish this requirement.
    - ii. Client must purchase and maintain a security certificate to be used to secure communications between the Arial Server and web services used to facilitate communication with PointClickCare. Client is responsible for all costs associated with purchasing, maintaining and implementing the security certificate.
    - iii. Client must open ports and IP addresses on its firewall to allow secure communication to web services used for the PointClickCare integration. Seller will provide a whitelist showing possible IP addresses and ports that will be used for this integration.
    - iv. All costs for IT services required to prepare Client's network for the integration between Arial and PointClickCare are the responsibility of the Client. Client acknowledges that Seller is not in any way responsible for changes made to Client's network or any security or service issues that may be a direct or perceived result of changes made to enable this integration.
    - v. Client is responsible for having a working Arial system to ensure readiness for deployment of the PointClickCare integration. Readiness items for the Arial system include:
      1. Permanent and dedicated electrical power for the proper operation of the Products through Client's own electrical power system.
      2. Uninterrupted access to the Facility during normal business hours or whenever Seller may reasonably require it for services or repair of the System.





3. Proper mounting foundations for the Products
4. Satisfactory environmental conditions for the Products
5. Labor and equipment necessary to establish and maintain connection of the System to Client's computer network with secure access to the Internet.

**3. Services.**

- a. Clients that purchase *54460 Integration to PointClickCare – 1 Year Subscription* from Seller are entitled to one year's use of the integration between Arial and PointClickCare.
- b. Clients wishing to use Arial Mobile App must purchase licenses to use Arial Mobile App separately from the *54460 Integration to PointClickCare 54460* from Seller.
- c. Client will purchase and pay for the *54460 Integration to PointClickCare – 1 Year Subscription* in advance of the year they wish to use the integration services.
- d. Seller offers no guarantees of up-time of the integrations. Furthermore, Client acknowledges that up-time of integrations is directly impacted by factors outside of the control of Seller including but not limited to outages of PointClickCare's services, facility connection to the Internet due to issues with Client's or third party's Internet Service Provider or to changes or outages with the Client's own internal network.
- e. Seller is in no way responsible for lost data, revenue, or any costs associated with the performance of these integrations.

**4. Implementation.**

- a. Seller will work with Client to arrange a mutually agreed time to implement the integration once all readiness items are known to be complete.
- b. Seller will attempt one time to perform the integration between PointClickCare and Arial.
- c. Integration attempt will be made onsite only if *54460 Integration to PointClickCare – 1 Year Subscription* is purchased with Seller's Installation Services.
- d. Client is responsible for payment of any IT personnel or outside resources that must be hired to complete the requirements for this integration.
- e. If additional attempts or trips to site are necessary due to incomplete readiness on the part of Client, additional Seller fees and travel charges will be billable to the Client prior to coming back onsite to attempt the integration again.
- f. Client will continue to be responsible for costs and payment of IT personnel or outside resources for any subsequent trips or attempts that may be needed to implement this integration.

**5. Training.**

- a. Basic training on how to use Arial Mobile App and Arial Software including reports will be provided by Seller at the time of the first implementation. Additional training will be available at the request of Client, but may include additional charges unless such charges are otherwise covered through an active Support and Maintenance agreement with Seller.
- b. Seller does not in any way represent PointClickCare, including as a subject matter expert.
- c. Any training that involves using PointClickCare is outside the scope of Seller's responsibilities under this Agreement and must be obtained by Client working directly with PointClickCare. Seller in no way is responsible for any costs between Client and PointClickCare for any training fees.



**Appendix B**  
**Business Associate Addendum**

This Business Associate Addendum (the “**Addendum**”) applies when the activities, functions and services that Seller (hereinafter, “**Business Associate**”) performs for Client (hereinafter, “**Covered Entity**”) under the Agreement cause Business Associate to be considered a “business associate” under the regulations contained in 45 C.F.R. Parts 160 and 164, as amended (the “**HIPAA Rules**”) promulgated under the Health Insurance Portability and Accountability Act of 1996, as amended (“**HIPAA**”) and the Health Information Technology for Economic and Clinical Health Act as incorporated in the American Recovery and Reinvestment Act of 2009 and all regulations promulgated thereunder, as amended (collectively, the “**HITECH Act**”), together with any guidance and/or regulation issued by the U.S. Department of Health and Human Services.

**1. Definitions**

- 1.1 General Definitions. The following terms used in this Addendum shall have the same meanings as those terms in the HIPAA Rules: Breach, Data Aggregation, Designated Record Set, Disclosure, Electronic Protected Health Information, Health Care Operations, Individual, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information and Use.
- 1.2 Specific Definitions. The following terms used in this Addendum shall have the same meanings as set forth above in this Addendum: Addendum, Business Associate, Covered Entity, Effective Date, HIPAA, HIPAA Rules, HITECH Act and Agreement.

**2. Obligations of Business Associate**

- 2.1 Prohibition on Use or Disclosure. Business Associate agrees not to Use or Disclose Protected Health Information other than as permitted or required by this Addendum or as Required by Law or if such Use or Disclosure does not otherwise cause a Breach of Unsecured Protected Health Information.
- 2.2 Safeguards. Business Associate agrees to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic Protected Health Information to prevent Use or Disclosure of Protected Health Information other than as provided for by this Addendum.
- 2.3 Reporting. Business Associate shall report to Covered Entity in writing: (a) any Use or Disclosure of Protected Health Information that is not permitted by this Addendum of which it becomes aware, (b) any Security Incident of which it becomes aware, except that, for purposes of this reporting requirement, the term “Security Incident” does not include inconsequential incidents that occur on a frequent basis such as scans or “pings” that are not allowed past Business Associate’s firewall, and (c) any Breach of Unsecured Protected Health Information as required by 45 C.F.R. §164.410 after discovery thereof.
- 2.4 Subcontractors. Business Associate agrees, in accordance with 45 C.F.R. 164.502(e)(1)(ii) and 45 C.F.R. 164.308(b)(2), if applicable, to require that any Subcontractors that create, receive, maintain or transmit Protected Health Information on behalf of Business Associate agree in writing to the same restrictions, conditions and requirements that apply to Business Associate with respect to such information.
- 2.5 Access. Business Associate agrees to make available Protected Health Information in a Designated Record Set to Covered Entity as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. 164.524.
- 2.6 Amendment. Business Associate agrees to make any amendments to Protected Health Information in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526 or take other measures as necessary to satisfy Covered Entity’s obligations under 45 C.F.R. 164.526.



- 2.7 Accounting of Disclosures. Business Associate agrees to maintain and make available the information required to provide an accounting of Disclosures to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.528.
- 2.8 Covered Entity Obligation. To the extent Business Associate is to carry out any obligation of Covered Entity under Subpart E of 45 C.F.R. Part 164, Business Associate agrees to comply with the requirements of Subpart E of 45 C.F.R. Part 164 that apply to Covered Entity in the performance of such obligation.
- 2.9 Internal Practices, Books and Records. Business Associate agrees to make its internal practices, books and records relating to the Use and Disclosure of Protected Health Information received from or created or received by Business Associate on behalf of Covered Entity available to the Secretary for purposes of determining Covered Entity's compliance with Subpart E of 45 C.F.R. Part 164.

### 3. Permitted Uses and Disclosures

- 3.1 Agreement. Business Associate may Use or Disclose Protected Health Information for purposes of performing its obligations under the Agreement.
- 3.2 De-identification. Business Associate may de-identify Protected Health Information so long as (a) Business Associate complies with the requirements for de-identification of Protected Health Information set forth in 45 C.F.R. 164.514(b) and (b) such de-identification does not impair the integrity or availability of Protected Health Information. The parties acknowledge and agree that such information that has been de-identified is not Protected Health Information subject to HIPAA, the HIPAA Rules and the HITECH Act or the terms of this Addendum and that Business Associate may Use and Disclose such de-identified information for its commercial and other business purposes consistent with the limitations set forth in the Agreement.
- 3.3 Required by Law. Business Associate may Use or Disclose Protected Health Information as Required by Law.
- 3.4 Use or Disclosure Prohibition. Business Associate may not Use or Disclose Protected Health Information in a manner that would violate Subpart E of 45 C.F.R. Part 164 if done by Covered Entity, except for the specific Uses and Disclosures set forth in Sections 4.1, 4.2 and 4.3 below.

### 4. Specific Uses and Disclosures

- 4.1 Proper Management and Administration or Legal Responsibilities Use. Business Associate may Use Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.
- 4.2 Proper Management and Administration or Legal Responsibilities Disclosure. Business Associate may Disclose Protected Health Information for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that (a) such Disclosure is Required by Law or (b) Business Associate obtains, in writing, prior to making any Disclosure to a third party (i) reasonable assurances from such third party that such Protected Health Information will be held confidential as provided under this Addendum and Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to such third party and (ii) an agreement from such third party to notify Business Associate immediately of any breach of the confidentiality of the Protected Health Information of which it becomes aware.
- 4.3 Data Aggregation. Business Associate may provide Data Aggregation services relating to the Health Care Operations of Covered Entity.

### 5. Term and Termination

- 5.1 Term. The term of this Addendum shall be in effect as of the Effective Date and shall terminate on the earlier of the date that either party terminates for cause under Section 5.2 or all of the Protected Health





Information received from Covered Entity, or created, maintained or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity. If it is not feasible to return or destroy Protected Health Information, protections are extended in accordance with Section 5.3.

- 5.2 Material Breach. Upon either party's knowledge of material breach by the other party, the non-breaching party shall provide an opportunity for the breaching party to cure the breach or end the violation or terminate this Addendum. If the breaching party does not cure the breach or end the violation within a reasonable timeframe not to exceed thirty (30) days from the notification of the breach, or if a material term of this Addendum has been breached and a cure is not possible, the non-breaching party may terminate this Addendum and the Agreement, upon prior written notice to the other party.
- 5.3 Termination. Upon termination of this Addendum for any reason, Business Associate, with respect to Protected Health Information received from Covered Entity or created, maintained or received by Business Associate on behalf of Covered Entity shall: (a) retain only that Protected Health Information that is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities; (b) return to Covered Entity or, if agreed to by Covered Entity, destroy the remaining Protected Health Information that the Business Associate still maintains in any form; (c) continue to use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to Electronic Protected Health Information to prevent Use or Disclosure of the Protected Health Information, other than as provided for in this Section 5, for as long as Business Associate retains the Protected Health Information; (d) not Use or Disclose the Protected Health Information retained by Business Associate other than for the purposes for which such Protected Health Information was retained and subject to the same conditions set out at Section 4.1 and 4.2 which applied prior to termination and (e) return to Covered Entity or, if agreed to by Covered Entity, destroy the Protected Health Information retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- 5.4 Survival. The obligations of Business Associate under this Section 5 shall survive the termination of this Addendum.

## 6. General Provisions

- 6.1 Minimum Necessary. Business Associate shall Use, Disclose and request the minimum amount of Protected Health Information necessary in order to accomplish the purpose of the Use, Disclosure or request, provided that Covered Entity agrees not to provide any Protected Health Information to Business Associate, unless Covered Entity gives reasonable prior written notice to Business Associate indicating that Covered Entity intends to provide Business Associate with Protected Health Information, under the Agreement.
- 6.2 Inconsistency or Conflict. In the event of any inconsistency or conflict between the terms of this Addendum and the terms of the Agreement, the terms of the Agreement shall govern.
- 6.3 Amendment. The parties agree to take such action as is necessary to amend this Addendum to comply with the requirements of HIPAA, the HIPAA Rules and the HITECH Act.