

**HEALTHBOOKPLUS HOLDINGS, INC.
SOFTWARE AS A SERVICE (SAAS) AGREEMENT**

HEALTHBOOKPLUS HOLDINGS, INC. (“HB+”) IS WILLING TO GRANT ACCESS TO THE SOFTWARE TO YOU AS THE LEGAL ENTITY THAT WILL BE UTILIZING THE SOFTWARE (REFERENCED BELOW AS “CLIENT”) ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT. YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THE CLIENT TO THIS AGREEMENT. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. THIS AGREEMENT CONSTITUTES A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CLIENT AND HB+. BY ACCESSING OR OTHERWISE USING THE SOFTWARE, CLIENT AGREES TO BE BOUND BY THIS AGREEMENT AND THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CLIENT DOES NOT AGREE TO THIS AGREEMENT, MAKE NO FURTHER USE OF THE SOFTWARE.

1. DEFINITIONS. The following terms, when capitalized, will have the meaning stated:

“**Agreement**” means this document, including statements of work (each an “**SOW**”), exhibits, and attachments.

“**Confidential Information**” of a party means any information disclosed by that party (the “Discloser”) to the other party (the “Recipient”) which is marked “confidential,” or “proprietary”, or if disclosed orally, is designated as confidential or proprietary at the time of disclosure, or which should otherwise reasonably be understood by Recipient to be confidential or proprietary to Discloser, including, but not limited to, the non-public terms and conditions of the Agreement. Without limiting the foregoing, the Software and Documentation will be deemed the “Confidential Information” of HB+.

“**Documentation**” means HB+’s user manuals, operating instructions and guides, if any, that may be generally provided with the Software to end-users. The term Documentation does not include source code, sales brochures and proposals, training materials or marketing information.

“**Named User**” means Client’s individual user(s) who is/are assigned by Client and authorized to use all or any part of the Software; in each of (1) or (2) regardless of whether the individual user is actively using the Software at any given time. The license rights granted in the Agreement to Named Users are not ‘floating’ or ‘concurrent’ license rights, that is, access rights cannot be temporarily transferred or shared with another user. A Named User’s right to access the Software service may only be transferred by such Client completely and permanently to another (new) Named User upon the deactivation of the then current Named User.

“**Privacy Policy**” means the HB+ Privacy Policy located at: <https://healthbookplus.com/wp-content/uploads/2021/12/HealthBook-Privacy-Policy.pdf> as modified from time to time.

“**Protected Health Information**” or “**PHI**” shall have the same meaning as the term “protected health information” in 45 CFR § 160.103.

“**Software**” means the Software delivered by HB+ under the Agreement as a hosted service (SaaS) and as generally described in the applicable SOW.

“**Terms of Service**” means the HealthBook+ Terms of Service located at: <https://healthbookplus.com/wp-content/uploads/2023/05/Terms-Of-Use.pdf> as modified from time to time.

2. SOFTWARE SUBSCRIPTION

2.1 SaaS Service. HB+ shall make the Software and Documentation available to Client as a subscription service during the Term and any renewal thereof.

2.2 Grant. Subject to the terms of the Agreement and payment of all fees as set forth in the applicable SOW, HB+ hereby grants Client a limited, nonexclusive, world-wide, nontransferable, nonsublicensable, right and license to do the following:

- (a) Client and its assigned Named Users may access and use the Software solely in connection with Client's providing a digital health platform as a benefit to its employees, contractors, and/or customers. Only the number of Named Users identified in the SOW may exercise this right.
- (b) Client may reproduce the Documentation for the Software or incorporate all or any portion of the Documentation in training materials prepared by Client, in each case solely for the use of Client in connection with providing a digital health platform as a benefit to its employees, contractors and/or customers and provided that the copyright notices and other proprietary rights legends of HB+ are included on each copy of the Documentation and such materials.

2.3 Restrictions. Client shall use the Software and Documentation only for the purposes specified in Section 2.2. In addition, without limitation, Client shall not:

- (a) modify, change, enhance or prepare derivative works of the Software or Documentation except as expressly permitted in Section 2.2;
- (b) reverse engineer, disassemble or decompose the Software;
- (c) remove, obscure, or alter any notice of patent, copyright, trade secret, trademark, or other proprietary rights notices present on any Software or Documentation;
- (d) sublicense, sell, lend, rent, lease, or otherwise transfer all or any portion of the Software or the Documentation to any third party;
- (e) use the Software or the Documentation to provide services to third parties, or otherwise use the same on a "service bureau" basis provided; however, Client shall have the right to allow authorized third parties to access the Software for Client's sole benefit under its direction and control; or
- (f) use the Software, or allow the transfer, transmission, export, or re-export of the Software or any portion thereof in violation of any laws applicable to Client or the Software.

2.4 Reservation of Rights; Proprietary Rights. Client acknowledges that in providing the Software, HB+ utilizes (i) the HB+ name, the HB+ logo, the HB+ domain names, the product and service names associated with the Software and Documentation, and other trademarks and service marks; (ii) certain audio and visual information, documents, Documentation, software and other works of authorship; and (iii) other technology, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information (collectively, "**HB+ Technology**") and that HB+ owns or licenses patent rights, trademark rights, copyrights and other intellectual property rights to the HB+ Technology (collectively, "**HB+ IP Rights**"). Other than as expressly set forth in the Agreement, HB+ does not grant or otherwise convey any license or other right in or to the HB+ Technology or HB+ IP Rights to Client. There are no implied licenses under the Agreement. Except for the license granted under Section 2.2, HB+ expressly reserves all proprietary rights to the HB+ Technology including, without limitation, any modifications, enhancements, improvements, suggestions for improvements, customizations, maintenance releases, revisions or derivative works thereof to any of the foregoing. Client hereby assigns to HB+ any and all rights it may have to any such modifications, enhancements, improvements, suggestions for improvements, customizations, maintenance releases, revisions or derivative works that are related to the HB+ Technology. No title to or ownership of any Software or Documentation, HB+ IP Rights or other

proprietary rights are transferred to Client under the Agreement. Client acknowledges and agrees that any breach of the Agreement by a Named User(s) or any employee, agent or contractor of Client shall be deemed a breach of the Agreement by Client.

2.5 Client Intellectual Property. If Client provides HB+ with any of Client's intellectual property, the Client hereby grants to HB+, during the term of the Agreement a limited, worldwide, non-exclusive, non-transferable, royalty-free, right and license (with right of sublicense where required to perform HB+'s obligations under the Agreement) to use the Client intellectual property for the purposes of providing the Software and any other services provided pursuant to the Agreement. Client represents and warrants that Client has all rights in the Client intellectual property necessary to grant this license, and HB+'s use of such Client intellectual property shall not infringe on the intellectual property rights of any third party.

2.6 Protection Against Unauthorized Use. Client shall promptly notify HB+ of any unauthorized use of the Software or Documentation which comes to Client's attention. In the event of any unauthorized use by any of Client's employees, agents or representatives, Client shall use commercially reasonable efforts to terminate such unauthorized use and to retrieve any copy of the Software or Documentation in the possession or control of the person or entity engaging in such unauthorized use. HB+ may, at its option and expense, participate in any such proceeding and, in such an event, at HB+'s sole cost and expense, Client shall provide such authority, information and assistance related to such proceeding as HB+ may reasonably request.

2.7 Records. Client shall ensure that each copy it makes of all or any portion of the Documentation includes the notice of copyright or other proprietary rights legends appearing in or on the Documentation delivered to Client by HB+. Client shall keep accurate records of the reproduction of each copy. Client will provide HB+, on a monthly basis, a full and current list of all assigned Named Users clearly indicating changes from the prior month's list. Upon request of HB+, Client shall provide HB+ with complete access to all records for the purpose of auditing and verifying Client's compliance with the Agreement.

2.8 Terms of Service. Client acknowledges and agrees that Client and Named Users must agree to HB+'s standard Terms of Service, Privacy Policy and any other terms and conditions required by HB+ prior to accessing the Software. In the event of any direct conflict between such other terms and the terms of the Agreement with respect to the Software or rights granted herein, the terms of the Agreement shall control.

2.9 Client Information; Protected Health Information ("PHI"). Client acknowledges and agrees that it is solely responsible for ensuring that: (i) all Client information entered into the Service is accurate and reflects Client requirements, and (ii) the collection, transfer or use of any Client information (including personally identifiable information and/or PHI) does not infringe the rights or privacy of any third party and does not violate any applicable law, regulation or directive. HB+ will have no responsibility or liability for any Client information included in or used in conjunction with the Service. If HB+ is Client's "Business Associate" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, then the Business Associate Agreement at Attachment A is part of the Agreement.

2.10 Password Security: Client will (i) ensure that only the Named Users it assigns and reports monthly to HB+ have access to the passwords, (ii) not disclose such passwords to any other individuals. Client acknowledges and agrees that it is responsible for strictly maintaining the confidentiality and integrity of such passwords and authority levels and for all liabilities incurred by their use. Client agrees to provide reasonable notice to HB+ either by phone or email in the event that it becomes aware that the security or integrity of a password or authority level has been compromised. HB+ may temporarily disable access if HB+ reasonably believes there is any unauthorized use of the Software.

2.11 Professional Services. Client acknowledges and agrees that HB+ is not responsible or liable in any way to Client or Named Users for the provision of professional medical services by physicians and providers. Client shall ensure that any healthcare provider or any of Client's employees or contractors (each a "Practitioner") shall be (i) duly licensed without restriction to practice leveraging HB+ technologies, and (ii) responsible for (a) documenting the medical services in the appropriate clinical records, (b) billing and collecting for medical services, (c) providing notice to and/or obtaining consent relating to the provision of applicable medical services, and (d) complying with applicable all laws, rules, regulations and standards.

2.12 Excluded Individuals. Client represents and warrants to HB+ that Client and or any employee or contractor is not (i) currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 USC § 1320a-7b(f); (ii) convicted of a criminal offense related to the provision of health care items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; or (iii) under investigation or otherwise aware of any circumstances which may result in Client being excluded from participation in the Federal health care programs. This shall be an ongoing representation and warranty during the term of the Agreement. Client shall immediately notify HB+ of any change in the status of this representation and warranty.

2.13 Necessary Equipment. Client or its Named Users will be solely responsible, at its own expense, for acquiring, installing and maintaining all internet connectivity and all connectivity equipment, hardware, software and other equipment as may be necessary for Named Users to connect to, access and use the Software. Client acknowledges and agrees that HB+ is not obligated to provide (i) such internet connectivity and all connectivity equipment, hardware, software and other equipment referenced in the foregoing sentence, or (ii) anti-virus services. Client acknowledges and agrees Client is exclusively responsible for the security of its infrastructure.

3. COMPENSATION

3.1 Subscription and Other Fees. Client will pay HB+ the Subscription Service Fee(s) and any other fees specified in the applicable SOW and as may be updated in writing from time-to-time as agreed by the parties.

3.2 Payment. Unless otherwise specified in an SOW all fees, charges and other sums payable to HB+ under the Agreement will be due and payable thirty (30) days after receipt of an invoice. All monetary amounts are specified and shall be paid in the lawful currency of the United States of America. Client shall pay all amounts due under the Agreement to HB+ at the address set forth herein. The fees, charges and other sums payable to HB+ under the Agreement do not include any sales, use, excise or other applicable taxes, tariffs or duties (excluding any applicable taxes based on HB+'s net income), payment of which shall be the sole responsibility of Client. Late payments will bear interest at the rate of the U.S. prime rate plus 2.0%, or, if lower, the maximum rate allowed by law.

4. TERM AND TERMINATION

4.1 Term. Unless otherwise provided for in a SOW, the term of the Agreement shall commence on the Effective Date for an initial 1-year term, thereafter automatically renewing for successive 1 year renewal terms until one party provides the other with written notice of non-renewal at least 90 days prior to the expiration of the then current term.

4.2 Termination for Cause. If either party materially defaults in the performance of or compliance with any of its obligations under the Agreement, and such default has not been remedied or cured within thirty (30) days after the non-breaching party gives the defaulting party written notice specifying the default, the non-breaching party may terminate the Agreement by providing written notice. Termination shall not relieve Client of any of its outstanding financial obligations to HB+ at the time of termination.

4.3 Post Termination. Upon any expiration or termination of the Agreement, (i) each party shall promptly cease all use of the Confidential Information of the other and destroy (and in writing certify such destruction) or return to the disclosing party all of its Confidential Information and (ii) the licenses granted under Section 2 will terminate and Client shall promptly cease all use of the Software and Documentation.

4.4 Survival. Sections 2.3 - 2.7, 3, 4.3, 5, 7, 8 and 9 of the Agreement shall survive the termination of the Agreement and Exhibit A shall also survive the termination of the Agreement.

5. CONFIDENTIALITY

5.1 Obligations. Each party agrees not to use the other's Confidential Information except in connection with the performance or use of the Software, the exercise of its legal rights under the Agreement, or as required by law, and will use reasonable care to protect Confidential Information from unauthorized disclosure. Each party agrees not to disclose the other's Confidential Information to any third party except: (i) its employees or agents who require access to such Confidential Information in order to allow a party to exercise its rights or fulfill its obligations pursuant to the Agreement, provided that such employees or agents are subject to binding confidentiality obligations at least as stringent as those stated in the Agreement, (ii) as provided in the Privacy Policy, (iii) as required by law, or (iv) in response to a subpoena or court order or other compulsory legal process, provided that the party subject to such process shall give the other written notice of at least 7 days prior to disclosing Confidential Information unless the law forbids such notice.

5.2 Exceptions. The obligations of this Section 5 shall not apply to any Confidential Information that: (i) the receiving party knew prior to learning it under the Agreement, as demonstrated by written records predating the date it was learned under the Agreement; (ii) is now, or becomes in the future, publicly available other than by an act or omission of the receiving party; (iii) is disclosed to a party by a third party which is not bound by any confidentiality obligations with respect to such information; or (iv) a party independently develops without use of or reference to the other party's Confidential Information. Client agrees that any information provided by Client in connection with this Agreement shall be governed by the Privacy Policy.

5.3 Use of Marks. Client agrees that HB+ may publicly disclose that it is providing services to Client and may use client's name and logo to identify Client in promotional materials, including press releases. Client may not issue any press release or publicity regarding the Agreement, use the HB+ name or logo or other identifying indicia, or publicly disclose that it is using the Software without HB+'s prior written consent.

6. WARRANTIES AND REMEDIES

6.1 Warranty: HB+'s sole warranties to Client under the Agreement are that when operated in accordance with the Documentation and other instructions provided by HB+, the Software will perform substantially in accordance with the functional specifications as set forth in the Documentation.

6.2 Warranty Applies to Current Release: The warranties set forth in Section 6.1 apply only to the latest release of the Software made available by HB+ to Client. Such warranties do not apply to any failure or defect of the Software resulting from misuse, casualty loss, use or combination of the Software with any products, goods, services or other items furnished by anyone other than HB+, any modification not made by or for HB+, or any use of the Software by Client in contradiction of the terms of the Agreement.

6.3 Infringement. If the Software or the Documentation infringes on the intellectual property rights of a third party, and HB+ determines that it is not reasonably or commercially practicable to obtain the right to use the infringing element, or modify the Software or Documentation such that they do not infringe,

then HB+ may terminate the Agreement (or applicable portions of the services provided thereunder pursuant to the applicable SOW) on 90 days' notice and will not have any liability on account of such termination except to refund any pre-paid amounts for unused Software or services (prorated as to any time period or portion of the Software or services deemed infringing).

7. INDEMNIFICATION.

7.1 Indemnification by HB+. If Client, any of its officers, affiliates, or employees (the "**Client Indemnitees**"), is faced with a legal claim by a third party alleging that the Software, the Documentation, or the services provided pursuant to the Agreement infringe on the United States intellectual property rights of a third person then HB+ will pay the cost of defending the claim (including reasonable attorney's fees) and any damages award, fine, or other amount that is imposed on the Client Indemnitees as a result of the claim.

7.2 Indemnification by Client. Client agrees to indemnify, defend, and hold HB+ and its subsidiaries, affiliates, officers, agents, employees, contractors, partners and third party licensors (the "**HB+ Indemnitees**") harmless from and against any and all suits, actions, losses, claims, proceedings, demands, expenses, damages, settlements, judgments, injuries, liabilities, obligations, risks, and costs, including, without limitation, reasonable attorneys' fees, due to, relating to, or arising out of: (i) Client's use of the Software; (ii) Client's actual or alleged breach of this Agreement, (iii) Client's actual or alleged breach of its agreements or obligations with any of its Named Users, customers or end users, (iv) Client's actual or alleged breach of applicable law (including any kind of HIPAA breach), (v) any feedback that Client provides relating to the Software, or (vi) Client's actual or alleged negligence, fraud, or willful misconduct.

7.3 Indemnification Procedure. If either party receives notice of a claim that is covered by this Section 7, the notice must be promptly forwarded to the financially responsible party (the "**Indemnifying Party**"). The Indemnifying Party will be allowed to conduct the defense of the matter, provided that it uses due care and diligence, and provided that its decisions regarding the defense of the matter are reasonable and are promptly communicated to the party against whom the claim is made (the "**Indemnified Party**"). The Indemnifying Party's choice of counsel shall be subject to the approval of the Indemnified Party, not to be unreasonably withheld. The Indemnifying Party may not settle the claim without the consent of the Indemnified Party, not to be unreasonably withheld. The Indemnified Party shall provide such information and assistance as the Indemnifying Party may reasonably request, at the expense of the Indemnifying Party. The Indemnified Party may, at its own expense, participate in the defense of the matter with counsel of its choosing.

8. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY

8.1 Disclaimer of Warranties. EXCEPT AS SET FORTH IN SECTION 6.1, HB+ MAKES NO WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY REGARDING OR RELATING TO THE SOFTWARE OR THE DOCUMENTATION (INCLUDING ANY REPRESENTATIONS OR WARRANTIES AS TO THE AVAILABILITY, SECURITY, ACCURACY, RELIABILITY, TIMELINESS OR PERFORMANCE OF THE SOFTWARE) OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CLIENT UNDER THIS AGREEMENT. HB+ SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, CONDITIONS, AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8.2 Limitation of Liability. IN NO EVENT SHALL HB+, OR ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS OR THIRD PARTY LICENSORS BE LIABLE FOR LOST PROFITS OR BUSINESS, LOSS OF GOODWILL, LOSS OF DATA, INTERRUPTION OF BUSINESS, OR FOR ANY EXEMPLARY, PUNITIVE, SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, REGARDLESS OF WHETHER SUCH DAMAGES ARISE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE AND REGARDLESS OF WHETHER SUCH PARTY

IS ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. The aggregate liability of HB+ for any and all claims arising under or in connection with this Agreement or its subject matter shall not exceed \$100. .

9. MISCELLANEOUS

9.1 Independent Contractor Status. The parties agree that they are independent contractors and nothing in the Agreement is intended to make the parties partners, agents, joint venturers, or any other form of joint enterprise, or to make the employees, agents, or representatives of one of the parties into employees, agents, or representatives of the other party. No party to the Agreement shall have any express or implied right or authority to assume or create any obligations on behalf of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

9.2 Notices. The parties shall deliver any notice required by the Agreement by personal delivery, certified U.S. Mail return receipt requested, or established, reputable expedited delivery carrier providing proof of delivery service, and will be deemed given upon confirmed delivery to the party to whom it is intended at its record address. The record addresses of the parties are set forth below.

If to Client:

To the notice address on the SOW

If to HB+:

Attn: Melanie Arp
HealthBookPlus
3513 Brighton Blvd
Ste 415
Denver CO 80216

Either party may from time to time change its address for notice by giving the other party notice of the change in accordance with this Section 9.2.

9.3 Assignment. Neither party may assign the Agreement or any of its rights or obligations under the Agreement without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign its rights and obligations under the Agreement, in whole but not in part, to the surviving entity in a merger, consolidation or other similar corporate reorganization in which it participates or to the purchaser of all or substantially all of its assets. Subject to the foregoing, the Agreement is binding upon, inures to the benefit of and is enforceable by the parties and their respective successors and assigns. Notwithstanding the preceding, HB+ may use its affiliates and subcontractors to perform all or any part of its obligations pursuant to the Agreement, but HB+ remains responsible under the Agreement to the same extent as if HB+ performed such obligations itself.

9.4 Entire Agreement; Severability; Amendment. This Agreement, along with all Exhibits hereto and any schedules or attachments thereto, constitutes the entire agreement, and supersedes any and all prior agreements, between HB+ and Client relating to the Software, Documentation, services and other items subject to the Agreement. In the event that any provision of the Agreement is found invalid or unenforceable, it will be enforced to the extent permissible and the remainder of the Agreement will remain in full force and effect. No term or condition contained in Client's purchase order or similar document will apply unless specifically agreed to by HB+ in writing, even if HB+ has accepted the order set forth in such purchase order, and all such terms or conditions are otherwise hereby expressly rejected by HB+. HB+ may amend this Agreement upon providing notice to Client in accordance with Section 9.2 or by posting such amendments through the Software. Any use of the Software by Client following any such amendment constitutes an acceptance of such amendment.

9.5 Governing Law and Venue. This Agreement shall be governed and determined by the laws of the United States and the State of Colorado as such laws are applied to agreements made and performed entirely within the State of Colorado. Any action or proceeding related to or arising out of the Agreement shall be resolved only in a court of competent jurisdiction in Jefferson County, Colorado and the parties consent to the personal jurisdiction of such courts and expressly waive any right they may otherwise have to cause any such action or proceeding to be brought or tried elsewhere.

9.6 Nonsolicitation. Client acknowledges and agrees that the employees and employee equivalents of HB+ who perform services under the Agreement are valuable assets to HB+ and are difficult to replace. Accordingly, Client agrees that, during the term of the Agreement and for a period of one (1) year following, it will not solicit or offer employment to any HB+ employee who has performed services for Client.

9.7 Equitable Relief. Each party acknowledges that its failure to comply with the provisions of the Agreement may result in irreparable harm to the other for which a remedy at law would be inadequate. In the event of the breach of the Agreement by a party, the other party shall in addition to monetary damages, be entitled to seek equitable relief in the form of specific performance and/or an injunction for any such actual breach.

9.8 Force Majeure. Neither party will be liable for, or be considered to be in breach of or default under the Agreement, for delays or failure in their performance hereunder to the extent such delay or failure is caused by any act of God, war, natural disaster, strike, lockout, pandemic, third party labor dispute, or any other event beyond the reasonable control of either party.

9.9 Waiver. The waiver of a party's breach of the Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

Exhibit A

Business Associate Agreement

This HIPAA Business Associate Agreement (this "BAA") is an addendum to the Agreement by and between Client (for the purposes of this BAA, Client is also referred to as "Covered Entity" or "you") and HealthBookPlus Holdings, Inc. ("Business Associate," "HB+," or "we" or "our"). Terms not defined below or in the body of this BAA (whether or not capitalized) have the definitions given to them in the HB+ Terms of Use available on our website ("Terms of Use") or the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009, and all regulations promulgated thereunder, including the Privacy Rule and the Security Rule, as amended (collectively, "HIPAA"). "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in HIPAA, but shall be limited to the information that we create, receive, maintain, or transmit on your behalf. This Business Associate Agreement shall be applicable only in the event and to the extent that HB+ meets, with respect to you, the definition of a Business Associate set forth at 45 C.F.R. §160.103, or applicable successor provisions.

HB+'s Use and Disclosure of Your PHI

We may use and disclose your PHI as follows:

1. To provide the Services to you. Part of the Services includes the storage of your PHI in order to: (i) make it available to you and your Workforce for any legal purpose, including treatment, payment and health care operations; (ii) to facilitate the sharing of PHI among users and other parties with whom you or your Workforce member elect to share such information, and (iii) to make information available to your patients through HB+. You may make PHI accessible to other users of the Services, other individuals and entities, or your patients through the Services for these purposes. Specifically:
 - a. We will permit unrestricted access to your PHI to you and your Authorized Workforce. You are responsible for ensuring that your use of the PHI is consistent with HIPAA and other applicable laws.
 - b. We will permit access to PHI to your patients to whom you have enabled access through HB+.
 - c. With your consent, we will permit access to your PHI by health care providers, covered entities and their business associates to whom you have consented to provide access to the Services and who have otherwise agreed to integrate with our Services. You acknowledge that once we have granted access rights to another provider or covered entity (or their respective business associates), we have no control over the uses and disclosures that such person or entity makes of your PHI, and the recipient may be subject to its own legal and regulatory obligations (including HIPAA) to retain such information and make such information available to patients, governmental authorities and others as required by applicable law or regulations.
 - d. We may use your PHI and Directory Information to contact your patients on your behalf for any purpose for which you would be permitted to contact them, including:
 - i. For treatment and health care operations messages, including sending appointment notifications (such as appointment requests, confirmations, reminder, cancellations and the like) and messages about currently prescribed medications (including refill reminders), and post-visit treatment satisfaction surveys, invitations and administrative messages concerning HB+ access, and the like;
 - ii. With your consent, to request an authorization on your behalf from your patients to use or disclose PHI for any purpose for which use or disclosure may be made with an appropriate authorization, including marketing and research purposes. You agree that we may also use and disclose your patients' PHI as permitted by such authorization; and
 - iii. To provide information about health-related products or services that you provide, or that we provide on your behalf as your business associate.
 - e. From time to time, and to the extent permitted by HIPAA and other applicable law, we may incorporate information we receive from your authorized service providers, our third party partners, or covered entities (and their business associates) who are providing or paying for medical services for one or more of your patients, into the Services we provide to you. Such information may include, without limitation, clinical information such as lab results, imaging

results, eligibility information, prior authorizations, and prescription history; and shall, upon incorporation into the Services, be treated as your PHI for all purposes hereunder. You hereby authorize us to request and receive such information on your behalf from such authorized service providers or our third party partners.

- f. We may use or disclose your PHI for other purposes, as from time to time described in our Policies and Procedures; provided that we will not make or permit any such use or disclosure that would violate applicable law or regulation if made by you or your business associate.
2. To carry out our legal responsibilities or for our proper management and, provided that any such disclosures are either (1) Required by Law, or (2) we obtain reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies us of any instances of which it becomes aware in which the confidentiality of the information has been breached.
3. To provide data aggregation services to you as permitted by the Privacy Rule. This will include, for example, using your PHI to prepare analyses and reports such as activity or quality-metrics reports.
4. To create de-identified information in accordance with the requirements outlined in the Privacy Rule. Data that has been de-identified will no longer be subject to the terms of this BAA and you hereby transfer and assign to us all right, title and interest in and to all de-identified information that we make from your PHI. You agree that we may use, disclose, market, license and sell such de-identified information for any purpose without restriction, and that you have no interest in such information, or in the proceeds of any sale, license, or other commercialization thereof. You acknowledge that the rights conferred by this Section are the principal consideration for the provision of the Services, without which we would not enter into this BAA.
5. To the extent permitted by the Privacy Rule, we may create Limited Data Sets from your PHI, and disclose them for purposes of research, public health, and health care operations pursuant to a valid Data Use Agreement. You hereby authorize us to enter into Data Use Agreements on your behalf for the use of the Limited Data Sets, in accordance with HIPAA and other applicable law.

In creating, receiving, maintaining, or transmitting PHI on your behalf in accordance with this BAA, we will:

1. Not use or disclose PHI except as permitted or required by this BAA or as required by law (as such term is defined in 45 CFR § 164.103);
2. Use appropriate safeguards and comply, where applicable, with the requirements of the Security Rule with respect to electronic PHI to prevent the use or disclosure of such information in a manner inconsistent with the provisions of this BAA;
3. Report to you any use or disclosure of PHI not provided for by this BAA of which we become aware, including any Breach of Unsecured PHI as required by 45 CFR § 164.410, and any Security Incident of which we become aware; however, this BAA serves as our notice to you that attempted but unsuccessful Security Incidents, such as pings and other broadcast attacks on our firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, regularly occur and that no further notice will be made by us unless there has been a successful Security Incident;
4. In accordance with 45 CFR §§ 164.502(e)(1)(ii) and 164.308(b)(2), as applicable, ensure that any subcontractors that create, receive, maintain or transmit PHI on our behalf agree to substantially the same restrictions and conditions that apply to us with respect to such PHI (it being understood, for the avoidance of doubt, that other users of the Services are not our subcontractors);
5. Make available to you your PHI in furtherance of your obligations under 45 CFR § 164.524;
6. Make available to you your PHI in furtherance of your obligations to amend and incorporate any amendments to such information in accordance with 45 CFR § 164.526;
7. Document and make available to your information necessary for you to provide an accounting of disclosures in accordance with 45 CFR § 164.528;
8. To the extent that we are to carry out your obligations under the Privacy Rule, comply with the requirements of the Privacy Rule that apply to you in the performance of such obligations;
9. Make our internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by us on your behalf, available to the Secretary of the United States Department of Health and Human Services for purposes of determining your compliance with the Privacy Rule; and

10. At termination of this BAA we will provide you with a copy of your PHI in an electronic form that is accessible through commercially available hardware and software. You may have to purchase such hardware and software from third parties in order to access your PHI, and you may have to configure your systems in order to use your PHI in your practice. Upon termination we will, if feasible, return or destroy all PHI received from, or created or received by us on your behalf that we still maintain in any form, and retain no copies of such information; or, if such return or destruction is not feasible (whether for technical, legal, regulatory or operational reasons), extend the protections of this BAA to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

Your Responsibilities with Respect to PHI

You are solely responsible for affording individuals their rights with respect to relevant portions of PHI, such as the rights of access, amendment, and accounting of disclosures. You will not undertake to afford an individual any rights with respect to information in the Services other than your PHI.

We apply the standards of the Privacy Rule in permitting access to the Services. You acknowledge that other federal and state laws impose additional restrictions on the use and disclosure of certain types of health information, or health information pertaining to certain classes of individuals. You agree that you are solely responsible for ensuring that your PHI may properly be disclosed for the purposes set forth in this BAA, subject to the restrictions of the Privacy Rule and applicable law, including those laws that may be more restrictive than the Privacy Rule. In particular, you will: (i) not make available to other users through the Services any information in violation of any restriction on use or disclosure (whether arising from your agreement with such users or under law); (ii) obtain all necessary consents, authorizations, or releases from individuals required for making their health information available through the Services for the purposes set forth in this BAA; (iii) include such statements (if any) in your notice of privacy practices as may be required in connection with your use of the Services; and (iv) not place in the Services any information that you know or have reason to believe is false or materially inaccurate.

You shall notify Business Associate of: (i) any limitations(s) in your notice of privacy practices in accordance with 45 CFR § 164.520 to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information; (ii) any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information; and (iii) any restriction to the use or disclosure of Protected Health Information that you have agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

You agree that you will not request that Business Associate use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by you.

You agree to comply with those security obligations identified in the Agreement, and to implement, purchase, or maintain appropriate safeguards as required for you to comply with the Security and Privacy rules as applicable to you.