



SOFTWARE LICENSE AND HOSTING AGREEMENT

Revision History:

5/6/2019: Added Azure Hosting Agreement content

ATTENTION: Please read this Software License and Hosting Agreement (the “Agreement”) carefully which sets forth the legally binding terms of use of the CareTracker, Inc. software known as “Amazing Charts EHR Local” (the “Software”) and/or hosting services by CareTracker, Inc. known as “Amazing Charts EHR Hosted” (the “Service”) including limitations on representations, warranties, remedies and liabilities.

THIS IS A LEGAL AGREEMENT BETWEEN YOU, THE END USER, OR ON BEHALF OF ALL END USERS IN YOUR ORGANIZATION (COLLECTIVELY THE “CUSTOMER”, “YOU” OR “YOUR”) AND CARETRACKER, INC. (“LICENSOR”). YOUR ACCEPTANCE IS ON BEHALF OF ANY CORPORATE ENTITY THAT EMPLOYS YOU OR WHICH YOU REPRESENT. IF YOU ARE AN EMPLOYEE, CONTRACTOR, OR OTHERWISE USING THE SOFTWARE AND/OR SERVICE ON BEHALF OF AN ORGANIZATION OR ANY OTHER THIRD PARTY, YOU REPRESENT AND WARRANT TO LICENSOR THAT:

- A. YOU ARE THE AGE OF MAJORITY IN YOUR JURISDICTION;
- B. YOU HAVE ALL REQUISITE CAPACITY, RIGHT, POWER AND AUTHORITY TO ACCEPT THIS AGREEMENT ON BEHALF OF SUCH ENTITY; AND
- C. SUCH ENTITY SHALL BE IRREVOCABLY BOUND BY AND SHALL COMPLY WITH ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT, PLEASE DO NOT SIGN ON, ACCESS OR IN ANY WAY USE THE SOFTWARE OR THE SERVICE. IF YOU OR ANY USERS ON YOUR BEHALF, SIGN ON, ACCESS OR USE THE SOFTWARE OR SERVICE IN ANY WAY, YOU WILL BE CONSIDERED TO HAVE ACCEPTED AND AGREED TO THESE TERMS AND CONDITIONS.

1. Definitions

(a) Add-On. "Add-On" means additional services or features related to the Software that may be purchased separately as an upgrade.

(b) Customer Client Portal. “Customer Client Portal” means [insert portal URL].

(c) Data. “Data” means all data that is provided by or on behalf of Customer to Licensor and all other content transmitted, posted, received, used or created through Customer’s licensed use of the Services. Data does not include Support Data.

(d) Documentation. “Documentation” means any online or printed user manuals or functional specifications that are provided to Customer by Licensor, and any derivative works of the foregoing, as they may be updated from time to time by Licensor in connection with the release of Updates or Add-ons.

(e) Error. “Error” means any reproducible material failure of the Software to function in accordance with its Documentation.

(f) Force Majeure Event. “Force Majeure Event” means any act or event that (a) prevents a party (the “Nonperforming Party”) from performing its obligations or satisfying a condition to the other party’s (the “Performing Party”) obligations under this agreement, (b) is beyond the reasonable control of and not the fault of the Nonperforming Party, and (c) the Nonperforming Party has not, through commercially reasonable efforts, been able to avoid or overcome. “Force Majeure Event” does not include economic

hardship, changes in market conditions, and insufficiency of funds.

(g) Microsoft. “Microsoft” means Microsoft® Corporation. All references to Licensor’s service providers in this Agreement shall include Microsoft.

(h) On-Premise License. “On-Premise License” means subject to payment of applicable On-Premise License fees to Licensor, the license rights granted under Section 2(b) shall include the right to install and use the Software on Customer’s premise as further described in Section 2(d).

(i) On-Premise License Fees. “On Premise License Fees” shall have the meaning set out in Section 4(a).

(j)

(k) OST. “OST” shall have the meaning set out in Exhibit B.

(l) Personal Information. “Personal Information” means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

(m) Services or ACitC. “Services” or “Amazing Charts in the Cloud” or “Amazing Charts EHR Hosted ” means the web-based services to be provided by or behalf of Licensor under this Agreement that includes hosting, monitoring, operating and maintaining the Software at a site owned or controlled by Licensor or its service providers and the delivery of exclusive access via Customer’s Client

Portal to Customer to use the Software granted pursuant to Section 2 hereof. The Services shall also include storing all data entered and maintained by Users through use of the Software.

(n) Service Fees. "Service Fees" shall have the meaning set out in Section 4(a).

(o) Service Period. "Service Period" means the monthly or annual subscription term purchased by Customer for the Services.

(p) Software. "Software" means the Amazing Charts software and proprietary content, including any Add-Ons and Updates relating thereto that may be provided hereunder.

(q) Support Data. "Support Data" means all data, including all text, sound, video, image files, or software, that are provided to Microsoft by or on behalf of Customer (or that Customer authorizes Licensor or Microsoft to obtain from the Services) through the provision of any support services for the Services. Personal Information provided to Microsoft by, or on behalf of, Customer in connection with the provision of technical support is also Support Data.

(r) Support Fees. "Support Fees" shall have the meaning set out in Section 4(a).

(s) Support Services. "Support Services" means the support and maintenance services described in Section 3.

(t) Third Party Materials. "Third Party Materials" means materials and information, in any form or medium, that are not proprietary to Licensor, including any third party: (a) documents, data, content or specifications; (b) open source components or other software, hardware or other products, facilities, equipment or devices; (c) telecommunications, energy/utility transportation, managed facilities and services that Licensor or its service providers has licensed or purchased and provided access to or otherwise made available to Customer as part of the Services and (d) accessories, components, parts or features of any of the foregoing.

(u) Update. "Update" means any patch, bug fix, release, version, modification or successor to the Software that Licensor makes generally available to its customers that purchased Support Services.

(v) User. "User" means a named individual specified in a purchase order issued by the Customer who is an employee of Customer and (a) in the case of a Customer who has purchased the Services, to whom Customer has granted access to use the Services on Customer's behalf; or (b) in the case of a Customer who licensed the Software solely for use on its own premises, to whom Customer has authorized to use the Software on Customer's behalf; in either case regardless of whether or not the User actually accesses the Services or the Software, as applicable.

2. SaaS Services; Software

(a) This Agreement is updated from time to time and the most up-to-date version is posted at www.amazingcharts.com/EULA. Each time you use the Software and/or Services you are agreeing to abide by the latest version of this EULA as posted at the link above, until terminated by you or CareTracker, Inc. in accordance with the terms of this Agreement.

(b) License Grant. Subject to the terms and conditions of this Agreement, including without limitation, payment of the On-Premise License Fees or Services Fees, Licensor hereby grants to Customer a personal, non-exclusive, non-sublicensable and non-transferable, limited license, on a perpetual basis in the case of an On-Premise License and solely during the Term in the case of the Services, to use the Software and Documentation solely for the benefit of Customer in the ordinary course of its internal business operations.

(c) Services. Subject to the Customer's compliance with the terms of this Agreement, including without limitation, payment by Customer of the Services Fees, during the Service Period Licensor shall provide the Services and authorizes Customer to allow up to the maximum number of Users purchased by Customer, to access and use the Services solely for Customer's internal business purposes. Customer remains solely liable for the actions of its Users. The following terms and conditions of this Agreement apply solely to those Customers who have purchased "Amazing Charts EHR

Hosted": Sections 1(i) (Definition of "OST"), 1(g) (Definition of "Microsoft"), the Microsoft security measures and practices as well as the Microsoft terms and conditions set out in Exhibit B, and the terms of Section 6(e) (Data Location),

(d) Scope of On-Premise Licensed Use. If Customer has obtained an On-Premise License, Customer may install, use and run the Software for up to the number of Users as applicable, for which Customer has paid. Customer may make one copy of the Software solely for testing, disaster recovery or archival purposes. Any copy of the Software made by Customer: (i) will remain the exclusive property of Licensor; (ii) be subject to the terms and conditions of this Agreement; and (iii) must include all copyright or other intellectual property rights notices contained in the original.

(e) Software and Services Use Restrictions. Except as this Agreement expressly permits, Customer shall not, and shall not permit any other person to:

- i) copy the Software or Services, in whole or in part;
- ii) modify, correct, adapt, translate, enhance or otherwise prepare derivative works or improvements of any Software or Services;
- iii) give away, rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software or Services to any other person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service except as expressly permitted by this Agreement;
- iv) reverse engineer, disassemble, decompile, translate, decode or adapt the Software, or otherwise attempt to derive or gain access to the source code relating to all or any part of the Software or Services, or attempt to otherwise convert or alter the Software or Services into human readable code, except to the extent applicable law expressly prohibits the foregoing;
- v) bypass or breach any security device or protection used for or contained in the Services, Software or Documentation;
- vi) remove, delete, efface, alter, obscure, translate, combine, supplement or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or proprietary rights or other symbols, notices, marks or serial numbers on or relating to any copy of the Software, the Services or Documentation;
- vii) use the Software or Services in any manner that violates any applicable law or that is contrary to the Documentation;
- viii) provide the results of using the Services for the purposes of monitoring its availability, performance, functionality, benchmarking or competitive analysis of the Software or Services;
- ix) use the Software or Services for purposes of: (i) developing, using or providing a competing software product or service; (ii) copying any ideas, features, functionality or graphics of the Software; or (iii) knowingly allowing access to any competitor of Licensor or any other purpose that is to Licensor's detriment or commercial disadvantage;
- x) Copy, frame or mirror any part of the Services, other than copying or framing on Customer's own intranet or otherwise for Customer's own internal business purposes.
- xi) Allow access to the Services to any third party, other than duly authorized employees of Customer authorized pursuant to Section 2 hereunder.
- xii) transmit, upload, post, distribute, store or otherwise publish, through use of the Services, any data, material or information that: (i) contains a software virus, Trojan horse, worm or other harmful or deleterious computer code, files or programs that may adversely affect any hardware or software, or that intercepts or misappropriates any data or information; (ii) is threatening, defamatory, libelous, harassing, profane, is an invasion of privacy, offensive, obscene or harmful; (iii) infringes or otherwise violates any patent, copyright, trademark, trade secret or other intellectual property or proprietary right of

any third party; (iv) violates any law, statute, ordinance or regulation; or (v) includes unsolicited bulk e-mails, advertisements or solicitations;

xiii) interfere with, attempt to gain unauthorized access to, or disrupt any device, network, account, data, the Services or networks connected to the system used to provide the Services or use the Services in any way that would provide harm to it or impair anyone else's use of it; or

xiv) use the Services in any situation where failure of the Services could lead to death or serious bodily harm of any person.

(f) Suspension of Access to Services. In addition to its termination rights under Section 5, Licensor may restrict or limit Customer's access to the Services if Licensor reasonably determines that Customer has engaged in or is likely to engage in (whether knowingly or unknowingly) any prohibited conduct described herein and such conduct, in Licensor's reasonable opinion poses any risk of any kind or nature to Licensor or its service providers' network, business or other customers. As promptly as practicable after becoming aware of Customer's engagement in any such prohibited conduct, Licensor will use reasonable efforts to notify Customer of the restriction or limitation to Customer's access to the Services and will promptly restore Customer's access after Licensor has had reasonable assurance that such conduct has been permanently discontinued. In addition to and without limiting the foregoing, Licensor reserves the right to refuse to post or to remove in whole or in part any information or materials provided or submitted by or on behalf of Customer in connection with its use of the Services that Licensor determines, in its reasonable discretion, are either in violation of this Agreement or pose any risk of any kind or nature to Licensor or its service provider's network, business or other customers.

(g) Intended Use. Customer agrees that the Software and Services are intended to serve as a rapidly accessible, concise initial resource and not as complete reference resource. The Software and Services do not include information concerning every therapeutic agent, diagnosis, laboratory, or diagnostic test or procedure available. The Software and Services are clinically-oriented and intended to be used only by medically-licensed providers who are physicians and/or other competent and duly-licensed healthcare professionals who will rely on their discretion and judgment in medical diagnosis and treatment. Neither Licensor nor related interfaced third party providers, directly or indirectly practice medicine or dispense medical services and, as such, assume no liability for data or functions contained in the Software or services, or their use. Customer assumes full responsibility for the appropriate use of medical information contained in the Software and Services and agrees to hold Licensor and its third party providers harmless from any and all third party claims or actions arising from your use of the Software or Services.

(h) Additional Acceptance Criteria for Services. Licensor reserves the right to have additional User acceptance criteria that may be applied to Users prior to their ability to have access to the Services. Licensor shall inform Customer of such criteria but Licensor shall be free to implement such criteria at any time without prior written warning to the Customer and/or to Users. Where Users do not accept such and/or agree to such criteria, Licensor reserves its rights not to grant to such Users access to the Services. Licensor reserves its rights to restrict access to the Services to Users for any violation of any additional terms and conditions to which such Users accept/agree to access the Services.

(i) Third Party Materials (Services). Customer acknowledges that in order to provide the Services Licensor may be required to purchase access to Third Party Materials. Customer further acknowledges that the availability of such Third Party Materials is based solely on the best information available to Licensor and its service providers as of the Effective Date including third party representations and government regulations and is subject to change during the Term with little or no advance notice. If any necessary

Third Party Materials are determined by Licensor to be unavailable as a result of changes to any third party availability, governmental regulations or other condition or circumstance outside of Licensor's control, then (a) Licensor shall not be in breach hereof or otherwise liable for any failure or inability to provide the Services as a result of such unavailability of any Third Party Materials; and (b) Licensor may in its sole discretion modify, change or replace the applicable Third Party Materials and otherwise attempt to mitigate the impact of the such unavailability of Third Party Materials, subject to the right to revise the Services Fees.

(j) Passwords. Customer is solely responsible for maintaining the secrecy and security of all usernames and passwords granted to it, for the security of its information systems used to access the Software and Services, and for its Users' compliance with the terms of this Agreement. Customer agrees that it is and shall remain solely and completely liable for any communications or other uses that are made using Customer's or its Users' passwords and user ID's, as well as any obligation that may result from such use. Customer agrees to notify Licensor promptly in writing if it believes that a password has been stolen or might otherwise be misused, of any unauthorized use of any password or user ID or any other breach of security suspected by Customer related to the Services.

(k) Services - Users. The Customer is responsible for: (i) the actions of Users using the Services in accordance with this Agreement; (ii) ensuring that Users agree to any further terms and conditions as may be provided by Licensor from time to time for Users; and (iii) informing Licensor of any information about Users' actions that may affect either the Services or third party data contained in or used by the Services, or Licensor's ability to provide the Services as contemplated by this Agreement.

(l) Compliance with Laws. Customer represents and warrants to Licensor that it and its Users will at all times be in compliance with all applicable local, state, provincial, federal and international laws, rules and regulations including, but not limited to, those laws regarding restrictions on exports (including the U.S. Export Administration Regulations end-user, end use and destination restrictions by Canadian, U.S. and other governments related to the Licensor and its service provider's products, services and technologies), defamation, libel, harm to reputation, privacy, security, data protection, misuse or failure to protect personal information, violation of secrecy, confidentiality, unfair competition and other situations which could generate liability. Customer is responsible for determining whether the Services are appropriate for storage and processing of information subject to any specific law or regulation and for using the Service in a manner consistent with Customer's regulatory and legal obligations. Customer is responsible for responding to any request from a third party regarding Customer's use of the Service, such as a request to take down content under the U.S. Digital Millennium Copyright Act or other applicable laws.

(m) Services - Data Security. Customer acknowledges and agrees that use of or connection to the Internet is inherently insecure and provides opportunity for unauthorized access by a third party to Customer's and its Users' (as well as Licensor's and its service providers') computer systems, networks and any and all information stored therein. Customer is solely responsible for making an independent determination as to whether the technical and organizational measures for the Services meet Customer's requirements, including all of its security obligations under applicable data protection laws and regulations. Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of the processing of its Personal Information as well as the risks to individuals) the security practices and policies implemented by Licensor and its service providers provide a level of security appropriate to the risk with respect to its Personal Information. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls, including without limitation, ensuring that (i)

Customer's computer systems are secure and protected from unwanted interference (such as "hackers" and viruses), (ii) all transmissions are screened for viruses or other harmful code prior to transmission to Licensor's servers; and (iii) Data is encrypted. Some content may be subject to governmental regulations or may require security measures beyond those specified by Licensor for an offering. Customer will not input or provide such content unless Licensor has first agreed in writing to implement additional required security measures. Details regarding Licensor's service provider's security measures and practices are available at the link set out in Exhibit B to this Agreement.

LICENSOR DOES NOT GUARANTEE THE PRIVACY, SECURITY, AUTHENTICITY, AND NON-CORRUPTION OF ANY INFORMATION TRANSMITTED OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET. WE SHALL NOT BE RESPONSIBLE FOR ANY ADVERSE CONSEQUENCES WHATSOEVER OF CUSTOMER'S OR ITS USERS' CONNECTION TO OR USE OF THE INTERNET, AND LICENSOR SHALL NOT BE RESPONSIBLE FOR ANY USE BY CUSTOMER OR ANY USER OF CUSTOMER'S INTERNET CONNECTION IN VIOLATION OF ANY LAW, RULE OR REGULATION.

(n) Third Party Materials. Customer agrees to comply with and be bound by the additional terms and conditions applicable to the Third Party Materials set out in Exhibit B to this Agreement.

(o) CPT Codes. The CPT five-digit codes and descriptions are the copyrighted property of the American Medical Association ("AMA"), and are also subject to the restrictions set forth in Section 2(e). The CPT codes are licensed to Licensor by the AMA and Customer's continued use and access to those codes within the Software is contingent upon Licensor's continued licensing arrangement with the AMA.

(p) HIPAA. The business associate addendum attached hereto as Exhibit A is incorporated herein by reference.

3. Maintenance and Support.

(a) Generally. Provided that Customer is current with respect to payment of Support Fees, Licensor shall provide the Support Services set forth in this Section 3. The first year of support is included with the purchase of a license for the Software after which it must be purchased separately and it not included with the purchase of a license. Furthermore Support Services are required for anyone who provides patient care. Failure to maintain Support Services for all providers may result in termination of the applicable Software license or Service.

(b) Updates and Add-ons. Licensor shall provide Customer any Updates of the Software at no charge unless the Update includes Add-Ons for which additional charges apply. Customer must be current on its payment of Support Fees to be eligible to purchase and maintain Add-Ons including but not limited to Amazing Charts in the Cloud (ACitC), Amazing Reminders, Practice Management, and HL7 interface connections.

(c) Error Correction. Licensor shall use commercially reasonable efforts to correct all Errors or to provide a reasonable workaround. Customer shall provide such access, information, and support as Licensor may reasonably require in the process of resolving any Error. This paragraph provides Customer's sole and exclusive remedy for any Errors in the Software or Services.

(d) Other Support Generally. To the extent Licensor agrees to provide support services not specified herein, Customer shall pay Licensor its then current standard fees, plus expenses, for such services. Licensor is not obligated to provide services for (i) development of new features, or (ii) any scope change requested by Customer and not agreed by Licensor in writing.

(e) Support Center. Licensor shall make its client support center available for support requests during Licensor's normal business hours.

(f) Support Exclusions. Licensor is not obligated to correct any Errors or provide any other support to the extent such Errors or need

for support was created in whole or in part by:

- i) the acts, omissions, negligence or willful misconduct of Customer, including any unauthorized modifications of the Software or its operating environment;
- ii) any breach of Section 2(e);
- iii) any failure or defect of Customer's or a third party's equipment, software, facilities, third party applications, or internet connectivity;
- iv) Customer's use of the Software or Services other than in accordance with the Documentation; or
- v) any Error that would have been remedied if Customer had installed an Update in accordance with Section 3(a).

4. Fees and Payment Terms

(a) Fees. Customer shall pay Licensor its then current On Premise License Fees, Services Fees, and Support Fees and other applicable fees as set forth at <http://amazingcharts.com/ehr-solutions/transparent-pricing/> or elsewhere on the Amazing Charts web site (collectively, the "**Fees**"). These Fees are subject to change, and any changes will be posted to the web site and take effect immediately.

(b) Payment Terms. Customer is required to keep a valid credit/debit card on file for the Term of this Agreement. All one-time and recurring charges must be paid via credit/debit card and any exceptions to this policy can be made at the sole discretion of the Licensor. Customer agrees that recurring fees (e.g. Support Fees, ACitC Services Fees) will be automatically billed to their credit card on file for these charges for the duration of the Service Period. If there is a pricing increase the Licensor will provide prior notice before charging a higher price automatically. Licensor shall charge Customer in advance for all recurring charges. In cases when the Licensor permits the Customer to use an alternative payment method, Customer must remit payment within 30 days of invoice date. If Customer is delinquent in payment of any portion of an invoice that it has not disputed in good faith, Licensor may, in addition to other remedies it may have, including termination, suspend access to the Software or Services. Customer agrees to pay late fees on delinquent amounts at the rate of 1½% per month (or, if lower, the maximum amount permitted by law) that a payment is overdue. If Licensor takes any legal action to collect on undisputed delinquent amounts, Customer shall reimburse Licensor for its costs incurred in pursuing such action, including but not limited to legal fees and court costs. Licensor reserves the right to charge a fee of no more than \$50 if Customer seeks remuneration indirectly through its bank unless Licensor fails to respond to contested billing inquiry within 5 business days.

(c) Taxes. Customer shall pay or shall reimburse Licensor for all sales taxes and other tax, however characterized by the taxing authority, based upon the Fees or other charges under this Agreement or otherwise incurred on account of Customer's use of the Software and/or Services, except for any taxes based upon Licensor's net income. If Customer is a tax-exempt organization, then, upon Licensor's receipt of proof of such status, then Licensor shall not charge Customer for any taxes from which Customer is exempt.

5. Term and Termination

(a) Term. The term of this Agreement commences on the Effective Date and will continue until such time as a party terminates the Agreement by providing at least thirty (30) days prior written notice to the other party (the "**Term**"). Termination will not obligate Licensor to issue any refunds.

(b) Cancellation of Specific Products or Services. Either party may also cancel individual products or services without terminating the Agreement by providing written notice to the other party of the products or services to be cancelled at least two weeks prior to the next billing date for that product or service.

- i) Cancelling Amazing Charts Backup gives Licensor permission to delete the Licensor maintained external database backup immediately. Should Customer require assistance retrieving its backup, the Licensor must be contacted prior to

termination.

ii) Cancelling the Services gives Licensor permission to disable all ACitC Users associated with Customer's account and delete all Data from the hosted database within 30 days of termination. Should Customer require a copy of its database, a written request must be submitted via email to support@amazingcharts.com within 30 days of cancellation.

(c) Termination for Cause. Either party can terminate this Agreement for cause upon written notice to the other party:

i) if the other party has committed any material breach of its obligations under this Agreement and has failed to cure such breach within 20 days of written notice by the non-breaching party specifying in reasonable detail the nature of the breach (or, if such breach is not reasonably curable within 20 days, has failed to begin and continue to work diligently and in good faith to cure such breach);

ii) if Customer has breached its obligations of confidentiality or any intellectual property right or proprietary right of Licensor or its service providers, Licensor may terminate this Agreement effective immediately;

iii) upon the institution of bankruptcy or state law insolvency proceedings against the other party, if such proceedings are not dismissed within 30 days of commencement; or

iv) upon written notice to Licensor if the revised terms and conditions of the Software License and Hosting Agreement as posted by Licensor in accordance with Section 11(n) materially affects Customer's rights in connection with the use of the Software and/or Service, provided that any access or use of the Software or Services by Customer or its Users following the date of posting such changes shall be deemed a waiver by Customer of this right.

(d) Obligations on Termination. Upon termination or expiration of this Agreement for any reason:

i) All rights granted to Customer in this Agreement shall immediately terminate and Licensor will immediately cease to perform or provide the Services.

ii) Customer shall return to Licensor or at Licensor's option purge or destroy all copies of any Confidential Information of Licensor in its possession or under its control (except as required under any statute or legislation related to retention requirements), and provide a duly authorized certificate of an officer of Customer confirming same within thirty (30) days.

iii) Except as otherwise provided in this Agreement, termination of this Agreement shall not affect any right of action of either party arising from anything which was done or not done, as the case may be, prior to the termination taking effect.

iv) Customer will pay all amounts due under this Agreement up to and through the date of termination and all costs reasonably incurred in collecting the amounts due to Licensor (including court costs, attorney fees, and repossession charges to the extent not prohibited by law).

v) Within 30 days of the date of termination, subject to any legal requirement that Licensor must retain a copy of the Data, unless Licensor receives a written request from Customer to receive a copy of its database (via email to support@amazingcharts.com), Licensor shall have the right to destroy all copies of the Data and delete all Data on the database. If Licensor receives a request from Customer for a copy of its Data in accordance with the foregoing, Licensor shall have the right to destroy all copies of the Data and delete all Data on the database upon receipt of written notice from Customer confirming receipt of the Data. Notwithstanding the foregoing, Licensor shall be permitted to delete all Data without providing notification to Customer and Licensor shall

not be required to adhere to the time frames above where Licensor is required by law to delete such Data.

(e) Reinstatement of Maintenance. If Customer elects to discontinue maintenance and support for the Software and subsequently elects to reinstate the maintenance and support services, then Customer shall pay Licensor all maintenance and support fees that Customer would have paid had Customer never discontinued receiving maintenance and support services.

6. Data.

(a) Licensor will handle patient data that is Protected Health Information under HIPAA in accordance with the terms of the BAA attached to this Agreement as Exhibit A. However, provided that we implement appropriate de-identification criteria in accordance with the standards of de-identification of protected health information set forth in 45 C.F.R. §164.514(b) ("De-identified Information"), you acknowledge and agree that De-identified Information is not Protected Health Information (as defined in the applicable HIPAA regulations), and that Licensor may use such De-identified Information for any lawful purpose.

(b) You acknowledge and agree that CareTracker, Inc. is the owner of all De-identified Information and that CareTracker, Inc. may use it, and may authorize through sale, license or other means any third party to use it, for any lawful purpose. CareTracker, Inc. will make all reasonable efforts to exclude certain User's De-identified Information from such legally permissible disclosures if Customer submits a written request via email to support@amazingcharts.com.

(c) Ownership. As between Licensor and Customer, all Data will remain the sole and exclusive property of Customer. Customer is solely responsible for ensuring the accuracy, quality, integrity, reliability, appropriateness and right to view and use the Data. Subject to the terms and conditions of the Agreement, Customer grants to Licensor, its service providers and licensors a world-wide, non-exclusive, royalty-free license to access the Data and Support Data for the purpose of performing the Services. Except as specified in this Agreement, Licensor may not access the Data for any other purpose without the express written consent of Customer. Access to Data by any outside party shall only be in accordance with the terms of this Agreement or where required by law.

(d) Data Representations and Warranties. The Customer represents and warrants to Licensor that:

- i. Data, Support Data, and Personal Information, that is either provided to or acquired by Licensor and/or its service providers from Customer is owned exclusively by Customer and that the Customer has full right and title to provide the Data, Support Data and Personal Information to Licensor and its service providers;
- ii. Data, Support Data and Personal Information, that is either provided to or acquired by Licensor is subject to a privacy policy in effect as of the Effective Date and Customer's customers or other third party owners of the Data or Personal Information have provided to Customer their written consent for its collection, use and storage by Licensor and its third-party service providers in accordance with this Agreement and in any jurisdiction in North America;
- iii. Customer complies with all applicable privacy legislation as of the Effective Date in the performance of its obligations hereunder in respect of any Data, Support Data and Personal Information collected, used, transferred, created or disclosed pursuant to this Agreement; and
- iv. Customer will not provide Licensor or its service providers with data or Personal Information of any kind for which Licensor or its service providers either have no need or do not have the right to collect, use and store under the terms of this Agreement.

(e) Amazing Chart EHR Hosted Data Location. For the Amazing Charts EHR Hosted product, Licensor's third party service provider is Microsoft and Licensor uses Microsoft's Azure® online services. Except as described in the OST, Data and Personal Information collected under this Agreement as part of the Amazing Charts EHR Hosted offering may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities. Support Data collected under this Agreement may be transferred, stored and processed in the United States or any other country in which Microsoft or its service providers maintain facilities. Licensor shall use commercially reasonable efforts to work with Microsoft personnel to configure the Services to store Data on Virtual Machines using Locally-Redundant Storage (LRS).

(f) Access to Data; Subcontracting. Subject to Section 2(f), at all times during the Term, Customer will have the ability to access, extract and delete Data stored in the Services. Licensor's service provider may engage third parties to provide certain services on its behalf and Customer consents to the engagement of such third parties as subprocessors, which shall constitute Customer's prior written consent to the subcontracting by Licensor and its service provider of the processing of Data and Personal Information if such consent is required under applicable law.

7. Indemnity

Customer is solely responsible for its Data, its use, and its Users' use, of the Services in any way, and all legal liability arising out of or relating thereto. Customer shall defend, indemnify and hold Licensor and its third party service providers, if applicable, and each of their respective officers, directors, employees and agents (the "Indemnities") harmless from and against any and all losses, costs, damages and expenses (including reasonable attorney's fees) that the Indemnities may suffer in connection with any demands, claims, actions, suits or proceedings arising out of or in connection with (i) the use of the Services including but not limited to any Third Party Components by Customer or its Users; (ii) any breach by Customer or its Users of this Agreement; or (iii) Customer's Data and Support Data, including but not limited to any third party claims that the inclusion, use, reference, incorporation of or linking to any third party materials or the Customer's Data and/or Support Data violates such third party's copyright and/or other intellectual property, privacy or other rights, or that such use is illegal.

8. Confidentiality

(a) Definition of Confidential Information. "Confidential Information" means any and all tangible and intangible information (whether written or otherwise recorded or oral) of a party that: (A) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or (B) the disclosing party designates as confidential or, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential. Confidential Information includes, without limitation: (i) nonpublic information relating to a party's technology, customers, business plans, promotional and marketing activities, finances and other business affairs; (ii) third-party information that the disclosing party is obligated to keep confidential; (iii) the material terms and conditions of this agreement; and (iv) any nonpublic information relating to any activities conducted hereunder. Confidential Information of Licensor shall include, without limitation, the Software, any information regarding APIs for the Software, the Documentation, and any information with respect to the Services that Licensor or its service providers may disclose to Customer from time to time, including without limitation, all information relating to the security of its facilities, computer systems and products. Confidential Information excludes Data and Support Data.

(b) Exclusions. Notwithstanding the above, the term "Confidential Information" does not include any information that is either:

- i) readily discernible from publicly-available products or literature;
- ii) is rightfully received from a third party who is not under an obligation of confidentiality;
- iii) was previously known to the receiving party as evidenced by its written records; or
- iv) approved for disclosure by prior written permission of an executive officer of the disclosing party.

(c) Use of Confidential Information. Each party shall only use Confidential Information furnished to it hereunder in furtherance of the activities contemplated by this Agreement, and it shall not disclose the Confidential Information to any other persons, other than its employees, service providers and representatives who have a need to know such information for the purpose of performance under this Agreement and exercising the rights granted under this Agreement and who are bound by non-disclosure obligations at least as protective of the other party's Confidential Information as this Agreement, without the disclosing party's express written authorization. The parties agree to hold the other party's Confidential Information in confidence and to take all reasonable steps to protect the Confidential Information of the other party, which shall be no less than those steps it takes to protect its own confidential and proprietary information.

(d) Required Disclosures. A receiving party may disclose Confidential Information of the disclosing party as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, provided that the receiving party (i) gives the disclosing party reasonable written notice to allow it to seek a protective order or other appropriate remedy (except to the extent compliance with the foregoing would cause the receiving party to violate a court order or other legal requirement), (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) uses its best efforts to obtain confidential treatment for any Confidential Information so disclosed.

(e) Return of Information. If a disclosing party so requests at any time, the receiving party shall return promptly all copies, extracts, or other reproductions in whole or in part of the Confidential Information in its possession.

(f) Survival. The parties hereto covenant and agree that this Section 7 will survive the expiration, termination, or cancellation of this Agreement for a period of two years, except for Confidential Information constituting a trade secret, with respect to which this Section will survive the expiration, termination, or cancellation of this Agreement for so long as such Confidential Information remains a trade secret.

9. Ownership; Feedback

Licensor, its service providers and licensors are and shall at all times remain the owner of all copyright, trademarks, trade secrets, patents and any other intellectual property rights in and to the Services, Software, and related documentation, materials, logos, names and other support materials provided pursuant to the terms of this Agreement. Customer shall acquire no right whatsoever to all or any part of the Services, Software or underlying software except the limited right to access and use the Services (where applicable) in accordance with the terms of this Agreement and Licensor, its service providers and its licensors reserve all rights not expressly granted to Customer. Customer must fully reproduce any copyright or other notice marked on any part of the documentation or other materials on all authorized copies and must not alter or remove any such copyright or other notice. Customer hereby grants to Licensor a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services, Software, and underlying software any suggestions, ideas, enhancement requests, recommendations or other feedback provided by Customer relating to the operation of the Services or Software.

10. No Warranties; Limitation of Liability.

(a) Disclaimer of Warranties. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE, THE SERVICES, THE SUPPORT SERVICES AND ANY OTHER PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED TO CUSTOMER "AS-IS" AND THERE ARE NO OTHER REPRESENTATIONS, CONDITIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WRITTEN OR ORAL, ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING, USAGE OF TRADE OR OTHERWISE, WITH RESPECT TO THE SOFTWARE, THE SERVICES OR ANY OTHER PRODUCT, SERVICE OR MATERIAL PROVIDED HEREUNDER OR IN CONNECTION HEREWITH.

LICENSOR, ITS LICENSORS AND SERVICE PROVIDERS DISCLAIM ANY IMPLIED WARRANTIES OR CONDITIONS REGARDING THE SOFTWARE, THE SERVICES, THE SUPPORT SERVICES AND ANY OTHER PRODUCTS, SERVICES AND MATERIALS PROVIDED HEREUNDER OR IN CONNECTION HEREWITH INCLUDING, BUT NOT LIMITED TO THE AVAILABILITY, FUNCTIONALITY, PERFORMANCE OR RESULTS OF USE OF THE SOFTWARE OR THE SERVICES, THAT THE SOFTWARE OR THE OPERATION OF THE SOFTWARE OR THE SERVICES ARE OR WILL BE ACCURATE, ERROR-FREE OR UNINTERRUPTED. LICENSOR HEREBY DISCLAIMS ANY, IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, DURABILITY, OF FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT.

LICENSOR DOES NOT REPRESENT OR WARRANT THAT THE SERVICES OR THE SOFTWARE SHALL OPERATE ERROR FREE OR UNINTERRUPTED, SHALL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, THAT ALL ERRORS OR DEFECTS IN THE SERVICES OR THE SOFTWARE CAN BE FOUND OR CORRECTED.

WITHOUT LIMITING THE FOREGOING, LICENSOR DOES NOT MAKE ANY REPRESENTATIONS OR

11. General

(a) Equitable Remedies. Customer agrees that a breach or threatened breach by Customer of this Agreement would cause Licensor irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, Licensor will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

(b) Promotional Materials. Either party may include statements, and may use the other party's name and logos, in its website, commercial advertisements and promotional materials for the sole purpose of indicating that Customer is a user of the Software.

(c) Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, then such provision shall be deemed modified to the extent necessary in order to render such provision valid and enforceable. If such provision may not be so saved, it shall be severed and the remaining provisions of this Agreement will remain in full force, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

(d) Export Regulation. The Software, the Service the Data and all technical information relating to the Software and the Service may be subject to import or export controls under the laws of any country with jurisdiction over this Agreement. Therefore, Customer shall not, and shall not permit any other person to, in any manner whatsoever, either remove, convey, export, import or transmit the Software, the Service, the Data, Documentation, any technical information or any portions thereof unless Customer has obtained all required authorization from the appropriate governmental authorities of any country with jurisdiction over the transaction and Customer shall otherwise fully comply with all applicable import and export controls, laws and regulations, including those referred to in Section 2(f).

(e) Force Majeure Events. No default, delay or failure to perform on the part of Licensor shall be considered a breach of this Agreement where such default, delay or failure is due to a force majeure or to circumstances beyond its control. Such circumstances will include, without limitation, strikes, riots, civil disturbances, actions or inactions concerning government authorities, epidemics, war, terrorist acts, embargoes, severe weather, fire, earthquakes, floods, acts of any governmental body, acts of God or the public enemy or default of a common carrier, unavailability of Third Party Materials or other disasters or events.

(f) Assignment. Customer shall not assign any of its rights under this agreement, except with the prior written consent of Licensor. The preceding sentence applies to all assignments of rights, whether they are voluntary or involuntary, by merger, consolidation, dissolution, operation of law or any other manner. Any change of control transaction is deemed an assignment hereunder. Any purported assignment of rights in violation of this Section is void. This Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their respective successors and permitted assigns.

WARRANTIES WHATSOEVER WITH REGARD TO PRODUCTS OR SERVICES FROM THIRD PARTIES (INCLUDING WITHOUT LIMITATION THE THIRD PARTY MATERIALS, THE OPERATION OF THE INTERNET, NETWORK OR OTHER COMMUNICATION SERVICES) AND ASSUMES NO RESPONSIBILITY OR LIABILITY WITH RESPECT TO THE FOREGOING OR THE APPROPRIATENESS OF CUSTOMER'S DATA MANAGEMENT SYSTEM OR THE ACCURACY OF DATA CONTAINED IN SUCH SYSTEM.

(b) Limitations of Remedies and Liability. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER AGREES THAT IN NO EVENT SHALL LICENSOR, OR ITS SERVICE PROVIDERS BE LIABLE, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH OR NEGLIGENCE, FOR INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, LOSS OF REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, LOST OR DAMAGED DATA, LOSS OF GOODWILL, BUSINESS OPPORTUNITIES, REPUTATION, COSTS OF REPLACEMENT GOODS OR SERVICES) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH LOSSES OR DAMAGES ARE FORESEEABLE.

LICENSOR AND ITS SERVICE PROVIDER'S TOTAL LIABILITY TO CUSTOMER AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO THE SERVICES, THE SOFTWARE, THE SUPPORT SERVICES AND ANY OTHER PRODUCTS, MATERIALS OR SERVICES SUPPLIED BY LICENSOR IN CONNECTION WITH THIS AGREEMENT FOR DAMAGES FOR ANY CAUSE AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING FUNDAMENTAL BREACH, NEGLIGENCE, OR STRICT LIABILITY, SHALL NOT EXCEED ALL FEES PAID TO LICENSOR BY THE CUSTOMER DURING THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY.

(g) Governing Law; Venue. The laws of the State of Delaware (without giving effect to its conflict of laws principles) govern all matters arising out of or relating to this Agreement and the transactions it contemplates, including, without limitation, its interpretation, construction, performance, and enforcement. Any claims or actions regarding or arising out of this Agreement must be brought exclusively in return receipt requested and postage prepaid, or nationally recognized overnight courier (with all fees prepaid). Any party giving a Notice must address the Notice to the appropriate person at the receiving party (the "Addressee") at the address listed on this Agreement or to another Addressee or another address as designated by a party in a Notice pursuant to this Section. Except as provided elsewhere in this agreement, a Notice is effective only if the party giving the Notice has complied with this paragraph.

(h) Mediation. Except where this Agreement explicitly states that this Section does not apply, the parties agree to submit any claim, controversy or dispute arising out of or relating to this Agreement or the relationship created by this Agreement to non-binding mediation before bringing a claim, controversy or dispute in a court or before any other tribunal. The mediation is to be conducted by either an individual mediator or a mediator appointed by mediation services mutually agreeable to the parties. Such mediator shall be knowledgeable in software system agreements. The mediation shall take place at a time and location which is also mutually agreeable; provided; however, in no event shall the mediation occur later than ninety (90) days after either party notified the other of its desire to have a dispute be placed before a mediator. The costs and expenses of mediation, including compensation and expenses of the mediator (and except for the attorneys' fees incurred by either party), is to be shared by the parties equally. If the parties are unable to resolve the claim, controversy or dispute within ninety (90) days after the date either party provides the other notice of mediation, then either party may bring and initiate a legal proceeding to resolve the claim, controversy or dispute unless the time period is extended by a written agreement of the parties. Nothing in this Section shall inhibit a party's right to seek injunctive relief at any time.

(i) Waiver of Jury Trial. Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this agreement or the transactions contemplated hereby.

(j) Recovery of Litigation Costs. If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this agreement, the unsuccessful party shall pay to the successful party its reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which the successful party may be entitled.

(k) Notices. Except as provided elsewhere in this Agreement, each party giving or making any notice, request, demand or other communication (each, a "Notice") pursuant to this Agreement must give the Notice in writing and use one of the following methods of delivery: personal delivery, registered or certified U.S. Mail (in each case, return receipt requested and postage prepaid), or nationally recognized overnight courier (with all fees prepaid). Any party giving a Notice must address the Notice to the appropriate person at the receiving party (the "Addressee") at the following address: in the case of Licensor, to the address posted on the following website www.amazingcharts.com, and in the case of Customer, to the address submitted to Licensor on the foregoing website, or to another address as designated by a party in a Notice pursuant to this Section. Any such Notice shall be conclusively deemed to have been given and received on the day on which it is delivered (or on the next succeeding business day if delivered after 5:00 p.m. local time on the date of delivery or receipt, or if delivered or received on a day other than a business day), if personally delivered or, if mailed, on the third business day following the date of mailing.

(l) Allocation of Risk. Customer acknowledges and agrees that the warranty disclaimer and limitation of liability contained in this Agreement are fundamental elements of the basis of bargain between Licensor and Customer and set forth an allocation of risk reflected in the fees and payments due hereunder.


(l) Entire Agreement. This constitutes the final agreement between the parties. It is the complete and exclusive expression of the parties' agreement on the matters contained in this agreement. All prior and contemporaneous negotiations and agreements between the parties on the matters contained in this agreement are expressly merged into and superseded by this agreement. The provisions of this agreement cannot be explained, supplemented or qualified through evidence of trade usage or a prior course of dealings. In entering into this agreement, neither party has relied upon any statement, representation, warranty or agreement of any other party except for those expressly contained in this agreement.

(m) Waivers. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent, or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party.

(n) Amendment. This Agreement may be amended from time to time by Licensor upon posting the amended version at www.amazingcharts.com/EULA and Customer's continued use of the Software or Services following such posting signifies its acceptance. Customer is therefore encouraged to review this Agreement periodically.

(o) Survival. Sections 2(e)-(p), 4, 5(d), 6-11 and any other provision of this Agreement which is required to ensure that the parties fully exercise their rights and obligations hereunder shall survive any termination or expiration of this Agreement.

CARETRACKER, INC.

By:  Print: Ben Scharfe

Title: Director of Customer Support

EXHIBIT A
BUSINESS ASSOCIATE ADDENDUM

THIS BUSINESS ASSOCIATE ADDENDUM (the "BAA") is made and entered into between CareTracker, Inc. ("Company"), and the Licensee who has agreed to the Master Software and Terms ("Covered Entity").

Covered Entity possesses information about individuals that is protected under the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act (commonly referred to as the "HITECH Act"), and the regulations promulgated under the foregoing from time to time by the United States Department of Health and Human Services (collectively, as amended from time to time, "HIPAA").

Company will provide certain services to Covered Entity (the "Services"), and in the course of providing the Services, Covered Entity may make available to Company or have Company obtain or create on its behalf information that may be deemed protected health information subject to the provisions of HIPAA.

In order to comply with the applicable provisions of HIPAA, the parties agree as follows:

1. Definitions.

1.1 Capitalized terms used but not otherwise defined in this BAA shall have the meanings ascribed in HIPAA (whether or not such terms are capitalized therein).

1.2 "PHI" means Protected Health Information received by Company from or on behalf of Covered Entity or created by Company for or on behalf of Covered Entity.

2. Permitted Uses. Company may use PHI only as permitted or required by this BAA for the following purposes:

- (i) as necessary to provide the Services, including the provision of certain data aggregation services;
- (ii) to carry out its legal responsibilities;
- (iii) for the proper business management and administration of Company; and
- (iv) as Required By Law

As a part of the Services, certain information may be De-Identified. Business Associate shall be permitted to De-Identify PHI in accordance with the de-identification requirements of the Privacy Rule. The parties acknowledge and agree that once PHI is de-identified it is no longer subject to HIPAA.

3. Permitted Disclosures. Company may disclose PHI only as permitted or required by this BAA for the following purposes:

- (i) as necessary to provide the Services;
- (ii) for the proper business management and administration of Company or to carry out its legal responsibilities, if Company has obtained reasonable assurances that the recipient will (A) hold such PHI in confidence, (B) use or further disclose it only for the purpose for which it was received or as Required By Law, and (C) notify Company of any instance of which the recipient becomes aware in which the confidentiality of such PHI has been breached;
- (iii) for the proper business management and administration of Company or to carry out its legal responsibilities, if Required By Law; and
- (iv) as otherwise Required By Law;

provided, however, that any disclosure to an agent or subcontractor of Company shall be pursuant to a written agreement between Company and such agent or subcontractor containing substantially the same restrictions and conditions on the use and disclosure of PHI as are set forth in this BAA.

4. Prohibited Uses and Disclosures. Subject to Covered Entity's compliance with its obligations set forth in Section 14 as applicable, Company shall not use or further disclose PHI in a manner that would violate HIPAA if done by the Covered Entity. Company shall not sell PHI or use or disclose PHI for purposes of marketing or fundraising.

5. Safeguards. Company shall establish and maintain appropriate safeguards intended to prevent use or disclosure of PHI other than as provided in this BAA. Without limiting the foregoing, Company shall establish and maintain, in compliance with HIPAA and any applicable guidance issued pursuant thereto, administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any PHI that is Electronic Protected Health Information or any other Electronic Protected Health Information maintained or transmitted by Company for or on behalf of Covered Entity, and Company shall establish and maintain policies and procedures, and comply with the documentation requirements, set forth in HIPAA.

6. Reports to Covered Entity; Breach Notification.

6.1 Without unreasonable delay and in no case later than 10 days after discovering a Breach involving PHI that is Unsecured Protected Health Information, Company shall report such Breach to Covered Entity in writing, setting forth the date of discovery thereof, the identities of affected

Individuals (or, if such identities are unknown at that time, the classes of such individuals), a general description of the nature of the incident, and such other information as is required pursuant to HIPAA.

6.2 Company shall report to Covered Entity in writing any use or disclosure of PHI that is not permitted by this BAA, other than a Breach involving PHI that is Unsecured Protected Health Information, within 30 days of Company's discovery thereof.

6.3 Company shall report to Covered Entity in writing any Security Incident involving PHI that is Electronic Protected Health Information within 30 days of Company's discovery thereof. The parties acknowledge and agree that this paragraph constitutes notice by Company to Covered Entity of the ongoing occurrence of incidents that may constitute Security Incidents but that are trivial and do not result in unauthorized access, use, or disclosure of PHI that is Electronic Protected Health Information, including without limitation pings and other broadcast attacks on Company's firewall, port scans, unsuccessful log-on attempts, and denials of service, for which no additional notice to Covered Entity shall be required.

7. Mitigation. Company shall take all actions reasonably necessary and cooperate with Covered Entity as reasonably requested to mitigate, to the extent practicable, any harmful effect of any Breach, impermissible use or disclosure of PHI, or Security Incident involving PHI that is Electronic Protected Health Information, as described in Section 6.

8. Minimum Necessary. Company does not control the information used or disclosed as a part of the Services. Covered Entity shall be responsible for ensuring that its own minimum necessary policies and procedures are adhered to at all times. Failure to de-identify information or utilize the minimum necessary principles shall be solely the responsibility of Covered Entity.

9. Access and Amendment. Company shall not maintain any information in a Designated Record Set, as such services are not provided by Company. Should such services be provided in the future, Company shall provide the following tasks, as appropriate. With respect to an Individual as to whom Company maintains PHI, Company shall notify Covered Entity promptly upon receipt of a request from such an Individual for access to or a copy of such Individual's PHI or to amend such Individual's PHI. To the extent permitted under HIPAA, and except as otherwise required upon the order of a court of competent jurisdiction, (i) Company shall direct such Individual to make such request of Covered Entity and (ii) Company shall not consent to such access, deliver such copy, or comply with such request except as directed by Covered Entity. With respect to PHI maintained by Company in a Designated Record Set, to the extent required by HIPAA of a Covered Entity, Company shall (i) make available PHI to Individuals or Covered Entity, as requested by Covered Entity and in accordance with HIPAA, and (ii) upon receipt of notice from Covered Entity, promptly amend any portion of the PHI so that Covered Entity may meet its amendment obligations under HIPAA.

10. Accounting for Disclosures. Company shall document all disclosures of PHI by Company and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. Company shall maintain such information for the applicable period set forth in HIPAA. Company shall deliver such information to Covered Entity or, upon Covered Entity's request, to the Individual, in the time and manner reasonably designated by Covered Entity, in order for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with HIPAA. The obligations set forth in this section shall survive the expiration or any termination of this BAA and shall continue, as to a given instance of a disclosure, until the earlier of (i) the passing of the time required for such information to be maintained pursuant to HIPAA or (ii) the delivery to Covered Entity of all such information in a form and medium reasonably satisfactory to Covered Entity and the return or destruction of all PHI as provided in this BAA.

11. Additional Restrictions. If Covered Entity notifies Company that Covered Entity has agreed to be bound by additional restrictions on the uses or disclosures of PHI pursuant to HIPAA, Company shall be bound by such additional restrictions and shall not use or disclose PHI in violation of such additional restrictions.

12. Audit. If Company receives a request, made on behalf of the Secretary of the Department of Health and Human Services, that Company make its internal practices, books, and records relating to the use or disclosure of PHI available to the Secretary of the Department of Health and Human Services for the purposes of determining Covered Entity's or Company's compliance with HIPAA, Company promptly shall notify Covered Entity of such request and, unless enjoined from doing so by order of a court of competent jurisdiction in response to a challenge raised by Covered Entity or Company (which challenge Company shall not be obligated to raise), Company shall comply with such request to the extent required of it by applicable law. Nothing in this BAA shall waive any attorney-client privilege or other privilege applicable to either party.

13. Remuneration. Company shall not receive remuneration, directly or indirectly, in exchange for PHI; provided, however, that this prohibition shall not affect payment to Company by Covered Entity pursuant to the Services.

14. Obligations of Covered Entity.

14.1 Covered Entity acknowledges and understands that, in general, PHI is not necessary to share with Company as a part of the Services provided under the Agreement and therefore Covered Entity shall only provide Company with access to the minimum necessary PHI as noted in Section 8 herein. Covered Entity shall further (i) notify Company of any limitation in Covered Entity's Notice of Privacy Practices to the extent that such limitation may affect Company's use or disclosure of PHI, (ii) notify Company of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such change may affect Company's use or disclosure of PHI, (iii) notify Company of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with HIPAA, to the extent that such restriction may affect Company's use or disclosure of PHI, and (iv) obtain any authorization or consents as may be Required By Law for any of the uses or disclosures of PHI pursuant to the Services. To the extent that Covered Entity elects to opt out of, remove or disable any of the specific Services provided by Company, Company will no longer be liable for any Security Incident and/or Breach due to the opt out, removal or disabling of such Service. Covered Entity agrees to and will

be responsible for any Security Incident and/or Breach due to the opt out, removal or disabling of any such Service provided by Company. The obligations of Covered Entity under this Section 14.1 extend to any entities or persons who are authorized by Covered Entity or its affiliates to access any Covered Entity data or programs stored on Company systems.

14.2 Except for the permitted uses and disclosures set forth in Sections 2 and 3, Covered Entity will not request Company to use or disclose PHI in any manner that would violate HIPAA if done by Covered Entity.

15. Term and Termination. This BAA shall continue in effect until the earlier to occur of (i) the expiration or termination of the Agreement or (ii) termination pursuant to this section. Either party may terminate this BAA effective immediately if it determines that the other party has breached a material provision of this BAA and failed to cure such breach within 30 days of being notified by the other party of the breach. If the non-breaching party reasonably determines that cure is not possible, such party may terminate this BAA effective immediately upon written notice to other party.

16. Effect of Termination. Where destruction of PHI pursuant to this section is feasible, Company shall destroy such PHI between thirty (30) to sixty (60) days after the termination of this BAA, should Covered Entity need the return of such PHI. or any information, Covered Entity shall be responsible for obtaining prior to destruction. Upon termination of this BAA, Company shall deliver to Covered Entity the disclosure accounting information as provided in this BAA and (i) if feasible, return to Covered Entity or destroy all PHI that Company maintains in any form and retain no copies of such PHI, or (ii) if return or destruction is not feasible, notify Covered Entity and extend the protections of this BAA to the PHI and limit its further use or disclosure to those purposes that make the return or destruction of the PHI infeasible. The requirements of this section shall survive termination or expiration of this BAA and shall be in force as long as any PHI remains in the custody or control of Company.

17. Miscellaneous.

17.1 Amendments. This BAA may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representatives of the parties; provided, however, that upon the enactment of any law or regulation affecting the use or disclosure of PHI, or on the publication of any decision of a court of competent jurisdiction relating to any such law, or the publication of any interpretive policy or opinion of any governmental agency charged with the enforcement of any such law or regulation, the parties agree that any modification now or hereafter required to be included in this BAA to comply therewith shall be binding upon and enforceable against the parties and be deemed incorporated herein irrespective of whether or not such provisions are expressly set forth in this BAA.

17.2 Notices. Notices and reports given under this BAA shall be in writing and sent to Company at Attn: Privacy Officer, 1600 Division Rd, Suite 2000, West Warwick, RI 02893 Such notices shall be deemed delivered (i) when personally delivered, (ii) on the second business day after deposit, properly addressed and postage pre-paid, when sent by certified or registered U.S. mail to the address provided herein, or (iii) on the next business day when sent with next-business-day instruction by recognized overnight document delivery service to the address provided herein.

17.3 Governing Law. This BAA shall be governed and construed under the laws of the state that governs the Agreement, other than its conflicts of laws principles.


17.4 Waiver. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of, any right or remedy as to subsequent events.

17.5 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 parties and the respective successors or assigns of the parties, any rights, remedies, obligations, or liabilities whatsoever.

17.6 Interpretation. In the event of an inconsistency between the provisions of this BAA and mandatory provisions of HIPAA, as amended, or its interpretation by any court or regulatory agency with authority over either party hereto, HIPAA (interpreted by such court or agency, if applicable) shall control. Where provisions of this BAA are different from those mandated under HIPAA, but are nonetheless permitted by such rules as interpreted by relevant courts or agencies, the provisions of this BAA shall control.

17.7 Counterparts. This BAA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one and the same instrument. Such counterparts may be delivered in faxed or scanned electronic form, and each shall be deemed an original.

CARE

By: 

Print: Ben Scharfe

Title: Director of Customer Support

EXHIBIT B

Third Party Materials

Microsoft Azure

Customer agrees that the additional terms set out in Microsoft's Online Service Terms, available at <https://www.microsoft.com/en-us/licensing/product-licensing/products> (the "OST"), apply to Customer's use of the Services and sets out the parties obligations with respect to processing and security of Data and Personal Information in connection with Customer's use of the Services and to the processing and security of Support Data and Personal Information in connection with the provision of any support services related to the Services. The OST may be changed from time to time. Customer should review such document carefully, both at time of acceptance of this Agreement and periodically thereafter, and fully understand all terms and conditions applicable to the Services.

Information regarding Microsoft Azure's data residency and transfer policies is available at the following link: www.microsoft.com/en-us/trustcenter/privacy/where-your-data-is-located.

Details regarding the security measures and practices are available at the following link: <https://azure.microsoft.com/en-us/overview/security/>.

An overview of how encryption is used in Microsoft Azure (for data at rest and data in transit) is available at the following link: <https://docs.microsoft.com/en-us/azure/security/security-azure-encryption-overview>.

The foregoing information, including the links to such information, may be changed from time to time therefore Customer is encouraged to review such information periodically.

CoverMyMeds Terms of Service

In using CoverMyMeds services (real time patient benefits & electronic prior authorization), User agrees to the following:

Definitions:

- (a) "**Client**" means a healthcare system, or physician practice that has contracted, directly or indirectly, with EHR Vendor to receive EHR Vendor Services.
- (b) "**Client Authorized User**" means employees of a Client who are authorized prescribers, or are authorized to act under the direction of a prescriber, and are authorized by Client to use products provided by EHR Vendor.

Terms:

- (a) Client and each Client Authorized User will only submit data pursuant to a valid prescription request and not for any other purpose (including test transactions) where: (i) each Client Authorized User has obtained all consents or authorizations necessary to submit such data; (ii) the patient indicates an intent to use a prescription benefit to pay for the prescription at issue; and (iii) Client and each Client Authorized User has the authority to authorize CoverMyMeds to provide any data submitted to the CoverMyMeds API by Client and any Client Authorized User for use in connection with services provided in connection with this SOW and authorizes CoverMyMeds (and RelayHealth) to use and process such information to provide such services;
- (b) Each Client Authorized User has the appropriate medical credentials and licenses required to prescribe the prescription drugs that are the subject of any transaction submitted by a Client Authorized User to Indicator Service;
- (c) Information provided through Indicator Service is not a guarantee of the amount of a patient's out-of-pocket cost for a prescription product. By way of example only, out-of-pocket cost information may be affected by the pharmacy location selected or if the available pharmacy benefits information is incomplete;
- (d) Patient payment amount information provided through Indicator Service may be for the generic equivalent of the prescribed product where a physician did not indicate a brand name product was medically necessary;
- (e) Clients or Client Authorized Users that are health systems or prescribers will not receive any payment or other remuneration for using Indicator Service;
- (f) Transactions that Client and/or Client Authorized User receives or sends through an API to CoverMyMeds and the data received from CoverMyMeds will be used exclusively to facilitate the functioning of the Indicator Service as contemplated by this SOW and the applicable Documentation and will not be used in combination with any other product or service, including without limitation any analytics or to comparison shop pharmacy prices;
- (g) Client will integrate with the Indicator Service API to automatically send transactions to Indicator Service during the prescription writing process with all required data for Client's total transaction volume for all transactions Client submits directly or through a third party for benefits information prior to submission of a prescription for fill;
- (h) In order to enhance Client Authorized User experience, Client Authorized Users will make good faith efforts to send transactions through CoverMyMeds identifying the patient selected pharmacy for each transaction submitted each month. Client acknowledges that noncompliance with this requirement may result in suspension or termination of its access to Indicator Service;
- (i) Client and Client Authorized Users authorize CoverMyMeds to authorize RelayHealth to use data provided by Client and/or Client Authorized Users to match and identify patient benefit information when not available or accurate in the inbound inquiry and update insurance benefit information associated with such submitted inquiry and for providing information regarding medications in the same therapeutic class as the drug listed in an inquiry as relevant to a patient's benefit information;
- (j) Client and Client Authorized User will include the provisions outlined in this Terms and Conditions Section in its agreements for the Indicator Service access through Client and will include a confidentiality provision that: (i) states that Indicator Service Specifications, workflows and concepts related to the Indicator Service, and any written materials marked as confidential by CoverMyMeds or RelayHealth are accordingly CoverMyMeds or RelayHealth's Confidential Information; (ii) imposes a duty of confidentiality with respect to CoverMyMeds or RelayHealth Confidential Information; (iii) expressly prohibits Clients and Client Authorized Users from using CoverMyMeds and/or RelayHealth Confidential Information for any purpose other than accessing the Indicator Service; and (iv) expressly prohibits Clients and Client Authorized Users from disclosing CoverMyMeds and/or RelayHealth Confidential Information to a third party;
- (k) Client will provide CoverMyMeds with a list of such Client Authorized Users and individual users that have access and all appropriate information (for example, a list of active NPI numbers authorized to utilize the service) upon receipt of a written request from CoverMyMeds for purposes of verifying appropriate use of the CoverMyMeds Services or response data or investigation or regulatory or misuse concerns.
- (l) CoverMyMeds and/or RelayHealth may use feedback regarding the Indicator Service provided by Client and/or Client Authorized Users to CoverMyMeds or RelayHealth in related case studies, trade show presentations and other promotional materials regarding; provided, however, CoverMyMeds and RelayHealth will not identify specific individuals or entities that submit feedback without prior written consent.