MASTER SUBSCRIPTION AGREEMENT FOR AWS MARKETPLACE (applicable to U.S. Customers only)

("MSA")

This MSA is made and entered into by and between **Aidoc, Inc**., a Delaware Corporation, with its principal place of business at 5184 S Pearl PL, Chandler, AZ 85249 ("**Company**"), and the customer indicated in the signature block of the Order Form ("**Customer**"). Each of Company and Customer shall be individually referred to herein as a "**Party**", and collectively as the "**Parties**". This MSA is effective as of the last date both Parties have executed an Order Form ("**Effective Date**").

Limited applicability to U.S Customers. This MSA applies only to Customers whose principal place of business and Licensed Sites are in the United States and who purchase a subscription to the Software and Services via AWS Marketplace. Other customers are asked to contact the Company for information about their subscription purchase options and the subscription agreement applicable in their specific country and region.

Exhibits attached and incorporated herein by reference:

a. Exhibit A: *Definitions*
b. Exhibit B: *Service Level Agreement*
c. Exhibit C: Business Associate Agreement

1. PURPOSE AND PRECEDENCE

This MSA applies to the provision of the Software and Services by Company to Customer, as shall be described in detail in any Order Form signed by the Parties that references this MSA. All Order Forms, together with this MSA, shall collectively constitute the "**Agreement**". In the event of a conflict between this MSA and an Order Form, this MSA shall control, unless explicitly stated otherwise in the applicable Order Form, and in that case the conflicting terms and conditions in such Order Form would apply to that Order Form. For the avoidance of doubt, the signing of an Order Form by both the Company and the Customer is a condition precedent to the provision of the Software and Services ordered via the AWS Marketplace.

2. GRANT OF RIGHTS

2.1. **Use of Software and Services.** Subject to the terms and conditions set forth in the Agreement and timely payment of the Fees, as well as execution of Order Forms, Company shall grant Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable right to enable only its Authorized Users in the Permitted Facilities to access and use the Software and Services, during the Subscription Term set forth in the applicable Order Form and within the scope of the Subscription and Entitlements granted to Customer under the applicable Order Form, provided that in each case such use and access is in a manner commensurate with the intended use of the Software and Services as prescribed by the Agreement, Order Form and applicable documentation provided by Company, and solely for the internal business purposes of Customer and not for the benefit of any third party healthcare facility.

2.2. **Reservation of Rights.** Other than the limited rights explicitly granted under the Agreement, Customer shall have no other rights, express or implied, in the Software and/or Services, or any Company Materials (as defined below), and Company reserves all such rights. Nothing in the Agreement constitutes a waiver of Company's Intellectual Property Rights under any law.

3. SCOPE AND USE OF SOFTWARE AND SERVICES

3.1. **Subscription and Entitlements.** Customer shall be entitled to utilize the Software and Services on a Subscription-basis, solely within the scope of the Subscription, which includes the Entitlements, set forth in the Order Form(s). If Customer exceeds

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any Entitlement for two (2) consecutive months during the applicable Subscription Term, Customer will be charged for the Company-calculated monthly overages in exploitation of Entitlements for such period and will thereafter be automatically moved to and billed at the next-higher Entitlement tier according to pricing established by Company for the remainder of the Subscription Term. Company may suspend Customer's access to the Software and/or Services without liability to Customer until payment is made for the Company-calculated monthly overages in the exploitation of Entitlements. Entitlements cannot be decreased during the applicable Subscription Term.

3.2. **Subscription Expansion.** Customer may, at any time during the applicable Subscription Term, extend the Subscription's scope by purchasing additional products and/or functionalities offered by Company or increasing the Entitlements in the Subscription, subject to execution of a written addendum/amendment to the Order Form or an alternative Order Form, at a price to be determined and specified in that addendum/amendment or alternative Order Form (prorated for the portion of the Subscription Term remaining at the time the Subscription is extended).

3.3. **Usage Limits**

3.3.1. **Usage Restrictions**. Customer shall not, and shall not allow any third party (including without limitation its Authorized Users) to: (a) distribute, modify, translate, create derivative works of, or reproduce, the Software and/or Services; (b) decompile, reverse engineer or disassemble the Software and/or Services and/or any part thereof; (c) remove, obscure or alter any of Company's and/or its licensors' Marks, copyright notices or other proprietary notices from the Software; (d) disclose to a third party the results of any internal performance testing or benchmarking studies of, or about, the Software and/or Services; (e) develop any products, modules, add-ons or other applications, features or functionality based upon or otherwise utilizing, or create any derivative work of, the Software and/or Services and/or any part thereof; (f) use the Software and/or Services to transmit information or material in violation of third party rights (including without limitation privacy rights or Intellectual Property Rights); (g) use the Software and/or Services for malicious or illegal purposes, or otherwise in violation of applicable laws or regulations; (h) attempt to breach the security of the Software and/or Services, circumvent, disable or otherwise interfere with security-related features of the Software and/or Services, perform any form of hacking of the Software and/or Services, or attack the Software or Services in any way whatsoever; (i) interfere with, circumvent, manipulate, impair or disrupt the operation, integrity, performance and/or functionality of Software and/or Services; (j) use the Software and Services other than as permitted in the Agreement, work around or circumvent any technical limitations in Software and/or Services or enable features or functionalities of the Software and/or Services that are otherwise disabled or inaccessible; and/or (k) take any action that would, or that would be reasonably likely to, subject the Software to any freeware, open source or similar licensing or distribution models, including through linking to the Software.

3.3.2. **Assigning Authorized Users**. The Software and Services may be used only by the specific Authorized Users assigned by Customer to use the Software and Services. Customer shall not assign or allow anyone other than the Authorized Users to use the Software or Services, or any components thereof. Customer hereby acknowledges and agrees that: (i) the login credentials of each Authorized User are personal, may only be used by the specific Authorized User to which they were assigned, and may not be shared with any other individual (including other Authorized Users); and (ii) except as set forth in the applicable Order Form(s), a Licensed Physician User's identification may only be reassigned by Customer to a new Licensed Physician User replacing the one who will no longer use the Software and Services. Customer shall not allow any Authorized User to use the Software or Services for the Authorized User's own personal use or in any manner other than on behalf of Customer. Customer shall at all times be responsible for the acts and omissions of its Authorized Users with respect to the Software and Services, and any breach of the Agreement by an Authorized User shall be considered a breach by Customer. Customer shall at all times be responsible for: (a) ensuring its Authorized Users' compliance with the applicable terms of the Agreement, including, without limitation, the use restrictions set forth in Section 3.3.1 (*Usage Restrictions*) and confidentiality terms in Section 7 (Confidential Information); and (b) the acts and omissions of its Authorized Users with respect to the Software and Services. Any breach of this Agreement by an Authorized User shall be considered a breach by Customer. Customer will defend and indemnify Company from and against any claims brought by an Authorized User against Company or its Affiliates in connection with the Software or Services or otherwise in connection with the Agreement and will pay losses, damages, fees, fines and penalties finally awarded by a court of competent jurisdiction or agreed in a settlement in connection with such claims. Without derogating from the above, the Services may be used solely at Permitted Facilities.

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3.4. **Suspension or Modification for Regulatory Compliance**. Company may suspend or modify the Software or Services or any part thereof as may be required to comply with applicable law or regulatory guidance, or as Company may determine is necessary for regulatory purposes. Company will use commercially reasonable efforts to provide advance electronic notice prior to implementing any suspension or modification under this Section 3.4 (*Suspension or Modification for Regulatory Compliance*) which would materially alter the Software or Services, except that notice will not be required if it would cause Company to violate legal requirements.

3.5. **Temporary Suspension**. Company may temporarily suspend the Software or Services or any part thereof upon notice to Customer in the event that (a) Customer is in breach of the Agreement; (b) Customer's use of the Software or Services poses a security risk; or (c) If any charge payable by Customer pursuant to the Agreement is thirty (30) days or more overdue. Any such suspension under this Section 3.5 (*Temporary Suspension*) will only last as long as the issue giving rise to the suspension persists (i.e., for the duration of the security risk, breach or non-payment). Any suspension hereunder shall be without limitation to any other rights or remedies available to Company.

3.6. **Support, Maintenance and Additional Services**. Company will provide support, maintenance and additional Services in accordance with the service level agreement attached as **Exhibit B** to the Agreement.

3.7. **Clinical Data**. The Software is provided primarily by means of SaaS. Clinical Data (including, without limitation, the applicable collection of images or related objects belonging to one particular examination of one particular patient, all having the same Study Instance Unique Identifier (as defined in the Digital Imaging and Communications in Medicine standard ("**DICOM**"), in the case of DICOM images or objects, or an equivalent unique identifier for non-DICOM images or objects) will be routed to the designated server provided by Customer and located in Customer's premises ("**Server**"). Company will install on the Server and apply on the Clinical Data its proprietary de-identification software, which will cause Clinical Data and any performance and usage data to be de-identified in accordance with HIPAA (all together, "**Production Data**"). Production Data will be transferred to Company's Analysis Cloud Server for analysis and sent back to the applicable physician workstations and/or mobile application for reidentification, computer aided triage, and notification of suspected critical findings, or for quantification or quality purposes. In addition, an alert management software could be installed on the computers of any medical staff members using the Software. The Software and Services may include products and functionalities related or supplement to the above, as agreed by the Parties.

4. CUSTOMER RESPONSIBILITIES

Customer acknowledges and agrees that the allocation of a Server on Customer's premises, permitting the secure remote access of Company, its Affiliates and their licensors to the Server and ensuring the data feeds to the Server, including but not limited to order and results from radiology, laboratory, and nursing, are conditions precedent to the provision of the Software and Services. Customer will: (a) secure and provide to Company and its Affiliates all rights, licenses and authorizations required to access and use the Server, Clinical Data and resources (including without limitation its computer and communications networks, personnel, workspace, equipment and facilities), and ensure the cooperation and performance of its employees and contractors, as necessary to enable Company to receive and generate all data and information and perform all activities required to provide the Software and Services in accordance with the Agreement; (b) remain responsible for its Authorized Users' compliance with the Agreement in accordance with Section 3.3.2 (*Assigning Authorized Users*); (c) remain responsible for the accuracy, quality and legality of Clinical Data, the means by which Customer acquired Clinical Data and its transfer to Company; (d) use commercially reasonable efforts to prevent unauthorized access to or use of Software and Services, and notify Company promptly of any such unauthorized access or use thereto/of; (e) use the Software and Services only in accordance with the Agreement and applicable laws and government regulations; (f) as between the Parties, remain responsible for Customer's Applications as provided in Section 5 (*Customer's Applications*) below and comply with any technical requirements provided by Company to allow the integration and interoperability, and ensure non-interference, of Customer's Application with the Software and Services; (g) regularly update the Server with operating system patches and best industry standard anti-virus tools; (h) remain responsible for ensuring that the network hosted by the Server has intrusion detection and intrusion protection solutions; (i) take commercially reasonable efforts to protect its Server from any hackers, intruders or any other unauthorized access, including without limitation, any and all actions by its mobile application users, and apply a security policy which shall include any and all required infrastructure, network, firewall settings, and security controls; (j) use reasonable efforts to promptly inform Company of any breaches, intrusions, hacking and/or security incidents on its network or server; and (k) remain responsible for the operation, security and maintenance of the Server and of its applications and information technology environment in which the Server is located and in which the Services are performed, and for protecting and backing up its systems, networks, applications, content, and data used in connection with the Software and Services. If Company's mobile application is provided as part of the Software and Services, Customer hereby agrees

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that: (A) it will not consider Company to be in breach of any of its obligations under the Agreement by reason of providing the mobile application, only where such obligations are not compatible with features or functionalities of the mobile application, including, without limitation, any privacy and security related documents and/or other instruction provided to Company; and (B) it will be solely responsible for its Authorized Users and any other third party accessing and using the mobile application and it will remain responsible for ensuring that all of its Authorized Users of the mobile application protect their accounts and devices.

5. CUSTOMER'S APPLICATIONS

Customer acknowledges that it may be able to view, access, link to, and/or use third-party software and/or services used by Customer which were not provided by Company (collectively, "**Customer's Application(s)**") via the Software and/or Services, including without limitation, by way of integration with the Software and/or Services. For the avoidance of doubt, once Customer requests Company to enable and allow the connection or integration with a Customer's Application, or access to such Customer's Application, it is hereby agreed such action and/or request is Customer's instruction under the Agreement to do so. Customer hereby agrees and acknowledges that: (a) Customer is solely responsible and liable for receiving all the required approvals for allowing interaction and integration of the Software and/or Services with Customer's Applications, including without limitation by executing the relevant contractual documents to this effect; (b) Company has no control over Customer's Applications; (c) Company does not assume any responsibility for the content, terms of use, policies, actions or practices of any Customer's Applications, or for Customer's use thereof, including, without limitation, any use and/or processing of data by Customer's Applications; (d) Company expressly disclaims all warranties regarding, the accuracy, appropriateness, usefulness, safety, or non-infringement of, or relating to, Customer's Applications; and (e) Customer hereby waives any legal or equitable rights or remedies regarding the foregoing.

6. FEES AND PAYMENT

6.1. **Fees.** In consideration for the provision of the Software and Services, Customer will pay all Fees specified in the applicable Order Form(s). Fees are exclusive of any direct or indirect taxes, levies, customs, duties, and any other payment imposed in any jurisdiction whatsoever. Notwithstanding anything in the Agreement to the contrary, all payment obligations under the Agreement are non-cancelable and Fees paid are non-refundable.

6.2. **Invoicing and Payment.** Unless otherwise set forth in the applicable Order Form, Fees will be invoiced at the commencement of the Subscription Term, and Annual Subscription Fees shall be invoiced at the beginning of each Subscription Year. Unless otherwise stated in the applicable Order Form, Fees are due NET thirty (30) days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Company and notifying Company of any changes to billing and invoicing information. All invoices are payable in US Dollars without any deductions, offsets, or withholdings. Banking charges (e.g., wire transfer fees) and any VAT and other applicable tax payments (e.g., withholding tax) incurred in connection with a payment made by Customer shall be added to the Fees and paid by Customer so that the actual amount received by Company shall be the total Fees amount. Customer's payment obligations are a covenant which is independent of other covenants in the Agreement. Customer shall not offset or reduce any payments due by it to Company.

6.3. **Overdue Charges.** Any invoice that has not been timely paid in accordance with the Agreement shall bear interest at an annual rate of 1.5% per month or the maximum rate permitted by applicable law, whichever is lower. In addition, Customer shall pay all expenses incurred by Company in connection with the collection of any late payments including, but not limited to, legal fees and expenses.

6.4. **Escalation.** The Parties agree that annual Fees through the Subscription Term shall be subject to an annual escalation rate per Subscription Year equivalent to the lower of the Employment Cost Index or 3.5% on the anniversary date of the Agreement unless otherwise specified in the Order Form.

6.5. **Future Functionality.** Customer agrees that Fees are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Company regarding future functionality or features, other than those functionalities and features explicitly set forth in the Order Form(s).

7. CONFIDENTIAL INFORMATION

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7.1. The Receiving Party shall: (a) retain the Disclosing Party's Confidential Information in strict confidence and use its best efforts to protect the Disclosing Party's Confidential Information from unauthorized use, access or disclosure in the same or a similar manner as the Receiving Party protects its own confidential or proprietary information of a similar nature, and in any event with no less than reasonable care; (b) not disclose any Confidential Information of the Disclosing Party to any third party, except to its employees, contractors, licensors and consultants with a need to know in connection with the provision, performance and use of the Software and/or Services, the Agreement and/or the Order Form and which are bound by confidentiality agreements which are at least as protective as the terms set forth in this Section 7 (*Confidential Information*); and (c) not use the Confidential Information for any purpose other than for the receipt, provision, performance and/or use of the Software and/or Services, to comply with its obligations under the Agreement and/or for the administration and management of the Agreement, and in compliance with the Agreement.

7.2. All documents and data provided by or obtained from Customer are deemed to be and shall remain Customer's Confidential Information, excluding Production Data. All documents, data and information provided by or obtained from Company or created as a result of the Agreement, including without limitation any information related to the Software and Services as well as the content and commercial terms of the Agreement (including all Order Forms), are deemed and shall remain Company's and/or its licensors' Confidential Information. At the request of the Disclosing Party, and/or upon the termination or expiration of the Agreement, the Receiving Party shall return to the Disclosing Party all of Disclosing Party's Confidential Information, provided only that the Receiving Party may retain copies of the Disclosing Party's Confidential Information only to the extent: (i) required to comply with applicable laws or regulation; (ii) required by Receiving Party's internal record keeping policies; and/or (iii) retained by the Receiving Party's automatic electronic back-up systems, provided that any such retained Confidential Information shall remain subject to the confidentiality terms of this MSA for so long as it is retained. Without limitation, Company may retain audit logs pertaining to Customer's use of the Software in accordance with the preceding sentence.

7.3. The Receiving Party hereby acknowledges that unauthorized disclosure or use of Confidential Information could cause irreparable harm and significant injury to the Disclosing Party that may be difficult to ascertain. Accordingly, the Receiving Party agrees that the Disclosing Party, without prejudice to any other right or remedy that it may have available to it at law or in equity, will have the right to seek and obtain immediate injunctive relief to enforce obligations under the Agreement, without the necessity of proving actual damages and without the necessity of posting bond or making any undertaking in connection therewith.

7.4. Notwithstanding anything herein to the contrary, Receiving Party may disclose Confidential Information pursuant to an order of a court of competent jurisdiction or as otherwise required by law. In such event, Receiving Party will, if reasonably possible under the circumstance of such disclosure, provide Disclosing Party with reasonable advance notice of such disclosure to afford Disclosing Party an opportunity to take legal action to prevent or limit the scope of such disclosure, will cooperate with Disclosing Party in connection therewith and will disclose such Confidential Information only to those parties it is required or compelled to.

7.5. The restrictions and obligations set forth in this Section 7 (*Confidential Information*) shall survive and remain in effect for a period of five (5) years after expiration or termination of the Agreement.

8. INTELLECTUAL PROPERTY RIGHTS

8.1. Company and its Affiliates and their respective licensors own and retain all right, title and interest (including all Intellectual Property Rights) in: (a) the Software and Services (and related documentation) and any updates, upgrades, modifications, improvements, enhancements, new versions, new releases, corrections (e.g. error corrections, patches and bug fixes), translations and derivative works of or to any of the foregoing; (b) all software, infrastructure, modules, methods, technology, tools, techniques and know how developed by or on behalf of Company its Affiliates and/or their licensors and used in connection with or for the purposes of providing the Software and/or performing Services hereunder; (c) Company's and its licensors' Marks; (d) any know-how learned or obtained by Company, its Affiliates and/or their contractors and licensors during the course of providing the Software or Services; (e) all feedback, including all suggestions, comments, ideas or other information related to the Software and/or the Services, provided by Customer to Company (provided that Customer is under no obligation to provide such feedback); (f) Production Data; (g) any enhancements, derivative works and modifications to any of the foregoing; and (h) and any and all other information, data, documents, materials works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Company

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and its Affiliates in connection with the Software or Services or otherwise comprise or relate to the Software or Services, including all proprietary and Intellectual Property Rights therein ((a) – (h) are collectively referred to as "**Company Materials**"). Nothing in the Agreement shall constitute or be considered as constituting a transfer or sale or any similar action of any of Company's Intellectual Property Rights or any part thereof or any other Company Materials.

8.2. Customer owns and retains all right, title and interest (including all Intellectual Property Rights) in: (a) Customer's Marks; (b) Customer's pre-existing Intellectual Property Rights as of the Effective Date; (c) Clinical Data; and (d) any enhancements and/or modifications thereto which exist independently of and without reference to Company Materials. Notwithstanding the foregoing, Company and its Affiliates may, and/or may allow their contractors or licensors to, modify, share, monitor, collect, process, use and store Production Data for the purpose of providing, maintaining, supporting and analyzing the usage and performance of the Software and Services, providing analytics to Customer and further developing software and services. Company agrees that Production Data shall not contain PHI and shall not be distributed or otherwise conveyed to any third party in a context that identifies any patient's identity.

8.3. Portions of the Software may include third-party open-source software and other free software that are subject to third-party terms and conditions ("**Third Party Terms**"). If there is a conflict between any Third Party Terms and the terms of the Agreement, then the Third Party Terms shall prevail but solely in connection with the related third-party open-source software. Notwithstanding anything in the Agreement to the contrary, Company makes no warranty or indemnity hereunder with respect to any third-party open-source software.

9. RESEARCH

The Software and Services may be used for Customer research and publications. Customer will notify Company thirty (30) days prior to submitting for publication any manuscripts developed using the Services. If applicable, upon Company's request, Customer shall remove Company's Confidential Information and Intellectual Property Rights from the publication.

10. INDEMNIFICATION

10.1. Company will defend Customer from and against all claims brought against Customer to the extent based on a third party claim that the Software licensed by Customer infringes such third party's trade secrets, patents or copyrights (a "**Claim**"), and pay damages, fees, fines, and penalties finally awarded by a court of competent jurisdiction or agreed in a settlement in connection with such Claims. Company has no obligation or liability under this Section 10 (*Indemnification*) with respect to any Claim which is based upon or results from: (a) the combination of any Software with any equipment or software not furnished by Company (except for the Server); (b) any unauthorized modification or use of the Software; or (c) failure or error related to the Server.

10.2. In the event of a Claim, Customer, as a condition for Company's indemnification obligation, must: (a) give prompt written notice to Company; (b) give Company exclusive control of the defense and settlement of such Claim, provided that Customer may participate in the process with its own counsel at its expense and further provided that Company not enter into any settlement or compromise of any such Claim without Customer's prior written consent (at Customer's sole and absolute discretion); and (c) provide all reasonable assistance to Company (provided that Company reimburses Customer for its reasonable out-of-pocket expenses incurred in providing such assistance).

10.3. Should the Software become, or in Company's opinion be likely to become, the subject of any Claim or infringement of a third party's Intellectual Property Rights, then Company may, at Company's option and expense, either: (a) procure for Customer the right to continue using such Software; (b) replace or modify it so that it becomes non-infringing; or (c) if neither option is commercially reasonable, in Company's reasonable business judgment, terminate the Agreement, require Customer to return or cease using the Software and Services and refund Customer on a pro-rata basis for Fees paid in advance for the Software and Services for any future Subscription Term. Without derogating from Company's defense and indemnification obligations above, this Section 10 (*Indemnification*) states the entire liability of Company with respect to any Claim, and Company shall have no additional liability hereunder or otherwise with respect to any alleged or proven infringement.

11. LIMITED WARRANTIES

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11.1. Each Party represents and warrants to the other Party that: (a) it has the right to enter into the Agreement and perform its obligations hereunder in the manner contemplated by the Agreement; (b) the Agreement does not conflict with any other agreement entered into by it; (c) in the performance of its obligations hereunder, it will comply with all applicable laws, regulations and ordinances; and (d) it has obtained all licenses, authorizations, approvals, consents and/or permits required to perform its obligations or utilize the rights granted under the Agreement and for the use of any Software or Services provided by Company as contemplated under the Agreement.

11.2. Company represents and warrants that the Software shall, during the applicable Subscription Term, substantially meet the specifications therefor set forth in the Agreement. Customer represents, covenants and warrants to Company that: (a) in the performance of its obligations hereunder, it will comply with all applicable laws, regulations and ordinances, including, privacy and security laws; (b) it has obtained all licenses, authorizations, approvals, consents and permits required to perform its obligations under the Agreement, including, to provide all appropriate notices and/or obtain all required informed consents and permissions to provide the Clinical Data and any other personally identifiable data provided by Customer in connection with the Services (including that of its Authorized Users), and to allow Company and its licensors to use and process such information as permitted under the Agreement and/or as needed to facilitate and enable the provision of the Software and Services; and (c) Customer will procure and maintain any and all ongoing legal bases for allowing Company and its Affiliates to collect, use, and process the personal data in accordance with the Agreement.

12. DISCLAIMER AND LIABILITY

12.1. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 11 (*LIMITED WARRANTIES*), THE SOFTWARE AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY, ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. NEITHER COMPANY, NOR ITS AFFILIATES NOR THEIR RESPECTIVE LICENSORS SHALL BE RESPONSIBLE FOR ANY WARRANTIES AND REPRESENTATIONS MADE BY ANY PARTNER TO CUSTOMER, AND SUCH WARRANTIES AND REPRESENTATIONS ARE THE SOLE RESPONSIBILITY OF SUCH PARTNER.

12.2. NEITHER COMPANY, NOR ITS AFFILIATES NOR THEIR RESPECTIVE LICENSORS SHALL BE LIABLE FOR, OR SHALL HAVE OBLIGATION TO REMEDY, ANY DEFECTS CAUSED DUE OR CONTRIBUTED TO ONE OR MORE OF THE FOLLOWING: (a) ALTERATIONS, ENHANCEMENTS OR REPAIRS OF THE SOFTWARE BY ANY PERSON OR ENTITY OTHER THAN COMPANY, ITS AFFILIATES, AND THEIR RESPECTIVE LICENSORS; (b) MISHANDLING, ABUSE, OR MISUSE OF THE SOFTWARE, INCLUDING IN ANY MANNER WHICH IS NOT IN ACCORDANCE WITH THE APPLICABLE DOCUMENTATION PROVIDED BY COMPANY OR THE AGREEMENT; (c) TECHNICAL PROBLEMS OF THE INTERNET (INCLUDING WITHOUT LIMITATION SLOW INTERNET CONNECTIONS OR OUTAGES); (d) ANY ISSUE THAT IS ATTRIBUTABLE TO CUSTOMER'S HARDWARE (INCLUDING, WITHOUT LIMITATION, THE SERVER) OR SOFTWARE OR CUSTOMER'S INTERNET OR DATA SERVICE PROVIDER; (e) ANY FORCE MAJEURE EVENT; OR (f) DOWN-TIME, ERRORS OR ANY OTHER DAMAGES CAUSED DUE TO TECHNICAL ERRORS CAUSED BY CUSTOMER (INCLUDING WITHOUT LIMITATION, SERVER-RELATED ISSUES).

12.3. NEITHER COMPANY, NOR ITS AFFILIATES NOR THEIR RESPECTIVE LICENSORS OFFER ANY WARRANTY OR MAKE ANY REPRESENTATIONS REGARDING ANY CONTENT, REPORTS, INFORMATION AND/OR RESULTS THAT CUSTOMER OBTAINS THROUGH THE USE OF THE SOFTWARE AND/OR SERVICES ("**RESULTS**") OR THAT THE RESULTS ARE COMPLETE OR ERROR-FREE. THE RESULTS DO NOT CONSTITUTE MEDICAL ADVICE AND CUSTOMER UNDERSTANDS THAT IT MUST DETERMINE FOR ITSELF ANY MEDICAL RESULTS OR FINDINGS. CUSTOMER'S USE OF AND RELIANCE UPON THE SOFTWARE AND/OR SERVICES AND/OR RESULTS IS ENTIRELY AT CUSTOMER'S SOLE DISCRETION AND RISK, AND NEITHER COMPANY, NOR ITS AFFILIATES NOR THEIR RESPECTIVE LICENSORS SHALL HAVE ANY LIABILITY WHATSOEVER TO CUSTOMER OR ANY THIRD PARTY IN CONNECTION WITH ANY OF THE FOREGOING. IN ADDITION, SERVICES MAY INCLUDE IMAGE ACQUISITION MONITORING SERVICE FOR FLAGGING SUSPECTED TECHNICAL INADEQUACY, INCLUDING SUSPECTED ARTIFACTS, SUBOPTIMAL BOLUS TIMING, OR AN INADEQUATE FIELD OF VIEW. SUCH FLAGGING DOES NOT CONSTITUTE A MEDICAL DIAGNOSIS, AND ONLY THE REVIEWING PHYSICIAN CAN DETERMINE THAT THE SUSPECTED FLAG CONTAINS A TECHNICAL INADEQUACY.

12.4. NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF THE CAUSE OF ACTION (WHETHER BASED ON CONTRACT, TORT, EQUITY OR ANY OTHER THEORY OF LIABILITY WHATSOEVER), IN NO EVENT SHALL: (a) EXCEPT FOR COMPANY'S INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, THE TOTAL AGGREGATE LIABILITY OF COMPANY, ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS, ARISING OUT OF OR RELATING TO

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THE AGREEMENT, EXCEED THE AMOUNT ACTUALLY PAID TO COMPANY HEREUNDER DURING THE TWELVE (12) MONTHS PRECEDING THE BRINGING OF A CLAIM; (b) COMPANY, ITS AFFILIATES AND/OR THEIR RESPECTIVE LICENSORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, LOSSES, EXPENSES, OR FOR ANY LOSS OF DATA, REVENUE, PROFITS, BUSINESS, GOODWILL, REPUTATION, BUSINESS INTERRUPTION, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE, MALFUNCTION, FIRE, ELECTRICAL FAILURE OR SHORT CIRCUIT, OR OTHER INTANGIBLE LOSSES, THAT ARISE UNDER OR IN CONNECTION WITH THE AGREEMENT, OR THAT RESULTS FROM THE USE OF, OR THE INABILITY TO USE, THE SOFTWARE AND SERVICES, REGARDLESS OF THE NATURE OF THE CLAIM AND EVEN IF COMPANY, ITS AFFILIATES AND/OR THEIR RESPECTIVE LICENSORS HAVE BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. THE LIMITATIONS IN THIS SECTION 12.4 SHALL NOT APPLY TO: (i) COMPANY'S INDEMNIFICATION OBLIGATION UNDER SECTION 10 (*INDEMNIFICATION*); OR (ii) COMPANY'S WILLFUL MISCONDUCT.

12.5. COMPANY AND ITS AFFILIATES AND THEIR RESPECTIVE LICENSORS SHALL NOT BE LIABLE FOR ANY DIRECT OR INDIRECT DAMAGE, COMPENSATION OR LOSS, ARISING OUT OF OR IN CONNECTION WITH COMPANY'S MODIFICATION OR SUSPENSION OF THE SOFTWARE OR SERVICES PURSUANT TO SECTIONS 3.4 (*SUSPENSION OR MODIFICATION FOR REGULATORY COMPLIANCE*) OR 3.5 (*TEMPORARY SUSPENSION*) HEREOF, INCLUDING WITHOUT LIMITATION CUSTOMER'S INABILITY TO ACCESS OR USE THE SOFTWARE OR SERVICES AS A RESULT OF SUCH MODIFICATION OR SUSPENSION OR ANY NONCOMPLIANCE WITH THE SPECIFICATIONS.

12.6. Customer recognizes and agrees that the warranty disclaimers and liability limitations in this MSA, have been bargained for, form the basis of the Agreement, and will be considered and reflected in determining any amounts to be paid by Customer under any Order Form.

13.   TERM; TERMINATION

13.1. **Term.** This MSA shall become effective as of the Effective Date and will remain in force until terminated as permitted hereunder ("**Term**"). Each Order Form shall remain effective for the duration of the Subscription Term applicable to that Order Form.

13.2. **Termination.** Either Party may terminate the Agreement (including, for the avoidance of doubt, all Order Forms) immediately upon written notice if: (a) the other Party is in breach or default of any provision hereunder or any provision of an Order Form, which breach or default is not cured within 30 days of receipt of written notice from the non-breaching Party; or (b) the other Party becomes the subject of any proceeding under any bankruptcy, insolvency or liquidation law, whether domestic or foreign and whether voluntary or involuntary, unless dismissed within 60 days of commencement thereof. For the removal of doubt, unless otherwise set forth in the applicable Order Form, Subscriptions and Order Forms cannot be terminated or cancelled other than by termination of the Agreement according to this Section 13.2 (*Termination*).

13.3. **Renewal.** Following the initial subscription term indicated in the Order Form ("**Initial Subscription Term**"), the Order Form and Subscription thereunder will renew automatically for successive additional twelve (12) month periods (each, a "**Renewal Period**"), unless a Party notifies the other Party of its intent not to renew in writing at least thirty (30) days prior to the end of the Initial Subscription Term or the then-current Renewal Period.

13.4. **Consequences of Termination.** Upon termination and/or expiration of the Agreement, all rights granted by Company to Customer under the Agreement shall terminate, the Subscription Term will end and Customer shall: (a) promptly pay to Company any amounts due and owing to Company in relation to any Software provided and Services performed by Company prior to the date of such termination; (b) cease all use of the Services and the Software; and (c) promptly delete the Software and all data stored on the Server. The following Sections shall survive the expiration or termination of the Agreement: 6 (*Fees And Payment*), 7 (*Confidential Information*), 8 (*Intellectual Property Rights*), 12 (*Disclaimer and Liability*), 13.4 (*Consequences of Termination*) and 15 (*Miscellaneous*).

14.   PUBLICITY

Company and Customer may release a mutually agreed upon press release, in a form agreed upon by the Parties, to announce their cooperation hereunder. Notwithstanding the foregoing, Company may include Customer's name and logo, and refer to Customer as a client of Company, in Company's website, social media channels and marketing materials.

15.   BUSINESS ASSOCIATE AGREEMENT

15.1. Concurrently with the execution of the Order Form, the Parties will enter into the Business Associate Agreement attached hereto as Exhibit C.

16.   MISCELLANEOUS

16.1. **Entire Agreement.** The Agreement, together with its exhibits, contains the entire agreement between the Parties with respect to the matters covered herein. The Agreement may be amended or modified only by a written instrument duly executed by the Parties. For the avoidance of doubt, any pre-printed provisions on Customer's purchase orders or other terms referenced from Customer's purchase orders shall not apply and have no force or effect. Acknowledgment (whether express or implied) by Company of Customer's purchase orders which contain additional, different, or conflicting terms and conditions shall not constitute acceptance of such terms and conditions by Company. Notwithstanding anything to the contrary, in the event of a conflict, discrepancy or contradiction between the terms of the Agreement and any other agreements between the Parties as pertaining the subject matter of the Agreement, the terms of the Agreement shall prevail.

16.2. **Severability.** If any provision of the Agreement is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, in order to achieve the intent of the Parties to the fullest extent possible. In any event, all other provisions of the Agreement shall remain valid and enforceable to the fullest extent possible.

16.3. **Waiver.** No failure or delay by either Party to exercise or enforce any right, power or remedy under the Agreement shall be deemed a waiver of any such right, power or remedy or of any other right, power or remedy under the Agreement.

16.4. **Notices.** Any notice or other communication made in connection with the Agreement shall be in writing and shall be either personally delivered or mailed by certified mail or emailed to the addresses set out in the Agreement or otherwise agreed mutually by the Parties. All notices shall be in writing and become effective when personally delivered, the next business day following sending an email, or five (5) days following sending certified mail. Such addresses may be changed, from time to time, by means of a notice given in the manner provided in this Section 15.4 (*Notices*).

16.5. **Assignment.** A Party may not assign or transfer, in whole or in part, or delegate all or any portion of its rights or obligations under the Agreement without the prior written consent of the other Party, except that Company may assign the Agreement without the need to obtain consent to its Affiliates, or to an entity into or with which it is merged, or which purchases all or substantially all the assets of Company. Any prohibited assignment shall be null and void.

16.6. **No Third Party Beneficiaries.** The Agreement shall be binding and inure solely to the benefit of the Parties (and their respective lawful successors and assigns). Unless stated otherwise, nothing in the Agreement is intended to or shall confer upon any third party any rights, benefits or remedies of any nature whatsoever under or by reason of the Agreement.

16.7. **Notice to U.S. Government Customers (if applicable).** For U.S. Government procurements, (i) Software is a "commercial" computer software as defined in FAR 12.212, and (ii) "commercial" software and documentation are also provided in accordance with DFARS 227.7202, "Rights in Commercial Computer Software or Commercial Computer Software Documentation", as applicable, and any successor regulations. Any use, reproduction release, performance, display, or disclosure of the Software or the applicable documentation by the U.S. Government must be in accordance with license rights and restrictions described in this MSA. Notwithstanding the foregoing, the U.S Government agrees that this software qualifies as "commercial" computer software within the meaning of the acquisition regulations applicable to this procurement. This MSA shall pertain to the U.S Government's use and disclosure of the Software and the applicable documentation, and shall supersede any conflicting contractual terms or conditions.

16.8. **Governing Law and Jurisdiction.** The Agreement shall be governed and construed in accordance with the law of the State of New York, without regard to conflict of law rules thereof. Any dispute, controversy, or claim arising out of, or in relation to, the Agreement (including, for the avoidance of doubt any Order Form), shall be settled amicably between the Parties. If the dispute cannot be resolved by the Parties amicably, the case shall be finally and exclusively submitted to any competent court located in the State of New York. Each Party irrevocably consents to the exclusive jurisdiction of such court and waives any objection it may have to any proceedings brought in any such court and claim that the proceedings have been brought in an inconvenient forum. To the fullest extent permitted by law, each of the parties hereto irrevocably waives all rights it

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may have to trial by jury in any action, suit, proceeding, or counterclaim arising out of or relating to the Agreement. Notwithstanding any other provision to the contrary, Company will always have the right, at its sole and absolute discretion, to file a claim or application for injunctive remedies against Customer, in the competent courts of the jurisdiction in which Customer's domicile is, according to the governing law in such jurisdiction, without reference to the other provisions in this Section 15.9 (*Governing Law and Jurisdiction*).

16.9. **Force Majeure.** If any performance (excluding payment obligations) under the Agreement by either Party is prevented, hindered, or delayed by reason of a Force Majeure Event, the Party so affected shall be excused from such performance to the extent that, and for so long as, performance is prevented, interrupted, or delayed thereby, provided that such Party so affected shall promptly notify the other Party of the occurrence of such event. If and when performance is resumed, all dates specified in the Agreement and/or in any purchase orders accepted pursuant to the Agreement shall be automatically adjusted to reflect the period of such prevention, interruption, or delay by reason of such Force Majeure Event.

EXHIBIT A

Definitions

Defined terms, as used in the Agreement and not elsewhere defined in the Agreement, shall have the meanings set forth in this Exhibit A.

1. "**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with a Party, where "**control**" means owning 50% or more of the voting securities of such entity or the ability to direct managerial decisions or board decisions of such entity.
2. "**Annual Subscription Fee**" means the total fees payable by Customer for each Subscription Year.
3. "**Authorized Users**" means specific employees or individual independent contractors of Customer, in each case who are designated, assigned and authorized by Customer to access and use the Software and Services in accordance with the access and use rights set forth in the Agreement.
4. "**AWS Marketplace**" means the software marketplace operated by Amazon Web Services, Inc. located at https://aws.amazon.com/marketplace/ as it may be updated from time to time.
5. "**Clinical Data**" means information, content and other data transmitted electronically from Customer to Company's AI Cloud included in the Software, including without limitation DICOM data, patient scans, reports and clinical data.
6. "**Confidential Information**" means all confidential, proprietary or non-public information disclosed by one Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**"), whether any of the foregoing is disclosed orally or in tangible form, excluding information which the Receiving Party can demonstrate by contemporaneous written evidence: (i) is already in the Receiving Party's possession at the time of disclosure of such Confidential Information; or (ii) is or later becomes available to the public other than as a result of disclosure by the Receiving Party; or (iii) is lawfully received by the Receiving Party from a third party authorized to make such disclosure and without restriction on use or disclosure; or (iv) the Receiving Party can demonstrate in its records to have independently developed, without breach of the Agreement and/or any use of the Confidential Information; or (v) is approved for release by prior written consent from the Disclosing Party.
7. "**Entitlements**" means the following Subscription metrics:
    i. "**Licensed Physician Users**" means Authorized Users who are credentialed physicians. For the avoidance of doubt, Licensed Physician Users shall not include any Authorized Users who are non-physician users, such as radiologic technologists, nurses, and systems administrators.
    ii. "**Licensed Site**" means a Permitted Facility which is a physical healthcare inpatient, acute care facility. For the avoidance of doubt, Licensed Sites will not include any other bespoke healthcare facilities owned or controlled by Customer, such as outpatient imaging facilities, and where Licensed Physician Users may be accessing or generating medical information data (images) with the Software and Services. For clarify, Customer may use the Software and Services in all Permitted Facilities.

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iii. "**Annual Image Volume**" means the total amount of DICOM formatted medical image studies generated for interpretation by Radiology and Cardiology departments of the Licensed Sites. When applicable, the Order Form shall set forth the maximum Annual Image Volume permitted to be transmitted via the Software and Services.

8. "**Fees**" means any fees payable under an Order Form or otherwise in connection with the Agreement, including without limitation, the Annual Subscription Fee and fees for increased Entitlements.

9. "**Intellectual Property Rights**" means all intangible legal rights, titles and interests evidenced by, embodied in, connected or related to: (i) all inventions, whether patentable or unpatentable and whether or not reduced to practice, all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissuances, continuations, continuations-in-part, revisions, extensions and re-examinations thereof; (ii) all trademarks, service marks, trade dress, logos, trade names, corporate names, domain names together with all translations, adaptations, derivations and combinations thereof, including all goodwill associated therewith, and all applications, registrations and renewals in connection therewith; (iii) any work of authorship, regardless of copyrightability, all compilations, all copyrightable works, all copyrights (including moral rights) and all applications, registrations and renewals in connection therewith; (iv) all mask works and all applications, registrations and renewals in connection therewith; (v) all trade secrets, Confidential Information and business information; (vi) all computer software (including data and related documentation), source code and any other related documentation; and (vii) all other proprietary rights, industrial rights and any other similar rights, in each case on a worldwide basis, and all copies and tangible embodiments thereof, or any part thereof, in whatever form or medium and in any and all applicable jurisdictions.

10. "**Marks**" means logos, trademarks and service marks.

11. "**Order Form**" means an order form in Company's standard format, quote, statement of work or other similar document that is entered into between Customer and Company or any of their Affiliates, specifying, *inter alia*, the Software and Services to be provided in accordance with the parameters, specifications, scope, and limitations defined thereunder, the Entitlements, the Subscription Term, the applicable Fees, and the payment terms, including any addenda and supplements thereto. For the avoidance of doubt, the execution of an Order Form by both the Company and the Customer is a condition precedent to the provision of the Software and Services.

12. "**Permitted Facilities**" means bespoke facilities owned or controlled by Customer, designated, assigned and authorized by Customer for use of Software and Services in accordance with the access and use rights set forth in the Agreement.

13. "**Force Majeure Event**" means (1) fire, flood, earthquake, explosion, pandemic or epidemic (or similar regional health crisis), or other act of God; (2) strikes, lockouts, picketing, concerted labor action, work stoppages, other labor disturbances, or shortages of materials or equipment, not the fault of either Party; (3) war (declared or undeclared), terrorism, riot, or civil commotion; (4) a change in legal requirements or regulatory guidance; (5) an act of governmental or quasi-governmental authorities; and/or (6) any other matter beyond the reasonable control of the affected Party.

14. "**Protected Health Information**" or "**PHI**" shall have the same meaning ascribed to the term at 45 CFR § 160.103.

15. "**Services**" means the Subscription-based services described in the Order Form and/or provided in connection with the Software described therein, such as maintenance, support, troubleshooting, additional services and professional services provided by Company to Customer under an Order Form or otherwise in connection with the Software.

16. "**Software**" means the proprietary software and platform of Company, its Affiliates and/or their third party licensors (including without limitation, where applicable, AI modules and software of Company's or its Affiliates' third party partners provided to Customer by Company), including their associated technology and underlying services and functionalities and any updates, revisions, upgrades and corrections (e.g. error corrections, patches and bug fixes) to the foregoing, and related documentation, as provided by Company to Customer. Without limitation to the foregoing, "Software" may include (to the extent provided in the Order Form) software installed on Customer's premises, any platform made available on a "Software-as-a-Service" (SaaS) basis, and mobile or web application(s).

17. "**Subscription**" means the limited right to access and use the Software and Services purchased by Customer from Company pursuant to an Order Form, in accordance with the specific products, parameters, specifications, scope and limitations defined in the Order Form.

18. "**Subscription Term**" means the Initial Subscription Term, together with any applicable Renewal Periods.

19. "**Subscription Year**" means a twelve (12)-month period commencing from the Subscription commencement date as set forth in the applicable Order Form and ending twelve (12) months thereafter and each consecutive twelve (12) months until the end of the Subscription Term.

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Service Level Agreement

This Exhibit B – Service Level Agreement ("**SLA**") is subject to and made a part of the attached MSA.

This document outlines the service levels to be provided in the delivery of Company Software.

1. **Service Scope**

1.1. Customer to provide Tier 1 IT support and escalate unsolved incidents to Company.

1.2. Company shall provide Customer with the following support and services related to Company Software:

    1.2.1. Manned telephone support.

    1.2.2. Monitored email support.

    1.2.3. Remote assistance using Remote Desktop and a Virtual Private Network when available.

    1.2.4. Planned or Emergency Onsite Assistance.

    1.2.5. Deployment of all Company Software updates applicable to the Algorithms for Clinical Use in accordance with the Order Form.

1.3. Customer shall provide all reasonably requested information to Company and grant full access to Customer's malfunctioning or testing systems at Company's request if it is technically possible and without derogating from Section 4 of the Agreement, Customer shall provide as much detailed information as possible to help Company resolve the problem.

1.4. Company shall provide Customer with an e-mail address and telephone number to which issues and urgent cases can be reported to.

2. **Service Management**

2.1. Company will provide to Customer the following general support:

    2.1.1. Telephone support during office hours. Calls received during out-of-office hours will be forwarded to a personal phone and reasonable efforts will be made to answer the call.

    2.1.2. Email support is available 24 hours, 7 days a week (24 x 7) basis.

    2.1.3. Proposed resolution / steps of investigation will be provided within 24 business hours of receipt.

    2.1.4. Resolution may take up to 7 working days to be submitted for release, except for issues related to Boundaries and Exclusions and Level 4 issues.

3. **Support Policy**

3.1. Company to prioritize tickets by severity in accordance with the following policy:

Severity Level	Definition	Expected Response Time

Level 1 – Urgent	Service is down, operations severely impacted with no workaround.	Within 60 minutes during our business hours, and except as otherwise provided herein, we guarantee response within 4 hours.
Level 2 – High	Service is operational but significant disruption of operations; no stable workaround.	Within 90 minutes during our business hours, and except as otherwise provided herein, we guarantee response within 8 hours.
Level 3 – Medium	Issues causing moderate to low service disruption or any issue for which there is a stable workaround available.	Within 2 hours during our business hours.
Level 4 – Low	Service is operational; no significant disruption of operations; issues with little time sensitivity such as general questions	Within 8 hours during our business hours.

3.2. Please note that these guidelines specify the time to begin investigation of the problem, not the length of time within which such problem will be resolved.

4. Boundaries and Exclusions

4.1. The Service Scope shall not apply to performance issues caused by the following:

   4.1.1. A result of Customer equipment including third-party computer hardware, software, or network infrastructure not within the sole control of Company.

   4.1.2. Actions or inactions of Customer (unless undertaken at the expressed directive of Company) or third parties beyond the control of Company.

   4.1.3. Overall Internet congestion, slowdown, or unavailability.

   4.1.4. Scheduled maintenance time.

   4.1.5. Force Majeure Event.

EXHIBIT C

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement ("Agreement"), effective _____ ("Effective Date"), is entered into by and between Aidoc, Inc. ("Business Associate") and_____, ("Covered Entity") (each a "Party" and collectively the "Parties").

RECITALS

WHEREAS, the Parties have entered into an agreement (the "MSA") pursuant to which Business Associate is providing certain services ("Services") to the Covered Entity;

WHEREAS, in connection with the Services, Covered Entity may disclose to Business Associate certain protected health information (as defined herein) ("PHI") that is subject to protection under applicable provisions of: (i) the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, as amended ("HIPAA"); (ii) the privacy standards (at 45 C.F.R. parts 160 and 164, subparts A and E ("the Privacy Rule")) and security standards (at 45 C.F.R. parts 160 and 164, subparts A and C ("the Security Rule")) adopted by the U.S. Department of Health and Human Services ("HHS"); (iii) Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Pub. L 111-5 (the "HITECH Act"), including as implemented by 45 C.F.R. part 164, subpart D (the "Breach Notification Rule") and the regulations published at 78 Fed. Reg. 5566, 5687 (Jan. 25, 2013), adopted by HHS, all as they may be amended from time to time (collectively, "the HIPAA Rules");

WHEREAS, the HIPAA Rules require that Covered Entity receive assurances that Business Associate will comply with applicable obligations under the HIPAA Rules with respect to any PHI received from or on behalf of Covered Entity in the course of providing Services to Covered Entity; and

WHEREAS the purpose of this Agreement is to comply with the requirements of the HIPAA Rules.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

Definitions. Terms used herein, but not otherwise defined, shall have meanings ascribed by the HIPAA Rules.

Breach. "Breach" means the acquisition, access, use, or disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the security or privacy of the PHI. Breach excludes: (a) any unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Covered Entity or Business Associate that is made in good faith and within the scope of authority and does not result in further use or disclosure in a manner not permitted under the Privacy Rule; (b) any inadvertent disclosure by a person who is authorized to access PHI at Covered Entity or Business Associate to another person authorized to access PHI at Covered Entity or Business Associate, or to an organized health care arrangement in which Covered Entity participates, and the information received as a result of such disclosure is not further used or disclosed in a manner not permitted under the Privacy Rule; or (c) a disclosure of PHI where Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

Designated Record Set. "Designated Record Set" means a group of records maintained by or for Covered Entity that is: (i) the medical records and billing records about individuals maintained by or for Covered Entity (if Covered Entity is a health care provider under the Privacy Rule); (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for Covered Entity to make decisions about individuals. For purposes of this definition, the term "record" means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for Covered Entity.

Individual. "Individual" means the person who is the subject of the PHI.

Protected Health Information ("PHI"). "Protected Health Information" or PHI means individually identifiable health information that is transmitted or maintained in any form or medium.

Required by Law. "Required by Law" means a mandate contained in law that compels a use or disclosure of PHI.

Security Incident. "Security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

Secretary. "Secretary" means the Secretary of the U.S. Department of Health and Human Services or his or her designee.

Unsecured Protected Health Information ("Unsecured PHI"). "Unsecured Protected Health Information" or "unsecured PHI" means PHI that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by the Secretary.

Purposes for Which PHI May Be Disclosed to Business Associate. Covered Entity may disclose PHI to Business Associate in order for Business Associate to provide the Services to or on behalf of Covered Entity.

Obligations of Covered Entity. If relevant to Business Associate's responsibilities hereunder, Covered Entity shall:

provide Business Associate a copy of its Notice of Privacy Practices ("Notice") as well as any changes to such Notice;

notify Business Associate of any restriction to the use and/or disclosure of an individual's PHI to which Covered Entity has agreed in accordance with the Privacy Rule;

notify Business Associate of any amendment to an individual's PHI to which Covered Entity has agreed that affects Business Associate's use and/or disclosure of a Designated Record Set in the custody and control of Business Associate; and

if Business Associate maintains a Designated Record Set, provide Business Associate with a copy of Covered Entity's policies and procedures related to an individual's right to: access PHI; request an amendment to PHI; request confidential communications of PHI; or request an accounting of disclosures of PHI.

Obligations of Business Associate. Business Associate agrees to comply with applicable provisions of the HIPAA Rules, including:

Use and Disclosure of PHI. Except as otherwise permitted by this Agreement or the HIPAA Rules, Business Associate shall use or disclose PHI only as necessary to provide the Services to or on behalf of Covered Entity and/or as permitted in this MSA. Client hereby permits Company to de-identify PHI. Business Associate's use and disclosure of PHI must comply with applicable requirements of 42 C.F.R. § 164.504(e), and Business Associate may not use or disclose PHI in a manner that would violate the Privacy Rule if used or disclosed by Covered Entity; provided, however, that Business Associate may use and disclose PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities. Business Associate shall in such cases:

provide information to members of its workforce using or disclosing PHI regarding the obligations of Business Associate under the HIPAA Rules and this Agreement; and

obtain reasonable assurances from the person or entity to whom the PHI is disclosed that: (i) the PHI will be held confidentially and further used and disclosed only as required by law or for the purpose for which it was disclosed to the person or entity; and (ii) the person or entity will notify Business Associate of any instances of which it is aware in which confidentiality of the PHI has been breached.

Data Aggregation. In the event that Business Associate works for more than one Covered Entity, Business Associate may use and disclose PHI for data aggregation purposes, but only in order to analyze data for permitted health care operations, and only to the extent that such use is permitted under the Privacy Rule.

Notice to Covered Entity of Unauthorized Use or Disclosure or of a Security Incident. Business Associate agrees to notify Covered Entity regarding any use or disclosure of PHI of which Business Associate becomes aware that is not provided for or permitted by this Agreement or the HIPAA Rules. Business Associate also shall notify Covered Entity regarding any security incident of which it becomes aware, provided that this Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of attempted but unsuccessful security incidents, for which no additional notice to Covered Entity shall be required, including but not limited to pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

Notice to Covered Entity of Breach of Unsecured Protected Health Information. If Business Associate discovers that a breach of unsecured PHI has occurred, Business Associate shall notify Covered Entity without unreasonable delay and in no case later than sixty (60) days after Business Associate's discovery of the breach. In its notice to Covered Entity, Business Associate shall provide, to the extent possible, the identification of each individual whose unsecured PHI has been, or, is reasonably believed by Business Associate to have been, accessed, acquired, used, or disclosed during the breach. Business Associate shall provide any other available information that Covered Entity is required to include in notification to the individual under the Breach Notification Rule at the time of the notice or promptly thereafter as information becomes available, including but not limited to: (i) a brief description of what happened, including the date of the breach and the date of discovery of the breach; and (ii) a description of the types of unsecured PHI that were involved in the breach.

Marketing/Fundraising. Business Associate shall not, without written authorization from Covered Entity, perform marketing or fundraising on behalf of Covered Entity, or engage in the types of communications on behalf of Covered Entity that are excepted from the definition of marketing established at 45 C.F.R. § 164.501. If Covered Entity requests and authorizes Business Associate to engage in these activities, Business Associate shall comply with the applicable Provisions of the HITECH Act and the HIPAA Rules.

No Sale of Protected Health Information. Business Associate shall not directly or indirectly receive remuneration in exchange for an individual's PHI unless it is pursuant to specific written authorization by the individual or subject to an exception established in the HIPAA Rules.

De-identified Information. Business Associate may use PHI to de-identify information consistent with the standards set forth at 45 CFR §164.514. Business Associate may use and disclose de-identified health information if (a) the use is disclosed to Covered Entity and (b) the de-identified health information meets the implementation specifications for de-identification under the Privacy Rule.

Implementation of Safeguards. Business Associate shall maintain appropriate safeguards to ensure that PHI is not used or disclosed other than as provided by this Agreement or as required by law. In accordance with the HITECH Act and applicable provisions of the Security Rule, Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of any electronic PHI it creates, receives, maintains, or transmits on behalf of Covered Entity.

Minimum Necessary. When using or disclosing PHI or when requesting PHI from another covered entity or business associate, Business Associate shall limit uses and disclosures of PHI in a manner consistent with the "minimum necessary" requirements of the Privacy Rule found at 45 C.F.R. § 164.502(b).

Disclosure to Subcontractors. If Business Associate discloses PHI received from Covered Entity, or created, received, or maintained by Business Associate on behalf of Covered Entity, to a subcontractor, Business Associate shall require the subcontractor to agree to the same restrictions and conditions as apply to Business Associate under this Agreement. Business Associate shall ensure that any subcontractor agrees to implement reasonable and appropriate safeguards to protect electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity. Notwithstanding the foregoing, this Agreement shall not apply to the extent that Covered Entity has entered into a business associate agreement directly with a subcontractor with respect to the subject matter of this Agreement.

Individual Rights Regarding Designated Record Sets. If Business Associate maintains a Designated Record Set on behalf of Covered Entity, Business Associate agrees as follows:

Right to Copy or Inspection. Business Associate will promptly make available for inspection and duplicating any PHI about the individual in a Designated Record Set that is in Business Associate's custody or control, so that Covered Entity may meet its access obligations under 45 C.F.R. § 164.524. If an individual submits a request for access to Business Associate, Business Associate shall promptly forward the request to Covered Entity.

Right to Amendment. Business Associate, upon Covered Entity's request, will promptly amend PHI or a record about the individual in a Designated Record Set that is in the custody or control of Business Associate, so that Covered Entity may meet its amendment obligations under 45 C.F.R. § 164.526. If an individual submits a request for amendment to Business Associate, Business Associate shall promptly forward the request to Covered Entity.

Accounting of Disclosures.

Business Associate shall keep records of all disclosures of PHI made by Business Associate necessary for Business Associate to provide to Covered Entity the disclosure accounting described below ("Disclosure Accounting") in accordance with 45 C.F.R. § 164.528.

If an individual submits a request for a Disclosure Accounting to Business Associate, Business Associate shall promptly forward a copy of the request to Covered Entity.

Business Associate shall provide the Disclosure Accounting to Covered Entity (or to an Individual, if so directed by Covered Entity or an Individual makes a request directly to Business Associate) within twenty (20) business days of receiving a written request therefore. The Disclosure Accounting shall contain the following (or such other information as may be required consistent with 45 C.F.R. § 164.528):

the date of the disclosure;

the name of the entity or person to whom or which the PHI was provided and, if known, the address of such entity or person;

a brief description of the PHI disclosed; and

a brief statement of the purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or in lieu of such statement, a copy of the applicable written request for information to which the disclosure was responsive.

Right to Request Restrictions. If Business Associate has knowledge that an individual who is the subject of PHI in the custody and control of Business Associate has requested restrictions on the disclosure of PHI, Business Associate must comply with the requested restriction if (a) the Covered Entity agrees to abide by the restriction; or (b) the disclosure is to a health plan for purposes of carrying out payment or health care operations and the PHI pertains solely to a health care item or service for which Covered Entity has been paid out of pocket in full.

Internal Practices, Policies and Procedures. Business Associate shall make its practices, books and records related to use and disclosure of PHI available to the Secretary upon request for the purpose of determining Covered Entity's compliance with this Agreement and the HIPAA Rules.

Covered Entity Obligations. To the extent the Services require Business Associate to carry out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.

Term and Termination.

Term. This Agreement shall be effective as of the Effective Date and shall be terminated when all PHI provided to Business Associate by Covered Entity, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity.

Termination for Breach. Either Covered Entity or Business Associate may terminate this Agreement if either Party determines that there has been a material breach or violation of the other Party's obligations under the Agreement. At its option, either Party may take reasonable steps to cure the breach or end the violation. If the breach or violation continues and termination of the Agreement is not feasible, the non-breaching Party may report the problem to the Secretary.

Effect of Termination. Upon termination of this Agreement for any reason, Business Associate agrees to return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, or maintained by Business Associate in any form. The Parties agree that attorney-client considerations, including quality control, risk management, and malpractice insurance requirements, may make it infeasible to return or destroy the PHI. The Parties agree that applicable codes of professional conduct and Business Associate's customary business practices may require it to maintain copies of PHI received from Covered Entity. If Business Associate determines that the return or destruction of PHI is not feasible, Business Associate shall inform Covered Entity in writing of the reason therefor, and shall agree to extend the protections of this Agreement to such PHI and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI not feasible for so long as Business Associate retains the PHI.

Survival. The respective rights and obligations of Business Associate under Section E.3 of this Agreement shall survive the termination of this Agreement.

CONFIDENTIAL

Miscellaneous.

Amendments. This Agreement may not be changed or modified in any manner except by an instrument in writing signed by a duly authorized officer of each of the Parties hereto. Notwithstanding the foregoing. to the extent that any relevant provision of HIPAA or the HIPAA Rules is amended in a manner that changes the obligations of Business Associate or Covered Entity provided for in this Agreement, such changes shall be deemed automatically to apply to and to be incorporated by reference into this Agreement. The Parties agree to amend this Agreement from time to time as necessary to reflect their agreement to such changes.

Severability. The provisions of this Agreement shall be severable, and if any provision of this Agreement shall be held or declared to be illegal, invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect as though such illegal, invalid or unenforceable provision had not been contained herein.

No Third Party Beneficiaries. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not party to this Agreement nor imposing any obligations on either Party hereto to persons not a party to this Agreement.

Entire Agreement. This Agreement, together with all exhibits, riders and amendments, if applicable, that are fully completed and signed by authorized persons on behalf of both Parties from time to time while this Agreement is in effect, constitutes the entire Agreement between the Parties with respect to the subject matter hereof and supersedes all previous written or oral understandings, agreements, negotiations, commitments, and any other writing or communication by or between the Parties with respect to the subject matter hereof.

Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and Business Associate to comply with the HIPAA Rules. The provisions of this Agreement shall prevail over the provisions of any other agreement that exists between the Parties that may conflict with, or appear inconsistent with, any provision of this Agreement or the HIPAA Rules.

No Agency. Unless the context of the relationship specifically requires otherwise, Business Associate shall not be deemed to be the agent of Covered Entity.