END USER LICENCE AGREEMENT: ORION HEALTH SUBSCRIPTION PRODUCTS

Last reviewed 5 November 2026

OVERVIEW: Orion Health Inc., a Delaware corporation (**Orion Health**) develops and offers software solutions that are proprietary to Orion Health or its Affiliates and available for use on a time-limited subscription basis. This Agreement (**Agreement**) sets out the terms and conditions that apply to the licensing and use of each Product offered as available from Orion Health for ordering as a hosted solution on a subscription basis using AWS Marketplace. **Please read this document carefully before accessing or using each Product and any Services**. By taking either action or, if this occurs earlier, clicking any acceptance button in AWS Marketplace affirming any order for a Product, each Subscriber agrees to be bound by this Agreement. Capitalised expressions that are not defined elsewhere in this Agreement have the meanings identified in Section 15 (Interpretation).

1. SCOPE

1.1 **Application:** This Agreement prescribes the terms and conditions that apply where any Subscriber purchases via AWS Marketplace any publicly offered standard Subscription. If Orion Health offers and a Subscriber accepts via AWS Marketplace any private offer or other written agreement (each an '**Order Form**') governing access to or use of a Product and any associated Services, then each Order Form will be subject to and governed by this Agreement together with any negotiated terms determined in concluding that Order Form, including any custom pricing plan or solution. Unless otherwise specified in an Order Form, its provisions will apply and prevail to the extent and for the duration of any conflict or inconsistency between the Order Form's and any of the provisions expressly set out in this Agreement.

1.2 **Subscriptions:** Orion Health will fulfil the Subscription to each Subscriber, providing information about how to activate it. A Subscription may be for a Product deployed in Subscriber's Computing Environment or a Product deployed via a SaaS Service, in each case as described in the applicable Product Listing and any corresponding purchase transaction effected via AWS Marketplace. The pricing and term of the Subscription (if not on demand) are as identified in the Product Listing or any Order Form concluded as a consequence of the Product Listing. Additional information identified in any Product Listing concerning the Product and any associated Services available with a Subscription are a part of that Product Listing, which might include, as illustrative examples, details for any intended geographic use of the Product, any technical requirements for using the Product and any associated Services, any available Support Services (which may vary by geography), descriptions of Orion Health's security practices and any of these.

2. SUBSCRIPTION LICENSING & RESTRICTIONS

2.1 **Subscription grant:**

(a) Subject to timely payment of applicable fees and compliance with this Agreement, Orion Health grants to each Subscriber, during the term of that Subscriber's Subscription, for each Product order validly concluded with Orion Health via AWS Marketplace, a limited, non-exclusive, non-sublicensable, non-transferable and revocable right for the Subscriber to use that Product in object code form and any associated Services.

(b) The Subscriber may only access and use (and may only permit Users to access and use) each Product and any associated Services solely for the Subscriber's internal business purposes, including in connection with interactions with Users, and always in accordance with the licensing authorised in concluding an order for a Subscription via AWS Marketplace. In fulfilling this obligation, each Subscriber and its Users may only access and use each Product and any associated Services in accordance with the Product Listing and any other Documentation, complying with any use limitations indicated in this Agreement, the Documentation, any Order Form or other documented purchase transaction, and always in accordance with the Software Use Restrictions and all applicable laws and regulations.

(c) Each Subscriber will ensure that its Users comply with the requirements of this Agreement at all times in accessing and using each Product and any Services, including by maintaining the confidentiality and security of any account or other credentials associated with enabling use of the Product and any Services. Each Subscriber acknowledges that it is and will remain responsible and liable for each User's acts, omissions and any breaches of this Agreement's requirements in accessing or using any Product and any Services as if the act, omission or breach has been committed by the Subscriber. Each Subscriber must promptly notify Orion Heath on becoming aware of any unauthorized access to or use of any Product or Services, including any breach of any Software Use Restrictions.

2.2 **Product instance & configuration**: Unless otherwise prescribed by the Product Listing or any other Documentation, promptly following payment of applicable fees, Orion Health will make a single production instance of the Product available for the Subscriber to access materially as described in the Documentation, whether by using configuration for a shared platform or otherwise. Where requested by the Subscriber (acting reasonably), Orion Health may make additional non-production instances for the Product available, in each case as agreed by the parties and subject to payment of additional fees. Each Subscriber acknowledges and agrees that Orion Health has sole discretion as to the configuration of the Product and the Services, including the SaaS Service, and each of its and their components.

2.3 **Documentation**: Subscriber may make a reasonable number of copies of the Documentation in each case only to the extent necessary to use the Product during the term of its Subscription in accordance with the rights granted under this Agreement. To exercise this right, the Subscriber must include all proprietary legends and other notices on all copies, as prescribed by Orion Health from time to time. The Documentation and each copy of all or any part of it will comprise Orion Health's Confidential Information.

2.4 **Open Source Software**: At times or from time to time the Product may contain or be provided with Open Source Software. If Subscriber's use of the Product and any associated Services subjects a Subscriber to the terms of any license governing the use of Open Source Software, then information identifying that Open Source Software and the applicable license will be incorporated or referenced in the Product Listing or other Documentation. The terms of this Agreement apply to Open Source Software: (a) to the extent not prohibited by the license to which the Open Source Software is subject, including warranties and indemnification; and (b) except to the extent required by the license to which the Open Source Software is subject, in which case the terms of that license will apply in lieu of the terms of this Agreement only with respect to the applicable Open Source Software, and not to the entire Product, including any provisions governing attribution, access to source code, modification and reverse-engineering.

2.5 **Restrictions**: Any use of the Product (including its Documentation), the SaaS Service and any other Services not expressly permitted by this Agreement is prohibited. Without limiting this general prohibition, except as specifically provided in this Agreement, the Subscriber must not (and must not permit any User or any other third party to), directly or indirectly: (a) copy, modify, create derivative works of or distribute any part of any Product (including by incorporation into any Subscriber's or User's products); (b) sell, license (or sub-license), lease, assign, transfer, pledge, or share Subscriber's rights under this Agreement with any third party; (c) disclose the results of any testing or benchmarking of any Product or any Services to any third party; (d) disassemble, decompile, reverse engineer or attempt to discover any Product's or associated Services source or object code or underlying algorithms or structures and must not attempt to access or use the Product either other than through the SaaS Service or as Orion Health's Documentation prescribes; (e) use the Product or any Services in any way in competition with any of Orion Health's products or services, including by acting as a consultant, service bureau or application service provider; (f) use the Product, the Saas Service or any other Services in a manner that violates or infringes any rights of Orion Health, its Affiliates or any third party; (g) remove or alter any trademarks or other proprietary notices related to the Product or any Services; or (h) circumvent, disable or otherwise interfere with security-related features of the Product or any Services or features that enforce any use limitations.

2.6 **High Risk Activities**: The Product and any Services are not designed or developed for use in high-risk, hazardous environments requiring fail-safe performance, including any circumstances in which the failure of the Product or any Services could lead to any personal injury, death, or severe physical or environmental damage of any kind (**High Risk Activities**). The Subscriber will not use or permit any Users to use the Product for any High Risk Activities. Orion Health specifically disclaims any express or implied warranty of fitness for any High Risk Activities.

2.7 **Subscriber acknowledgement**: Each Subscriber understands and agrees that: (a) Orion Health and its Affiliates and licensors are not engaged in the practice of medicine; and (b) each Product and the SaaS Service comprise only a conduit for information and in no way any substitute for competent medical advisors or related clinicians. All medical practice management and any patient care decisions made by or for the Subscriber or any Users and any consequences arising, whether or not any use of the Product or the SaaS Service is involved in reaching those management or other decisions, are and will remain exclusively the responsibility of the Subscriber and its physicians or other practitioners and clinicians, even if granted privileges as Users of the Product or the SaaS Service. The successful operation of the Product and the SaaS Service are dependent on each Subscriber using proper procedures and systems for the management of the Subscriber Data and ensuring the accuracy of any other information that may be processed or accessed via the Product or the SaaS Service. Each Subscriber is solely responsible for the accuracy and adequacy of the data furnished for or input or otherwise processed using the Product or the SaaS Service. Each Subscriber will indemnify and hold Orion Health and its Affiliates harmless from any and all claims that any improper medical treatment resulted from the Subscriber's or any Users use or reliance on the Product or the SaaS Service.

3. SERVICES

3.1 **SaaS Service:** Where the Subscriber purchases via AWS Marketplace a Subscription that incorporates access to the SaaS Service, Orion Health will provide the Product as the SaaS Service in accordance with the Product Listing promptly following that purchase until the Subscription expires or terminates for any reason. In fulfilling this obligation, Orion Health will make available to the Subscriber all license keys, access credentials and passwords necessary for accessing and using the Product via the SaaS Service or otherwise identify in the Product Listing or other Documentation, or by notifying the Subscriber, the steps required for enabling access for the Subscriber and its authorized Users to the SaaS Service and obtaining and managing credentials and Users for each Product accessible via the SaaS Service, including any requirements or other dependents that a Subscriber and any Users must meet for the SaaS Service and any Products to operate as intended.

3.2 **Support Services**: Orion Health will make available Documentation to the Subscriber concerning the use and operation of the Product. Orion Health will provide Support Services to Subscriber where and only to the extent described in the Product Listing or other Documentation.

3.3 **New Releases & Versions**: Provided that this Agreement and any Subscription authorized under it remains in effect and the Subscriber is not in breach of any obligations, Releases and Versions will be made available by Orion Health to the Subscriber as part of the SaaS Service. Some updates to the SaaS Service will occur automatically, while others may require the Subscriber to engage in scheduling and implementing a Release or Version. Each Subscriber acknowledges that new Versions may require the Subscriber to procure Services from Orion Health or an approved third party enabling implementation of the new Version and accepts that the SaaS Service cannot be configured differently for any individual Subscribers or Users. Each Subscriber agrees that its purchase of any Subscription is neither contingent upon the delivery of any future functionality or features for the Product or the SaaS Service, nor dependent upon any oral or written public comments made by Orion Health with respect to any future functionality.

3.4 **Remote monitoring**: Each Subscriber agrees to allow Orion Health and any of its Affiliates engaged in providing any of the Services to remotely monitor their performance, which may include application log aggregation onto Orion Health servers.

3.5 **Changes to Services:** Orion Health regularly reviews and may from time to time, at its discretion, update the Product, the SaaS Service and any of its or their components. Orion Health reserves all rights at all times to discontinue, add or substitute functionally equivalent features, including in the event of product unavailability, end-of-life, or changes to software attributes and requirements, provided that any changes will not result in any material reduction in the overall performance or availability of the SaaS Service during any then current Product Subscription.

4. SUBSCRIBER RESPONSIBILITIES & ACCEPTABLE USE

4.1 **Responsibilities:** Subscriber will, at all times: (a) ensure that the Product, the SaaS Service and any other Services are used by the Subscriber and Users only in accordance with the Documentation and in compliance with all applicable laws; (b) be solely responsible for the accuracy, quality, integrity, and legality of the Subscriber Data, and the means by which the Subscriber acquires that data; (c) use commercially reasonable efforts to prevent unauthorised access to or use of the Product, the SaaS Service and the Documentation, notifying Orion Health promptly of any unauthorised access or use or other incidents or issues arising with or for any Subscriber or User environment that risks impacting any of the Services; (d) where applicable, ensure that the maximum number of Users is not exceeded and that any other parameters by which the applicable Fees for the Subscription are determined are not exceeded; (e) not request, permit or authorise anyone other than Orion Health or any entity or other person that Orion Health has approved for the Subscriber to provide any services in respect of the Product or the SaaS Service; (f) be solely responsible for procuring and maintaining its network connections and communications links to the SaaS Service from its systems, including for the Subscriber's Computing Environment, and for all problems, conditions, delays, failures and all other loss or damage caused by or relating to the Subscriber's network connections and any other communications links not provided by Orion Health.

4.2 **Acceptable use:** Subscriber will not at any time intentionally use or permit any use of the Product or the SaaS Service or any of its or their components to: (a) access, store, download or transmit infringing or illegal content, or any viruses, Trojan horses or other harmful or malicious code; (b) engage in phishing, spamming, DDOS Attacks or fraudulent or illegal activity; (c) interfere with or disrupt the integrity or performance of the Product, the SaaS Service or any component or data contained in or on any system or network of Orion Health, its Affiliates or licensors, or circumvent or attempt to circumvent the security features of the Product or the SaaS Service; or (d) perform penetration testing, vulnerability testing or other security testing, except with Orion Health's prior approval and only in compliance with notified requirements for testing, or in any circumstances otherwise attempt to gain any unauthorized access to the Product, the SaaS Service or any of Orion Health's or its Affiliates' or licensors' systems or networks. The Subscriber will at all times ensure that it does not: (a) use or distribute through the SaaS Service any software, files or other tools or devices designed to interfere with or compromise the privacy, security or use of the SaaS Service or the operations or assets of any other customer of Orion Health or any of its Affiliates or any third party; (b) otherwise interfere with or disrupt the integrity or performance of the SaaS Service or any Product. Without limiting any of the Subscriber's obligations or any of Orion Health's rights and remedies, Orion Health may, without liability to the Subscriber or any other person, disable access for each Subscriber and its Users to the Product, the SaaS Service and any other Services if at any time a Subscriber is in breach of any part of this Section, or a DDOS Attack emanating from a Subscriber's connection point to the Product or any of the Services, including the SaaS Service.

4.3 **Highly Sensitive Information**: The Subscriber will not use the SaaS Services to store or process Highly Sensitive Information unless a Subscriber specifically purchases a SaaS Service Subscription designed for use with Highly Sensitive Information. '**Highly Sensitive Information**' in this Agreement means: (a) 'special categories of personal data', 'sensitive personal information', or 'Sensitive Personal Data', where and as defined under any applicable Data Protection Laws; (b) patient, medical, or other protected health information regulated by HIPAA; or (c) other information subject to additional protections or regulation under specific laws such as the Children's Online Privacy Protection Act or related rules or regulations. Orion Health will have no responsibility for Highly Sensitive Information where the SaaS Service is not approved for use with Highly Sensitive Information.

4.4 **Interfaced Applications:** Each Subscriber acknowledges and agrees that: (a) Orion Health is not responsible for any Interfaced Applications or their operation, performance, costs or charges, and the Subscriber is solely responsible for ensuring that is has valid licensing for each Interfaced Application deployed or used in conjunction with the SaaS Service or any part of it, including adequate permissions to develop any interfaces required to or from those Interfaced Applications; (b) Orion Health is not responsible for any costs associated with or arising from enabling any interfaces from or to any Interfaced Applications; and (c) where a Subscriber or its Users install or enable any use of any Interfaced Applications with the SaaS Service or any other Services, Orion Health may allow providers of those Interfaced Applications to access Subscriber Data as required for any agreed interoperation of those Interfaced Applications with those Services and Orion Health will not be liable for any disclosure, modification or deletion of Subscriber Data resulting from any such access by third party providers. If during a Subscription the Subscriber advises Orion Health that an Interfaced Application is not functioning as intended with the SaaS Service and requests in writing any support or assistance (acting reasonably), Orion Health will use reasonable endeavours to identify, if practical, whether that unsatisfactory functioning arises from the operation of the SaaS Service or the Interfaced Application. If requested, Orion Health will use reasonable endeavours to assist the Subscriber and its third party licensor, if applicable, to resolve the functionality of the Interfaced Application with the SaaS Service, provided that Orion Health may charge the Subscriber for that assistance on a time and materials basis.

4.5 **Verification**: The Subscriber will permit Orion Health, at its expense, on reasonable notice, to audit or otherwise verify from time to time the Subscriber's compliance with this Agreement in accessing or using the Product and any aspects of the SaaS Service. Each Subscriber agrees to reasonably cooperate with Orion Health and its representatives for the purposes of this verification, including by permitting access to the Subscriber's facilities and applicable books, records and systems to the extent reasonably required to verify if the Product and the SaaS Service are each used only in accordance with this Agreement. Any verification will take place during the Subscriber's normal business hours or at other times as the parties may agree and in a manner that supports minimizing any material disruption to the Subscriber's business operations. Orion Health may use an independent auditor to assist with this verification, provided Orion Health or its Affiliate instructing the auditor has a written confidentiality agreement in place with that auditor protecting any Confidential Information accessed in connection with the audit. If an audit reveals any non-compliance, the Subscriber will reimburse Orion Health on demand for the reasonable costs and expenses of the audit and promptly cure the non-compliance, if it is capable of remedy. By way of non-exhaustive example, without limiting any other rights or remedies, if any audit shows an underpayment of any amounts payable for the Product or any other Services, then the Subscriber will pay on demand that shortfall.

5. FEES & PAYMENT

5.1 **Fees:** The Subscriber agrees to pay for the Subscription and the Services, in the amounts, currency and in accordance with the payment terms specified in the Product Listing or any Order Form or other purchase transaction for a Subscription executed under this Agreement. If no payment terms are specified, then the fees for each Subscription will be in US dollars and may by invoiced annually in advance for the SaaS Service, commencing as described in the Product Listing, at Orion Health's then applicable fees for a Subscription and the amount payable for any other Services will be payable on a time and materials basis, at Orion Health's then current rates, and invoiced monthly in arrears or as otherwise prescribed by AWS Marketplace. Any extension or increase in the Subscriber's use of the Product, whether via the SaaS Service or otherwise, will require payment of any applicable additional fees, as notified in the Product Listing or any Order Form or written agreement concluded in connection with it or, if no fees are specified then in accordance with Orion Health's then current terms and fees for that extended or increased access or use, as prescribed by the Documentation or notified under this Agreement.

5.2 **Price increases**: Orion Health may increase its fees for the Product, the Saas Service and any other Services by notifying the Subscriber in writing of the change, which may be by email, in an invoice, or, for new purchases, in a quotation. Unless otherwise agreed or permitted by any Order Form executed under this Agreement, changes in any existing, recurring fees will not apply until the next subsequent invoiceable period. The requirements set out in this Section do not apply to any increases in fees arising due to, for example, an extension or increase in the Subscriber's access to the SaaS Service or for any permitted increases to fees expressly referenced in the Product Listing or any other Documentation.

5.3 **Additional payment obligations:** The Subscriber's payment obligations are non-cancellable and, upon payment, all payments made for the Subscriber are non-refundable and will be free of any deduction, set-off, counterclaim or withholding whatsoever. All payments are due within 30 days of the date of invoice, or as otherwise set out in the invoice for the Subscription and any associated Services issued as permitted by the Product Listing or otherwise by AWS Marketplace, unless subject to a reasonable and good faith dispute.

5.4 **Taxes:** Amounts charged by Orion Health for each Subscription and any Services are exclusive of all sales, use, value-added, withholding, and other direct or indirect taxes, charges, levies and duties (**Taxes**). The Subscriber is responsible for paying in full any and all Taxes applicable to each Subscription and any Services ordered under or in connection with this Agreement, except for any Taxes imposed on Orion Health's net income or workforce. If Orion Health has the legal obligation to pay or collect any Taxes for which the Subscriber s responsible, the appropriate amount will be invoiced to and paid by the Subscriber, unless it provides a valid exemption certificate authorized by the appropriate taxing authority.

6. TERM, SUSPENSION & TERMINATION

6.1 **Term:** If the parties proceed by concluding an Order Form, then this Agreement commences from the date specified in the Order Form or, if no date is specified or no Order Form is agreed, then the date from which the Subscriber first access the Product or any of the Services (**Effective Date**), continuing until each Subscription concludes, expires or is terminated.

6.2 **Suspension**: Without limiting its other rights or remedies, Orion Health may suspend each Subscriber's and any User's right to access or use any portion or all of the Product or the SaaS Service immediately on notice to any affected Subscriber if: (a) Orion Health, after reasonable due diligence given the nature and severity of the issue, reasonably determines that: (i) the Subscriber's or any User's use of the SaaS Service poses a material risk to the security or operation of Orion Health's systems, the SaaS Service or the systems or data of any other customer; or (ii) the Subscriber's or any User's use of the SaaS Service violates in any way this Agreement's Section 4 (Subscriber Responsibilities & Acceptable Use) or is illegal or fraudulent; or (b) the Subscriber fails to pay any undisputed amounts payable for the Subscription within 30 days after notice of past due amounts; or (c) if the Subscriber uses a SaaS Service Subscription to store or process Highly Sensitive Information if that SaaS Service is not approved by Orion Health to be used with Highly Sensitive Information. In exercising its rights, to the extent reasonably practicable, Orion Health will limit the suspension of the SaaS Service pursuant to rights arising under this section's subsection (a) only as needed to mitigate the applicable risk and, in any event, promptly restore the SaaS Service to the affected Subscriber upon resolution of the issue and/or payment of the outstanding amounts (as applicable), if this Agreement is still continuing when that resolution or payment occurs.

6.3 **Termination**: Either party may terminate a Subscription or this Agreement if the other party materially breaches this Agreement and does not cure the breach within 30 days of written notice of the breach from the non-breaching party.

6.4 **Effects of termination**: Upon termination or expiry of a Subscription or this Agreement for any reason: (a) unless otherwise agreed, the Subscriber's right to use the Product and any associated Services, including the SaaS Service, under each then current Subscription will end and the Subscriber's access to the Product and any Services may be disabled and discontinued; (b) each party will promptly return at the other party's request the original and all copies of its Confidential Information in the custody, possession or control of the party receiving the request, including, in the case of the Subscriber, the Documentation, or, in lieu of returning that Confidential Information, delete or render it inaccessible, certifying to the other party that it has done so, provided that where it is not feasible to return, delete or render inaccessible any of the other party's Confidential Information, it will remain subject to the confidentiality, privacy and data security terms of this Agreement; (c) if requested, Orion Health will permit for up to 30 days from termination or expiry, or any different period that the parties may agree, the Subscriber to access for downloading or transfer via the Saas Service, or any different method that the parties may agree, any Subscriber Data then in the possession or control of Orion Health's Computing Environment; (d) if requested by the Subscriber, Orion Health may provide for the Subscriber assistance for up to 30 days or any longer period that the parties may agree in enabling a smooth end to or transition for any of the Services that are ending, which may include support for the Subscriber in extracting, destroying or migrating the Subscriber Data, in each case as requested by the Subscriber (acting reasonably) and subject to payment by the Subscriber for Orion Health's assistance on a time and materials basis at its then current rates and reimbursement of any out-of-pocket expenses reasonably incurred. Thereafter, Orion Health may delete the Subscriber Data, if any, still held in Orion Health's Computing Environment, provided that Orion Health and its Affiliates may retain Subscriber Data (a) stored in backups for a limited period of time in accordance with its industry standard customer deletion and backup policy; or (b) as otherwise required by any applicable law, and in either case, any Subscriber Data so retained will remain subject to the confidentiality, privacy and security obligations in this Agreement. Termination or expiry of this Agreement for any reason will not release either party from liability for accrued obligations or any previous breach of this Agreement, and will be without prejudice to other rights and remedies as may be available, including injunctive or other equitable remedies. The Subscriber will not be entitled to receive any rebate or refund of the whole or any part of any Fees paid or payable under this Agreement on expiry or termination of this Agreement.

7. SUBSCRIBER DATA

7.1 **Subscriber Data ownership and responsibilities**: As between the parties, the Subscriber owns and retains all rights, including all Proprietary Rights, in and to the Subscriber Data. The Subscriber has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of, and right to use, the Subscriber Data. Accordingly, without limiting this general responsibility, the Subscriber:

(a) represents and warrants, on a continuous basis, that the Subscriber has the right to submit the Subscriber Data to the Services, including the SaaS Service and in using any Product;

(b) acknowledges and agrees that, as part of its obligations to comply with applicable law, the Subscriber is and will remain responsible for obtaining the requisite consents, authorizations, rights and preferences necessary to enable use of the Subscriber Data to the extent required for Orion Health's performance of its obligations in the manner contemplated by this Agreement, the Product Listing and any other Documentation, including for any Personal Data contained in any of the Subscriber Data and as required for any access or transmission to third parties with whom the Subscriber shares or permits access to any Subscriber Data; and

(c) hereby grants and will at all times ensure that Orion Health and its subcontractors are granted by the Subscriber, its Affiliates and its or their Users a non-exclusive, paid-up right to use the Subscriber Data, representing and warranting to Orion Health that the Subscriber has or will obtain all rights in the Subscriber Data necessary to grant these rights. Each licence is granted only to the extent and for the duration required for Orion Health to perform its obligations and fulfil functions, activities and services permitted by this Agreement, including to provide the Services and prevent or address service, support or technical problems, as well as for data analytics and modelling on an anonymized basis, aggregate reporting with respect to industry metrics and trends, and general product improvement purposes.

7.2 **Data back-up, retention and retrieval**: Orion Health will use reasonable endeavours to back-up the Subscriber Data if and to the extent described in the Product Listing and any other Documentation. The Subscriber acknowledges and agrees that in using the Product and any Services: (a) the Subscriber is responsible for determining the Subscriber Data retention periods, including any compliance obligations arising for the Subscriber or its Personnel under any applicable laws; (b) to the extent any of the Services require, permit or involve Orion Health retaining any Subscriber Data, Orion Health will not retain that data for any longer than is reasonably necessary for Orion Health to perform its obligations or exercise its rights as permitted by this Agreement, including to meet any compliance obligations that apply to Orion Health or its provision of the Services arising under any applicable laws; (c) once Orion Health no longer needs to retain any of the Subscriber Data to perform its obligations or exercise its rights under this Agreement, Orion Health will, at the Subscriber's option and direction (acting reasonably), promptly return to the Subscriber (at the Subscriber's expense) or destroy, erase or otherwise render inaccessible that Subscriber Data. Notwithstanding anything to the contrary, whether in any Documentation or elsewhere, unless otherwise mutually agreed to by the parties, Orion Health is not required to retain any Subscriber Data for longer than 90 days from the expiry or termination of this Agreement for any reason. The Subscriber may request the retrieval and return of any Subscriber Data held by Orion Health from time to time. Resolving any requests for any retrieval or return of that data will be subject to Orion Health's database optimisation activities or other archiving processes applicable to the Services, as notified as part of the Documentation, as may be updated by Orion Health from time to time. Unless otherwise agreed by the parties, the Subscriber will reimburse Orion Health for any assistance it provides at the Subscriber's request for any Subscriber Data retrieval or return, on a time and materials basis, at Orion Health's then current applicable professional services rates, as well as any reasonable out-of-pocket expenses incurred with prior authorisation or otherwise in accordance with any expenses policy identified in the Documentation.

7.3 **Data and compliance**: If the Subscriber Data contains any Personal Data, to the extent Orion Health will Process any of that Personal Data in fulfilling the Subscription and providing any associated Services, each party acknowledges and intends that: (a) Orion Health will only Process that Personal Data on behalf of and for the purposes of providing the Services to the Subscriber and its Users; (b) each party will comply with obligations that apply to that party under any Data Protection Laws, including in respect of the transfer of any Subscriber Data to any third country and any mandatory notification requirements.

7.4 **HIPAA and BAA requirements**: The Subscriber agrees not to Process any Protected Health Information or other information that is subject to HIPAA (**HIPAA Data**) via the Product or any of the Services unless the Subscriber has entered into a Business Associate Agreement (**BAA**) with Orion Health, by accepting and, if requested, executing Orion Health's then current form of BAA for the Services. Unless otherwise agreed with the Subscriber in writing, by commencing to permit any access for Orion Health to any Protected Health Information, the Subscriber acknowledges and accepts Orion Health's then applicable form of BAA. Orion Health's form of BAA as at this Agreement's most recent review is attached to this Agreement as '*Attachment: BAA Addendum*'. Each party will comply with the requirements set out in that BAA or any replacement to it to the extent any HIPAA Data is transmitted or used in connection with any of the Services in any way that requires the parties entry into a BAA. Where a BAA is relevant, unless the Subscriber accepts that a BAA is in place with Orion Health, Orion Health will have no liability for any HIPAA Data, notwithstanding anything to the contrary in this Agreement or in HIPAA. Each BAA between the parties is incorporated in this Agreement and forms an integral part of it.

7.5 **AI features**: From time to time, Orion Health may make available certain functionalities that allow the Subscriber to use artificial intelligence, machine learning, or similar technologies through the SaaS Service, including in connection with the Services' processing of Subscriber Data (**AI Features**). Unless otherwise prescribed by the Product Listing or other Documentation, the Subscriber's use of any AI Features is optional. If the Subscriber elects to use AI Features, Subscriber Data will not be used to train or improve third-party foundation models without the Subscriber's prior consent. The Subscriber and any of its Users may provide input, including Subscriber Data, for use with any AI Features (**AI Input**) and receive output generated and returned by the AI Features based on the AI Input (**AI Output**). Other customers providing similar AI Input to the AI Features may receive the same or similar AI Output. The Subscriber acknowledges and agrees that Subscriber is solely responsible for reviewing and validating AI Output for the Subscriber's and its Personnel's needs and technical environments before electing to use or permitting any Subscriber Personnel to use any AI Output. The Subscriber agrees to comply with any applicable AI Feature restrictions described in the Documentation. NOTWITHSTANDING ANY CONTRARY PROVISION, WHETHER IN THIS AGREEMENT OR ANY DOCUMENTATION, ORION HEALTH DOES NOT REPRESENT OR WARRANT TO ANYONE THAT ANY AI OUTPUT WILL BE ACCURATE, COMPLETE, ERROR-FREE, OR FIT FOR A PARTICULAR PURPOSE.

7.6 **Research, analysis, Account Data and Anonymized Data**: The Subscriber acknowledges and agrees that Orion Health may collect, handle and use data regarding the configuration, performance, security, access to and use of the Services by the Subscriber and Users, including product usage and support metrics, logs and findings, threat intelligence or threat actor data and potentially malicious artifacts scanned or generated by the Services (**Account Data**). Any Account Data may be used for Orion Health's and its Affiliates' internal business purposes, including to develop, improve, support, secure and operate the Product and any Services, in each case without derogating from Orion Health's confidentiality, data and security obligations under this Agreement and without identifying the Subscriber or any Subscriber Data to anyone who is not authorized to receive this information under this Agreement's confidentiality obligations. Notwithstanding the foregoing, nothing in this Agreement will restrict Orion Health's use, copying, production and/or aggregation of any Account Data, including for statistical analysis and research purposes, that has been anonymized in accordance with applicable laws and adopting scripts or other methods that meet industry-recognised standards for anonymisation.

7.7 **Exclusions and accountability**: Orion Health will have no liability for any Processing or any other collection, use, disclosure of or failure to allow access to Subscriber Data, or failure to correct or delete any Subscriber Data, to the extent caused by an act, omission or direction of the Subscriber or any of its Personnel, including provision of any Subscriber Data to Orion Health without consent or otherwise in accordance with Data Protection Laws or any failure by any Subscriber to communicate any relevant preferences or requests about any Subscriber Data made to the Subscriber by or for any User.

8. SECURITY

8.1 **Orion Health responsibilities:** Orion Health will: (a) maintain and enforce physical security procedures with respect to its access, use and possession of any Subscriber Data, at least equal to industry standards for such types of locations, and provide reasonably appropriate technical and organizational safeguards against accidental or unlawful destruction, access to, loss, alteration or unauthorized disclosure of the Subscriber Data; (b) in its systems include up-to-date anti-viral software to prevent viruses from reaching Subscriber systems through Orion Health's systems. Without limiting these obligations, Orion Health will take reasonable measures to secure and defend its location and equipment against "hackers" and others who may seek, without authorization, to modify or access Orion Health systems or the information found in it. Orion Health will periodically test its systems for potential areas where security could be breached.

8.2 **Subscriber environment:** The Subscriber acknowledges that neither the Product nor the SaaS Service comprise a security software product or solution and are not supplied as solutions for protecting against the transmission of viruses, hacking or other attempts to gain unauthorised access to Subscriber's Computing Environment, networks, systems or any Interfaced Applications. The Subscriber acknowledges and agrees that it will install and maintain appropriate security solutions to avoid unauthorised access to the Subscriber's Computing Environment and its systems and networks, including adequate firewall, intrusion detection, anti-virus and security solutions.

8.3 **User access restrictions:** Each Subscriber acknowledges that the SaaS Service must be accessed using unique user login identifications and passwords, and agrees that the Subscriber has sole responsibility for the creation of such unique identifiers, and for ensuring that each User has access restrictions appropriate to that User's position, and for Users maintaining the confidentiality and security of the passwords used to access the SaaS Service. Orion Health will have no liability to any Subscriber for any third party's unauthorised access to the SaaS Service resulting from a failure of the Subscriber or Users to maintain the confidentiality and security of their passwords or any other account credentials generated by the Subscriber and associated with any Subscription. Where any Software Use Restrictions state that a Subscriber's access to the Product is limited to a permitted number of Users, the Subscriber is responsible for ensuring the number of active unique login identifications for Users able and permitted to access the Product do not exceed that permitted number at all times.

8.4 **Information reliance:** Each Subscriber warrants and confirms that Orion Health may rely on any information and instructions in any transmission from a Subscriber or its Users using any assigned name and password or other account credentials permitting access to the SaaS Service and any Product, without making further investigation or inquiry, and regardless of the actual identity of the individual transmitting the same. Each Subscriber will indemnify and hold Orion Health harmless from any loss or damage incurred as a result of Orion Health's reliance on any such information and instructions, whether provided by the Subscriber or its Users.

9. PROPRIETARY RIGHTS

9.1 **Affirming ownership:** Subject to the licenses granted under this Agreement for any orders validly placed for the Subscriber under this Agreement, Orion Health will retain all right, title and interest it may have in and to each Product and the Services, including all Proprietary Rights in or to each Product and any of the Services. Nothing in this Agreement will be construed as granting to any Subscriber or User any rights of ownership or other Proprietary Rights in or to the Product, the SaaS Service, any other Services, the Documentation or any of these items. The Subscriber acknowledges and agrees that: (a) all right, title, and interest, including any intellectual property rights evidenced by or embodied in, attached, connected, or related to any Product, the SaaS Service or any other Services (and any and all improvements enhancements, corrections,

modifications, alterations, revisions, extensions and updates and derivative works thereof) and any other products, deliverables or services provided by or for Orion Health under this Agreement are and will remain owned solely by Orion Health or its licensors; (b) this Agreement does not convey to the Subscriber or any User any interest in or to any Product or any of the Services, including the SaaS Service, other than a limited right to use each Product and any Services authorized by any Subscription in accordance with this Agreement; and (c) nothing in this Agreement or any Documentation constitutes a waiver of Orion Health's Proprietary Rights, including any intellectual property rights, under any law.

9.2 **Feedback:** Subscribers and Users may from time to time, at their option, provide written or oral ideas, suggestions, comments or other feedback (**Feedback**) to Orion Health regarding the Product and any Services, including about user experience functionality, and performance of the Services. Orion Health is free to use and incorporate any of the Feedback for any purpose, without attribution or compensation of any kind to the Subscriber or any User. No Subscriber or User has any obligation to provide any Feedback, and all Feedback is provided by each Subscriber and User 'as is' and without any warranty of any kind. Feedback will not include any Subscriber Confidential Information and, unless otherwise agreed by the parties, Orion Health will not disclose the source of any Feedback.

10. CONFIDENTIALITY

10.1 **Defining Confidential Information**: In this Agreement '**Confidential Information**' means any non-public information directly or indirectly disclosed by either party (**Disclosing Party**) to the other party (**Receiving Party**), or that is created by a party under or in relation to this Agreement and relates to the other party or that other party's business, that is not generally known to the public or, by its nature, should be reasonably considered confidential, and any information concerning this Agreement, but does not include information that: (a) is or becomes generally available to the public other than as a result of a breach of an obligation under this Agreement or any other obligations of confidence; (b) is acquired by the recipient from a third party who owes no obligation of confidence in respect of the information; or (c) is or has been independently developed by the recipient, or was known to it prior to receipt, as evidenced by written records.

10.2 **Non-disclosure**: Each party will hold the other party's Confidential Information in confidence and will not disclose it to any third party without the disclosing party's prior written consent or as otherwise expressly permitted by this Agreement.

10.3 **Protective measures**: Each party will take measures to protect a Disclosing Party's Confidential Information that are no less protective than those measures a Receiving Party uses to protect its own comparable Confidential Information, and in any event, not less than a reasonable degree of care and protection.

10.4 **Permitted disclosures**: Neither party will divulge any of a Disclosing Party's Confidential Information to any person without the Receiving Party's express prior written consent except for its Personnel, for whom that party is and will remain responsible, and then only to the extent that the Receiving Party's Personnel need to know that information in order to carry out that person's role for the Receiving Party and are bound by at least equivalent obligations of confidentiality and non-disclosure as those required by this Agreement. Each party acknowledges and agrees that any Confidential Information received from or created in relation a Disclosing Party will only be used by the Receiving Party for the purposes of exercising that party's rights or performing its obligations under this Agreement. The Receiving Party may disclose the Disclosing Party's Confidential Information to the extent any disclosure is required by law or by a valid order by a court or other judicial or administrative body of competent jurisdiction, provided that the Receiving Party will use reasonable endeavours to notify the Disclosing Party of the legal process requiring disclosure, if legally permitted to do so, and permit the Disclosing Party an opportunity to seek a protective order or take other steps to prevent or restrict the required disclosure, if this is possible, and in any event only proceed with disclosures to the extent necessary to legally comply with compelled disclosure.

10.5 **Equitable relief**: The parties acknowledge and agree that a breach of this Section 10 and any of its subsections would cause irreparable harm and that either party will be entitled to seek equitable relief from such breach.

10.6 **NDA:** The parties may at times or from time to time agree to a separate nondisclosure agreement between Orion Health and the Subscriber (**NDA**) which applies to disclosures occurring during a Subscription. Where any NDA is in place, the provisions of that NDA are incorporated in this Agreement and will apply instead of the provisions of this Section 10 in determining and resolving each party's obligations of confidentiality to one another, including under this Agreement.

11. WARRANTIES & DISCLAIMERS

11.1 **General:** Each party represents and warrants to the other party that: (a) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; (b) that the execution and performance of this Agreement will not conflict with other agreements to which it is bound or violate applicable law.

11.2 **Performance**: Orion Health represents and warrants to the Subscriber that the Product as provided via the SaaS Service will substantially perform in conformance with its Documentation during the term of its Subscription. As the Subscriber's sole and exclusive remedy and Orion Health's sole liability for breach of this warranty, Orion Health will use commercially reasonable efforts to resolve the Product's performance via the SaaS Service and, if Orion Health cannot enable performance

substantially in conformance with the Documentation within a reasonable time, not to exceed 30 days, then the Subscriber may terminate its Subscription and receive a pro-rata refund of any amounts pre-paid by the Subscriber for the remaining unused period of its Subscription. This warranty will not apply if the failure of the Product or any aspects of the SaaS Service result from or are otherwise attributable to the Subscriber or any User's acts or omissions in violation of this Agreement. Orion Health will not be liable in any circumstances either for any delay or unavailability arising for the Product or any of the Services, including the SaaS Service, caused by: (a) any failure of the Subscriber's Internet access or any communications network, or shortage of adequate power; or (b) any maintenance or changes occurring within the Subscriber's or its Users systems, including the Subscriber's Computing Environment, affecting the operation of the Product or any aspects of the SaaS Service.

11.3 **Services**: Orion Health represents and warrants to the Subscriber that: (a) any Services will be performed in a professional manner, carried out with reasonable due care and attention, consistent with generally recognized industry standards and practices for similar services, by suitably skilled, qualified and experienced Personnel; (b) Orion Health will devote adequate resources to meet its obligations under this Agreement.

11.4 **Network responsibilities:** The SaaS Service is provided via public and private networks which are not maintained by or for Orion Health. Orion Health disclaims any liability for delays, delivery failures, unavailability of the SaaS Service or access to or use of the Product, or any other loss or damage, due to network latency or unavailability where and to the extent that networks are not provided by or for Orion Health.

11.5 **Exclusions:** Orion Health will have no liability or obligation under this Agreement, including with respect to any warranty, to the extent any liability, claim or demand is attributable to: (a) use of the Product, the SaaS Service or any other Services by the Subscriber, its Personnel or any User in violation of this Agreement or applicable law; (b) modifications to the Product, the SaaS Service or any other Services not provided by Orion Health or its Personnel; (c) use of the Product or the SaaS Service in combination with third-party equipment or software not provided or made accessible by Orion Health or its Affiliates or contemplated as permissible by the Product Listing or Documentation; (d) use of the Product, the SaaS Service or any other Services by the Subscriber, its Personnel or any User in conflict with the Product Listing or any other Documentation, to the extent that any nonconformity would not have occurred absent that use or modification by the Subscriber, its Personnel or any User; (e) the Subscriber's or its Personnel or any Users incorrect installation of a new Release or Version or any failure to implement a new Release or Version made available via the SaaS Service; (f) any information made available to Orion Health or its Affiliates by or for the Subscriber or its Personnel being untrue, inaccurate or misleading in any material respect.

11.6 **Disclaimer:** Each Subscriber understands and agrees that the Product, the Saas Service and any other Services are made available to the Subscriber in its capacity as a business and not as a consumer or for consumer use. OTHER THAN AS EXPLICITLY STATED IN THIS AGREEMENT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY MAKES ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE PRODUCT, SERVICES, DOCUMENTATION, OR SUBSCRIBER DATA, AND EACH PARTY AND ITS AFFILIATES AND LICENSORS DISCLAIM ANY AND ALL OTHER GUARANTEES, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSES AND NON-INFRINGEMENT. ORION HEALTH, ITS AFFILIATES AND ANY LICENSORS DO NOT WARRANT: (A) THAT THE PRODUCT AND THE SAAS SERVICE OR ANY OTHER SERVICES WILL MEET THE SUBSCRIBER'S REQUIREMENTS; OR (B) THAT THE OPERATION OF THE PRODUCT VIA THE SAAS SERVICE OR OTHERWISE WILL BE UNINTERRUPTED OR ERROR FREE.

12. INDEMNIFICATION

12.1 **Orion Health indemnity:** Orion Health will: (a) defend, at its expense, any third party action, claim or suit brought against the Subscriber that the software and other technology used by Orion Health in providing any Product, the SaaS Service or any Documentation, when used by the Subscriber and Users as permitted under this Agreement, infringes the intellectual property rights of a third party (**IP Infringement Claim**); and (b) indemnify and hold harmless the Subscriber from and for any damages or other amounts awarded in any final judgment against the Subscriber that are attributable to that IP Infringement Claim, or that are otherwise agreed in a settlement for that claim with Orion Health's prior consent.

12.2 **Remedies for possible IP Infringement Claim**: If the Product or the SaaS Service becomes or, in Orion Health's opinion, is likely to become the subject of any claim that it infringes any intellectual property rights, then Orion Health may, at its sole option, discretion and expense: (a) procure the right for the Subscriber to continue using the Product and the SaaS Service, to the extent that either or both is at risk of any infringement claim; (b) modify the Product and any affected aspects of SaaS Service so that these becomes non-infringing; or (c) replace the Product and any affected aspects of the SaaS Service with non-infringing functionally equivalent replacements. If Orion Health considers that none of these remedies or any combination of them are reasonably available or commercially feasible, then Orion Health may terminate the Subscriber's and Users' access to any affected Product and SaaS Service on notice to the Subscriber, in which case Orion Health will refund to the Subscriber promptly following request any fees then prepared to Orion Health by the Subscriber for the then remaining and unused portion of the affected Subscription on a pro-rata basis.

12.3 **Subscriber indemnity**: The Subscriber will, at its expense, defend, indemnify and hold Orion Health and its Affiliates and its and their Personnel harmless from and against any and all loss, damage or claim by any third party to the extent arising out of or alleging of any of the following: (a) infringement, misappropriation or violation of any intellectual property rights by the Subscriber Data or the Subscriber's other Confidential Information and Orion Health's use of any of this data or other information as permitted under this Agreement; (b) any unauthorized use or modification of the Product, the SaaS Service or the Documentation by the Subscriber or any of its Users, including where arising as a consequence of the Subscriber's failure to comply with Section 2.5 (Restrictions) or other breach of this Agreement; and (c) any claimed or alleged liability by Orion Health to any Users as a result of the Services or any Documentation provided under this Agreement, as Orion Health's relationship is with the Subscriber. Nothing in this Agreement obliges Orion Health to take any action directly with any Users for any actual or alleged claim. Any and all claims from Users, alleged or actual, must be directed to the Subscriber (and not Orion Health), even if the outcome of a claim may result in liabilities that may be covered by an indemnity obligation to the Subscriber arising under this Agreement.

12.4 **Process for indemnification**: Any obligations to defend, indemnify or otherwise hold harmless anyone under any provision of this Section 12 are contingent on the party who holds that right (**Indemnified Party**): (a) promptly notifying the party responsible for fulfilling the obligation (**Indemnifying Party**) of the existence of IP Infringement Claim or other claim to which any obligations may apply to the Indemnifying Party under this Section 12; (b) granting the Indemnifying Party sole authority and control for the defence or settlement of the relevant claim; (c) providing the Indemnifying Party with all reasonable cooperation and assistance for the defence or settlement of the relevant claim; and (d) using all reasonable endeavours to minimise the costs, losses or other liabilities for which an Indemnifying Party may be responsible under this Section 12.

12.5 **Other exclusions**: Notwithstanding Sections 12.1 and 12.2, in no event will Orion Health, its Affiliates or any of Personnel of Orion Health or any of its Affiliates be liable to the Subscriber for any Intellectual Property Infringement Claim to the extent resulting or arising from or based on: (a) any use of any Product, the SaaS Service or any aspects of them not in accordance with this Agreement; (b) any modifications to any Product, the SaaS Service, the Documentation or any aspects of any of them by anyone other than Orion Health; (c) the Subscriber's or any User's use of any Product, the SaaS Service or any Documentation in a manner contrary to instructions given to the Subscriber for use by Orion Health; (d) the Subscriber's and any Users' continued use of any Product, the SaaS Service or any Documentation after notice of alleged or actual infringement relating to any of them from Orion Health or any relevant authority; (e) the Subscriber's or any of its Personnel combination of or use of any Product, the SaaS Service or any other Services with software not supplied by Orion Health or in compliance with the Documentation. Without limiting the foregoing, to avoid doubt, Sections 12.1 and 12.2 state Orion Health's entire obligations and liability, and the Subscriber's exclusive remedies, for any claims of alleged or actual infringement of the intellectual property rights of any third party.

13. LIMITATIONS OF LIABILITY

13.1 **Disclaimer and general liability caps**: TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SUBJECT TO SECTION 13.2 AND EXCEPT WITH RESPECT TO LIABILITY ARISING FROM EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER ANY PROVISIONS OF SECTION 12 (INDEMNIFICATION) OR FOR ANY BREACHES OF SECTION 10 (CONFIDENTIALITY), OR THE SUBSCRIBER'S OBLIGATION TO PAY ANY AMOUNTS OWED TO ORION HEALTH UNDER THIS AGREEMENT, (COLLECTIVELY '**EXCLUDED CLAIMS**'), IN NO EVENT WILL: (A) EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR ANY OF ITS PERSONNEL OR, IN THE CASE OF ORION HEALTH, TO ANY USER) WITH RESPECT TO THIS AGREEMENT OR OTHERWISE UNDER ANY LEGAL THEORY, HOWSOEVER ARISING, FOR ANY LOSS OF PROFITS OR REVENUE, ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES, DATA LOSS, OR PUNITIVE OR EXEMPLARY DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT OR USE OR INABILITY TO USE THE PRODUCT OR THE SAAS SERVICE OR ANY OTHER SERVICES OR ANY OF THE SUBSCRIBER DATA, INCLUDING FOR DAMAGES RESULTING FROM INTERRUPTION OR BUSINESS, LOSS OF USE OF TECHNOLOGY, OR LOSS OF GOODWILL, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES; AND (B) EXCEPT WITH RESPECT TO LIABILITY ARISING FROM EXCLUDED ITEMS, IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY FOR ANY DIRECT DAMAGES ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF PAYMENTS ACTUALLY MADE BY THE SUBSCRIBER TO ORION HEALTH FOR THE SERVICES TO WHICH THE CLAIM RELATES IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

13.2 **Exceptions for gross negligence, wilful misconduct and fraud**: THE EXCLUSIONS AND LIMITATIONS OF LIABILITY IDENTIFIED IN SECTION 13.1(A) AND (B) WILL NOT APPLY TO A PARTY'S GROSS NEGLIGENCE, WILFUL MISCONDUCT OR FRAUD.

13.3 **Clarifications**: The parties acknowledge and agree that: (a) THIS SECTION 13 AND ITS LIABILITY LIMITATIONS AND EXCLUSIONS WILL APPLY REGARDLESS OF THE FORM OF ACTION AND IRRESPECTIVE OF HOW THE LIABILITY ARISES, WHETHER IN CONTRACT, TORT (INCLUDING FOR NEGLIGENCE AND STRICT LIABILITY), EQUITY, FOR BREACH OF STATUTORY DUTY OR OTHERWISE, AND EVEN IF ANY EXCLUSIVE OR LIMITED REMEDY PROVIDED FOR IN THIS AGREEMENT IS FOUND TO HAVE FAILED ITS ESSENTIAL PURPOSE; and (b) THE LIMITATION OF LIABILITY IN THE AGGREGATE PRESCRIBED BY SECTION 13.1(B) IS CUMULATIVE, with all expenditures and payments made or other liabilities arising under this Agreement (except with respect to Excluded Items) being aggregated to determine the satisfaction of this limit.

14. MISCELLANEOUS

14.1 **Relationship**: The parties are independent contractors. Nothing in this Agreement will be construed as placing the parties in the relationship of employer-employee, principal-agent or joint venturers, or giving a party any authority to bind the other.

14.2 **Export compliance:** The Products, the Services or aspects of them may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not on any U.S. government denied-party list. The Subscriber will not (and will not permit any User) to access or use any Product or any of the Services, including the SaaS Service, in any U.S. embargoed country or region at any time, as those countries or regions may be updated from time to time, or in violation of any U.S. export law or regulation.

14.3 **Subcontracting**: Orion Health may, if it deems necessary or advisable, use subcontractors in Orion Health's performance of this Agreement and duties and obligations arising under it. Orion Health will remain responsible for that performance. This right to subcontract and any use by or for Orion Health of any subcontractors will not relieve Orion Health of any of its duties or obligations under this Agreement.

14.4 **Assignment**: Neither party may assign or transfer this Agreement or any rights or delegate any duties arising under it without the prior written consent of the other party. Notwithstanding the foregoing, and without gaining the Subscriber's written consent, Orion Health may assign this Agreement, in its entirety, and delegate its obligations to its Affiliates or to any entity acquiring all or substantially all of its assets, whether by sale of assets, sale of stock, merger or otherwise. Any attempted assignment, transfer or delegation in contravention of this Section will be null and void. This Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.

14.5 **Insurance:** During each Subscription, Orion Health will maintain reasonable levels of public liability and professional indemnity insurance coverage, in each case for amounts and at levels of coverage and deductibles that are consistent with prudent commercial practice applicable to the scope and nature of the liabilities assumed for any Subscription. Upon Subscriber's reasonable request, Orion Health will provide a Subscriber with evidence reasonably required to demonstrate that Orion Health then holds and is maintaining insurance cover consistent with requirements arising under this Section.

14.6 **Force Majeure**: Neither party will be liable to the other for any delay or failure to perform its obligations under this Agreement (excluding payment obligations) if the delay or failure arises from any cause beyond that party's reasonable control.

14.7 **No third party beneficiaries**: This Agreement does not give rise to any rights for any third party to enforce this Agreement or any of its provisions.

14.8 **Amendments**: Except as expressly stated, any amendments, modifications or changes to this Agreement must be made in writing and signed by both parties in order to be effective.

14.9 **Non-waiver & severability**: A party's failure to exercise or enforce any right or provision of the Agreement will not constitute a waiver of that right or provision. No power or right arising under this Agreement will be waived nor any breach or default excused unless a waiver or excuse is given in writing and signed by an authorised representative for the party giving it. If any provision is found by a court of competent jurisdiction to be invalid, then that provision will be construed, as nearly as possible, to reflect the intentions of the parties with the other provisions remaining in full force and effect.

14.10 **Survival**: Termination or expiry of this Agreement and any Subscription for any reason will not affect any provisions that are reasonably required or intended to continue after this Agreement or Subscriptions established under it end including, by way of example, payment obligations, the parties' respective confidentiality and indemnity obligations, any provisions limiting or excluding liabilities and any provisions dealing with termination. Termination or expiry for any reason will not relieve either party of any amounts owing at the date of termination or for liability for any breach occurring prior to termination or expiry.

14.11 **Publicity**: Unless otherwise required by an agreed Order Form or other documented purchase transaction for a Subscription concluded between the parties, Orion Health may state publicly or list in announcements, presentations or other marketing materials the fact that a Subscriber is a subscriber the Product and user of any associated Services and make any factual disclosures relating to the parties entry into this Agreement, while that Subscriber's Subscription remains current.

14.12 **Notices**: To be effective, any notice required or permitted to be sent under this Agreement will be in writing, signed by an authorised representative for the party giving it and sent in a manner permitting evidence of sending and, where notice is required to be given to Orion Health, copied to legal@orionhealth.com. Each party agrees that it may receive notices from the other party regarding this Agreement by: (a) email to any email address provided for a party as its nominated email address for notices in concluding the purchase transaction via AWS Marketplace or executing any Order Form, or any updates to that address as notified in accordance with this Section from time to time; or (b) by registered mail enabling proof of delivery or delivery using a recognised courier service to a party's then current registered office address. Notices given by email are effective 1 day after sending. Notices given by trackable registered mail or courier delivery are deemed received on the date of proof of delivery.

14.13 **Entire agreement**: This Agreement constitutes the entire agreement between the parties, superseding all prior written agreements, arrangements, communications and understandings (whether written or oral) among the parties with respect to its subject matter. This Agreement is solely between the Subscriber and Orion Health, each '**a party**' and together '**the parties**'. Each party acknowledges that it has not relied on any representations, warranties, statements, or information made or delivered (verbally or in writing) by either party except any expressly set out in this Agreement. To avoid doubt: (a) neither Amazon Web Services, Inc. (**AWS**) nor any of its Affiliates are a party to this Agreement, unless AWS or any of its Affiliates elect to order a Subscription for the Product or any Services from Orion Health under it; and (b) unless AWS or an Affiliate enters into this Agreement as a Subscriber, neither AWS nor any of its Affiliates will have any liability or obligations under this Agreement.

14.14 **Governing law**: This Agreement will be governed and construed under the laws of the State of New York, without giving effect to principles relating to conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods and will not apply to this Agreement. In the event of a dispute, the parties will attempt to first resolve the dispute in good faith by appropriate senior executive level negotiations. Nothing in this Section will preclude either party from seeking urgent equitable relief from a court of competent jurisdiction. If either party employs attorneys or other qualified lawyers to enforce any rights arising out of or related to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' and lawyers' fees and costs from the other party.

15. INTERPRETATION

15.1 **Definitions**: In this Agreement, the following capitalized expressions mean:

Affiliate	With respect to a party, any entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with that party.
AWS Marketplace	The marketplace operated by Amazon Web Services, Inc., which is currently located at https://aws.amazon.com/marketplace/, as it may be updated or relocated from time to time.
Data Protection Laws	All data protection and privacy laws and regulations applicable to the processing, protection, or privacy of Personal Data under this Agreement, including where applicable, the codes of practice issued by regulatory bodies in any relevant jurisdiction.
DDOS Attack	A denial-of-service attack, being a malicious attempt by attackers to prevent legitimate users of a service from using that service.
Documentation	The user guides, manuals, handbooks, release notices and other written materials, whether in print or electronic form, related to the Product and any associated Services and its and their use, operation or maintenance, together with all enhancements, modifications, derivative works and amendments to those documents, that Orion Health publishes or provides under this Agreement for any Subscription and includes any current Product Listing.
Effective Date	The date from which the Subscriber first accesses the Product or any of the Services or, if earlier, then the date specified as an 'Effective Date' in the Order Form or other written agreement executed between the parties, if any, authorizing any Subscription.
Interfaced Applications	Software products that are proprietary to third parties, not provided by Orion Health and that a Subscriber elects to use in conjunction with the SaaS Service.
HIPAA	The Health Insurance Portability and Accountability Act of 1996, as amended and supplemented.
Orion Health's Computing Environment	The computing infrastructure and systems used by or for Orion Health to provide the Product for the Subscriber and any Users, whether via the SaaS Service or otherwise.
Open Source Software	Software distributed under a licensing or distribution model that is publicly available and makes the source code to such software available to licensees for use, modification and redistribution.
Personal Data	Any information or other data that relates to an identified or identifiable living individual.
Personnel	a party or its Affiliate's directors, officers, employees, non-employee workers, agents, auditors, consultants, contractors, subcontractors and any other person performing services on behalf of that party (but excludes the other party and any of the foregoing of the other party).
'**Process**' or '**Processing**'	Any operation or set of operations performed on Personal Data, whether or not by automated means, including any access, collection, use and/or disclosure of any of that data.

Product Listing	The description of the Product and other product information listed on AWS Marketplace about what Orion Health offers as a Subscription for the Product and any associated Services, including any Support Services, and Orion Health's policies and procedures identified in the product information.
Product	The computer software and any associated data, content and services identified in the applicable Product Listing that Orion Health provides or is obliged to provide as part of a Subscription, including any Releases, Versions and other patches, bug fixes, corrections, upgrades, modifications or enhancement that Orion Health provides, or is obliged to provide, as part of the Subscription.
Proprietary Rights	All intellectual property and proprietary rights throughout the world, whether now known or hereinafter discovered or invented, including all: (a) patents and patent applications; (b) copyrights and mask work rights; (c) trade secrets; (d) trademarks; (e) rights in data and databases; and (f) analogous rights throughout the world.
Release	An update to a Product made available by or for Orion Health containing minor improvements or minor enhancements to existing features.
SaaS Service	Access and use of a Product, or a component of a Product, as deployed and hosted by or for Orion Health in Orion Health's Computing Environment, and any software and other technology provided or made accessible by or for Orion Health in connection with it (and not as a separate product or service) that Subscriber is required or has the option to use in order to access and use the Product.
Services	All services and tasks that Orion Health provides or is obliged to provide under this Agreement, including any Support Services.
Software Use Restrictions	Any specific User or configuration restrictions applicable to a Subscriber's use of the SaaS Service or any Product, each as set out in the Product Listing or any other Documentation issued by or for Orion Health or its third-party licensors for any Subscription authorized under this Agreement.
Subscriber	Each entity or other person wishing to receive access and allow access for its Personnel to the Product and any associated Service and subscribes to Orion Health for a Subscription for any Product Listing by placing an order via or as permitted by AWS Marketplace
Subscriber Data	Any and all data, including any Personal Data or health information, if any, and any files, information or content, including text, images, video and any software or other applications, that the Subscriber or any of its Affiliates or Users transmit or otherwise supply or disclose in accessing or using any of the Services, including the SaaS Service, using the Subscription or any of the Subscriber's credentials associated with enabling access to or other use of the Product or any of the Services. To avoid doubt, 'Subscriber Data' excludes any operational data, meaning any data and other information captured or recorded about the operation or performance of any or all of Orion Health's Products, Services or deliverables, or Orion Health's Computing Environment, as all of this information is owned and retained by Orion Health.
Subscriber's Computing Environment	The Subscriber's computing environment in which Orion Health authorizes use of the Subscription.
Subscription	A Product subscription for a specific use capacity purchased by a Subscriber and fulfilled by Orion Health for the licensing and supply of the Product and any associated Services, whether deployed in the Subscriber's Computing Environment or available as a SaaS Service through Orion Health's Computing Environment.
Support Services	The support and maintenance services for the Product that Orion Health provides, or is obliged to provide, in each case only as described in the Product Listing.
User	Subscriber, its Affiliates and any individual or program or computer systems authorized by or for the Subscriber to use the Product and any associated Services in compliance with this Agreement (including the Software Use Restrictions), who have been supplied by the Subscriber or any of its Personnel with a user identification and password or other account or licensing credentials for using the Product and any associated Services.

Version	Any new version of the Product that provides substantial performance improvements, architectural changes, new features or additional functionality, and which is made generally commercially available by Orion Health.

15.2 **Construction:** In interpreting this Agreement, unless the contrary intention is expressed: (a) Orion Health and each Subscriber may be referred to collectively as the 'parties' or individually as a 'party'; (b) headings and subheadings are for convenience only and do not affect the meaning of this Agreement; (c) any words after the terms 'include', 'including', 'for example', or any similar expression will be construed as illustrative, and not limit the sense of any words preceding those terms; (d) any uncertainty or ambiguity in the meaning of any provision will not be interpreted against a party just because the party prepared that provision or this Agreement. Instead, that uncertainty or ambiguity will be resolved by applying the most reasonable interpretation in the circumstances, having regard to the intentions of the parties at the time of contracting; (e) applicable laws will be understood as referencing the laws that apply under the governing law of this Agreement and any other laws or regulations, regulatory policies, guidelines or industry codes of any jurisdiction that apply as a matter of law to the exercise of a party's rights or the performance of any of its obligations under or in connection with this Agreement and (f) a reference to any agreement or document (including this Agreement) includes any amendments to or replacements of that document.

ATTACHMENT: Business Associate Agreement Addendum (Addendum)

Overview: This Business Associate Agreement (**BAA**) is part of the Agreement between the Subscriber and Orion Health entitled 'End User Licence Agreement: Orion Health Subscription Products' (**EULA**). This Addendum governs the creation, receipt, maintenance, or transmission of Protected Health Information, if any, on behalf of the Subscriber by Orion Health. This Addendum is **not** applicable if Orion Health does not create, receive, maintain, or transmit Protected Health Information on behalf of the Subscriber or if the Subscriber is not subject to: (i) the Health Insurance Portability and Accountability Act of 1996 (**HIPAA**); (ii) the Health Information Technology for Economic and Clinical Health Act of 2009 (**HITECH Act**); and (iii) any of their implementing regulations, including 45 C.F.R. parts 142 and 160 -164 and the Privacy Rule and the Security Rule these establish, (together, '**the Rules**'), each as may be amended, as a 'Covered Entity' or a 'Business Associate'.

Updates: The form of BAA required under the EULA or for any Services made available by or for Orion Health to the Subscriber in connection AWS Marketplace may be updated or replaced by Orion Health from time to time, whether by making an updated version available via the Product Listing or any Order Form accessed for the Services, or notifying the Subscriber about any updates to or replacement form of BAA under and in accordance with the EULA's notice requirements.

1. **DEFINITIONS**

1.1 **Interpretation**: All capitalized terms used but not otherwise defined in this BAA or the EULA will have the same meaning as those terms are defined by HIPAA or the other Rules.

1.2 In this BAA:

(a) "**Breach**" means the acquisition, access, use or disclosure of PHI in a manner not permitted under the Privacy Rule, which compromises the security or privacy of the PHI, as defined in the omnibus rule regarding HIPAA issued by the Office for Civil Rights of the U.S. Department of Health and Human Services (**Omnibus Rule**). Breach does not include: (i) any unintentional acquisition, access, or use of PHI by a workforce member or individual acting under the authority of Orion Health if such acquisition, access, or use was made in good faith and within the scope of authority of such employee or individual and does not result in further use or disclosure in a manner not permitted under the Privacy Rule; (ii) any inadvertent disclosure by a person who is authorized to access PHI at Orion Health to another person authorized to access PHI at Orion Health, 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 (iii) a disclosure of PHI where Orion Health 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.

(b) "**Designated Record Set**" means: (i) medical records, billing records, enrolment, payment, claims adjudication, and case or medical management records systems maintained by or for the Subscriber; or (ii) records used, in whole or in part, by or for the Subscriber, or the 'covered entities' (as defined by HIPAA) to which the Subscriber provides business associate services, to make decisions about Individuals. For the 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 the Subscriber.

(c) "**Electronic Protected Health Information**" or "**ePHI**" means information that comes within paragraphs 1(i) or 1(ii) of the definition of "protected health information," as defined in 45 C.F.R. § 160.103, limited to the information created, received, maintained or transmitted by Orion Health on behalf of the Subscriber.

(d) "**Individual**" has the same meaning as the term "individual" in 45 C.F.R. §160.103 and includes a person who qualifies as a personal representative in accordance with 45 C.F.R. § 164.502(g).

(e) "**Privacy Rule**" means the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and part 164, subparts A and E.

(f) "**Protected Health Information**" or "**PHI**" has the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to individually identifiable information that is created or received by Orion Health from or on behalf of the Subscriber.

(g) "**Required by Law**" has the same meaning as "required by law" in 45 C.F.R. § 164.103.

(h) "**Reproductive Health Care**" has the same meaning as "reproductive health care" in 45 C.F.R. § 171.102.

(i) "**Secretary**" means the Secretary of the U.S. Department of Health and Human Services or that role's designee.

(j) "**Security Incident**" has the same meaning as "security incident" in 45 C.F.R. § 164.304.

(k) "**Security Rule**" means the Security Standards and Implementation Specifications at 45 C.F.R. part 160 and part 164, subpart C.

(l) "**Unsecured PHI**" means PHI that is not secured through the use of a technology or methodology that the Secretary specifies in guidance renders PHI unusable, unreadable or indecipherable to unauthorized individuals.

2. **PERMITTED USES & DISCLOSURES**

2.1 **Provision of Services**: Orion Health may use and disclose PHI in its possession solely for the purpose of providing the Services, including the SaaS Service and performing functions, activities, or services to, for or on behalf of the Subscriber, as authorized or permitted by the EULA.

2.2 **Other permitted uses**: Orion Health may use PHI, if necessary: (i) for the proper management and administration of Orion Health; and (ii) to carry out the legal responsibilities of Orion Health.

2.3 **Other permitted disclosures**: Orion Health may disclose PHI, if necessary, for the purposes described in Section 2.2 if: (i) the disclosure is Required By Law; or (ii) Orion Health obtains reasonable assurance from the person or entity to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person or entity, and the person or entity notifies Orion Health of any instances of which it is aware in which the confidentiality of the information has been breached.

2.4 **Pursuant to an authorization:** Orion Health may use or disclose PHI pursuant to a valid authorization by an Individual that satisfies the requirements of 45 C.F.R. § 164.508 and strictly for the purposes designated under this BAA.

3. **OBLIGATIONS OF ORION HEALTH AS A BUSINESS ASSOCIATE**

3.1 **Prohibition on unauthorized use or disclosure**: Orion Health will not use or disclose PHI, except as permitted or required by the Privacy Rule, the Security Rule, this BAA, the EULA, or as Required By Law. Orion Health agrees it will not disclose any PHI related to Reproductive Health Care without first obtaining a signed attestation from the requesting party confirming that the disclosure is not for a prohibited purpose. In the event of a request for PHI potentially related to reproductive healthcare, Orion Health will promptly notify the Subscriber and not disclose such information until receiving the Subscriber's further instructions or where and to the extent Required by Law.

3.2 **Minimum necessary**: Orion Health will limit its use and disclosure of PHI under this BAA to the "minimum necessary" as set forth in guidance that the Secretary issues under the Privacy Rule, or if guidance has not been issued, to the Limited Data Set (as defined by HIPAA) or the minimum necessary to carry out Orion Health's duties.

3.3 **Exclusions:** The parties to this BAA agree that Sections 3.1 and 3.2 do not apply to: (i) disclosures to, or requests by, a health care provider for treatment; (ii) uses or disclosures made to the Individual; (iii) disclosures made pursuant to an authorization as set forth in 45 C.F.R. §164.508; (iv) disclosures made to the Secretary under 45 C.F.R. part 160, subpart C; (v) uses or disclosures that are Required by Law as described in 45 C.F.R. §164.512(a); and (vi) any uses or disclosures that are required for compliance with any applicable requirements of the Privacy Rule.

3.4 **Notifying Individual requests:** Orion Health will promptly notify the Subscriber of any Individual rights' requests made directly to Orion Health. Orion Health will make available PHI in a Designated Record Set to the Subscriber or, at the request of the Subscriber, the Individual as necessary to satisfy the Subscriber's obligations for Individual rights under 45 CFR 164.524, 45 CFR 164.526, and/or 45 CFR 164.528. To the extent that PHI in a Designated Record Set is available to the Subscriber or its Affiliates through access to the SaaS Service made available to the Subscriber under or in connection with the EULA, then Orion Health satisfies its obligations under this Section through the provision of that SaaS Service.

3.5 **Safeguards:** Orion Health will use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this BAA. Orion Health will implement administrative, physical and technical safeguards as required by the Security Rule, and that reasonably and appropriately protect the confidentiality and integrity of the Electronic Protected Health Information that it receives, maintains or transmits on behalf of the Subscriber.

3.6 **Duty to report violations:**

(a) Orion Health agrees to promptly report to the Subscriber: (i) any use or disclosure of PHI by Orion Health not provided for by the Privacy Rule, the Security Rule or this BAA of which it becomes aware; and (ii) any Security Incident of which it becomes aware. If any Breach occurs, then Orion Health also agrees to cooperate and assist in any steps taken by the Subscriber to mitigate and address the Breach.

(b) As soon as reasonably possible and in all cases, within ten (10) business days of the first day on which any employee, officer, or agent of Orion Health either knows or, by exercising reasonable due diligence, would have known that a Breach of Unsecured PHI has occurred, Orion Health will notify the Subscriber of that Breach. The notification will include the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Orion Health to have been, accessed, acquired, used, or disclosed during the Breach. The notification will also include: (i) a brief description of what happened, including the date of the Breach and the date of the discovery of the Breach, if known; (ii) recommended steps that Individuals should take to protect themselves from potential harm resulting from the Breach; and (iii) a brief description of what Orion Health is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches, maintaining evidence to demonstrate that any required notification under this Section was made unless Orion Health determines that a delayed notification applies.

(c) The parties agree that complying with this Section 3.5 serves as notice by Orion Health to the Subscriber of any Security Incident, and no additional reporting will be required, including of the ongoing existence and occurrence of any Unsuccessful Security Incidents. For the purposes of this BAA, such Unsuccessful Security Incidents include activity such as pings and other broadcast attacks on Orion Health's firewall, port scans, unsuccessful log-on attempts, denial of service and any combination of these events, so long as no such Unsuccessful Security Incident results in unauthorized access, use, disclosure, modification or destruction of ePHI or interference with information system operations related to the ePHI. Orion Health will provide a log or similar documentation of Unsuccessful Security Incidents promptly following any written request from the Subscriber for such information, in each case for the period of time reasonably specified in the Subscriber's request.

3.7 **Subcontractors and agents:** Orion Health agrees to ensure that any subcontractor or agent permitted under a subcontract to create, receive, maintain, or transmit any Protected Health Information on Orion Health's behalf, in any course of dealing, agrees in writing to the same restrictions and conditions that apply through this BAA to Orion Health with respect to such information. Orion Health will ensure that any agent, including a subcontractor, to whom it provides Electronic Protected Health Information, agrees to implement reasonable and appropriate safeguards to protect it.

3.8 **Inspection of books and records:** Without limiting Section 5 of this BAA, upon at least ten (10) days' written notice, Orion Health agrees to make its internal practices, books, and records relating to the use and disclosure of PHI available to the Subscriber or, at the request of the Subscriber as a 'Covered Entity', to the Secretary in a time and manner designated by the Subscriber or the Secretary, in each case for purposes of the Secretary determining the Subscriber's compliance with the Privacy Rule. Nothing in this Section will be construed as a waiver of any legal privilege or of any protections for trade secrets or confidential commercial information.

3.9 **Report pattern or practice of activity in breach:** If required under Section 13404 of the HITECH Act, if Orion Health knows of a pattern of activity or practice of Orion Health that constitutes a material breach or violation of the Subscriber's obligation under this BAA, Orion Health will take reasonable steps to cure the breach or end the violation, and, if such steps are unsuccessful, terminate this BAA and/or the EULA that relates to it or report the problem to the Secretary if termination is infeasible.

3.10 **Applicable law and compliance**: Orion Health must receive, gather, store, back up, maintain, use, disclose and dispose of Subscriber information only in compliance with the terms of this BAA and any associated EULA or other agreed services agreement between the Subscriber and Orion Health. To the extent, if any, that Orion Health is to carry out one or more of the Subscriber's obligations under the Privacy Rule, including the provision of a notice of privacy practices on behalf of the Subscriber, Orion Health will comply with the requirements of the Privacy Rule and any other Rules that apply to the Subscriber in the performance of such obligations.

4. **OBLIGATIONS OF SUBSCRIBER AS COVERED ENTITY**

4.1 **Notice of revocation of authorization**: The Subscriber will notify Orion Health of any changes in, or revocation of, the permission by an Individual to use or disclose that Individual's PHI, if such changes may affect Orion Health's permitted or required uses and disclosures of PHI.

4.2 **Notice of restriction:** The Subscriber will notify Orion Health of any restriction on the use or disclosure of PHI that the Subscriber has agreed to as a 'Covered Entity' under 45 C.F.R. §164.522, to the extent such restriction may affect Orion Health's use or disclosure of PHI.

4.3 **Impermissible requests**: The Subscriber will not request or cause Orion Health to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule or any other applicable Rules if done by the Subscriber.

4.4 **Disclosure of PHI:** The Subscriber will notify Orion Health of the identity of the personnel of the Subscriber who perform administrative functions for the Subscriber and who are authorized to handle PHI. To the extent practicable, the Subscriber will also notify Orion Health each time PHI is given to Orion Health by or for the Subscriber.

5. **LIMITATION ON OBLIGATIONS**

Enforceability limitation: Any requirement imposed on Orion Health in Section 3 of this BAA will not apply in the event a court of competent jurisdiction determines, in response to a challenge raised by or for either party, that the Privacy Rule or Security Rule provision requiring the inclusion of the requirement in this BAA is unenforceable, invalid, or otherwise inapplicable to the relationship between the parties as a 'Business Associate' and 'Covered Entity' or to the action that the Secretary, as defined by HIPAA or any of the Rules, may request of either party as a Business Associate or Covered Entity.

6. **TERM & TERMINATION**

6.1 **Term**: This BAA will commence from the EULA's Effective Date and remain in full force and effect and continue throughout the duration of the EULA, only terminating on the earlier of the date that: (a) either party terminates for cause as authorized

under Section 6.2 of this BAA; or (b) all PHI is returned to the Subscriber or destroyed, or, if it is infeasible to return or destroy PHI, protections are extended to such PHI in accordance with the provisions of this Section 6

6.2 **Termination for cause:** Upon either party's knowledge of material breach by the other party, the non-breaching party will provide an opportunity for the breaching party to cure the breach or end the violation; or terminate this BAA. If the breaching party does not cure the breach or end the violation within a reasonable timeframe not to exceed 30 days from the notification of the breach, or if a material term of the BAA has been breached and a cure is not possible, the non-breaching party may terminate this BAA and the EULA, upon written notice to the other party.

6.3 **Effect of termination:** Except as provided in Section 6.4 of this BAA, upon termination of this BAA or the EULA for any reason, Orion Health will return or destroy PHI in whatever form or medium and retain no copies of any PHI. Orion Health will complete that return or destruction as soon as possible, but in no event later than 60 days from the date this BAA terminates.

6.4 **Extending protections for PHI:** In the event that Orion Health determines that returning or destroying the PHI is infeasible, then Orion Health will provide to the Subscriber notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that the return or destruction of PHI is infeasible, Orion Health will extend the protections of this BAA to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Orion Health maintains such PHI. This Section will survive the termination of this BAA for any reason.

7. **MISCELLANEOUS**

7.1 **Regulatory references and interpretation**: Any reference in this BAA to a section in HIPAA, the Privacy Rule, the Security Rule or the Omnibus Rule means the section as in effect or as amended, and for which compliance is required. In interpreting this BAA: (a) any ambiguity in this BAA will be resolved in favour of a meaning that permits the parties to comply with HIPAA, the Privacy Rule, the Security Rule, the Omnibus Rule and other applicable laws; (b) this BAA supplements the terms and conditions of the EULA and will be deemed a part of the EULA; (c) any words after the terms 'include', 'including', or any similar expression will be construed as illustrative, and not limit the sense of any words preceding those terms; and (d) in the event any provision of the EULA conflicts or is inconsistent with this BAA, then this BAA will prevail and control to the extent and for the duration of any conflict or inconsistency.

7.2 **Amendment:** The parties agree to take such action as is necessary to amend this BAA to comply with the requirements of HIPAA, the Privacy Rule, the Security Rule, the Omnibus Rule and other applicable laws, as these may change from time to time.

7.3 **Governing Law**: Except to the extent prompted by the requirements of HIPAA or other applicable federal law, this BAA will be governed by and construed in accordance with the same governing law as that of the EULA.

7.4 **Third Party Beneficiaries**: Nothing in this BAA will confer on any person other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

7.5 **Responsible Person**:

(a) **For Orion Health**: The person holding the following title is authorized to act on behalf of Orion Health and receive any notice required to be provided by or for the Subscriber, if it is a 'Covered Entity', to Orion Health as a 'Business Associate' under any provision in this BAA:

Orion Health Inc.
Attn: Privacy Officer
Address: C/- Corporation Service Company, 251 Little Falls Drive, Wilmington, DE 19808, United State
Email for notices: privacy@orionhealth.com

(b) **For Subscriber**: To the extent notice is required to be provided by or for Orion Health to the Subscriber under any provision in this BAA, notice will be provide to a contact identified by the Subscriber, as submitted to Orion Health in writing, nominating that person or role as the 'Responsible Person' for the purposes of this BAA. If no contact for the Subscriber is submitted to Orion Health, then the role or person identified for the Subscriber in concluding a purchase transaction for a Subscription via AWS Marketplace will comprise that contact, unless and until any different contact is notified to Orion Health in writing.

End of BAA Addendum