



## SOFTWARE LICENSE AGREEMENT (FOR AWS MARKETPLACE)

THIS SOFTWARE LICENSE AGREEMENT (the “**Agreement**”) is by and between CLINICAL ARCHITECTURE, LLC, an Indiana limited liability company, with its principal place of business at 11611 N. Meridian Street, Suite 500, Carmel, Indiana 46032 (“**Clinical Architecture**”), and the party entering into this Agreement (“**Client**”) through the AWS Marketplace (as defined in Section 1.3) wherein assent to the terms of this Agreement is indicated by Client clicking “Create Contract” on the AWS Marketplace.

### RECITALS

WHEREAS, Clinical Architecture developed, owns, and licenses an interoperability and data quality solution marketed under the name PIVOT (“**PIVOT**”) and a data quality software solution marketed under the name SYMEDICAL (“**SYMEDICAL**”); and

WHEREAS, Client desires to obtain access and usage rights to PIVOT (and those components of SYMEDICAL required for operation of PIVOT) through a nonexclusive, limited license in accordance with the terms and on the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Clinical Architecture and Client enter into this Agreement.

1. **DEFINITIONS.** Capitalized terms not otherwise defined in this Section 1 shall have the meanings ascribed thereto elsewhere in this Agreement. A [schedule of defined terms](#) is attached to this Agreement for reference.

1.1. “**Software**” means PIVOT (and the components of SYMEDICAL required for operation of PIVOT) together with any maintenance update, bug fix, error correction, or incremental version update to the foregoing, and metadata authored by Clinical Architecture to drive to the proprietary functionality of PIVOT; provided, however, that new modules, components, or satellite apps not specifically enumerated on [Exhibit B](#) and new products developed and/or marketed by Clinical Architecture which may be licensed or marketed separately are expressly excluded from the Software.

1.2. “**Addenda**” means any addendum or addenda attached to this Agreement (e.g., Business Associate Addendum), each of which is hereby incorporated herein by reference. Cross-references in an Addendum refer to sections and exhibits to this Agreement unless that or another Addendum is specifically referenced. Capitalized terms not otherwise defined in an Addendum shall have the meanings ascribed thereto by this Agreement.

1.3. “**AWS Marketplace**” means the software marketplace operated by the Cloud Host (as defined in Section 1.5), located at <https://aws.amazon.com/marketplace/> as it may be updated from time to time.

1.4. “**Cloud Environment**” means cloud hosted services leased or licensed by Client from the Cloud Host (as defined in Section 1.5), and upon which the Software (or certain components of the Software) will be installed. The Cloud Environment may be subject to the additional terms and conditions of the Cloud Host.

1.5. “**Cloud Host**” means AMAZON WEB SERVICES, INC.

1.6. “**Contract Date**” means the date on which Client assented to this Agreement.

1.7. “**Documentation**” means all manuals, user documentation, and other related materials pertaining to the Software which are furnished to Client by Clinical Architecture.

1.8. “**Effective Date**” means: (a) the Contract Date if the Contract Date is the first (1<sup>st</sup>) day a calendar month; or (b) the first (1<sup>st</sup>) day of the calendar month immediately following the Contract Date if the Contract Date is not the first (1<sup>st</sup>) day of a calendar month (e.g., if the Contract Date is January 1, 202x, then the Effective Date is January 1, 202x; if the Contract Date is January 10, 202x, then the Effective Date is February 1, 202x).

1.9. “**Intellectual Property**” means patents, copyrights, trade secrets, trademarks (including trade names and service marks), and confidential know-how, in each case whether registered or unregistered, and including any application or registration for any of these, and all rights associated therewith.

1.10. “**Interface**” and “**Interfaces**” mean an inbound data feed from a single Source Application (as defined in Section 1.15) from a single facility (e.g., a lab data software application sending a message from a particular hospital would be a single Interface; the same hospital sending a message from a different software

application would be another Interface; the same lab data software application sending a message from a different hospital would be another Interface, etc.).

1.11. **“Licensed Use”** has the meaning ascribed thereto in [Exhibit A-1](#).

1.12. **“Operational Resources”** means all catalogs, element sets (groupings of terminology bindings), inferences (terminology-based rules), SIFT arrays, SIFT pipelines, content models, content model subsets and content model flows, reference maps (base maps for use by algorithms), map templates, domains, events (notification triggers), clinical view models, value sets, and associated databases and data structures, in each case created or licensed by Clinical Architecture and included within or available for use with the Software.

1.13. **“Output”** means the file and content generated as a result of using the Software.

1.14. **“Proprietary Content”** means Operational Resources and vocabularies, terminologies, ontologies, catalogs, databases, and other related materials (e.g., ICD-10-CM, SNOMED CT, LOINC, RxNorm, CPT), the use of which requires contractual agreement with or licensing by the source author or the source author’s agent (the **“Content Source”**) or which is otherwise not in the public domain.

1.15. **“Source Application”** means a software application that creates a patient message, regardless of whether other intervening systems or applications may have stored, handled, transmitted, or retransmitted the patient message.

1.16. **“Standard Contract Listing”** means an offer by Clinical Architecture, as set forth in the detail page on the AWS Marketplace, to subscribe to the Software for the Licensed Use, subject to this Agreement.

1.17. **“Territory”** means the United States of America and its territories and possessions.

1.18. **“Transformed Patient Message”** and **“Transformed Patient Messages”** mean the file and content generated as a result of using PIVOT. Transformed Patient Messages shall not be deemed to be Output.

1.19. **“User”** and **“Users”** mean those individuals who use the Software for or on behalf of Client or at Client’s direction and request.

## 2. **LICENSE AND LIMITATIONS.**

2.1. **Software.** Clinical Architecture grants to Client a nonexclusive, limited license to use the Software within the Territory strictly and solely in accordance with the Licensed Use (the **“License”**).

### 2.2. **Restrictions.**

2.2.1. **Restrictions on Use of Software.** Client shall obtain no implied license rights to the Software or Proprietary Content; any rights not expressly granted to Client in this Agreement shall be retained by Clinical Architecture. Except as specifically included within the Licensed Use, Client shall not modify, copy, duplicate, reproduce, distribute, license or sublicense, or provide access to the Software, any Operational Resources, or any license keys for the Software, or transfer or convey the Software or Operational Resources or any right in or to the Software or Operational Resources, to an affiliate or third party without the prior written consent of Clinical Architecture. The Licensed Use is restricted to the business operations of Client performed at Client’s principal place of business (or such other places as may be identified by Client from time to time subject to the reasonable approval of Clinical Architecture) and does not include use by Client’s affiliates or contractors.

2.2.2. **Service Bureau and Content.** Neither the Software, Operational Resources, nor any Output shall be used to operate a service bureau or in any other way distribute or deliver the Output to any third party, office, business operation, affiliate, subsidiary, hospital, or clinic (whether for a fee or otherwise), except as specifically permitted by the Licensed Use. Operational Resources may only be used within the Software. The Licensed Use is further restricted to the processing of clinical and other terminologies owned by Client or a User, as applicable, or any Proprietary Content that Client and/or a User, as applicable, is appropriately licensed to use. Neither Client nor any User may upload, maintain, process, map, output, or otherwise use the Software with Proprietary Content that Client or such User is not authorized to use. It is the sole responsibility of Client to ensure that Client and each User holds a current and valid license for each use of all Proprietary Content.

2.2.3. **Sale of Goods.** Although some tangible objects may be delivered to Client pursuant to this Agreement, title to such objects shall not pass to Client, and this Agreement shall not be deemed to be for the sale of any goods.

2.2.4. **Hardware Requirements.** Neither Client nor a User shall install the Software on computer equipment that does not meet the minimum hardware requirements set forth in the system specifications guide provided to Client (and available upon request) (the “**System Specification Guide**”) or any updated version of the System Specifications Guide provided to Client in conjunction with the release of any new version of the Software or such additional hardware requirements provided to Client on the basis of the Licensed Use, the terminologies and content to be used therewith, or such other matters as may reasonably have an impact upon the hardware requirements (collectively, the “**Hardware Requirements**”). Client and/or each User, as applicable, shall be solely responsible for implementing and maintaining computer hardware meeting the Hardware Requirements and any computer hardware, equipment, or software required to access and use the Software, including interoperability, availability, compatibility, and compliance with applicable laws. Client is responsible for all system administration tasks including monitoring capacity and performance and managing user credentials. Client shall provide to Clinical Architecture accurate and reasonably complete information about Client’s computer system infrastructure and environment and transaction and user volumes. Client acknowledges that the Software can identify for Clinical Architecture certain information regarding Client’s infrastructure and environment (e.g., OS version; SQL version, etc.). Client shall use commercially reasonable efforts to prevent any unauthorized access to, or use of, the Software and, in the event of any such unauthorized access or use, promptly notify Clinical Architecture. If usage of the Software grows or changes such that the Cloud Environment reasonably requires additional capacity and/or performance, then promptly following notice from Clinical Architecture (which notice may be via email), Client shall acquire such additional capacity and/or performance, as applicable, from the Cloud Host.

### 2.3. **Software Updates.**

2.3.1. **Software.** Clinical Architecture has commenced using an annual release numbering scheme (in the form of v22.1, v22.2, v23.1, etc.), usually consisting of one major release each year with incremental versions or maintenance updates released periodically (with more frequent updates for PIVOT being likely). Clinical Architecture shall be responsible for the installation of any maintenance update or incremental version of the Software to which Client is entitled (but only to the components of the Software installed in the Cloud Environment) and will work collaboratively with Client to schedule an appropriate time for such installation; provided, however, that Client shall not permit the Software installed and operated pursuant to this License to be more than one (1) annual release behind the then-current annual release to which Client is entitled by the License (by way of illustration, when Clinical Architecture releases PIVOT v24.x, then Client shall be obligated to update to at least PIVOT v23.x). Clinical Architecture shall not be obligated to correct any errors in or introduce any new functionality into any version of the Software older than the current annual release (e.g., if the current annual release is v23.x, then Clinical Architecture will not be obligated to correct errors in v22.x or earlier). Client acknowledges there may be temporary downtime for the Software during such times as updates are being applied and Clinical Architecture shall not be responsible for such downtime. Clinical Architecture provides no representations regarding the frequency or nature of updates to the Software.

2.3.2. **Operating System and Required Components.** Client shall promptly install and implement operating system updates and updates to third-party components required to operate the Software (e.g., Windows Server, SQL Server, IIS, .NET, etc.; the “**Required Components**”) as set forth in the then-current System Specification Guide. Client shall not permit the Required Components to be more than two (2) releases behind the then-current release of such Required Components (by way of illustration, if the current release is SQL Server 2019, then Client shall be obligated to update to at least SQL Server 2016); provided, however, that in no event will Client permit the Required Components to be less than the minimum necessary to operate the Software as designated on the then-current System Specification Guide.

### 2.4. **Services.**

2.4.1. **Basic Provisions.** The Strategic Business Review, Update Services, initial Training, and Installation (as such terms are defined in Section 2.4.3, Section 2.4.4, Section 2.4.5, and Section 2.4.6, respectively) are available to Client as a complement to the License without additional fee therefor (other than reimbursement of travel and out-of-pocket expenses related thereto). Subject to mutual agreement of the parties, Clinical Architecture may agree to perform certain additional services in connection with the License and the Software (the “**Additional Services**” and, together with the Strategic Business Review, Update Services, Training, and Installation, the “**Services**”).

2.4.2. **Project Leads.** Clinical Architecture shall designate a member of Clinical Architecture’s staff to be the principal point of contact between Clinical Architecture and Client (the “**Client Success**”).

**Manager**”). Client shall designate a member of Client’s staff to be the project lead (the “**Project Lead**”) who will be Client’s primary contact for Clinical Architecture and who will work with the Client Success Manager to coordinate the Strategic Business Review, Update Services, Training, and Implementation (as defined in Section 2.4.6). The Project Lead shall be reasonably conversant in Client’s business goals and will participate in Training.

2.4.3. Strategic Business Review. The Project Lead and Client Success Manager shall periodically (not less frequently than annually) communicate for the purpose of conducting a strategic business review of Client’s use of the Software and ongoing business relationship with Clinical Architecture (the “**Strategic Business Review**”). As part of the Strategic Business Review, Client and Clinical Architecture shall endeavor to assess performance against Client’s goals and discuss any changes thereto. The Strategic Business Review provides an opportunity for Client to discuss with Clinical Architecture the use and functioning of the Software together with quality of Services or need for Additional Services, in order to address value realization, potential improvements to the Software or Services, workflow modifications, and/or expansion of the mix of modules included within the Software.

2.4.4. Update Services. Client is entitled to delivery of a script or similar means by which Client’s data can be converted to the then-current version of the Software’s data schema (the “**Schema**”) upon material modifications thereto (“**Update Services**”); provided, however, that Update Services shall only be complementary if Client’s data, prior to such update of the Schema, was in the most recent annual version of the Software and the update is to the next annual version (*e.g.*, if Client’s data is in v22.x of the Schema and such newly released incremental version of PIVOT is v23.x). If Client’s data is not in the most recent annual version of the Schema (*e.g.*, if Client’s data is in v22.x or earlier of the Schema and such newly released incremental version of the Schema is v24.x), then Client shall pay Clinical Architecture a fee of Twenty Thousand Dollars (\$20,000.00) per release for the Update Services. In the event Client’s version of the Required Components are two (2) or more releases behind, and Client requires Clinical Architecture’s assistance to either install and implement such Required Components and/or update the installation or implementation of the Software in conjunction with updating of the Required Components, then Client shall pay to Clinical Architecture a fee of Twenty Thousand Dollars (\$20,000.00) for such Additional Services, exclusive of any costs associated with procuring appropriate licenses for any of the Required Components.

2.4.5. Training. Client is entitled to two (2) full days of training on the function, use, implementation, and configuration of the Software (“**Training**”) together with a full day work session, for up to ten (10) employees of Client at Clinical Architecture’s training facility. Training does not include education on industry topics, clinical terminologies, information technology, or other topics not directly relating to the proper use and configuration of the Software. Client and Clinical Architecture shall cooperate to schedule Training. It shall be the responsibility of Client to schedule and make available Client’s human and company resources required to complete Training. Once scheduled, Client may cancel or reschedule Training but shall be responsible for any expenses incurred by Clinical Architecture. Client shall ensure that Training has been completed prior to using the Software or Output in a production environment and that each User participates in Training prior to use of the Software or Output in a production environment.

2.4.6. Installation and Implementation. Clinical Architecture shall perform the initial installation of the applicable components of the Software with default configuration settings in the Cloud Environment (the “**Installation**”). Clinical Architecture will assist with Client’s implementation of the Software, including migrating Client’s data to the Software, setting up master data, creating initial content assets, and performing other similar work reasonably necessary for Client to put the Software into productive use (“**Implementation**”). Should Client request Clinical Architecture’s assistance with additional implementation or additional configuration of the Software (“**Additional Implementation**”), Clinical Architecture may, at Clinical Architecture’s option, provide skilled resources to assist in such Additional Implementation. Additional Implementation services provided by Clinical Architecture shall be deemed to be Additional Services, be subject to a Statement of Work (as defined in Section 2.4.7), and the fees associated therewith shall be as set forth in the applicable Statement of Work. Client shall, in a timely manner, obtain and provide to Clinical Architecture, such data, Client infrastructure access and use, information, materials, third-party and internal consents and approvals, and other cooperation and support as is reasonably requested by Clinical Architecture in connection with Installation and/or Implementation. Clinical Architecture may access and use Client’s software, equipment, and systems via remote access in connection with Installation, Implementation, Additional Implementation, and Update Services. Before the Software is used in a live production environment, Client shall: (a) make independent decisions about system settings and configurations based upon Client’s needs; and (b) reach an independent determination that the Software, as implemented, is appropriate for live production use.

2.4.7. **Additional Services.** Additional Services to be performed by Clinical Architecture (including Additional Implementation) shall be subject to and governed by the terms of this Agreement and by the terms set forth in a statement of work (each a “**Statement of Work**”) to be executed by Client and Clinical Architecture setting forth the contractual terms applicable to such Additional Services unless the terms of this Agreement or any exhibit or addendum hereto includes such provisions in lieu of use of a Statement of Work. This Agreement shall control over any conflicting provisions of a Statement of Work unless the applicable Statement of Work expressly states that a particular provision thereof controls over a specified provision of this Agreement. Changes to the Additional Services or deliverables identified in a Statement of Work may only be made through a written amendment thereto or via any change process provided for therein.

2.4.8. **Enhancement Requests.** Nothing in this Agreement shall be deemed to require Clinical Architecture to provide any product enhancement proposed or requested by Client (each a “**Proposed Enhancement**”); provided, however, that Clinical Architecture will evaluate each Proposed Enhancement in good faith and will discuss with Client certain matters (e.g., necessity, use case, alternate workflows or functionality, and resource requirements) related to the Proposed Enhancement. Clinical Architecture will use reasonable efforts to communicate with the Project Lead regarding Clinical Architecture’s review of each Proposed Enhancement including a rough estimate of the anticipated time for Clinical Architecture to determine whether Clinical Architecture is willing to move forward with the Proposed Enhancement or prioritize the Proposed Enhancement if already on Clinical Architecture’s product development roadmap. Client acknowledges that Clinical Architecture has the right to require a Statement of Work and/or payment of an associated fee prior to commencing work on any Proposed Enhancement. In the event Clinical Architecture agrees to a Proposed Enhancement, upon delivery, such Proposed Enhancement will be included within the definition of “Software” and all Intellectual Property rights therein and thereto will vest solely with Clinical Architecture.

### 3. **LICENSE FEE AND PAYMENTS.**

3.1. **License Fee.** Client shall pay to Clinical Architecture the fees set forth in [Exhibit A-3](#) (collectively, the “**License Fees**”). The License Fees may consist of an annual fee (the “**Annual License Fee**”) and/or other fees as set forth in [Exhibit A-3](#) or elsewhere in this Agreement. Unless otherwise specifically set forth in [Exhibit A-3](#), the Annual License Fee for the Initial Term (as defined in Section 10.1) shall be due and payable on the Contract Date and the Annual License Fee for succeeding years of the License Term shall be due on each anniversary of the Effective Date. Clinical Architecture shall not be obligated to provide the Software, Installation, Implementation, or other Services until the Annual License Fee for the Initial Term has been paid in full.

3.2. **Payments.** All amounts payable by Client pursuant to this Agreement shall be payable in immediately available United States funds without deductions for taxes, assessments, fees, offsets, or other charges of any kind. Payment shall be made to Clinical Architecture via the AWS Marketplace. If Additional Services are to be performed, such Additional Services shall be billed to Client by Clinical Architecture in accordance with this Agreement and the applicable Statement of Work. Unless otherwise specifically set forth in [Exhibit A-3](#), payments (other than the Annual License Fee which shall be payable as set forth in Section 3.1) shall be due and payable ten (10) days after Client’s receipt of an invoice therefor whether or not Client has issued a purchase order. If any payment is not made within thirty (30) days following the due date, then Client shall be subject to a late charge of five percent (5%) of the unpaid amount together with interest thereon at the rate of twelve percent (12%) per annum (the “**Interest Rate**”) from the due date until paid. Client’s obligation to pay License Fees for periods preceding termination of this Agreement shall survive the termination of this Agreement. Client shall be responsible for any fees associated with payment through or collection efforts by the Cloud Host. If Clinical Architecture and/or the Cloud Host commences litigation to collect unpaid License Fees or enforce any other provision of this Agreement, Clinical Architecture and/or the Cloud Host, as applicable, shall be entitled to court costs and reasonable attorneys’ fees (including for both in-house and outside counsel).

3.3. **Taxes and Other Charges.** Client shall be responsible for paying all: (a) sales, use, excise, value-added, or other tax or governmental charges imposed on the licensing or use of the Software; (b) freight, insurance, and installation charges; (c) import or export duties or like charges; and (d) license fees for use of any Proprietary Content (e.g., subscription fee for CPT). Unless otherwise specifically provided for in this Agreement, Client and Clinical Architecture shall each bear their own costs and expenses incurred in connection with this Agreement or performance hereunder.

3.4. **Increase to Cloud Host Fees.** In the event the Cloud Host increases the cost to Clinical Architecture to market, license, distribute, and/or host the Software (or any component thereof) in the Cloud Environment or in

the AWS Marketplace, the amount of any such increase in cost to Clinical Architecture will be passed through to Client and payable in accordance with Section 3.2 of this Agreement.

#### 4. **PROTECTION OF SOFTWARE.**

4.1. **Proprietary Notices.** Client agrees to respect and not to obscure, modify, or remove from view any copyright, trademark, service mark, patent, confidentiality, or other proprietary notice, mark, or legend appearing on the Software, Documentation, Proprietary Content, or Output, and to reproduce and include the same on any documentation or editorial policy guide furnished by Client to a User.

4.2. **No Reverse Engineering or Modifications.** Client shall not modify, reverse engineer, disassemble, or decompile the Software, any portion thereof, Operational Resources, the Documentation, any screenshot of the Software, or any Output, other than such portions of the Software that are intended to be modified by Client (e.g., configuration files and algorithm stacks). Client shall not directly access any of the Operational Resources or the Software's databases and data structures other than through the use of the Software. Client assumes all liability for any modified versions of the Software and any Output produced thereby; provided, however, that the foregoing shall not be deemed to permit modification of the Software by Client. Client hereby acknowledges that Clinical Architecture disclaims all warranties, express and implied, regarding any Client-modified Software and Client agrees to indemnify, defend, and hold Clinical Architecture harmless from any third-party claim arising from such Client-modified Software. Under no circumstances shall Client use the Software, any component of the Software, the Documentation, Operational Resources, or the Output, to develop or assist in the development of a similar or competing product.

4.3. **Ownership.** Client acknowledges and agrees that all copies of the Software, Documentation, and Operational Resources, in any form, are the sole property of Clinical Architecture. Client shall not have any right, title, or interest in or to the Software, Documentation, Operational Resources, or copies thereof, except as expressly provided in this Agreement. Client shall secure and protect all Software, Documentation, and Operational Resources, consistent with maintenance of Clinical Architecture's proprietary rights therein. Client shall secure and protect all Proprietary Content consistent with maintenance of the proprietary rights of the Content Source. Client further acknowledges and agrees that the copyright of the Operational Resources and the Software's database and data structures is owned by Clinical Architecture and that such copyright includes the creative selection, coordination, and arrangement of information and materials forming such content and the protected expression of facts therein. Client further acknowledges and agrees that the copyright of Proprietary Content is owned by the applicable Content Source. Clinical Architecture may remotely monitor and audit usage of the Software for the purposes of determining compliance with this Agreement and identifying Users. Clinical Architecture may store aggregated and statistical data derived from the operation of the Software, including without limitation, unique user count, the number of records in the Software, the number and types of transactions, configurations, and reports processed in the Software, and the performance results for the Software (the "**Aggregated Statistical Information**"), provided that such Aggregated Statistical Information does not allow for the identification of any of Client's customers or any individual and will not include any PHI (as defined in Section 6.7.1). Clinical Architecture may utilize the Aggregated Statistical Information for purposes of operating, monitoring, managing, or enhancing the Software, developing new modules, components, satellite apps, or products, or improving the efficiency of use or optimizing value for Client or a User.

4.4. **Feedback.** If Client provides or discloses to Clinical Architecture any feedback or information relating to the Software, Operational Resources, or any other products, software, processes, methodologies, or services of Clinical Architecture ("**Products**"), including without limitation, modifications, improvements, or enhancements to such Products, any new or revised uses or applications of such Products, any method or process for developing or testing such Products, or any new or revised Operational Resources ("**Feedback**"), then Client agrees that Clinical Architecture will have no restriction or obligation with respect to such Feedback including use thereof or incorporation thereof into Products without payment of royalties or other consideration to Client, and Client shall have no ownership interest in or to such Feedback or any modifications, improvements, or enhancements to any such Products.

4.5. **Marketing.** Except as otherwise specifically provided for in this Agreement or the Licensed Use, neither Client nor Clinical Architecture shall have any right, title, or interest, in or to the trademarks belonging to the other. Client authorizes Clinical Architecture to list Client as a subscriber or user of the Software and to use Client's logo in relation thereto. Client shall not display screenshots of the Software, Documentation, or Operational Resources to third parties without Clinical Architecture's prior written consent and any such screenshots shall include appropriate attribution (including copyright notices).

4.6. **Governmental Use Restrictions.** The Software and Operational Resources are commercial technical data, which were developed exclusively at private expense by Clinical Architecture. Clinical Architecture

does not agree to license the Software to the United States government based on the license in FAR 52.227-14 (Data Rights–General) and/or DFARS 252.227-7015 (Technical Data–Commercial Items) or any other license provision and any such use is hereby expressly excluded from the Licensed Use. Clinical Architecture reserves all rights to approve any sublicense to or use by or on behalf of any federal agency or governmental entity (including as a User).

## 5. **CONFIDENTIALITY.**

### 5.1. **Definitions.**

5.1.1. As used herein, the term “**Discloser**” means Clinical Architecture or Client, as applicable, disclosing information to the other (“**Recipient**”).

5.1.2. “**Confidential Information**” means: (a) any nonpublic information of Discloser, including without limitation, any information relating to Discloser’s current and planned products and services (including enhancements to the Software), technology, techniques, know-how, research, engineering, designs, finances, accounts, procurement requirements, manufacturing, client or customer lists, business forecasts and marketing; (b) end user, client, or customer information received by Recipient, whether or not provided by Discloser; (c) any other information of Discloser that is disclosed: (i) in writing and reasonably designated or otherwise identified as “confidential” at the time of disclosure or promptly thereafter (which designation may be via notation on the information, by way of separate notification [including email], or via verbal designation); or (ii) orally and identified as “confidential” at the time of disclosure or promptly thereafter (which designation may be via separate notification [including email] or verbal designation); and (d) the terms and conditions of this Agreement. Information which is disclosed without an appropriate designation, proprietary stamp, or legend, shall constitute Confidential Information of Discloser if it would be apparent to a reasonable person, familiar with Discloser’s business and/or the industry in which Discloser operates, that such information is of a confidential or proprietary nature. The Software, Operational Resources, and Documentation are the Confidential Information of Clinical Architecture. Notwithstanding the foregoing, Confidential Information shall not include information that: (a) is or becomes publicly available through no act of Recipient in breach of this Agreement; (b) was in the possession of or known to Recipient prior to disclosure by Discloser, and Recipient can so demonstrate; (c) is independently developed by Recipient without reference to the materials comprising the Confidential Information disclosed under this Agreement and Recipient can so demonstrate; or (d) is received from another source without any applicable restriction on use or disclosure.

5.2. **Obligations.** Recipient shall not: (a) use Confidential Information of Discloser except as permitted in this Agreement; or (b) disclose Confidential Information to any third party except to the employees, agents, and subcontractors of Recipient reasonably required in connection with performance of this Agreement or to prospective lenders or bona fide investors in Recipient (collectively, “**Recipient Representatives**”). All Recipient Representatives to whom Confidential Information of Discloser is disclosed or who have access to Confidential Information of Discloser shall be subject to written or professional confidentiality and nondisclosure obligations in favor of Recipient containing confidentiality obligations substantially similar to and protective of Discloser’s Confidential Information as the prohibitions, obligations, and protections set forth herein. Recipient shall require Recipient Representatives receiving Confidential Information from Recipient to observe the restrictions on use and disclosure set forth herein and Recipient shall be liable for any breach of such restrictions by any Recipient Representatives. Recipient shall take all reasonable measures to protect the confidentiality of and avoid disclosure of or use of Discloser’s Confidential Information in order to prevent such Confidential Information from falling into the public domain or the possession of persons other than those persons authorized under this Agreement to have any such Confidential Information. Such measures shall include the highest degree of care that Recipient utilizes to protect Recipient’s own confidential or proprietary information of a similar nature. Recipient shall not disclose or expose any of Discloser’s Confidential Information to any artificial intelligence application, store any of Discloser’s Confidential Information in any location that may be exposed to an artificial intelligence application or which may serve as or be connected to an artificial intelligence data repository, or perform or conduct queries based upon or regarding Discloser’s Confidential Information to or through an artificial intelligence application. Recipient shall promptly notify Discloser in writing of any misuse, misappropriation, or disclosure of Discloser’s Confidential Information which may come to Recipient’s attention. Recipient shall: (a) promptly notify Discloser in writing where any unauthorized use or disclosure of any Confidential Information has occurred or Recipient is made aware that such unauthorized use or disclosure may take place; and (b) take such steps as Discloser may reasonably require in relation to such unauthorized use or disclosure or potential unauthorized use or disclosure.

5.3. **Return of Materials.** Any and all materials or documents which have been furnished by Discloser to Recipient in connection with this Agreement shall be promptly returned or destroyed by Recipient within five (5) business days after: (a) the expiration or termination of this Agreement; or (b) the receipt of a written request by

Discloser for the return or destruction of such materials. Upon request, Recipient shall certify to Discloser, in writing, that Recipient has complied with the obligations of this Section 5.3. Notwithstanding the foregoing, Recipient may retain one (1) secure archive copy of Confidential Information accessible only: (i) on a need-to-know basis to Recipient for purposes of compliance with Recipient's confidentiality obligations under this Agreement; (ii) as directed or permitted by a governmental agency or as required by law; or (iii) with Discloser's consent.

5.4. **Injunctive Relief.** Recipient acknowledges that the unauthorized use, transfer, or disclosure of Confidential Information of Discloser could: (a) substantially diminish the value to Discloser of the Intellectual Property, trade secrets, and other proprietary interests that are embodied in the Confidential Information; (b) render Discloser's remedy at law for such unauthorized use, disclosure, or transfer inadequate; and/or (c) cause irreparable injury in a short period of time. If Recipient breaches (or threatens breach of) any of the obligations under this Section 5 (the "**Confidentiality Obligations**"), Discloser shall be entitled to seek equitable relief to protect Discloser's interests therein, including without limitation, preliminary and permanent injunctive relief, without the necessity of proving actual damages or posting a bond.

5.5. **Survival and Conflict.** The Confidentiality Obligations shall survive the expiration or earlier termination of this Agreement or of the License granted under this Agreement. In the event of any conflict between the Confidentiality Obligations and the obligations or requirements of any nondisclosure agreement by and between Clinical Architecture and Client, the provisions that are most protective of Discloser's Confidential Information shall govern and control.

## 6. **WARRANTIES.**

6.1. **Warranty of Title.** Clinical Architecture represents and warrants to Client that Clinical Architecture is the owner of the Software, has the right to grant the License and other rights set forth in this Agreement, and that the use of the Software within the scope of the Licensed Use will not constitute an infringement or violation of any Intellectual Property rights of any third party (the "**Warranty of Title**"). In the event of any breach or threatened breach of the Warranty of Title, Client's sole remedy shall be to require Clinical Architecture, at Clinical Architecture's option, to either: (a) procure, at Clinical Architecture's expense, the right to use the Software; (b) replace the Software, or such part thereof that is in breach of the Warranty of Title, with software of comparable functionality that does not cause a breach of the Warranty of Title; or (c) terminate this Agreement and provide a pro-rata refund to Client of the pre-paid Annual License Fee applicable to the then-current calendar year upon the complete uninstallation and return of the Software to Clinical Architecture.

6.2. **Warranty of Functionality.** Clinical Architecture warrants that the Software shall, throughout the License Term, perform in all material respects according to the operating specifications set forth in the Documentation (the "**Specifications**") when used with computer equipment meeting or exceeding the Hardware Requirements (the "**Warranty of Functionality**"). In the event of any breach or alleged breach of the Warranty of Functionality, Client shall promptly notify Clinical Architecture, with specificity, of the manner in which the Software does not perform according to the Specifications. Client's sole remedy shall be for Clinical Architecture to correct the Software so that the Software operates materially in accordance with the Specifications. Should Clinical Architecture be unable to correct the Software as so provided, then Client may terminate this Agreement and Clinical Architecture shall provide a pro-rata refund to Client of the pre-paid Annual License Fee applicable to the then-current calendar year upon the complete uninstallation and return of the Software to Clinical Architecture. The Warranty of Functionality shall not apply to the Software if modified by anyone other than Clinical Architecture or if used improperly or in an operating environment not approved by Clinical Architecture or which does not meet the Hardware Requirements. Client acknowledges and agrees that Clinical Architecture shall not be liable for any downtime attributable to the Cloud Host and the Warranty of Functionality does not extend to any failure caused by the Cloud Host or Cloud Environment or Client's inability to connect to the Cloud Environment.

6.3. **Disclaimer of Warranties.** THE WARRANTY OF TITLE AND WARRANTY OF FUNCTIONALITY ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY CLINICAL ARCHITECTURE. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 6.2, CLINICAL ARCHITECTURE DOES NOT REPRESENT OR WARRANT THAT ERRORS IN THE SOFTWARE, OPERATIONAL RESOURCES, OR DOCUMENTATION WILL BE CORRECTED. THERE ARE NO OTHER WARRANTIES RESPECTING THE SOFTWARE, OPERATIONAL RESOURCES, DOCUMENTATION, OUTPUT, OR ANY SERVICES PROVIDED HEREUNDER, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF CLINICAL ARCHITECTURE HAS BEEN INFORMED OF SUCH PURPOSE. CLINICAL ARCHITECTURE DOES NOT WARRANT THE CONTINUED AVAILABILITY OF PROPRIETARY CONTENT OR THAT ANY PARTICULAR PROPRIETARY CONTENT WILL BE AVAILABLE FOR USE IN ANY GIVEN JURISDICTION, FOR ANY GIVEN USE, OR FOR USE WITH ANY GIVEN SOFTWARE. Neither an agent nor an employee of Clinical Architecture is authorized to alter or exceed the warranty obligations of Clinical Architecture as expressly set forth herein.

6.4. **Limitation of Liability.** NEITHER CLINICAL ARCHITECTURE NOR CLIENT WILL BE LIABLE FOR ANY SPECIAL, EXEMPLARY, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOST PROFITS, REVENUE,



OR BUSINESS AND PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES), WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, EQUITY, PRODUCT LIABILITY, FUNDAMENTAL BREACH, OR OTHERWISE, ARISING FROM OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES. THE FOREGOING EXCLUSION SHALL NOT APPLY TO A BREACH OF THE CONFIDENTIALITY OBLIGATIONS OR TO CLIENT'S USE OF THE SOFTWARE OTHER THAN AS SPECIFICALLY PERMITTED BY THE LICENSED USE. IN NO EVENT SHALL CLINICAL ARCHITECTURE'S LIABILITY EXCEED THE LICENSE FEES PAID TO CLINICAL ARCHITECTURE BY CLIENT HEREUNDER FOR THE PRECEDING TWENTY-FOUR (24) MONTH PERIOD, REGARDLESS OF WHETHER THE ACTION OR CLAIM IS BASED ON ANY ALLEGED ACT OR OMISSION OF CLINICAL ARCHITECTURE; PROVIDED, HOWEVER, THAT CLIENT ACKNOWLEDGES AND AGREES THAT CLINICAL ARCHITECTURE SHALL HAVE NO LIABILITY TO CLIENT FOR ANY ACTION OR CLAIM DIRECTLY ATTRIBUTABLE TO CLIENT'S USE OF THE SOFTWARE (OTHER THAN A BREACH OF THE WARRANTY OF TITLE).

6.5. **Validation of Output.** Client acknowledges the changing and uncertain nature of healthcare terminologies and content and that the Software and Services are, respectively, a tool and associated processes used to augment the terminology and content management (including mapping) of healthcare professionals or other subject matter experts ("**Subject Matter Experts**"). Client further acknowledges and agrees that it is the sole responsibility of Client and each User to review, evaluate, and validate the condition, quality, accuracy, reliability, suitability, and functionality of Output prior to using such Output in a live patient care environment or for analysis and/or decision-making processes. The Output is intended as a supplement to, and not a substitute for, the knowledge, expertise, skill, and judgment of Subject Matter Experts in patient care, analysis, and/or decision-making processes, and the use of the Output is in no way intended to replace or substitute for such professional knowledge, expertise, skill, or judgment. Client acknowledges that Clinical Architecture does not assume any responsibility for actions of Client or a User which may result in any liability or damages due to malpractice, failure to warn, negligence, or any other cause. Client acknowledges and agrees that Clinical Architecture is not engaged in the practice of medicine and that neither the Software, Operational Resources, Documentation, Output, Training, or Services, nor any deliverable relating thereto, constitute medical advice or medical equipment. In the event of any error or omission in Proprietary Content accessed within or via the Software, Client agrees to look solely to the Content Source of such Proprietary Content for any damages or liability related thereto.

6.6. **Proprietary Content.**

6.6.1. **Warranty of License to Use Proprietary Content.** Client represents and warrants to Clinical Architecture that Client now has or, prior to downloading any Proprietary Content via the Software or using any Proprietary Content within the Software, will have all necessary rights and licenses to download and use such Proprietary Content. If the license applicable to Proprietary Content is a public or similar license for which assent is indicated via a "click through" agreement (or similar method), Client represents and warrants to Clinical Architecture that Client has agreed or will agree, as applicable, to all of the terms of such applicable license as if Client had obtained the Proprietary Content directly from the Content Source. Client's use of Proprietary Content with the Software will conform to Client's license for use of such Proprietary Content.

6.6.2. **Disclaimer of Warranties.** Clinical Architecture disclaims and does not accept liability for any omissions or errors in any Proprietary Content (other than Operational Resources) whether obtained by Client via the Software, directly from the Content Source, or through any other means. PROPRIETARY CONTENT DISTRIBUTED VIA THE SOFTWARE IS PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND (OTHER THAN ANY WARRANTIES WHICH MAY BE PROVIDED DIRECTLY TO CLIENT BY THE CONTENT SOURCE). ANY EXPRESSED OR IMPLIED WARRANTIES IN OR TO PROPRIETARY CONTENT ARE HEREBY DISCLAIMED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES ARISING FROM A COURSE OF DEALING, TRADE USAGE, OR TRADE PRACTICE. FURTHER, NO WARRANTY OR REPRESENTATION IS MADE CONCERNING THE ACCURACY, COMPLETENESS, SEQUENCE, TIMELINESS, OR AVAILABILITY OF PROPRIETARY CONTENT OR ANY TRANSLATIONS OR DERIVATIVE WORKS OF ANY PROPRIETARY CONTENT. IN NO EVENT SHALL EITHER CLINICAL ARCHITECTURE OR THE APPLICABLE CONTENT SOURCE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, RELIANCE, OR CONSEQUENTIAL DAMAGES OR ATTORNEYS' FEES (INCLUDING WITHOUT LIMITATION, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; OPPORTUNITY COSTS; LOSS OF USE, DATA, SAVINGS OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THE PROPRIETARY CONTENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR IF SUCH DAMAGES WERE FORESEEABLE. CLINICAL ARCHITECTURE DOES NOT WARRANT THE CONTINUED AVAILABILITY OF ANY PROPRIETARY CONTENT OR THAT ANY PROPRIETARY CONTENT WILL BE AVAILABLE FOR USE IN ANY GIVEN JURISDICTION, FOR ANY GIVEN USE, OR FOR USE WITH ANY GIVEN SOFTWARE. Neither an agent nor an employee of Clinical Architecture is authorized to grant any of the warranties disclaimed in this Section 6.6.2.

6.7. **HIPAA and Protected Health Information.**

6.7.1. **Limitations on Applicability of HIPAA.** Except with regard to the Installation, Implementation, Additional Implementation, and support of PIVOT (the “**PHI Uses**”), Clinical Architecture and Client do not anticipate that Clinical Architecture will have access to protected health information (“**PHI**”) as defined in the Health Insurance Portability and Accountability Act of 1996, as amended (“**HIPAA**”). Client acknowledges and agrees that under the terms of this Agreement and the Licensed Use, Clinical Architecture is not necessarily a “Business Associate” as defined by HIPAA. Except with regard to the PHI Uses, Client shall not disclose or transmit any PHI to Clinical Architecture without Clinical Architecture’s prior written consent or permit a User to disclose or transmit PHI to Clinical Architecture without Clinical Architecture’s prior written consent. If Client inadvertently discloses PHI to Clinical Architecture without such prior written consent, or permits a User to disclose PHI, Client shall provide prompt written notice of such inadvertent storage or disclosure and, to the extent possible, remove or delete such PHI, all at Client’s sole cost and expense. Any PHI disclosed or transmitted to Clinical Architecture shall be done via secure email or transfer protocol identified by Clinical Architecture.

6.7.2. **Business Associate Addendum.** The foregoing notwithstanding, with regard to the PHI Uses, Clinical Architecture may at times during the License Term be a Business Associate of Client as defined by HIPAA. Clinical Architecture and Client have entered into that certain [Business Associate Addendum](#) incorporated herein and attached hereto and which is applicable solely to the PHI Uses.

7. **INDEMNIFICATION.**

7.1. **By Client.** Client shall indemnify, defend, and hold harmless Clinical Architecture and Clinical Architecture’s directors, officers, members, managers, employees, agents, contractors, and representatives (the “**Clinical Architecture Indemnitees**”), from and against any and all third-party demands, claims, actions, proceedings, suits, and liabilities, at all levels of litigation (“**Indemnified Costs**”), which may be sustained or incurred by Clinical Architecture and/or the Clinical Architecture Indemnitees, at any time, arising out of or relating to: (a) Client’s unauthorized modification, enhancement, or use of the Software, Operational Resources, or Proprietary Content; (b) breach of any of the Confidentiality Obligations; (c) liability related to the validation of the Output (or failure to validate) by Client, Subject Matter Experts, or a User; (d) use of or access to the Software or Output by a third party (other than a User) except as specifically permitted by the Licensed Use; or (e) liability (including indemnification obligations) of Clinical Architecture to a Content Source as a result of any action by Client against such Content Source or Client’s use of Proprietary Content in violation of the applicable license therefor.

7.2. **By Clinical Architecture.** Clinical Architecture shall indemnify, defend, and hold harmless Client, and Client’s directors, officers, members, managers, employees, agents, contractors, and representatives (the “**Client Indemnitees**”), from and against any and all Indemnified Costs which may be sustained or incurred by Client and/or the Client Indemnitees, at any time, arising out of or relating to any breach by Clinical Architecture of the Warranty of Title or of the Confidentiality Obligations.

8. **ASSIGNMENT.** Except as specifically permitted by this Agreement, neither Clinical Architecture nor Client shall assign or otherwise transfer this Agreement, the License, or any of the rights arising pursuant thereto, without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned, or delayed; provided, however, no such consent is required for assignment by Clinical Architecture in the event of a sale or other disposition of all or substantially all of Clinical Architecture’s assets or the Software. The foregoing notwithstanding, in the event of an assignment or transfer by Client to a third party with an existing license to use all or any portion of the Software or any other software owned and licensed by Clinical Architecture, the License and such third-party license shall not be deemed to have merged or to grant to either Client or such third party any additional usage rights in or to the Software or other software owned and licensed by Clinical Architecture. Client acknowledges and agrees that the License Fees and Licensed Use are based, in part, on Client’s size, number of patients or population served, intended use of the Software as communicated to Clinical Architecture, and/or other similar metrics and that if any assignment or transfer of this Agreement or License by Client (including by way of merger, whether or not Client is the surviving entity) materially changes any of such metrics, then Clinical Architecture shall have the right to revise the License Fees and/or Licensed Use accordingly. This Agreement shall be binding upon and for the benefit of Client and Clinical Architecture and their respective successors, legal representatives, and permitted assigns.

9. **DEFAULT.**

9.1. **Events of Default.** This Agreement may be terminated by the non-defaulting party if: (a) a party materially fails to perform or comply with this Agreement or any provision hereof; (b) a party fails to strictly comply with the Confidentiality Obligations or makes an assignment or other transfer in violation of Section 8; (c) a party becomes insolvent or admits in writing the inability to pay debts as they mature, or makes an assignment for the

benefit of creditors; (d) a petition under any foreign, state, or United States bankruptcy act, receivership statute, or the like; (i) is filed by a party; or (ii) is filed by any third party, or an application for a receiver is made by anyone, and such petition or application is not resolved favorably within ninety (90) days.

9.2. **Date of Termination.** Termination due to a material breach of Section 2.2.1, Section 2.2.2, Section 4, or the Confidentiality Obligations shall be effective on notice unless otherwise specifically set forth herein. In all other cases, termination shall be effective ten (10) days after notice of termination to the defaulting party if the default has not been cured within such period.

9.3. **Obligations on Termination.** Immediately upon the expiration or earlier termination of this Agreement or the License: (a) Client shall: (i) cease and desist all use of the Software; (ii) uninstall and return to Clinical Architecture all full or partial copies of the Software and Documentation in Client's possession or under Client's control; and (iii) certify to Clinical Architecture that the Software has been fully uninstalled and that Operational Resources and associated databases and data structures have been fully deleted, such that the Software is not capable of being reinstalled and the databases and data structures are not capable of being reconstructed or restored; and (b) Clinical Architecture shall have no obligation to continue to perform any Services for Client. From and after the expiration or termination of this Agreement or the License, Client's use of Output shall remain subject to the restrictions and limitations set forth herein, including without limitation, such restrictions or limitations as may be contemplated by the Licensed Use.

9.4. **Suspension.** "Suspension Event" means that: (a) any License Fees are thirty (30) days or more past due; or (b) Client (or a User) has used the Software or Output in a manner that is not in accordance with this Agreement. Upon the occurrence of a Suspension Event, in addition to any other rights or remedies, Clinical Architecture reserves the right, upon ten (10) business days' notice, to suspend: (a) the right of Client and/or any User to access or use the Software; and/or (b) performance of any Services, until the Suspension Event has been resolved. Clinical Architecture shall not be liable for any damages associated with any such suspension of access or use. During any period of suspension: (a) none of Clinical Architecture's warranties or other obligations under this Agreement shall apply; and (b) License Fees shall continue to accrue.

## 10. **TERM.**

10.1. **License Term.** The term of this Agreement and the License (the "License Term") shall commence on the Contract Date and shall continue for a period one twelve (12) months plus any partial month between the Contract Date and the Effective Date (the "Initial Term"; the date upon which the License Term is scheduled to expire being referred to as the "Expiration Date"); provided, however, that this Agreement shall automatically renew on the Expiration Date and upon each succeeding anniversary of the Expiration Date for subsequent periods (each a "Renewal Term") of twelve (12) months each. Upon each such renewal, the License Term shall be extended and deemed to include such additional Renewal Term and the Expiration Date shall thereafter be the next succeeding anniversary of the Expiration Date. Either party may terminate this Agreement not less than thirty (30) days in advance of the Expiration Date upon written notice to the other party, such termination to be effective as of the Expiration Date; provided, however, that the any right to terminate set forth in Client's contract with the Cloud Host, as set forth in the AWS Marketplace Buyer Guide, or as included on Client's AWS Marketplace console, is expressly disclaimed by Client, is superseded by the foregoing, and shall not apply to this Agreement.

10.2. **License Fees.** Clinical Architecture may, by written notice to Client not less than ninety (90) days prior to the Expiration Date, designate new License Fees to be applicable to the succeeding Renewal Term (the "Renewal Fees"). If Client does not accept the Renewal Fees, Client may terminate this Agreement in accordance with the provisions of Section 10.1. If Client does not terminate this Agreement in a timely manner, then Client shall be deemed to have accepted the Renewal Fees for the succeeding Renewal Term. If Clinical Architecture does not designate new Renewal Fees, then the License Fees applicable to the succeeding Renewal Term shall be the same as applicable to the later of the Initial Term or the immediately preceding Renewal Term.

11. **GOVERNING LAW.** This Agreement and the License shall be governed by the laws of the State of Indiana. Clinical Architecture and Client hereby consent to jurisdiction and venue in Hamilton County, Indiana. Clinical Architecture and Client hereby waive personal service of process in connection with any such action or proceeding and agree that service thereof shall be made by certified mail to the applicable Notice Address. Clinical Architecture and Client each hereby waive trial by jury in any action, proceeding, or counterclaim brought by either Clinical Architecture or Client against the other. The Uniform Computer Information Transactions Act ("UCITA") or any version thereof, adopted by any state in any form, shall not apply to this Agreement and, to the extent that UCITA is applicable, Clinical Architecture and Client agree to opt-out of UCITA applicability pursuant to the provisions of UCITA. The application of the United Nations Convention for Contracts for the International Sales of Goods is hereby expressly excluded.

12. **NOTICE.** Notices required or permitted hereunder (other than routine operational communications) shall be given to the appropriate party at the address specified below or at such other address as the party shall specify in writing (each, a “**Notice Address**”). All notices shall be in writing and shall be deemed given: (a) upon personal delivery to the appropriate Notice Address; or (b) upon delivery if sent by certified or registered mail, postage prepaid, or via nationally recognized overnight courier service (or, upon rejection or refusal of delivery), in each case as reflected by the delivery receipt. Client and Clinical Architecture shall each endeavor to provide a copy of any notice via email to the appropriate email address included in the Notice Address (or to such other email address as the party shall specify in writing), but such email notice shall not constitute notice hereunder and failure to provide notice via email shall not constitute a default. The foregoing notwithstanding, invoices and notice from Clinical Architecture to Client of delinquent License Fees may be sent via email in lieu of the written notice methods provided above. Clinical Architecture shall have the right to accept and rely upon changes to Client’s Notice Address provided to Clinical Architecture via email if such changes are confirmed by Client by email or in writing following request by Clinical Architecture. Client shall ensure that Client’s Notice Address remains up to date with Clinical Architecture during the License Term.

If to Client: As specified by Client in the AWS Marketplace

If to Clinical  
Architecture: CLINICAL ARCHITECTURE, LLC  
11611 N. Meridian Street, Suite 500  
Carmel, IN 46032  
Attn: Charles E. Harp, CEO  
email: [charlie\\_harp@clinicalarchitecture.com](mailto:charlie_harp@clinicalarchitecture.com)

with a copy to: CLINICAL ARCHITECTURE, LLC  
11611 N. Meridian Street, Suite 500  
Carmel, IN 46032  
Attn: Michael S. Wallack, General Counsel  
email: [michael\\_wallack@clinicalarchitecture.com](mailto:michael_wallack@clinicalarchitecture.com)

13. **MISCELLANEOUS.** This Agreement contains the entire understanding and agreement between Client and Clinical Architecture respecting the subject matter hereof and supersedes and cancels all previous agreements, commitments, writings, and negotiations in respect thereof other than the provisions of any nondisclosure or similar agreement. This Agreement shall only become effective and binding upon full execution hereof by Clinical Architecture and Client. Submission of this document to Client for examination shall not be deemed to be an offer. This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement; provided, however, no counterpart shall be effective until each party has executed and delivered at least one (1) counterpart to the other. This Agreement may not be supplemented, modified, amended, released, or discharged except by an instrument in writing signed by Client and Clinical Architecture. Any terms, provisions, or conditions of any purchase order or similar document issued by Client that purport to: (a) supplement, modify, or amend this Agreement; (b) release or discharge any of Client’s obligations arising pursuant to this Agreement; or (c) create obligations applicable to Clinical Architecture or increase the scope of existing obligations of Clinical Architecture, shall be void. This Agreement shall not be construed with resort to any presumption against the preparer. All captions and headings in this Agreement are for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions of this Agreement. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect. To the extent any provision of this Agreement is judicially determined to be unenforceable, a court of competent jurisdiction may reform any such provision to make it enforceable. The provisions of this Agreement will, where possible, be interpreted so as to sustain this Agreement’s legality and enforceability. Any waiver by Client or Clinical Architecture of any default or breach hereunder shall not constitute a waiver of any provision of this Agreement or of any subsequent default or breach of the same or a different kind. Each individual executing this Agreement represents that such person is duly authorized to execute and deliver this Agreement on behalf of Client or Clinical Architecture, as applicable, and that this Agreement is binding upon Client or Clinical Architecture, as applicable. Failure of Client or Clinical Architecture to perform or delay in the performance of their respective obligations under this Agreement due to any cause or event not reasonably within such party’s control, including without limitation, casualty, labor disputes, failure of equipment, epidemic or pandemic, compliance with governmental authority, force of nature, or other matters typically included within the definition of *force majeure*, shall not constitute a breach of this Agreement, and such party’s performance shall be excused during such period of delay; provided, however, that Client’s obligation to pay License Fees shall only be excused so long as and to the extent that Client’s ability to process payments in a timely and prompt manner is directly affected. Any handwritten or other changes inserted by or on behalf of Client or Clinical Architecture into this Agreement (other than completing the Effective Date in the introductory paragraph, the Project Lead and associated contact information, and/or a Notice Address) are expressly invalid and shall have no effect. Nothing herein shall restrict the right of Clinical Architecture to engage in any business or provide any products or services to any customers

on any terms. In the event of any conflict between the terms of this Agreement and the terms of the Client's agreement with the Cloud Host (or as set forth in the AWS Marketplace Buyer Guide), as between Clinical Architecture and Client, the terms of this Agreement shall govern and control.

## **Schedule of Defined Terms**

Addenda.....	1.2	Notice Address.....	12
Additional Implementation.....	2.4.6	Operational Resources .....	1.12
Additional Services.....	2.4.1	Output .....	1.13
Aggregated Statistical Information .....	4.3	PHI .....	6.7.1
Agreement .....	<a href="#">Introduction</a>	PHI .....	6.7.1
Annual License Fee .....	3.1	PHI Uses .....	6.7.1
AWS Marketplace .....	1.3	PIVOT.....	<a href="#">Recitals</a>
Client .....	<a href="#">Introduction</a>	Products.....	4.4
Client Indemnitees.....	7.2	Project Lead .....	2.4.2
Client Success Manager .....	2.4.2	Proposed Enhancement .....	2.4.8
Clinical Architecture.....	<a href="#">Introduction</a>	Proprietary Content.....	1.14
Clinical Architecture Indemnitees.....	7.1	Recipient.....	5.1.1
Cloud Environment .....	1.4	Recipient Representatives .....	5.2
Cloud Host .....	1.5	Renewal Fees .....	10.2
Confidential Information .....	5.1.2	Renewal Term.....	10.1
Confidentiality Obligations .....	5.4	Required Components.....	2.3.2
Content Source .....	1.14	Schema .....	2.4.4
Contract Date.....	1.6	Services .....	2.4.1
Discloser.....	5.1.1	Software .....	1.1
Documentation .....	1.7	Specifications .....	6.2
Effective Date.....	1.8	Standard Contract Listing .....	1.16
Expiration Date .....	10.1	Statement of Work .....	2.4.7
Feedback.....	4.4	Strategic Business Review .....	2.4.3
Hardware Requirements.....	2.2.4	Subject Matter Experts .....	6.5
HIPAA .....	6.7.1	Suspension Event.....	9.4
Implementation .....	2.4.6	SYMEDICAL.....	<a href="#">Recitals</a>
Indemnified Costs .....	7.1	System Specification Guide .....	2.2.4
Initial Term.....	10.1	Territory.....	1.17
Installation .....	2.4.6	Training.....	2.4.5
Intellectual Property .....	1.9	UCITA .....	11
Interest Rate .....	3.2	Update Services .....	2.4.4
License .....	2.1	User(s).....	1.19
Licensed Use .....	<a href="#">Exhibit A-1</a>	Warranty of Functionality.....	6.2
License Fees .....	3.1	Warranty of Title .....	6.1
License Term .....	10.1		

**Exhibit A-1**  
**Licensed Use**

Client may use the Software for syntactic or semantic transformation of patient messages from agreed upon and supported source formats into Amazon HealthLake formats supported by PIVOT.

**Exhibit A-2**  
**[Intentionally Omitted]**

**Exhibit A-3**  
**License Fees**

Annual License Fee:                      \$

**Exhibit B**  
**Software**

PIVOT	Included	Excluded
PIVOT	✓	

Modules, components, satellite apps, and new products, beyond those specifically set forth in this [Exhibit B](#), are excluded from the definition of Software and are excluded from the License and Licensed Use.



## Business Associate Addendum

1. **INCORPORATION AND CROSS-REFERENCES.** This Business Associate Addendum (the “**Addendum**”) is incorporated into that certain Software License Agreement (the “**Agreement**”) by and between Clinical Architecture and Client to which it is attached with Client being the “**Covered Entity**” and Clinical Architecture being the “**Business Associate**” for purposes of this Addendum. Client and Clinical Architecture intend for this Addendum to serve as a Business Associate Agreement as contemplated by HIPAA. To the extent that any of the terms or conditions contained in this Addendum contradict or conflict with any of the terms or conditions of the Agreement, it is expressly understood and agreed that the terms of this Addendum shall take precedence and supersede the terms of the Agreement.

2. **LIMITATION AND SCOPE.** In accordance with Section 6.7.1, Business Associate and Covered Entity specifically intend that Covered Entity will only disclose PHI to Business Associate for the PHI Uses and this Addendum is limited to PHI disclosed to Business Associate for the PHI Uses.

3. **DEFINITIONS.**

1.1 “**HIPAA Regulations**” means the regulations promulgated under HIPAA and the HITECH Act (as defined in Section 1.2 of this Addendum) by the United States Department of Health and Human Services including, but not limited to, 45 C.F.R. Parts 160, 162, and 164, as in effect or as amended from time to time.

1.2 “**HITECH Act**” means the security provisions of the American Recovery and Reinvestment Act of 2009 (also known as the Health Information Technology for Economic and Clinical Health Act).

1.3 “**Security Rule**” means the requirements of the HIPAA Regulations pertaining to the standards for the security of electronic Protected Health Information.

1.4 **Other Capitalized Terms.** Any capitalized terms used but not otherwise defined in this Addendum shall have the same meaning as those terms have under the Agreement, HIPAA, or the HIPAA Regulations, as applicable.

2. **OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE.**

2.1 **Use or Disclosure.** Business Associate agrees not to use or further disclose electronic PHI created or received by Business Associate from, or on behalf of, Covered Entity other than as expressly permitted or required by this Addendum or as required by Applicable Law.

2.2 **Safeguards.** Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Addendum. Business Associate agrees to implement Administrative Safeguards, Physical Safeguards, and Technical Safeguards (collectively, “**Safeguards**”) that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI as required by the Security Rule, including those safeguards required pursuant to 45 C.F.R. §§ 164.308, 164.310, 164.312, 164.314, and 164.316, in the same manner that those requirements apply to Covered Entity pursuant to 45 C.F.R. § 164.504.

2.3 **Subcontractors.** Business Associate agrees to ensure that in accordance with § 164.502(e)(1)(ii), any Subcontractor that creates, receives, maintains, or transmits PHI on behalf of Business Associate agrees to the same restrictions and conditions that apply to Business Associate with respect to such PHI.

2.4 **Access to Designated Record Set.** Business Associate agrees to provide paper or electronic access, at the request of Covered Entity and in the time and manner reasonably designated by Covered Entity, to PHI in a Designated Record Set to Covered Entity in order to meet the requirements under 45 C.F.R. § 164.524. If an Individual requests an electronic copy of PHI applicable to such Individual, Business Associate must provide Covered Entity with the PHI requested in the electronic form and format reasonably requested by the Individual and/or Covered Entity if it is readily producible in such form and format or, if not, in a readable electronic form and format as reasonably requested by Covered Entity; provided, however, that Business Associate shall not be required to convert any PHI to a format other than the format in which the PHI was delivered to Business Associate to be Processed.

2.5 **Amendments to PHI.** Business Associate agrees to make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Covered Entity



or an Individual, and in the time and manner reasonably designated by Covered Entity. If Business Associate receives a request for amendment to PHI directly from an Individual, Business Associate shall notify Covered Entity promptly of such request.

2.6 **Books and Records.** Business Associate agrees to make Business Associate's internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by Business Associate on behalf of Covered Entity available to the Secretary, in a time and manner designated by the Secretary, for the purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule and Security Rule.

2.7 **Documentation of Disclosures.** Business Associate agrees to document disclosures of PHI and information related to such disclosures and to make such information available to Covered Entity to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

2.8 **Privacy Rule.** To the extent Business Associate is to carry out Covered Entity's obligation under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligation.

2.9 **Reporting of Disclosures.** Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Addendum, including breaches of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410, and any Security Incident of which Business Associate becomes aware. Business Associate shall, following the discovery of a Breach of Unsecured Protected Health Information, promptly, and in all cases within ten (10) business days, notify Covered Entity of such Breach (such notification being a "**Breach Notice**").

(a) **Breach Notice.** The Breach Notice shall include: (i) the identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate, to have been accessed, acquired, or disclosed during such Breach; (ii) a brief description of Breach, including the date of the Breach and discovery of the Breach; (iii) a description of the type of Unsecured Protected Health Information that was involved in the Breach; (iv) a description of the investigation into the Breach, mitigation of harm to the individuals, and protection against further Breaches; (v) the results of any and all investigations performed by Business Associate related to the Breach; and (vi) contact information of the most knowledgeable individual for Covered Entity to contact regarding the Breach and Business Associate's investigation into the Breach.

(b) **Mitigation.** Business Associate shall cooperate reasonably with Covered Entity in mitigating any harmful effects of any such impermissible access, acquisition, use, or disclosure, and in making any required notification to individuals in the case of a Breach as reasonably determined by Covered Entity. In the event a breach as described Section in Section 2.9 of this Addendum has occurred, Business Associate shall pay for all the reasonable costs related to such mitigation, including the notice requirements as required by 45 C.F.R. §§ 164.404 and 164.406.

### 3. **PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE.**

3.1 **Use and Disclosure of PHI.** Except as otherwise limited in this Addendum, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Agreement if such use or disclosure of PHI would not violate HIPAA or the HIPAA Regulations if done by Covered Entity. Except as otherwise limited in this Addendum, Business Associate may use PHI for the proper management and administration of the Business Associate or to meet Business Associate's legal responsibilities. Business Associate agrees that it shall only use and disclose the minimum amount of PHI necessary for the accomplishment of the Business Associate's purpose in making the use or disclosure.

3.2 **Aggregation and De-Identification.** Business Associate is not authorized to persist or de-identify PHI except if required to perform services in accordance with the Agreement. Business Associate is not authorized to de-identify PHI in accordance with the standards set forth at 45 C.F.R. § 164.514, except if required to provide services to Covered Entity in accordance with the Agreement. Business Associate is not authorized to use, sell, or otherwise commercialize PHI or de-identified PHI.

4. **OBLIGATIONS OF COVERED ENTITY.**

4.1 **Impermissible Requests.** Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA or the HIPAA Regulations if done by Covered Entity or that is not otherwise expressly permitted under this Addendum.

4.2 **Notices by Covered Entity.**

(a) Covered Entity shall notify Business Associate of, and specifically identify, any limitations in Covered Entity's notice of privacy practices in accordance with 45 C.F.R. § 164.520, to the extent that such limitations may affect Business Associate's use or disclosure of PHI for the purposes described in this Addendum.

(b) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI for the purposes described in this Addendum.

(c) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI for the purposes described in this Addendum.

5. **TERM AND TERMINATION.**

5.1 **Term.** This Addendum shall become effective on the Contract Date of the Agreement and shall terminate upon the expiration or earlier termination of the Agreement.

5.2 **Termination for Cause.** Where Covered Entity has knowledge of a material breach of this Addendum by Business Associate, and cure is possible, Covered Entity shall provide Business Associate notice of such breach and an opportunity to cure. Where said breach is not cured within fifteen (15) business days following Business Associate's receipt of notice from Covered Entity of said breach (or cured within thirty [30] days following notice of the breach if the breach is not susceptible to cure within fifteen [15] business days, and efforts to effectuate a cure are diligently pursued by Business Associate), Covered Entity may terminate the Agreement. Where Covered Entity has knowledge of a material breach of this Addendum by Business Associate, and cure is not possible, Covered Entity may terminate the Agreement.

5.3 **Termination by Business Associate.** Where Business Associate has knowledge of a material breach of this Addendum by Covered Entity, Business Associate shall give Covered Entity notice of such breach and an opportunity to cure. Where said breach is not cured within fifteen (15) business days following Covered Entity's receipt of notice from Business Associate of said breach (or cured within thirty [30] days following notice of the breach if the breach is not susceptible to cure within fifteen [15] business days, and efforts to effectuate a cure are diligently pursued by Covered Entity), Business Associate may terminate: (a) Business Associate's performance of any of the services associated with the PHI Uses; or (b) the Agreement.

5.4 **Effect of Termination.**

(a) **Return or Destruction of PHI.** Upon termination of the Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity. This provision shall also apply to PHI that is in the possession of any Subcontractor. Business Associate shall retain no copies of PHI. Business Associate shall promptly provide written confirmation of such return or destruction to Covered Entity.

(b) **Return or Destruction Infeasible.** Notwithstanding the foregoing, in the event that Business Associate determines that returning or destroying PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon agreement by Covered Entity that return or destruction of PHI is infeasible, such agreement not to be unreasonably withheld, conditioned, or delayed, Business Associate shall extend the protections of this Addendum 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 Business Associate maintains such PHI.

6. **INDEMNIFICATION.** Business Associate agrees to indemnify, defend, and hold harmless the Client Indemnitees from and against any and all Indemnified Costs resulting from, or relating to, the acts or omissions of Business Associate in

connection with the representations, duties, and obligations of Business Associate under this Addendum. Covered Entity agrees to indemnify, defend, and hold harmless the Clinical Architecture Indemnitees from and against any and all Indemnified Costs resulting from, or relating to, the acts or omissions of Covered Entity in connection with the representations, duties, and obligations of Covered Entity under this Addendum.

7. **MISCELLANEOUS.**

7.1 **HIPAA and HIPAA Regulations.** A reference in this Addendum to a section in HIPAA or the HIPAA Regulations, including but not limited to the Security Rule, means the section as then in effect or as amended.

7.2 **Conforming Amendments.** Covered Entity and Business Associate agree to amend this Addendum from time to time as may be reasonably required to ensure that Covered Entity and Business Associate comply with changes in HIPAA and the HIPAA Regulations. Covered Entity may terminate the Agreement upon thirty (30) days' written notice in the event that Business Associate does not promptly enter into a commercially reasonable amendment that Covered Entity deems reasonably sufficient to ensure that Covered Entity will be able to comply with such laws and regulations; provided, however, that such amendment does not create any materially new obligations for Business Associate or require Business Associate to incur any material additional costs.

7.3 **Ambiguities.** Any ambiguity in this Addendum shall be resolved to permit Covered Entity and Business Associate to comply with HIPAA and the HIPAA Regulations.

7.4 **Independent Contractor.** Business Associate shall be, and at all times remain, an independent contractor, and not an employee or agent of Covered Entity. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.