PROVIDER INTERFACE TERMS AND CONDITIONS

These Interface Terms and Conditions (“**Interface Terms**”), available at <https://corp.cozeva.com/ehr-integration>, are an incorporated by reference into the COZEVA® Feature Sign-Off Form, which is an agreement, between Applied Research Works, Inc., a Delaware corporation located at 39300 Civic Center Dr #170, Fremont, CA 94538, and its affiliates (collectively, “**ARW**”) and Provider the named on sign-off form. These Interface Terms together with the sign-off form and any other Attachment collectively constitute the “**Interface Agreement**.” ARW and Provider are each a “**Party**” and collectively the “**Parties**” to the Interface Agreement. For clarity, the Interface Agreement governs the Provider and Provide Sites’ use of the Services.

# Definitions; Relationships.

## **Definitions.** Any defined terms not otherwise defined herein shall have the meaning set forth on the sign-off form:

“**Affiliate**” means an entity that directly, or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with Provider. For purposes of this definition, control of an entity means the power, direct or indirect, to direct or cause the direction of the management and policies of such individual or entity whether by contract or otherwise and, in any event and without limitation of the previous sentence, any individual or entity owning more than fifty percent (50%) of the outstanding voting shares of a second entity shall be deemed to control that second entity.

“**Attachment**” refers to a written document between ARW and Provider that incorporates by reference these Interface Terms or the sign-off form between ARW and Provider. An Attachment may include a SOW.

“**Applicable Law**” means, with respect to a Party, all federal, state and local laws, rules and regulations that are applicable to that Party, including without limitation any amendments, modifications or updates to such laws.

“**ARW Customer**” refers to a health plan or value-based care organization that subscribes to ARW’s services. An ARW Customer may be subsidizing Provider’s use of one or more Services.

“**Authorized User**” means any adult natural person (not a corporation, limited liability company, partnership, association, or other entity) who is authorized by Provider to use the Services. For clarity, references to Provider in the Interface Agreement include Authorized Users.

“**Beta Feature**” means any new feature, updates, upgrades, or services, software or technology ARW makes available to Provider that is in prototype, preview, beta or are otherwise not yet in general availability or released broadly to other ARW clients or is otherwise only provided by ARW for evaluation purposes.

“**Business Associate Addendum**” or “**BAA**” means the Business Associate Addendum that is available at <https://corp.cozeva.com/baa/>.

“**Confidential Information**” is defined in Section 7.1 (Confidential Information) and as limited by Section 7.3 (Exclusions).

“**Connect Services**” refers to ARW’s EHR integration services for connecting to EHR systems as described in Section 2 (Services) and subject to these Interface Terms.

“**Documentation**” means, collectively, any user guide, specifications, layouts, naming conventions, protocols, and all other program descriptions, desk procedures, materials, documentation, training manuals, technical manuals, user manuals, flow diagrams, file descriptions and other written information that describes the functional, operational or performance capabilities of the Services and any Improvements or updates thereto. For clarity, the Documentation is ARW’s Confidential Information.

“**EHR**” refers to an electronic health record.

“**End User Agreement**” refers to (a) the end user-level agreement between ARW and each Authorized User to access and use the Services, which may be amended by ARW in its sole discretion from time to time, and (b) any other user agreement, terms of service, terms of use, privacy policy or similar document that applies to the Authorized User, as may be added or updated by ARW from time to time.

“**Feedback**” means any suggestions, requests for enhancements or functionality, or other feedback to ARW regarding the Services.

“**Health Care Operations**” is as defined at 45 CFR 164.501.

“**HIPAA**” refers to the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, each as amended from time to time.

“**Improvements**” means all improvements, modifications, enhancements, updates, translations, and derivative works (whether made by ARW or made or suggested by Provider or its Authorized Users, employees, contractors or agents), Feedback, and all related documentation, data and information, related to or arising from Services (including without limitation the Platform) or any ARW Confidential Information.

“**Intellectual Property**” means: (a) patents and patent applications; (b) Internet domain names, trademarks, service marks, trade dress, trade names, logos and entity names and registrations and applications for registration thereof together with all of the goodwill associated therewith; (c) copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof; (d) mask works and registrations and applications thereof; (e) computer software (including without limitation source code), data, databases, libraries and documentation thereof; (f) trade secrets, ideas, formulas, compositions, inventions (whether patentable or not and whether or not reduced to practice), know-how, processes, techniques, algorithms, analytics, research and development information, drawings, specifications, designs, plans, proposals and technical data; (g) other proprietary rights; (h) copies and tangible embodiments thereof (in whatever form or medium); and (i) together with the right to apply for the registration of any such rights and the right to defend and enforce such rights in all countries and territories worldwide and under any international conventions. For the avoidance of doubt, Intellectual Property of ARW includes without limitation any Improvements.

“**Interface**” means the technical connection between two independent systems that is used to facilitate the access, exchange or use of data and information, including without limitation electronic health information. This connection may be established through an application programming interface (API), secure file transfer protocol (SFTP), middleware, browser extension, or any other technical means.

“**Limited Data Set**” or “**LDS**” is as defined by HIPAA at 45 CFR 164.514(e)(2).

“**Limited Health Care Operations**” refers to the first two paragraphs of definition of Health Care Operations, including without limitation care coordination, case management, transition of care planning, quality improvement, and population health activities.

“**Payment**” is as defined at 45 CFR 164.501.

“**Permitted Purpose**,” for purposes of these Interface Terms, means Payment and Limited Health Care Operations.

“**Platform**” means ARW’s hosted software solution, technology, applications or apps, and related Documentation made available as part of the Services described in the Interface Agreement. Platform includes without limitation all modifications, Improvements, updates, bug fixes, and patches made thereto.

“**Protected Health Information**” or “**PHI**” for purposes of these Interface Terms has the meaning given to it under HIPAA, at 45 CFR 160.103.

“**Provider Data**,” as between Provider and ARW, means data and information, including without limitation electronic health information, provided by Provider to ARW in connection with the Services.

“**Provider Site**” refers to either a physical location (such as a physician practice, facility or clinic) or a virtual telehealth hub operated by a Provider.

“**Services**” refers to the services ARW provides to Provider under the Interface Agreement and as set forth on the sign-off form or in an executed SOW, which may include software-as-a-service (SaaS) that is provided through ARW’s Platform to Provider and its Authorized Users and may include the use of artificial intelligence (which may include without limitation a machine learning engine, neural network or similar systems). References to the Services in the Interface Agreement include without limitation the Interface, Platform, and the relevant Documentation.

“**SOW**” refers to and includes a statement of work, service order, scope of work, work order or other similar written contractual document authorizing the provision of certain Services to Provider.

“**User Credentials**” refers to a combination of information and security measures that are used to identify or authenticate an Authorized User, including without limitation usernames, passwords, passkeys, security tokens, biometric data or other identifiers.

## **Relationships.**

### Attachments; Linked Documents. All references to the Interface Agreement include the Attachments and some Attachments may be linked by a Uniform Resource Locator (URL) (“**Linked Documents**”). Provider confirms that it has the ability to access, and has accessed, read, understands and agrees to, the Linked Documents. Provider further acknowledges that ARW may modify any URL address without notice to Provider.

### ARW Customer Agreements. Provider’s use of the Interface and Connect Services, as well as other Services (including without limitation use of the Platform), may be provided on behalf of, or paid for (in whole or in part), by an ARW Customer. ARW’s agreement with the ARW Customer may govern how the Interface is implemented and what components, features, or functionality of the Services will be available to Provider and its Authorized Users. Accordingly, Provider acknowledges and agrees that Provider’s access to and use of Services (including without limitation the Interface, Platform and Connect Services) may be subject to the requirements or limitations imposed by such an ARW Customer, and an ARW Customer may require that Provider enter into additional agreements with the ARW Customer as a condition to Provider’s use of the Services. Notwithstanding the foregoing, ARW and Provider may also mutually agree for Provider to subscribe to other Services or to continue using Services after the ARW Customer’s relationship with ARW has ended under this Interface Agreement.

# Services.

## **Interface and Connect Services; Additional Services.** For clarity, the preceding obligations and rights are subject to the Interface Agreement and the payment of all applicable Fees:

### Interface; Connect Services. ARW will establish an Interface, perform the applicable Connect Services as specified on the COZEVA® Feature Sign-Off Form, and provide relevant Documentation during the Term (defined below). Provider acknowledges and agrees that Provider’s EHR vendor may not support an Interface or integration of the Connect Services (in whole or in part) and that in such cases ARW shall be excused from its performance obligations under the Interface Agreement with respect to the unsupported Services and ARW has the option of terminating its relationship with Provider.

### Provider Use; Documentation. Subject to the provisions of the Interface Agreement and any applicable usage parameters in the sign-off form or SOW, Provider shall have a non-exclusive, non-transferable, non-sublicensable, non-assignable license (except as permitted in Section 11.3 (Assignment)) to access and use the Interface and the applicable Connect Services for the Permitted Purposes, in the United States for the Term, and solely for its own internal business purposes. For clarity, this right to access and use does not include access to or use of any source code, algorithms, or artificial intelligence (including without limitation machine learning) models or intermediate data (*e.g*., assigned values, activation values, matrices of weights and biases, metatags, hidden data layers), or training data of or from the Services. All rights not expressly granted to Provider in the Interface Agreement are reserved by ARW. Provider further agrees to comply with all Documentation relevant to the Services used by Provider. Provider’s failure to comply with any then-current Documentation shall constitute a material breach of the Interface Agreement.

### Additional Services. ARW shall provide Provider with any other Services for which Provider and ARW have executed an SOW or other Attachment.

### Auditing and Monitoring. ARW (itself or through its designee) or the applicable ARW Customer may, but is not required to, periodically examine, audit, inspect and make copies of Provider’s accounting and other records, books, documents, files, systems, and facilities, including without limitation any Provider Data transmitted or received by Provider, to confirm or monitor compliance with the Interface Agreement. Provider shall reasonably cooperate with ARW and the applicable ARW Customer, and cause its Provider Sites to reasonably cooperate, in any audit, investigation or compliance regarding Provider’s use of the Services. Provider may impose reasonable restrictions upon access to its premises and information systems. All audits shall be conducted with the least interruption to Provider’s normal business operations as is reasonably feasible.

## **Beta Feature Evaluation.** If ARW makes a Beta Feature available to Provider as part of the Services, then Provider shall only use such Beta Feature solely for non-production evaluation use during the evaluation period established by ARW. ARW is not obligated to provide support for Beta Feature including but not limited to the requirements described in Section 2.7 (Maintenance; Support and Service Level), and that the Beta Feature is not in scope for ARW’s security obligations or certifications. ARW may cease providing the Beta Feature at any time and may never make the Beta Feature generally available. Provider acknowledges that a Beta Feature is still in development and that Provider’s use of a Beta Feature is subject to different terms and conditions, including without limitation those set forth in this Section 2.2 (the “**Beta Terms**”). In the event of conflict between those Beta Terms and the Interface Agreement, the Beta Terms shall take precedence with respect to Provider’s use of the Beta Feature. At a minimum, the Beta Terms include the following terms: Provider acknowledges that the Beta Feature is provided on an “AS IS,” “AS AVAILABLE” and “WITH ALL FAULTS” basis, and Provider’s use of a Beta Feature is at Provider’s sole risk. beta features are provided with no warranties of any kind whatsoever, whether express or implied, including but not limited to those of merchantability, quality, title, fitness for a particular purpose and non-infringement. for clarity, the express warranties GIVEN BY ARW in section 8.1 (MUTUAL REPRESENTATIONS AND WARRANTIES) DO NOT APPLY TO ANY BETA FEATURES. arw will have no liability for any harm or damage arising out of or in connection with any beta features, including without limitation any direct or indirect, consequential or incidental damages.

## **Rights and Obligations.**

### Cooperation. The Parties shall cooperate with each other, and Provider shall cause its third-party licensors and suppliers to cooperate with ARW, regarding ARW’s implementation, provision, and support of the Services under the Interface Agreement. Without limiting the foregoing, Provider shall make available to ARW in a timely manner and at no charge: (a) technical data, programs, program files, documentation, APIs, test data, sample output, and similar information and resources that are reasonably required for ARW’s performance under the Interface Agreement; (b) access to and use of Provider’s (or its third-party licensors’ and suppliers’) systems, servers, equipment, networks, data centers and other information technology resources as are reasonably necessary for ARW’s performance under the Interface Agreement (collectively, “**Provider’s IT Environment**”); and (c) access to primary source verification documentation to validate data. For the avoidance of doubt, Provider is responsible for obtaining the required permissions and licenses at its own expense to enable ARW to access Provider’s IT Environment for purposes of performing the Services, including without limitation accessing Provider’s Data, as applicable. Provider further agrees to provide ARW with the minimum demographic information on individuals for ARW to enable identity resolution/matching in connection with the Services.

### Provider Responsibilities. Provider is solely responsible for using due care and exercising independent judgment with respect to the provision and maintenance of true, accurate, complete and current Provider Data at all times, and for the confidentiality, integrity, accessibility and security of Provider Data while Provider Data is in Provider’s control or possession, including without limitation backup and disaster recovery, and in connection with the Services. Provider further represents, warrants and covenants that it will use reasonable and appropriate efforts to: (a) ensure that the Provider Data is true, accurate, complete and current; and (b) promptly correct discovered inaccuracies or errors in the Provider Data. Provider is solely responsible for determining whether and what Provider Data is integrated into Provider’s EHR, care coordination platform, billing systems, or other clinical or administrative data systems within Provider’s IT Environment. Provider further acknowledges and agrees that it is solely responsible for following appropriate procedures, as required by Applicable Law and professional standards, for the creation, modification, maintenance, preservation, backup and storage of any records maintained by or for Provider.

### Authorized Users.

#### Provider is solely responsible for designating, enabling and disabling its Authorized Users, including without limitation designation of an Authorized User’s role and level of access to Provider Data. By designating and enabling Authorized User access, Provider is representing and warranting that the Authorized User is permitted under Applicable Law to have access to all of Provider’s Data associated with that Authorized User’s assigned role and access level.

#### An Authorized User’s User Credentials are not assignable and shall be used only by the Authorized User to whom the User Credentials were assigned.

#### Provider represents, warrants the covenants that any verification and authentication functions performed by Provider, or on behalf of Provider, shall: (a) adequately ensure the identity and authority of the Authorized User; (b) meet or exceed health care industry security standards for identity and authority verification; and (c) comply with Applicable Law. Provider will provide ARW with any and all information ARW needs to identify or authenticate Provider’s Authorized Users.

#### Provider acknowledges and agrees that: (a) access by Authorized Users to the Services under the Interface Agreement may be subject to an End User Agreement and ARW may condition an Authorized User’s access to and use of the Services on acceptance of the End User Agreement; and (b) ARW may, in its sole discretion, make changes to or add new documents to the End User Agreement.

#### Provider understands and agrees that Provider is solely and exclusively responsible for: (a) ensuring its Authorized User’s compliance all applicable terms of the Interface Agreement (including without limitation these Interface Terms, SOWs, and other Attachments), End User Agreement, and all relevant Documentation; and (b) the actions and omissions of each of Provider’s Authorized Users, including without limitation all acts or omissions associated with an Authorized User’s User Credentials, and all such acts and omissions shall be deemed to be the acts and omissions of Provider. Provider shall require that all its Authorized Users use the Services in accordance with the Interface Agreement, End User Agreement, and all relevant Documentation. Provider shall take appropriate action regarding any Authorized Users who fail to act in accordance with the foregoing.

### Affiliates; Other Contracts. Provider represents and warrants that it has full legal authority to enter into the Interface Agreement on behalf of any Affiliates that will use the Services. For clarity, Provider shall be responsible for any Affiliates’ and any Affiliates’ Authorized Users’: (a) compliance with the Interface Agreement, including without limitation all representations and warranties and the obligations of confidentiality, as well as any End User Agreement and all relevant Documentation; and (b) for any breach of the foregoing by any of its Affiliates and its Affiliates’ Authorized Users. Use of the Services by Provider’s Affiliates and their Authorized Users shall, for purposes of the Interface Agreement, be deemed use by Provider. Provider further represents, warrants, and covenants that the Provider’s compliance with the Interface Agreement does not and shall not conflict with or result in a breach of any provision of its organizational documents or other contracts to which it (or its Affiliates or Authorized Users) is a party.

### Prohibited Conduct. Provider understands that the access and use rights granted in the Interface Agreement place certain limits on use of the Services, including without limitation, each of the following:

#### Provider will not disclose, license, sublicense, assign, rent, sell, resell, loan, give, create derivative works of, or otherwise distribute all or any part of the Services or any other software or information derived from the Services to any third party except as specifically permitted under the Interface Agreement.

#### Provider will restrict access to the Services to: (a) Authorized Users, and (b) Provider’s employees who are required to have access to the Services in connection with the performance of their duties for Provider.

#### Provider will not attempt to view, edit, reverse engineer, translate, decompile, disassemble, extract, derive or otherwise access the source code or algorithms of any software used for the Services, or attempt to identify or reconstruct any artificial intelligence training data, or alter or tamper in any way with the Services, including without limitation any look and feel or functionality thereof. Except as prohibited by Applicable Law, Provider shall not use ARW’s Intellectual Property to build a competitive product or service without ARW’s prior express written and signed consent. This provision shall not be construed to: (a) prevent Provider from accessing, exchanging or using its PHI for any purposes, including without limitation accessing, exchanging or using its PHI in connection with a competing product or services; or (b) from competing with ARW without breaching confidentiality obligations owed to ARW with respect to ARW’s Confidential Information or violating ARW’s Intellectual Property rights.

#### Provider will not examine the Services with debugging, memory inspection, or disk inspection tools.

#### Provider will not alter, remove or conceal any copyright, trade secret or other proprietary rights notices, or legal terms presented to users, that may appear on or within the Services.

#### Provider may only use the Services to process its own data in the conduct of its business (and not to process data or transactions for any other third parties), and Provider will not provide access to the Services to any third parties for any purpose, unless approved in advance and in a signed writing by ARW.

#### Provider will not attempt to alter the configuration of the software used in the Services or attempt to interfere with or disrupt normal operations of the Services, or systems used to host the Services, or other equipment or networks connected to the Services, without the prior written consent of ARW.

#### Provider will not defeat, disable or circumvent, or attempt to defeat, disable or circumvent, the user authentication to, or security of, the Services or any host, network or account related thereto.

#### Provider will not use any API or other technical means or methods (including without limitation any web scrappers, web crawlers, bots, *etc.*) to access the Services other than those made available by ARW, unless approved in advance by ARW in a signed writing.

#### Provider will not mirror the site of the Services, in whole or in part, on any server.

#### Provider shall not use the Service, or permit the use of any Service: (a) to send unsolicited messages (via fax, email, or otherwise) in violation of Applicable Law; (b) to store, send, or provide access to obscene or otherwise illegal or inappropriate materials; (c) to store, send, or provide access to materials that would infringe any Intellectual Property right, or violate any privacy right, of any third party; (d) to impersonate, or attempt to impersonate, any third party or any fictitious individual; (e) in violation of the Interface Agreement or any Intellectual Property or other proprietary rights of ARW; or (f) in any manner that violates or does not comply with Applicable Law.

### Export Laws.Provider shall not, directly or indirectly, at any time export, re-export, divert, transfer or release an part of the Service (including without limitation any technical data or technology) to, or make any part of the Service accessible from, any jurisdiction, country, individual, company or other entity that is: (a) embargoed by the U.S. or that has been designated by the U.S. government as a “terrorist supporting” country; (b) in violation of any U.S. export law or governmental regulation; or (c) otherwise identified on a list of debarred, prohibited, sanctioned or denied parties (including without limitation the Specially Designated Nationals List or Foreign Sanctions Evaders List of the Office of Foreign Assets Control, U.S. Department of the Treasury, the State Department’s Debarred List or Nonproliferation List, or the U.S. Commerce Department’s Entity List and Denied Persons List). By accessing the Service, Provider represents, warrants and covenants that neither Provider, nor any of its Affiliates or Authorized Users, are located in, under control of, or a national or resident of any such country or on any such list.

### Feedback; Notification of Defects.Provider may provide Feedback to ARW. ARW shall have full discretion over whether or not to utilize any Feedback, including without limitation using such Feedback to make upgrades to the Services. The ownership of Feedback is set forth in Section 6 (IntellectualProperty). Provider further agrees to notify ARW of any defects Provider believes exist in the Services, and Provider shall provide to ARW all information known or reasonably available to Provider regarding the alleged defects.

### Communications Policy.If applicable to the Services, Provider agrees and authorizes ARW to send to the ARW Customer, Provider, its Affiliates and Authorized Users notifications, reminders and other communications through the Services or by email, text message, phone, mobile app notifications, chats or other method of communication. Provider agrees and authorizes ARW to make such communications through use of an automatic telephone dialing system or an artificial or prerecorded voice message system at any of the contact information provided to ARW, including without limitation any residential and cell phone (wireless) numbers or fax machines. These messages may not be secure and not encrypted. Unsecured communications pose a risk to the confidentiality and privacy of the information being sent because they are susceptible to possible interception by a third party. ARW is not responsible for any data transmission fees for such notices and communications. Authorized Users may opt out of receiving such communications as described in the End User Agreement. Provider further acknowledges and agrees that Provider, its Affiliates and each Authorized User are responsible for their own compliance with all Applicable Law, including (but not limited to) the Telephone Consumer Protection Act (TCPA) and the Controlling the Assault of Non-Solicited Pornography and Marketing Act (CAN-SPAM), when Provider, its Affiliates, or its Authorized Users, respectively, use the Services to direct communications.

## **Third-Party Materials.** Provider acknowledges that ARW has and may from time to time either provide access to third-party links or engage third-party vendors or service providers (collectively, “**Third-Party Suppliers**”) to embed or otherwise include in the Services access to certain third-party links, documents, websites or features in connection with the Services (collectively, “**Third-Party Materials**”). Provider understands that Provider and Provider’s Authorized Users may be required by such Third-Party Suppliers to accept and agree to the terms and conditions for the use and access of such Third-Party Materials. ARW is not responsible for the content, accuracy, or opinions expressed in any Third-Party Materials or for the privacy practices or security standards used by Third-Party SUPPLIERS.

## **Changes to the Services.** ARW may change, modify, update, enhance, or discontinue the Services (in whole or in part, including without limitation the Platform, Documentation, features and functionality) at any time, in its sole discretion, provided that such modifications do not materially diminish the core functionality of the Services or render the Services incapable of fulfilling the essential purpose set forth in the Interface Agreement. ARW will use commercially reasonable efforts to notify Provider of any material changes to the Services that may impact Provider’s use of the Services. Provider understands and agrees that its Authorized Users will use the most current version of the Services (including without limitation the Platform and Documentation). Nothing in this Section 2.5 (Changes to the Services) may be construed to give Provider access to new modules, different software apps or upgrades that provide new functions or features beyond the Services described in the applicable SOW. Should ARW sell, or offer for sale, new functions or features that Provider desires to use, the Parties may negotiate in good faith an amendment or SOW that will give Provider access to these new functions or features for payment of additional fees.

## **Hosting.** Provider acknowledges and agrees that ARW may as part of its ordinary business operations host and maintain a copy of Provider Data in connection with the Services. As between the Parties, Provider is solely responsible for the archival maintenance and storage of records (including without limitation medical records) and documentation for any mandatory or regulatory record or documentation retention requirements and any other legal responsibilities associated with record maintenance, and ARW will have no responsibility therefor.

## **Maintenance; Support and Service Level.** ARW will use commercially reasonable efforts to provide availability of the Services and technical support. Provider acknowledges and agrees that: (a) ARW may take down the Services (including without limitation the Interface or Platform), suspend access, or degrade performance temporarily for planned and unplanned maintenance, upgrades, improvements or other reasons; (b) ARW may act against any third-party application that is negatively impacting the Services, including without limitation suspending the application’s access to the Services or degrading performance for the period of time necessary to resolve any negative impacts; (c) the Services may be temporarily unavailable, degraded or otherwise interrupted for other reasons, including without limitation if ARW has reasonable belief that taking such action will substantially reduce a risk of harm to a natural person or is necessary to mitigate a security risk; and (d) during any period of suspension, unavailability, interruption or performance degradation, Provider is responsible for conducting normal operations without such access to or full use of the Services.

## **Subcontracting.** ARW may subcontract its obligations under the Interface Agreement without Provider’s prior written approval. ARW will remain responsible for its subcontractors’ performance to the same extent as if such obligations, services and functions were performed by ARW employees.

# Data.

## **Provider Data.** As between Provider and ARW, and excluding ARW De-Identified Data (as defined below), Provider owns its Provider Data. Notwithstanding the foregoing, Provider acknowledges and agrees that: (a) once Provider Data is disclosed to an ARW Customer or other third parties in connection with the Services (“**Disclosed Data**”) it will not continue as Provider’s sole property; (b) with respect to electronic health information in Disclosed Data, Provider cannot impose downstream restrictions on the Disclosed Data; and (c) it is infeasible for ARW to return or destroy Disclosed Data upon expiration or termination of the Interface Agreement. Provider represents, warrants and covenants that it will provide, or enable access to, Provider Data to ARW only if Provider has the requisite right and legal authority to do so under all Applicable Law and any third-party contracts. Without limiting the foregoing, and as between Provider and ARW, Provider is solely and exclusively responsible for obtaining any patient or third-party authorizations, consents, releases, attestations, or other permissions or statements required to provide the Provider Data to ARW, to authorize ARW to provide the Services, to grant the license to Provider Data in Section 3.2 (Data License) or other data license(s) provided in the Interface Agreement (including without limitation other Attachments), or as otherwise required by Applicable Law (collectively, “**Consent**”). Provider must not provide Provider Data to ARW if Provider does not have Consent, under the Interface Agreement, to use the Provider Data in connection with the Services, including without limitation securing all necessary prior consents for the collection, storage, use and disclosure of Provider Data in connection with the Services. Provider further represents, warrants and covenants that it has all legal right, title and interest, including without limitation Consents, necessary to grant ARW the license to Provider Data in Section 3.2 (Data License) and any other data license(s) provided in the Interface Agreement and that nothing will interfere with ARW’s right, title and use of the ARW De-Identified Data as provided in Section 3.3 (ARW De-Identified Data).

## **Data License.** Subject to Applicable Law and the BAA (if applicable), Provider grants to ARW a royalty-free, fully paid up, non-exclusive, sublicensable and non-transferable (except as permitted in Section 11.3 (Assignment)) right and license to request, access, receive, use, copy, reproduce, store, process, send, transmit, share, aggregate, modify, analyze, distribute, display, disclose, create derivative works, and any other substantially similar activity to the foregoing, Provider Data, Provider’s Confidential Information, and data about Authorized Users (including without limitation data about the users’ usage of the Services), during the Term and for as long as ARW is permitted to retain such data and information after termination, for the following purposes: (a) for the provision of, and the proper management, operation and administration of, the Services; and (b) for evaluating, auditing, improving and developing the Services (including without limitation new functionality and features, or training artificial intelligence), and other ARW products and services (provided that ARW will only use Provider Data that has been de-identified in accordance with HIPAA at 45 CFR 164.512(b) for training artificial intelligence for new products and services); and (c) as otherwise permitted by Provider in writing (collectively, the “**Data License**”). For the avoidance of doubt, to the extent that Provider engages ARW for certain of ARW’s services and products that require health information exchange or interoperability with third parties, Provider hereby authorizes and consents to ARW disclosing the relevant Provider Data and Provider Confidential Information (and any information derived therefrom) with such third parties for the purpose of providing the Services. Provider acknowledges that additional terms and conditions may apply to Provider’s use of services and procedures that involve health information exchange or interoperability with third parties.

## **ARW De-Identified Data.** Provider further authorizes ARW to create de-identified data sets derived from Provider Data, Provider Confidential Information, or data about Authorized Users (if PHI, then in accordance with 45 CFR 164.512(b)), and, as between ARW and Provider, ARW owns all such de-identified data (“**ARW De-Identified Data**”) and any Intellectual Property rights therein. To the extent an assignment of ARW De-Identified Data is needed to permit ARW to obtain ownership of the right, title, and interest in, to or under, any or all of the ARW De-Identified Data, Provider hereby assigns and transfers Provider’s right, title, and interest in, to and under such ARW De-Identified Data to ARW, and Provider will reasonably cooperate with ARW in perfecting such ownership. ARW De-Identified Data is Confidential Information of ARW. The Interface Agreement does not provide Provider with rights, title, license or ownership of ARW De-Identified Data; provided, however, that Provider’s use of any ARW De-Identified Data that is included in any deliverable, report, or analytics provided to Provider as part of the Services is licensed to Provider under the license terms in Section 2.1 (Interface and Connect Services; Additional Services) herein. ARW reserves all rights in and to the ARW De-Identified Data. For clarity, nothing in the Interface Agreement prohibits Provider from de-identifying its own data and using or disclosing such data that Provider has de-identified. ARW reserves all rights to ARW De-Identified Data not expressly granted to Provider in the Interface Agreement.

## **Data Use Agreement (DUA) and Limited Data Sets (LDS).** In addition to and without limiting the foregoing Data License, Provider further grants ARW permission to use and disclose LDS pursuant to the following DUA: (a) ARW may use or disclose any LDS for Health Care Operations, Public Health activities or Research (each as defined by HIPAA), or as otherwise required by Applicable Law; (b) ARW must use appropriate safeguards to prevent the use or disclosure of the LDS other than as provided for in this Section 3.4 (DUA and LDS); (c) limit the use or receipt of the LDS to its personnel who need access to the LDS for the purpose of performing the Health Care Operations, Public Health or Research function, as applicable, and to third parties that use ARW for these purposes; (d) report to Provider any uses or disclosures in violation of this Section 3.4 (DUA and LDS) of which the ARW becomes aware; (e) hold any agent (including subcontractors) to the standards, restrictions, and conditions stated in this Section 3.4 (DUA and LDS) with respect to the LDS; (f) not use the LDS to identify or contact the individuals who are the data subjects; and (g) not use or disclose the LDS in a way that, if done by the Provider would violate HIPAA. ARW will only disclose an LDS to a third party under a written data use agreement that complies with HIPAA at 45 CFR 164.514(e)(4), and Provider authorizes ARW to enter into a DUA for the use of LDS in accordance with this Section 3.4 (DUA and LDS) and Applicable Law.

## **Actions of Third-Party Data Recipients.** Provider agrees that, as to disclosures of Provider Data, Provider Confidential Information, or ARW De-Identified Data by ARW permitted under the Interface Agreement, ARW and its directors, officers, employees and agents will have no liability to the extent arising from the use or subsequent release of data by third parties who are not ARW personnel after receipt by such third party from ARW; provided, however, the foregoing does not waive or release ARW from its obligations to: (a) have all appropriate technical, organizational, and security measures in place with respect to the transmission of such data to third parties as required by the Interface Agreement; or (b) be responsible for its subcontractors in accordance with Section 2.8 (Subcontracting) of these Interface Terms.

## **Feasibility of Returning Data; Overlapping Data from Other Sources.** Provider acknowledges that it is infeasible for ARW to return or destroy Provider Data or Provider’s Confidential Information after the end of the Term if such data and information is used to generate aggregated data analyses or to evaluate, improve or train ARW’s Services. Nothing in the Interface Agreement shall be construed to prevent ARW from using or disclosing data that would fall under the definition of Provider Data, or is overlapping with Provider Data, which ARW has separately received from a third party (including without limitation a health care provider or health plan), provided such use and disclosure by ARW is compliant with Applicable Law and ARW’s arrangement with such third party.

## **HIPAA.** In performing under the Interface Agreement, each Party will comply with the applicable requirements of HIPAA concerning PHI. If applicable, ARW will comply with the terms of the BAA with respect to Provider Data that constitutes PHI. Provider further understands and agrees that in connection with the Services, ARW may obtain HIPAA authorizations and other consents and permissions directly from individuals in accordance with any applicable requirements of HIPAA. Provider further acknowledges and agrees that ARW will not maintain any Designated Record Set(s), as that term is defined under HIPAA, on behalf of Provider, unless ARW gives prior, written, express permission to Provider that ARW will do so.

## **Security.** The Parties each agree to maintain a commercially reasonable comprehensive information security program to protect against the unauthorized access, use, disclosure, modification, publication, theft or destruction of Provider Data. The security program must include administrative, technical and physical safeguards to: (a) ensure the security and confidentiality of PHI; (b) protect against any anticipated threats or hazards to the security or integrity of PHI; and (c) protect against unauthorized access to or use of PHI, which could result in substantial harm or inconvenience to any individual or a Party to the Interface Agreement. Provider must ensure that any User Credentials used to access the Services are safeguarded in accordance with all commercially reasonable industry security standards. Provider shall further: (i) take all steps to ensure there is only authorized access to the Services by Authorized Users using User Credentials; (ii) promptly report to ARW any discovered breach or unauthorized access to the Services (including without limitation the Interface or Platform) or any data; (iii) cooperate with ARW in any investigation related to such access; (iv) mitigate any damage or further unauthorized access. Should unauthorized access to the Services occur through the negligent, willful or otherwise unlawful disclosure or use of the User Credentials, Provider shall indemnify ARW in accordance with Section 9.1 (Indemnification by Provider).

# Fees and Payment.

## **Applicability.** SECTIONS 4.1 THROUGH 4.7 are not applicabile to provider if Provider’s use of the Services is paid for by an ARW Customer.

## **Fees Generally.** Provider must pay ARW all Fees in the amounts (and in U.S. currency) for those Services used by Provider (collectively, “**Fees**”). Fees may be set forth in a SOW or other Attachment. Unless expressly stated otherwise in an Attachment: (a) all subscription or monthly Fees are incurred as of the effective date of the Attachment; (b) any per member per month (“**PMPM**”) Fees are in addition to or greater than any minimum monthly subscription Fees are effective as of the date on which the initial load of Provider Data is completed; and (c) all Fees are subject to an automatic annual increase of five percent (5%) or the Consumer Price Index (CPI), whichever is greater (the “**Operating Adjustment**”). With ninety (90) calendar days prior written notice to Provider, and after the initial term set forth in a SOW, ARW may also update Fees annually or, at any time, in the event there is significant increase in ARW’s internal costs (each a “**Fee Increase**”). If Provider does not agree to a Fee Increase, Provider may terminate the applicable SOW on thirty (30) calendar days advance notice.

## **Passthrough Fees.** Provider shall be responsible for paying for any fees, costs, or expenses imposed by Third-Party Suppliers that are incurred by Provider in connection with the Services provided under the Interface Agreement (“**Passthrough Fees**”). To the extent practical, ARW will use commercially reasonable efforts to inform Provider of any material Passthrough Fees in advance. Upon Provider’s request, ARW shall provide reasonable documentation or explanation supporting any such Passthrough Fees. For clarity, Passthrough Fees do not include fees related to ARW’s internal costs or services not explicitly tied to charges of Third-Party Suppliers.

## **Payment Schedule.** Provider must pay ARW the Fees for the Services it uses on the dates specified the sign-off form, SOW, or other Attachment, as applicable. If no due date is specified, then payment will be due within thirty (30) calendar days of the date of the invoice. Fees for Services are nonrefundable. Provider has no right to withhold or reduce Fees under the Interface Agreement or set off any amount against Fees owed for alleged defects in the Services. For the avoidance of doubt, Provider acknowledges that all Fees, and any discounts or incentives thereto, are reasonable and in exchange for Services provided by ARW and are not royalties or compensation for the sale of PHI.

## **Travel Expenses.** For trips approved by Provider, Provider also agrees to pay or reimburse ARW for all reasonable travel expenses incurred, including but not limited to airfare, meals, lodging, parking, and mileage, upon presentment of invoice with supporting documentation upon request. Reimbursement for mileage will be calculated based on IRS mileage rates.

## **Purchase Orders.** If Provider requires a purchase order, Provider shall prepare and issue to ARW the purchase order within ten (10) business days of each SOW Effective Date or other Attachment, as applicable. **PROVIDER AGREES THAT ANY TERMS AND CONDITIONS CONTAINED IN ANY PROVIDER PURCHASE ORDER OR OTHER ORDERING DOCUMENT SHALL HAVE NO BINDING EFFECT ON ARW AND WILL NOT MODIFY THE INTERFACE AGREEMENT IN ANY WAY.** Provider’s failure to issue a purchase order or ARW’s failure to execute a purchase order does not excuse Provider’s obligation to remit payment in full for the Services in accordance with the Interface Agreement. ARW’s completion of a purchase order is done merely for the convenience of the Parties. The completion of a purchase order by ARW shall not be considered a material term of the Interface Agreement.

## **Late Payment.** ARW reserves the right to charge late fees for any payment not received by the due date, at an interest rate of one and half percent (1.5%) per month or the maximum permitted by Applicable Law, whichever is lower. The accrual of such interest will not affect any of the rights or remedies of ARW under the Interface Agreement. In the event that payment due to ARW is collected at law or through an attorney-at-law, or under advice therefrom, or through a collection agency, Provider agrees to pay all costs of collection, including without limitation all court costs and reasonable attorneys’ fees.

## **Reporting; Audits.** Upon ARW’s request, Provider shall provide ARW with a statement setting forth its Provider Sites, its number of Authorized Users, and any other information reasonably requested by ARW regarding Authorized Users and the scope of use of the Services within thirty (30) calendar days after ARW’s written request. ARW and the applicable ARW Customer also has the right to audit Provider’s use of the Services as provided for in Section 2.1.4 (Auditing and Monitoring) of these Interface Terms. If, as a result of any such audit, ARW identifies unauthorized use of the Services, Provider shall pay, in addition to a full subscription Fee for each unauthorized use by Provider, the reasonable expense of ARW in conducting the audit.

## **Taxes.** Fees do not include federal, state, local and foreign taxes, duties, tariffs, levies, withholdings and similar assessments (including without limitation, sales taxes, use taxes, and value added taxes) that may be imposed in connection with Provider’s use of the Services or the Interface Agreement (collectively, “**Taxes**”). Provider agrees to bear, pay and be responsible for such Taxes (or, in lieu thereof, Provider shall provide ARW, on request, with a certificate acceptable to the taxing authorities exempting Provider from payment of these Taxes), and Provider shall indemnify ARW from the payment of all such Taxes, excluding taxes based upon ARW’s net income.

# Term and Termination; Suspension.

## **Term.** The “**Term**” of the Interface Agreement will begin on the date the Parties execute the sign-off form and shall continue until terminated as specified in these Interface Terms.

## **Termination of a SOW or Attachment Only.** Either Party may terminate one or more SOWs or other Attachments without terminating the entire Interface Agreement, under the following circumstances: (a) by mutual agreement in writing; (b) for cause if the other Party has materially breached its obligations and has not cured such breach to the reasonable satisfaction of the other Party within thirty (30) calendar days of receiving written notice from the non-breaching Party detailing the breach; (c) by Provider upon ninety (90) calendar days prior written notice to ARW in the event of a Fee Increase (provided, however, for clarity that this right does not apply to the Operating Adjustment or Passthrough Fees or any Fees paid by an ARW Customer); or (d) as otherwise provided for in the SOW or other Attachment. The termination of the entire Interface Agreement will immediately terminate all SOWs and other Attachments.

## **Termination of the Entire Interface Agreement.** Either Party may terminate the Interface Agreement in its entirety under the following circumstances or as otherwise specified in the Interface Agreement:

### Without Cause. ARW may terminate the Interface Agreement without cause: (a) upon sixty (60) calendar days’ notice to Provider; or (b) upon written acceptance of Provider’s notice pursuant to the sign-off sheet that Provider desires to terminate the Interface. In the event that the Services are provided by ARW on behalf of, or paid by, an ARW Customer, ARW may also suspend or terminate the Interface Agreement immediately upon expiration or termination of ARW’s agreement with the ARW Customer or the ARW Customer’s non-payment for the Services. ARW may further terminate this Interface Agreement immediately in the event Provider’s EHR vendor does not support an Interface or integration necessary to ARW’s provision of the Services to Provider.

### With Cause.

#### *Uncured Breach*. Either Party may terminate the Interface Agreement for cause upon written notice if the other Party has materially breached the Interface Agreement and has not cured such breach to the reasonable satisfaction of the non-breaching Party within thirty (30) calendar days of the allegedly breaching Party receiving the written notice from the non-breaching Party detailing the breach.

#### *Breach of Intellectual Property Clause*. ARW may terminate the Interface Agreement immediately upon written notice to Provider in the event of a material breach of any confidentiality or Intellectual Property clause in the Interface Agreement, in addition to any other remedies available to ARW.

#### *Exclusion from Health Care Programs*. If either Party is excluded from participation in any federal or state health care program, or is proposed for exclusion, suspension, limitation, restriction, declaration of ineligibility, then either Party may terminate the Interface Agreement immediately upon written notice to the other Party.

#### *Other Reason*. Either Party may terminate the Interface Agreement as otherwise provided for in the Interface Agreement, including without limitation any Attachment.

## **Suspension.** ARW may immediately suspend the Services (including without limitation use of the Interface or Platform by an Authorized User), with or without terminating the Interface Agreement, if directed to do so by an ARW Customer who is paying for the Services used by Provider, if such an ARW Customer defaults or fails to timely pay for the Services used by Provider, or if ARW, in its sole discretion, determines any of the following: (a) unauthorized access or use of the Services; (b) any violation of the Interface Agreement by Provider, including without limitation if Provider is not using the then current version of the Interface, Platform, Documentation or other Services; (c) Provider uses or attempts to use the Services for any fraudulent or illegal purpose, including without limitation if Provider or an Authorized User has engaged in suspicious activity or ARW determines that Provider’s continued use of the Services would cause ARW to violate any Applicable Law or place ARW at material risk of suffering any sanction, penalty or liability; or (d) Provider’s or its Authorized Users’ actions or omissions create an immediate threat or may cause material harm to any person or organization.

## **Survival.** The Parties’ respective obligations which expressly or by their nature would continue beyond the termination or expiration of the Interface Agreement will survive. This includes, by way of example but not limited to, the following: Section 1 (Definitions; Relationships); Section 2.2 (Beta Feature Evaluation) as to any Beta Feature; Section 3 (Data); Section 4.8 (Reporting; Audits); Section 4.9 (Taxes); Section 5.5 (Survival); Section 6 (Intellectual Property), Section 7 (Confidentiality), Section 8 (Representations and Warranties; Disclaimers), Section 9 (Indemnification; Limitations of Liability; Insurance); Section 10 (Disputes); Section 11 (Miscellaneous); and all obligations of Provider to pay or reimburse ARW that are unpaid at the time of termination or expiration of the Interface Agreement.

# Intellectual Property.

## **Pre-Existing Intellectual Property.** Each Party shall retain ownership of all right, title and interest in and to any Intellectual Property and Intellectual Property rights therein it owned or had an interest in prior to the Interface Agreement or which is developed outside of the Interface Agreement (“**Pre-Existing Intellectual Property**”). Unless expressly stated in the Interface Agreement, nothing in the Interface Agreement shall be deemed to imply a license or transfer of ownership of either Party’s Pre-Existing Intellectual Property to the other Party or any third party.

## **Ownership.** Provider acknowledges and agrees that all right, title and interest in Intellectual Property in the Services (including without limitation the Interface, Platform and any analytics and reports generated from the Services for Provider) are owned by or under license to ARW and are ARW Confidential Information. Further, all Improvements are and shall be the sole and exclusive property of ARW (or its licensor, as the case may be). Provider agrees to promptly notify and disclose to ARW any Improvements created, solely or jointly with others, by Provider, Provider’s Affiliates or Authorized Users, employees or agents. Provider hereby irrevocably and unconditionally assigns, and upon creation thereof automatically assigns, any such Intellectual Property rights that it may have in and to the Improvements to ARW, at no additional cost. To the extent that any Intellectual Property rights to the Improvements do not otherwise vest in ARW, Provider agrees to promptly assign, and ensure that any Provider Affiliates or Authorized Users, employees or agents assign, such Intellectual Property rights to ARW, and to perform all other acts reasonably necessary to perfect the ownership, proprietary rights or licenses of ARW, without additional consideration of any kind. Provider must not contest the validity or ownership of any such Intellectual Property in the Services or the Improvements. Further, Provider agrees to cooperate with ARW in the perfection of any Intellectual Property rights in the Services and the Improvements and to execute any assignments or other documents reasonably deemed necessary by ARW, and must provide reasonable assistance and give such testimony as may be necessary or required of ARW to permit ARW to secure, perfect, effectuate and preserve ARW’s ownership rights, and to enforce and defend such Intellectual Property rights, at ARW’s expense. To the extent that Provider is unable or unwilling to execute such documents, Provider appoints ARW as its attorney-in-fact (which appointment is coupled with an interest and is irrevocable) for the sole purpose of executing such documents and oaths and to do all other lawfully permitted acts with respect to the assignment and transfer of Intellectual Property rights in the Improvements as may be necessary or desirable to carry out the purposes of this Section 6.2 (Ownership). The Parties explicitly agree that no title or ownership of Intellectual Property of ARW may be considered transferred to Provider or any third parties.

## **Injunctive Relief.** If Provider or any of its Authorized Users, employees or agents attempt to copy, use, license, or convey materials containing the Intellectual Property owned by or under license to ARW, in any manner contrary to the Interface Agreement or in derogation of ARW’s Intellectual Property or licenses, whether these rights are explicitly stated in the Interface Agreement, determined by law, or otherwise, ARW will have, in addition to other remedies available to it, the right to seek injunctive relief enjoining such action without the requirement of posting a bond, Provider hereby acknowledging that other remedies may be inadequate. Should a bond be nevertheless required for such injunctive relief, the Parties agree that such bond will be no more than $300.00.

## **Notification of Infringement.** If Provider discovers or is notified of an actual or suspected infringement or misappropriation of the Intellectual Property of ARW, Provider must immediately notify ARW and terminate such infringement to the extent it is within the control of Provider or its agents or contractors. Provider will reasonably cooperate with and assist ARW in protecting, enforcing and defending ARW’s Intellectual Property.

## **Reservation of Rights; No Implied License.** Except for the subscription access in Section 2.1 (Interface and Connection Services; Additional Services), and the limited rights expressly granted in the Interface Agreement, no other use is permitted, and ARW reserves all rights, title and interest in and to the Services (including without limitation the Interface and Platform), Documentation, and any materials provided by ARW to Provider (including the rights to any modification, extension, improvement, enhancement, configuration or derivative work of the Services or any such other materials). Provider agrees not to take any action inconsistent with such title and ownership. Provider further hereby irrevocably assigns to ARW any rights in or to the Services or any of the other materials described above which may otherwise vest in Provider or its personnel at any time.

## **Publicity.** Neither Party will use the name or trademarks of the other Party without the prior written consent of the other Party: (a) except as required by Applicable Law; and (b) except that ARW may recognize Provider as a user of the Services on its website, at conferences, in presentations, in published use cases or reports (which may include information about Provider’s use of and experience with the Services), advertising, and in other promotion and marketing materials, or as otherwise permitted by Provider in the Interface Agreement (including without limitation the sign-off sheet and any SOW) or in writing. Provider further agrees to reasonably cooperate with ARW to serve as a reference account, upon request, and to reasonably support ARW’s marketing efforts.

# Confidentiality.

## **Confidential Information.** Provider and ARW may have access to each other’s Intellectual Property, trade secrets, confidential know-how, business processes, non-public business information (including but not limited to software, algorithms, technical specifications, software documentation and training materials, operational policies, designs, business plans, customer lists, vendor lists, pricing information, strategic alliances, marketing strategies, and planned new products and services) and other information which it considers to be proprietary or confidential (collectively, “**Confidential Information**”).

## **Ownership.** All Confidential Information of a Party is and will remain the sole property of the Party who is disclosing the Confidential Information (the “**Disclosing Party**”). The Party who is receiving the Confidential Information (the “**Receiving Party**”) will have no interest in or rights to the Disclosing Party’s Confidential Information, other than to use the Confidential Information in accordance with the Interface Agreement.

## **Exclusions.** Confidential Information does not include information that: (a) is or becomes generally available to the public (other than as a result of disclosure or dissemination by the Receiving Party); (b) is or becomes available to the Receiving Party on a non-confidential basis from a single source (other than the Disclosing Party) that is not bound by an obligation of confidence relating to the information; (c) has been independently acquired or developed by the Receiving Party without violating any obligation to the Disclosing Party; (d) was rightfully in the possession of the Receiving Party prior to receipt from the Disclosing Party; or (e) is the underlying Protected Health Information. For clarity, ownership, use and disclosure of Protected Health Information is addressed in other clauses of these Interface Terms, including without limitation Section 3 (Data) herein and the BAA, if applicable.

## **Use and Protection of Confidential Information.** The Receiving Party agrees that it will not disclose or use the Confidential Information to which it is exposed or which it is provided, except as directly contemplated by the Interface Agreement. The Receiving Party agrees to maintain in strict confidence all Confidential Information to which it is exposed and agrees further not to disclose the Confidential Information to any other third persons or entities (other than ARW’s permitted subcontractors who have a need to know for purposes of performing the Services and third parties as part of the Services described in the Interface Agreement). To protect the Confidential Information against unauthorized use or disclosure, the Receiving Party agrees to use commercially reasonable protective measures no less stringent than the Receiving Party uses within its own business to protect its own most valuable information, and in any event, no less than reasonable care.

## **Disclosure Required by Law.** The Receiving Party may disclose Confidential Information that is required to be disclosed by Applicable Law (including without limitation a court order), provided that the Receiving Party must promptly notify the Disclosing Party (to the extent not prohibited by Applicable Law) prior to making the disclosure and afford the Disclosing Party an opportunity to seek a protective order or other limit on such disclosure at the Disclosing Party’s expense. In any event, the Receiving Party will only furnish that portion of the Confidential Information which is legally required to be disclosed.

## **Retention of Copies.** Any Confidential Information provided by Disclosing Party to the Receiving Party pursuant to the Interface Agreement must be returned to the Disclosing Party (or in lieu of return, destroy) at any time upon request, except that the Receiving Party may retain one (or more if needed) archival copy in a secure location to demonstrate compliance with the Interface Agreement, or as required for legal and audit purposes, or to the extent it is reasonably infeasible for the Receiving Party to destroy or return such Confidential Information, as long as such retained copy is not used or disclosed contrary to the Interface Agreement. If requested by the Disclosing Party, the Receiving Party will provide documentation or certification of destruction.

## **Interface Agreement Terms.** Each Party may disclose only the general nature, but not the specific terms, of the Interface Agreement without the prior consent of the other Party; provided, either Party may provide a copy of the Interface Agreement or otherwise disclose its terms in connection with any financing transaction or due diligence inquiry or legal/accounting or regulatory requirement.

# Representations and Warranties; Disclaimers.

## **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that: (a) it is duly organized and validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation; (b) it has full corporate power and authority to enter into the Interface Agreement; and (d) the individual executing the Interface Agreement (including without limitation the sign-off form and any SOW or other Attachment) on behalf of it is properly authorized and empowered to execute on behalf of such Party.

## **DISCLAIMER OF WARRANTIES.** OTHER THAN AS EXPRESSLY PROVIDED IN THE INTERFACE AGREEMENT, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ARW PROVIDES THE SERVICES (INCLUDING WITHOUT LIMITATION THE INTERFACE, PLATFORM, CONNECT SERVICES, AND DOCUMENTATION) ON AN “AS IS,” “AS AVAILABLE” AND “WITH ALL FAULTS” BASIS, WITHOUT ANY EXPRESS OR IMPLIED WARRANTY, AND ARW EXPRESSLY DISCLAIMS, TO THE EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IMPLIED WARRANTIES OF NON-INFRINGEMENT, DATA ACCURACY, SYSTEM INTEGRATION OR INTEROPERABILITY, NONINTERFERENCE, QUALITY, VALUE, OPERABILITY OR CONDITION, OR WARRANTIES ARISING FROM A COURSE OF DEALING, TRADE USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING SENTENCE, ARW MAKES NO WARRANTY THAT: (A) THE SERVICES OR DATA WILL MEET PROVIDER’S REQUIREMENTS OR BE UNINTERRUPTED, FREE FROM FALSE MATCHES, FREE FROM HARMFUL CODE, COMPLETE, INTEROPERABLE, ERROR-FREE OR BUG-FREE; (B) THE SERVICES WILL BE SECURE, RELIABLE OR TIMELY; OR (C) THAT ANY ERRORS IN THE SERVICES CAN OR WILL BE CORRECTED. FOR THE AVOIDANCE OF DOUBT, PROVIDER ACKNOWLEDGES AND AGREES THAT PATIENT IDENTITY RESOLUTION ACROSS DISPARATE RECORD SOURCES IS INHERENTLY PRONE TO MISMATCHING AND ARW DOES NOT WARRANT THE ACCURACY OF THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES; THUS, PROVIDER AGREES THAT PROVIDER IS RESPONSIBLE FOR VERIFYING THE VERACITY OF ANY DATA PROVIDED TO PROVIDER TO ENSURE IT INDEED IS MATCHING THE PARTICULAR PATIENT AND DOES NOT CONTAIN ERRORS. ARW WILL NOT BE RESPONSIBLE FOR ANY ERRORS OR DEFECTS IN THE SERVICE CAUSED BY THIRD-PARTY MATERIALS, SYSTEMS OR THIRD-PARTY ACTS OR OMISSIONS. NO ORAL OR WRITTEN INFORMATION GIVEN BY ARW WILL CREATE A WARRANTY.

## **Not a Medical or Professional Service; Not a Delegated Entity; Release of Liability.** ARW does offer, provide or make clinical, medical, behavioral, emergency, legal, or other professional decisions. The Service is not, and in no event shall be deemed or considered to be: (a) a clinical, medical, behavioral, emergency, legal or other professional service that requires the use of licensed or certified professionals; and (b) a substitute for professional judgment applied by Provider or its Authorized Users. THE PARTIES EACH ACKNOWLEDGE AND AGREE THAT ARW IS A SUBCONTRACTOR OF PROVIDER ONLY AND IS NOT ACTING AS A DELEGATED ENTITY IN CONNECTION WITH THE INTERFACE AGREEMENT. Without limiting any other provision of the Interface Agreement, Provider and its Authorized Users shall be solely responsible for their actions or omissions involving their Treatment, Payment, Health Care Operations and other health and health-related activities arising out of or relating to their access or use of the Services, including without limitation such activities performed during any period of time when the Services (INCLUDING WITHOUT LIMITATION the PLATFORM) are unavailable or performance is degraded. Provider hereby irrevocably indemnifies and releases ARW from any claims, demands, damages, and liabilities of any kind relating to Provider’s provision of clinical, medical, behavioral, emergency, legal, or other professional or health or health-related services.

## **Provider Responsibility.** Provider is solely responsible for decisions made and actions taken based on the Services or data resulting from the Services. Provider must verify the accuracy, completeness, and appropriateness of all information imported, entered or provided in connection with the Services. Provider is responsible for ensuring that any software or systems not provided by ARW function properly and can interoperate with the Services or data provided through the Services.

## **Risk Adjustment Data Validation (RADV).** Provider acknowledges and agrees that the use of the Service by Provider to assign diagnostic codes to a patient for the purposes of risk adjustment for such patient under any governmental or private payor program (including, without limitation, the CMS Hierarchical Conditions Category (“**CMS-HCC**”) methodology for the Medicare Advantage Part C program and the HHS Hierarchical Conditions Category (“**HHS-HCC**”) methodology under the Affordable Care Act) is solely and exclusively the responsibility of Provider, and that ARW assumes no liability for Provider’s use of patient medical information provided or retrieved by ARW. Provider will comply with Applicable Law including without limitation all applicable regulations, guidelines and standards for the use of medical information provided by ARW to assign diagnostic codes to a patient for risk adjustment purposes. Provider further acknowledges that CMS requires that the assignment of diagnostic codes to patients for risk adjustment purposes under the CMS-HCC and HHS-HCC methodologies must be: (a) established by a qualified physician; (b) based on a face-to-face medical visit between the patient and physician; (c) documented in the medical record; and (d) coded in compliance with ICD-10 guidelines, including without limitation the requirement that the condition upon which the diagnostic code is based existed or coexisted at the time of the visit and required or affected patient care, treatment or management for the visit.

## **Interoperability Acknowledgment.** Provider acknowledges and agrees that ARW is at all relevant times providing Provider and its Authorized Users with the access, exchange and use of electronic health information in the manner requested, and the Interface Agreements supersedes and revokes all prior requests for electronic health information pending prior to execution of the Interface Agreement.

# Indemnification; Limitations of Liability; Insurance.

## **Indemnification by Provider.** Provider agrees to defend, indemnify and hold harmless ARW (including but not limited to its affiliates and its employees, officers, directors, principals, partners, shareholders or holders of an ownership interest, as the case may be) and its subcontractors, legal representatives and agents (collectively, “**ARW Indemnitees**”), against that portion of any claims, demands, losses, damages, suits, fees, judgments, costs and expenses (including without limitation reasonable attorneys’ fees) by a third party (collectively, “**Claims**”) that result from or arise out of: (a) any permitted use of Provider Data or Provider’s Confidential Information; (b) Provider’s violation of Applicable Law; (c) Provider’s breach of the Interface Agreement; or (d) the acts or omissions of Provider, its employees, agents and Authorized Users.

## **Release of Liability.** In addition to and without limiting the foregoing, Provider further releases ARW Indemnitees from and against that portion of any and all any Claims arising out of or relating to any inaccuracy, incompleteness or timeliness of Provider Data; provided, however, this release shall not apply to that portion of any Claims directly caused by ARW’s intentional misconduct or gross negligence. Provider further releases ARW from that portion of any and all any Claims arising out of or relating to: (a) any clinical, medical, legal, professional or other decisions related to the treatment of an individual, including without limitation those Claims associated with the unavailability or degradation of the Services; (b) individual matching or record locating; (c) Provider’s breach of the Interface Agreement or non-compliance with Applicable Law; (d) Provider’s negligence or willful misconduct; and (e) ARW’s contractually proper and lawful use or disclosure of Provider Data pursuant to the Data License; provided, however, that the releases in (a) and (b) of this Section 9.2 (Release of Liability) shall not apply to that portion of any Claims directly caused by ARW’s intentional misconduct or gross negligence. Further, in no event shall ARW be liable for, and Provider hereby releases the ARW Indemnitees from any liability for, the use or subsequent release of data by third parties, including without limitation ARW Customers.

## **LIMITATIONS ON INDIRECT DAMAGES.** EXCEPT FOR THE CARVEOUTS BELOW AND TO THE EXTENT THAT ANY EXCLUSION OR LIMITATION OF LIABILITY IS VOID, PROHIBITED OR UNENFORCEABLE BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE, REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR PENALTIES OF THE OTHER PARTY ARISING OUT OF OR RELATING TO THE INTERFACE AGREEMENT, INCLUDING WITHOUT LIMITATION, LOST PROFITS, REVENUE, GOODWILL, LOSS OF USE OF ANY COMPUTER PROGRAMS, LOSS OF DATA, COSTS OF RE‑CREATING LOST DATA, THE COST OF ANY SUBSTITUTE EQUIPMENT, DATA, DATA USE, SERVICES OR SOFTWARE, OR CLAIMS BY ANY PERSON OTHER THAN PROVIDER, WHETHER OR NOT THE LIABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, DAMAGE OR PENALTY AND WHETHER OR NOT SUCH LOSS, DAMAGES OR PENALTIES WERE FORESEEABLE. THE LIMITATIONS OF LIABILITY IN THIS SECTION 9.3 (LIMITATIONS ON INDIRECT DAMAGES) ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THE INTERFACE AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN. THE LIMITATION OF LIABILITY PROVISIONS OF THIS SECTION 9.3 (LIMITATIONS ON INDIRECT DAMAGES) DO NOT APPLY TO PROVIDER’S (INCLUDING WITHOUT LIMITATION PROVIDER’S AFFILIATES OR AUTHORIZED USERS): (A) ACTIONS EXCEEDING THE SCOPE OF THE USE OF THE SERVICES PERMITTED IN SECTION 2.1 (INTERFACE AND CONNECT SERVICES; ADDITIONAL SERVICES), (B) BREACH OF SECTION 2.3.5 (PROHIBITED CONDUCT), (C) BREACH OF SECTION 2.3.6 (EXPORT LAWS), (D) BREACH OF SECTION 3.1 (PROVIDER DATA), (E) BREACH OF SECTION 6 (INTELLECTUAL PROPERTY), (F) BREACH OF SECTION 7 (CONFIDENTIALITY), (G) BREACH OF SECTION 8 (REPRESENTATIONS AND WARRANTIES; DISCLAIMERS), OR (I) GROSS NEGLIGENCE, OR WILLFUL OR INTENTIONAL MISCONDUCT (“**CARVEOUTS**”).

## **CUMULATIVE LIABILITY.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ARW’S TOTAL CUMULATIVE AGGREGATE LIABILITY UNDER THE INTERFACE AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR THE INTERFACE AGREEMENT SHALL NOT EXCEED THE AGGREGATE OF AMOUNT PAID BY PROVIDER TO ARW IN THE PRECEDING TWELVE (12) MONTH PERIOD UNDER THE INTERFACE AGREEMENT.

## **Limitation of Time to File Claims.** NO CLAIM OR ACTION MAY BE BROUGHT BY PROVIDER IN CONNECTION WITH THE INTERFACE AGREEMENT MORE THAN ONE (1) YEAR AFTER THE EVENT GIVING RISE TO THE CAUSE OF ACTION OCCURRED, REGARDLESS OF WHETHER PROVIDER WAS OR SHOULD REASONABLY HAVE BEEN AWARE OF THE EVENT WITHIN THAT TIME PERIOD.

## **Carrier Lines.** The Parties acknowledge that access to the Services is provided over various facilities, communications lines, routers, switches, and other devices owned, maintained, and serviced by third-party carriers, utilities, Internet service providers, and other service providers (“**Carrier Lines**”), all of which are beyond the Parties’ control. No Party is liable for any delay, failure, interruption, interception, loss, transmission, or corruption of any data or other information transmitted on the Carrier Lines that are beyond the Party’s control. Use of the Carrier Lines is solely at the Parties’ risk and is subject to all Applicable Law.

## **Insurance.** During the Term of the Interface Agreement, each Party agrees to maintain in force, at its sole cost and expense, liability insurance coverage in amounts commercially reasonable and appropriate to cover its obligations and liabilities under the Interface Agreement which shall have at least the minimum coverage amounts as specified below. The insurance coverage required under the Interface Agreement may be provided through one or more reputable commercial insurance policies, through a reasonably acceptable self-insurance program, or through a combination of commercial and self-insurance programs. Upon request, each Party agrees to furnish the other Party with a certificate of insurance indicating the required coverage.

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| **Type of Coverage** | **ARW’s Minimum Coverage Amount** | **Provider’s Minimum Coverage Amount** |
| Commercial General Liability | $1,000,000 per occurrence and  $2,000,000 in the aggregate | $1,000,000 per occurrence and  $2,000,000 in the aggregate |
| Cyber Liability (including coverage for network security/data protection/privacy liability) | $1,000,000 per occurrence and  $3,000,000 in the aggregate | $1,000,000 per occurrence and  $3,000,000 in the aggregate |
| Professional Liability / Errors & Omissions | $1,000,000 per occurrence and  $3,000,000 in the aggregate | $1,000,000 per occurrence and  $3,000,000 in the aggregate |

## **Allocation of Risk.** The Interface Agreement, including without limitation its disclaimers and limitations of liability, represents a mutually agreed upon allocation of risk and the consideration given has been set to reflect such allocation. If Applicable Law does not allow for any disclaimer, limitation of liability, release, or waiver (or any portion thereof) as set forth in the Interface Agreement, the disclaimer, limitation of liability, release, or waiver will be deemed modified solely to the extent necessary to comply with Applicable Law.

# Disputes.

## **Informal Dispute Resolution.** In the event that a claim, controversy, or dispute relating to the Interface Agreement arises between the Parties, either Party will, by notice, call a meeting regarding the dispute to be attended (in person or by phone or video meeting) by executive officers of each Party, with authority to settle the dispute, who will attempt in good faith, to resolve the dispute. All negotiations pursuant to this Section 10.1 (Informal Dispute Resolution) will be confidential and will be treated as compromise and settlement negotiations for the purpose of the applicable rules of evidence to the fullest extent permitted under such rules and, for clarity, may also not be introduced in any arbitration proceeding.

## **Arbitration Agreement**. Should the informal dispute resolution efforts fail, any dispute arising out of relating to the Interface Agreement or the subject matter thereof, any breach of the Interface Agreement, including without limitation any dispute regarding the scope of this clause, and any injunctive and other equitable relief sought by Provider shall be resolved confidentially and exclusively through binding arbitration in Santa Clara County, California. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the expedited procedures in those Rules. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon the Parties. Judgment on the award may be entered in any court having jurisdiction if required to enforce the award.

### Notice.Before filing a claim for arbitration, a Party must notify the other Party of its intent to file and offer to address the issues in dispute through negotiation or mediation; no arbitration claim may be filed sooner than sixty (60) calendar days after such notice is provided.

### Process. The Parties further agree:

#### If less than $50,000 in damages, fees, and costs are at issue, then the Parties agree to a streamlined, one-day telephonic or videoconference arbitration before an arbitrator assigned by the JAMS or otherwise mutually selected by the Parties. The Parties further agree that no written discovery or depositions will be permitted prior to the hearing, and that no more than fifteen (15) pages of legal briefing (plus exhibits) may be submitted for the arbitrator’s review by either Party.

#### If between $50,000 and $500,000 in damages, fees, and costs are at issue, if the Parties cannot agree on an arbitration provider or individual arbitrator to oversee their dispute, then the Parties agree that they will ask JAMS for a list of eight potential arbitrators and will rank those arbitrators for selection of one arbitrator by JAMS, which would then administer the arbitration. The arbitrator will issue a final order that includes the facts and legal authorities supporting the decision.

#### If more than $500,000 in damages, fees, and costs are at issue, then the Parties agree that the arbitration should be conducted by a panel of three arbitrators: one arbitrator appointed by each Party and the third, who shall be the presiding arbitrator, appointed by the agreement of the Parties. The arbitrators will issue a final order that includes the facts and legal authorities supporting their decision.

### Arbitration Fees. Each Party shall pay its own legal fees and will equally share the costs of arbitration (*i.e.*, the arbitrator’s fees and expenses, plus any administrative fees); the only exception is that should the arbitrator find that claims were asserted in bad faith, then the arbitrator(s) has the discretion to award a Party its attorneys’ fees. The arbitrator may not award damages precluded by the Interface Agreement.

### Location. If more than $50,000 in damages, fees, and costs are at issue, then the Parties agree to an in-person arbitration hearing as established by the JAMS Rules in Santa Clara County, California, or other location which is reasonably convenient for both Parties with due consideration of the ability to travel and other pertinent circumstances. If the Parties are unable to agree on a location, the determination will be made by JAMS.

### Confidentiality*.* The Parties agree to disclose the existence of any arbitration, information about what has taken place or may take place in an arbitration, the award, or information about the outcome of this arbitration, only as needed to: (a) present claims and defenses in arbitration; (b) pursue or oppose legal remedies in court pertaining to this arbitration, including without limitation enforcement of an award; (c) comply in good faith with Applicable Law; or (d) comply with the award. In all other respects, the Parties agree to keep any arbitration strictly confidential. The Parties further reserve the right to enter into, or request from the arbitrator, a more detailed or restrictive confidentiality agreement or protective order.

### Exception. Notwithstanding the foregoing, ARW may pursue a claim and directly seek injunctive and other equitable relief in court (or through arbitration) for infringement or misappropriation or ARW’s Intellectual Property or Confidential Information.

## **WAIVER OF JURY TRIAL.** To the fullest extent permissible under Applicable Law, each Party knowingly and voluntarily waives any and all rights to a jury trial, to the fullest extent that any such right will now or hereafter exist, in any proceeding, claim, counter-claim or other action involving any dispute or matter arising under the Interface Agreement or in any manner related to the Services or the data.

## **CLASS ACTION WAIVER**. WHERE PERMITTED UNDER THE APPLICABLE LAW, ARW AND PROVIDER AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR CONSOLIDATED ACTION.

## **Governing Law.** The Interface Agreement shall be governed by and construed in accordance with the domestic laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of California. The Federal Arbitration Act (9 U.S.C. § 1 et. seq.) governs the interpretation and enforcement of this arbitration provision in Section 10.2 (Arbitration Agreement).

## **Venue;** **Personal Jurisdiction; Waiver of Objection; Service of Process**.For disputes not subject to the arbitration, any legal action or proceeding arising out of or relating to the Interface Agreement shall be brought exclusively in the federal or state courts of Santa Clara County, California, and each Party irrevocably submits to the exclusive jurisdiction of each such court in any such action or proceeding. Each Party hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the aforesaid courts in any action or proceeding arising out of or relating to the Interface Agreement. Each Party agrees that all claims in respect of any such action or proceeding may be heard and determined in such courts. Each Party hereby irrevocably waives, to the fullest extent permitted by Applicable Law, any objection which it may now or hereafter have to the laying of venue of any suit, action, or proceeding arising out of or relating to the Interface Agreement in any court referred to in this Section 10.6 (Venue; Personal Jurisdiction; Waiver of Objection; Service of Process). Each Party hereby irrevocably waives any claim that any such suit, action, or proceeding has been brought in an inconvenient forum. Each Party hereby agrees that service of process, summons, notice, or other document by U.S. registered mail, or by any other means permitted by Applicable Law, to such Party’s address set forth in the Interface Agreement shall be effective service of process for any action, suit, or proceeding brought against such Party in any such court.

## **ARW Customers.** Notwithstanding the foregoing provisions in this Section 10 (Disputes), to the extent a Provider dispute involves an ARW Customer who is also subject to the dispute, and whose contract with ARW conflicts or is inconsistent with this Section 10 (Disputes), the dispute provisions (including without limitation governing law, venue, jurisdiction, *etc.*) in the ARW Customer’s contract with ARW shall control with respect to processing and resolution of that dispute.

# Miscellaneous.

## **Order of Priority.** In the event of any conflict or inconsistency between these Interface Terms and any other provision of the Attachments, these Interface Terms shall control (except that the BAA shall take precedence with respect to required HIPAA compliance obligations), unless the Attachment specifically states that its clause supersedes or amends a particular provision in these Interface Terms.

## **Business Relationship.** Nothing in the Interface Agreement is intended or shall be deemed to constitute an agency, joint venture, partnership, employer-employee or fiduciary relationship between the Parties. All activities by each Party hereunder shall be independent acts of each Party except as otherwise specifically provided herein.

## **Assignment.** Neither Party may transfer or assign the Interface Agreement without the prior written consent of the other Party, and any such attempted assignment shall be void, except that, without the consent: (a) ARW may assign the Interface Agreement to a parent, subsidiary or other Affiliate; or (b) either Party may assign the Interface Agreement to a successor entity in the event of a merger, consolidation, reorganization, sale of all or substantially all of its assets, or any similar transaction. Any purported assignment or transfer in violation of this Section 11.3 (Assignment) shall be null and void. The Interface Agreement shall be binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.

## **No Third-Party Beneficiaries.** Except as may be expressly stated in the Interface Agreement (including without limitation an Attachment), nothing contained in the Interface Agreement shall be construed to create any rights or benefits in a third party (including without limitation ARW Customers, Authorized Users or patients/members).

## **Entire Agreement.** The Interface Agreement (including but not limited to each executed SOW) constitutes the final, fully integrated, and entire agreement of the Parties with respect to the subject matter of the Interface Agreement and supersedes any and all prior or contemporaneous written or oral statements, proposals, drafts, understandings or agreements between the Parties concerning the subject matter of the Interface Agreement. With respect to the matters agreed to herein, no Party has in any way relied, nor shall in any way rely, upon any oral or written agreements, representations, warranties, statements, promises, or understandings, whether made by any of the Parties or their counsel, that are not specifically set forth in the Interface Agreement.

## **Amendment.** The Interface Agreement may be amended or modified only in a writing executed by both Parties.

## **Changes in Law.** The Parties acknowledge that there may be changes to Applicable Law that may impact the Parties, which may necessitate an amendment to the Interface Agreement. The Parties agree to negotiate in good faith to amend the Interface Agreement to comport with changes in any such requirements that materially alter either or both Parties’ obligations under the Interface Agreement; provided, however, that if the Parties are unable to agree to mutually acceptable amendment(s) by the compliance date of the change in Applicable Law or regulations, then either Party may terminate the Interface Agreement immediately upon written notice to the other Party.

## **Severability.** If any one or more provisions of the Interface Agreement shall be found to be illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, provided the surviving agreement materially comports with the Parties’ original intent. If applicable, the Parties will promptly agree upon replacement provision(s) that approximate as closely as possible the spirit and intent of the invalid provision(s).

## **No Waiver.** The delay or failure of either Party to exercise any of its rights under the Interface Agreement for a breach thereof shall not be deemed to be a waiver of such rights, nor shall the same be deemed to be a waiver of any subsequent breach, either of the same provision or otherwise.

## **Cumulative Remedies.** All remedies, whether included in this Section or elsewhere in the Interface Agreement, or whether provided by statutory or common law, will be cumulative, and no remedies shall be deemed exclusive or available only in the alternative, or to waive any other remedy.

## **Legal Notice.** All notices must be in writing and will be considered given when sent by electronic mail (email) to the email address(es) designated for Legal Notice on the sign-off form. A notice shall be deemed received: (a) upon the sender’s receipt of email delivery confirmation; or (b) if no confirmation is received, within one (1) business day of transmission, provided that the sender does not receive a notification of failed delivery. A Party may change its email address for legal notice by giving the other Party written notice, delivered in accordance with this Section 11.11 (Legal Notice). Nothing in this Section will prevent the Parties from communicating via other forms of communication for the routine administration of the Services.

## **Force Majeure.** Neither Party shall be liable to the other by reason of any failure of performance hereunder (except obligations to pay) if such failure arises out of causes beyond such Party’s reasonable control, despite the reasonable efforts, and without the fault or negligence of such Party. A Party experiencing such an event shall give as prompt notice as possible under the circumstances.

## **No Bias.** The Parties expressly waive any common law or statutory rule of construction that favors the non-writing Party, and the Parties expressly agree that the Interface Agreement must be construed without regard to which Party wrote that term, condition, or provision.

## **Headings.** Captions, page footers, page headers, watermarks and section headings are used herein for convenience of reference only and shall not be used in the construction or interpretation of the Interface Agreement.

## **Signatures and Counterparts.** The Parties may sign the Interface Agreement in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The Interface Agreement may be executed electronically through any means. The Parties agree that signed electronic copies will be binding upon them the same as though they were hard copies with original signatures.

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