Master Services and License Agreement

This Master Services and License Agreement ("MSLA") and its schedules, addenda, exhibits, Solution Terms, Order Form(s), Statement of Work(s), (collectively the "Agreement") is effective on the date the Order Form is signed by both parties ("Agreement Effective Date") and is between symplr software LLC f/k/a Vendor Credentialing Service LLC, a Texas limited liability company, and its Affiliates ("symplr"), and the entity identified on the Order From ("Customer") for itself and on behalf of its Affiliates. symplr and Customer may be individually referred to as a "Party" and collectively as the "Parties." Capitalized terms are defined herein or in Section 2 below.

CUSTOMER AGREES THAT THE AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY CUSTOMER. BY EXECUTING THE ORDER FORM OR USING SYMPLR SOFTWARE, CUSTOMER AGREES TO BE BOUND BY THE AGREEMENT AND ACCEPTS ALL OF THE PROVISIONS OF ITS TERMS. THE AGREEMENT IS ENFORCEABLE AGAINST ANY PERSON OR ENTITY THAT INSTALLS OR USES SYMPLR SOFTWARE ON BEHALF OF THEMSELVES OR THE USER.

1. Introduction.

1.1 Purpose. This Agreement establishes the terms and conditions governing the Licensed Materials and Services owned, licensed, and provided by symplr and to which Customer has been granted access on the terms and conditions as are further set forth in this Agreement, and subject to the Software License Limits set forth in the applicable Order Form.

1.2 Scope. This Agreement applies to Order Forms and SOWs entered into between the Parties. An Order Form/SOW shall be approved and entered into by the Parties with respect to each proposed sale or license granted hereunder, and a change request shall be approved and entered into by the Parties with respect to an amendment, modification, or supplement to any specific Order Form/SOW. This Agreement supersedes all prior and contemporaneous agreements and understandings with respect to the subject matter hereof, whether oral or in writing.

1.3 Precedence. Any terms and conditions provided by Customer on a purchase order or other document not expressly incorporated into the Agreement shall not be valid. In the event of a conflict with the terms of this Agreement, the following order of precedence shall apply (terms and conditions listed earlier shall control over terms and conditions listed later): (i) any Business Associate Agreement ("BAA") (ii) the Information Security Agreement ("ISA") as updated from time to time (available at https://symplr.com/terms), (iii) the MSLA including any riders, addendum, schedule or exhibits added to this MSLA, (iv) when applicable the Solution Terms and/or Third-Party Terms (available at https://symplr.com/terms), (v) Order Forms (vi) SOW(s). Notwithstanding the foregoing, symplr may only modify security practices described in the ISA so long as such practices shall not be any less protective than the practices described in any prior version. Updates to the ISA, Service Level Agreement, Support Terms, and Third-Party Terms during the Term will be applicable as of the date the update is made.

2. Definitions. The following capitalized terms are defined terms and have the associated meanings defined below.

"Affiliate" means, with respect to a Party hereto, any entity that directly or indirectly controls, is controlled by, or is under common Control with such Party (and, in the case of Customer, is also a healthcare services entity), but only for so long as such Control exists.

"Control" means the power to direct or cause the direction of the management and policies of the controlled entity, whether through the ownership of voting securities or other ownership interests, by contract or otherwise, provided that control shall be deemed to exist if an entity owns, directly or indirectly, fifty percent (50%) or more of the voting securities or other voting rights in, or ownership interests of, the controlled entity.

"Confidential Information" has the meaning set forth in section 9.1 of the Agreement.

"Derivative Works" means any modifications, adaptations, derivations, revisions, enhancements or improvements to or based on any Product, Service or Licensed Materials.

"Documentation" means the applicable symplr user instructions provided to Customer by symplr with the Products.

"Enhancement(s)" means changes or additions made by symplr to the Software (exclusive of customizations, new versions and Updates) that add new functionality and/or improve performance.

"Equipment" means any hardware or other equipment provided by symplr or any of its Affiliates under this Agreement.

"Fees" means collectively (i) Licensed Material, Equipment, and Services fees and any amounts payable as set forth on the Order, (ii) reasonable travel expenses, and (iii) project-related expenses incurred while performing Services.

"Licensed Materials" means (i) the Software, (ii) the object code version of the Software, (iii) the Documentation, (iv) any related materials that symplr provides to Customer under this Agreement for use in conjunction with the Products, and (v) all output of any services or System (including all tools, know-how, methodologies, processes, technologies, software, documentation, systems, modules, source or object code, if any, algorithms, development platforms and other materials created or resulting from any services or System).

"License Metric" means the basis for the pricing of the Software as specified in the applicable Order, which may include, but is not limited to the following examples: access; assets; employees; interfaces; Licenses; packets; records; servers; subscriptions; storage, systems or locations; transactions; usage, uses, Users; volume; and the like.

"Order Forms" means the order form, along with any SOW or documents incorporated by reference, that is signed by the Customer and symplr.
"Products" means products (including Software and Equipment) provided under this Agreement by symplr or any of its Affiliates.
"Personal Information" has the meaning in the applicable regulation or otherwise individually identifiable information about a person, including personal health and financial information.
"Service(s)" means implementation, installation and other professional services provided under this Agreement by symplr or any of its Affiliates.
"Software" means software-as-a-service web-based or mobile-based software Products provided by symplr or any of its Affiliates under this Agreement.
"Software License Limits" means the quantity and License Metric that determine how Customer is authorized to use the Software.
"Solution" means the Products, Software, and Services that symplr provides to Customer as identified on the applicable Order Form or SOW.
"Solution Terms" means the terms applicable to a symplr Solution.
"Support" means Software support and maintenance Services provided under this Agreement by symplr or any of its Affiliates, which are subject to the Support Terms and Conditions located at https://symplr.com/terms (the "Support Terms").
"Statement of Work" or "SOW" means the addendum to an Order or separate document which provides details and specifications relating to Services.
"System" means any file system, computer system, database, device, equipment, server, website, application, software, storage media, network, infrastructure, networked environment or domain, including, without limitation, all development, quality assurance, staging, and production environments.
"Updates" means bug fixes, hot fixes, patches, and maintenance releases to the Software made by symplr that it solely deems necessary to correct a Software error.
"User" means any contractor or employee of Customer or any of its Affiliates that accesses or uses any Licensed Materials.

3. Licensed Materials Terms and Conditions.

3.1 License Grant. Subject to Customer's compliance with this Agreement, including payment of all Fees due, symplr hereby grants to Customer a non-exclusive, non-transferable (except as expressly set forth in Section 13.13), non-sublicensable, limited license for the Term to use the Licensed Materials set forth in the initial order and all additional Order Forms for Customer's internal business purposes, subject to all applicable License Metrics and all other limitations in this Agreement. symplr or one of its Affiliates shall provide the Licensed Materials to Customer in the format and in the manner specified in the applicable Order Form or SOW. Subject to the terms of this Agreement, Customer's Affiliates may order Licensed Materials for use during the Term for internal business purposes only and as set forth in the Order Form or SOW. Customer and its Affiliates may add contractors as a User so long as such use is: (a) for Customer's or its Affiliates' internal business purposes only as expressly authorized by Customer or its Affiliate; and (b) in accordance with the terms of this Agreement. Customer shall ensure that, upon conclusion of the engagement of any contractor, all Licensed Materials are promptly returned to Customer or the applicable Affiliate or destroyed (and Customer shall certify in writing the destruction or return of such Licensed Materials). Any act or omission by any Customer Affiliate, contractor or User will be deemed an act or omission by Customer. Customer shall maintain the confidentiality of its Software administrative accounts, any sub-accounts created by Customer for any Customer Affiliate or User, and all associated log-in credentials and passwords and activities that occur under Customer's account and sub-accounts. Customer's account and sub-accounts are for Customer's and its Affiliates' internal business use only. Customer shall prevent unauthorized access to or use of the Licensed Materials by third parties, and Customer shall be responsible and liable for actions and activity associated with Customer's account. Customer shall use the Software only on Customer Systems that have appropriate security enabled and in force. Customer shall promptly notify symplr if Customer knows of or suspects any unauthorized access or use, and shall promptly terminate, and assist symplr in terminating, such access or use.

3.2 License Restrictions. Except as expressly permitted in this Agreement, Customer shall not, and shall not permit Customer Affiliates, Users, or any third-parties to: (a) transfer the Licensed Materials outside of the United States; (b) lease, rent, loan, license, sublicense, provide service bureau, time sharing, outsourcing, data processing, or other services, or commercialize, or otherwise permit the use of or access to any Licensed Materials, by or for the benefit of any third-parties; (c) assign, sell, pledge, charge, encumber, transfer, or otherwise dispose of any Licensed Materials or the rights granted hereunder to any third-party, whether voluntarily, by operation of law, or otherwise; (d) remove or destroy, or permit others to remove or destroy, any proprietary markings of symplr, its Affiliates, or other parties or legends that may appear on any components of any Licensed Materials; (e) use any Licensed Materials for any unlawful or fraudulent purpose or in any manner that competes with symplr's business or that is outside the scope of this Agreement; (f) copy, translate, decompile, disassemble, or reverse engineer any Licensed Materials or attempt to obtain the source code of any Licensed Materials; (g) create or use any Derivative Works; (h) store Protected Health Information ("PHI") in the Products, except for those Products that are designed to contemplate storing PHI in the Documentation; (i) provide Software passwords or other Software log-in information to any third-party; (j) engage in web scraping or data scraping on or related to any Software, including without limitation, collection of information through any software that simulates human activity or any bot or web crawler; or (k) attempt to gain unauthorized access to the Licensed Materials or symplr's Systems or networks.

3.3 Export Restrictions. Customer acknowledges the Licensed Materials may be subject to United States export control laws. Accordingly, Customer shall not, directly or indirectly, export or permit the use of Licensed Materials: (a) in violation of United States export laws; (b) to or in any country subject to a U.S. trade embargo or sanction (including without limitation Crimea, Cuba, Iran, North Korea, Sudan, or Syria) or to or by any resident or nation of those countries, or to or by any person, organization, or entity on any of the restricted parties' lists maintained by any United States government agency.

3.4 Third-Party Materials. Customer acknowledges that, in certain cases, use of the Products may require the purchase by Customer of equipment (i.e. work stations, software (i.e. internet browser) or other materials not provided by symplr ("Third-Party Materials"). In such cases, symplr will provide to Customer a list of such required Third-Party Materials. Customer is responsible for obtaining any such Third-Party Materials, and symplr shall not be responsible for such Third-Party Materials.

3.5 Installation. Except for installation Services expressly set forth in a SOW, if any, Customer is responsible for installation of Licensed Materials and Equipment. symplr is not responsible for any failure of the Licensed Materials or Equipment to the extent resulting from Customer's failure to comply with symplr's installation instructions (including in the Documentation).

3.6 Software Access and Restrictions, Mobile Compatibility, Enhancements and Updates, Service Level Agreement.

3.6.1 Software Access and Restrictions. Customer shall access the Software remotely via the Internet as directed by symplr using a secure connection procured by Customer. Customer shall be responsible for acquiring all computers, Internet access, and software programs necessary to access symplr's hosted environment. Customer's use of the Software shall be limited to the Software License Limits set forth in the applicable Order Form.

3.6.2 Mobile Compatibility. Customer must initially be live on a current Software release version that supports the mobile Software and maintain a current Software release version that supports the mobile Software. Customer acknowledges that the mobile Software is only available for use on the most current Apple (iPhone and iPad) mobile device iOS version and the most recent Android mobile device software versions and the immediate two (2) prior major versions. symplr reserves the right to withdraw its support for an Apple iOS version or Android software version should Apple or Android (as applicable) withdraw its support for a version, or should such platform provider make changes to its platform software that renders the mobile Software ineffective on such platform or otherwise renders it infeasible or unreasonable in symplr's sole discretion to continue to support the mobile Software on such platform software.

3.6.3 Enhancements and Updates. Enhancements and Updates to Software may be made available to Customer in symplr's discretion and at timing to be determined by symplr, and at no charge, provided such modifications do not materially degrade the quality, availability, or functionality of the Software.

3.6.4 Service Level Agreement. symplr will provide the Software in accordance with the service levels set forth in its Service Level Agreement at https://symplr.com/terms.

4. Warranties.

4.1 Mutual Warranties. Each Party represents and warrants to the other Party that: (a) it is duly incorporated or formed, validly existing and in good standing under the laws of the jurisdiction of its incorporation or formation, and has the power and authority to enter into and perform its obligations under this Agreement; (b) the person executing and delivering this Agreement on behalf of such Party is duly authorized to make such execution and delivery; (c) this Agreement constitutes a valid obligation, binding upon and enforceable against such Party in accordance with its terms; and (d) execution and delivery of this Agreement and the performance of such Party's obligations do not breach any contract between such Party and any third-party.

4.2 Software and Services Warranties. symplr warrants that: (i) the Software, as delivered, will substantially conform in all material respects to the then-current Documentation and applicable specifications; and (ii) the Services will be performed in a professional and workmanlike manner and in accordance with generally accepted industry standards. Customer shall provide prompt written notice to symplr of any non-conformity (and within ten (10) business days after performance of the applicable Service), and in the case of Products, symplr will use commercially reasonable efforts to correct, provide a work-around, or otherwise bring the Software into conformity with the applicable Documentation, or in the case of Services, re-perform the applicable Service. Such warranties shall not apply to any claimed non-conformity to the extent caused by: (a) the malfunction or improper use of any hardware, software or services not provided by symplr; (b) Customer's negligence, fault, or improper use of any Licensed Materials or Equipment; (c) modifications to or changes to any Licensed Materials or Equipment not made by symplr; (d) Customer's failure to be live on the most recent version of the Software which has been made commercially available by symplr; or (e) Customer's breach of this Agreement. The remedies of Customer and the obligations of symplr set forth in this Section 4.2 are sole and exclusive with respect to any non-conformities with such warranties.

4.3 Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED HEREIN, CUSTOMER ACKNOWLEDGES AND AGREES THAT THE PRODUCTS, SERVICES, AND LICENSED MATERIALS ARE PROVIDED "AS IS" AND "AS AVAILABLE". TO THE FULL EXTENT ALLOWED BY APPLICABLE LAW, SYMPLR EXPRESSLY DISCLAIMS, AND CUSTOMER HEREBY WAIVES, ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. SYMPLR DISCLAIMS ANY WARRANTY THAT THE PRODUCTS, SERVICES, OR LICENSED MATERIALS WILL BE ERROR FREE OR FREE FROM INTERRUPTIONS. SYMPLR MAKES NO WARRANTY AS TO THE RESULTS OR ACCURACY OF INFORMATION OBTAINED THROUGH USE OF THE LICENSED MATERIALS.

5. Customer Data.

5.1 Customer Data. Unless it receives Customer's prior written consent, symplr shall not use Customer Data other than as necessary to: (a) perform its obligations or exercise its rights hereunder; (b) monitor, benchmark, troubleshoot, track feature usage, support, or Process as necessary to operate or improve symplr products and services; or (c) comply with applicable law. symplr shall not grant any third-party access to Customer Data, including, without limitation, symplr's other customers, except: (i) subcontractors and vendors who Process data and are subject to nondisclosure obligations; and (ii) symplr Affiliates. Notwithstanding the foregoing, symplr may use Customer Data that has been anonymized, aggregated and/or de-identified for legitimate business purposes and as may be required to perform the Services or deliver the Products, and such data shall not be considered Customer Data or otherwise Confidential Information of Customer. "Customer Data" means Customer's data in electronic or other format that is received by symplr from Customer or any third-party acting on behalf of Customer and that is managed, accessed, stored, used, or transmitted by symplr in connection with, or during the provision or performance of, the Products or Services, or that is entered into any of the Products by Customer or any Customer Affiliate or User using any Licensed Materials or Equipment. "Process" means any operations performed on data, whether or not by automated means, such as collection, accessing, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

5.2 Data Hosting and Accuracy. Customer acknowledges that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using Software, except for the obligations of symplr set forth in this Agreement, Customer assumes such risks. symplr will have no responsibility or liability for the accuracy of data uploaded or processed by Customer or any of its Affiliates or Users using Licensed Materials or Equipment, including Customer Data.

5.3 Data Protection. symplr shall process Customer Data that is included in any of the Products and that identifies, relates to, or is capable of being linked to an individual, including protected health information, if applicable (such Customer Data, "Personal Data") in compliance with all laws that apply to symplr pertaining to the privacy, data protection, or security of such Personal Data ("Data Protection Laws"). symplr and Customer acknowledge and agree that symplr is processing the Personal Data as a service provider or business associate of Customer. symplr and Customer shall reasonably negotiate in good faith any supplemental agreements that are required to be entered into by Data Protection Laws in connection with symplr's processing of, or any cross-border transfer of, Personal Data. Customer represents and warrants that it has obtained the right to provide Customer Data (that may include Personal Data) to symplr sufficient to authorize symplr to use and disclose such Customer Data as contemplated by this Agreement. Any such use and disclosure by symplr of such Customer Data will comply with applicable Data Protection Laws.

6. Data Security Terms. symplr shall implement, maintain, and comply with information and network security programs, practices, and procedures for its systems and any Customer Data contained in those systems as is further described in the ISA hosted at https://symplr.com/terms.

7. Fees & Payment.

7.1 Fees. Customer shall pay symplr the Fees set forth in the applicable Order Form and SOW. Commencing twelve (12) months after the Agreement Effective Date, recurring Fees may increase on an annual basis in an amount equal to six percent (6%). All amounts due under this Agreement shall be paid in United States Dollars.

7.2 Invoicing & Payment. symplr shall invoice Customer for the Fees in accordance with the invoicing schedule or frequency set forth in each Order Form or SOW. Undisputed Fees shall be paid to symplr within thirty (30) days after Customer's receipt of the applicable invoice. Customer may withhold amounts disputed in good faith, provided that Customer: (a) notifies symplr of the disputed amounts and Customer's good faith reasons for disputing such amounts prior to the date the applicable invoice is due; (b) pays the undisputed portion of such invoice; and (c) uses reasonable efforts to promptly resolve the dispute. Customer shall pay the amount mutually agreed to be due on any disputed invoice or portion thereof within thirty (30) days after resolution of the dispute. symplr may charge Customer a surcharge for any Customer payments made via credit card.

7.3 Overdue Payments. All amounts payable under this Agreement by Customer shall be paid in full without set-off, deduction or other withholding of any amount. Interest shall accrue on all undisputed payments received after the due date at the rate of the lesser of one and one-half percent (1.5%) per month and the highest rate allowable by applicable law.

7.4 Taxes. Fees do not include federal, state or local sales, use, property, excise, services, or other taxes levied in connection with this Agreement or any Products, Services or Licensed Materials. Customer shall remit such taxes directly to the applicable taxing authorities. Any amounts paid or payable by symplr in respect of any such taxes or the Fees invoiced in accordance with this Agreement (excluding taxes on symplr's income) shall be included on invoices and paid by Customer to symplr. symplr will exclude taxes if Customer provides a valid tax exempt certificate.

7.5 Additional Order Forms and SOWs. During the Term, Customer and symplr may choose to enter into additional Order Forms and/or purchase orders for Products and Services and SOWs for Products and Services, and each such additional Order Form and SOW may be fulfilled by symplr or any symplr Affiliates. Each such additional Order Form and SOW shall be governed by the terms of this Agreement. Any symplr Affiliate that enters into any such additional Order Forms or SOWs shall, for purposes of such additional Order Forms and SOWs and this Agreement, be deemed "symplr" and shall be a Party to this Agreement.

8. Proprietary Rights.

8.1 Intellectual Property. Licensed Materials are and shall remain the exclusive property of symplr. Except for the rights expressly granted to Customer hereunder, symplr hereby retains all right, title and interest in and to the Licensed Materials. symplr reserves all rights to the Licensed Materials not specifically granted herein. Customer hereby assigns to symplr all right, title, and interest in and to any Derivative Works created by or on behalf of Customer or any Customer Affiliate or User.

8.2 Feedback. Customer agrees that any feedback, suggestions, recommendations, and other similar comments pertaining to the Products, Services, or Licensed Materials, including feedback provided within any symplr mobile applications or Products provided by Customer or any Customer Affiliate or User ("Feedback") is the property of symplr, and symplr may use Feedback and any know-how, experience, or skills that it generates for any purpose.

9. Confidentiality.

9.1 Confidential Information. "Confidential Information" of a Party means all nonpublic information communicated by or on behalf of a Party to the other Party, whether before or after this Agreement Effective Date, which is marked as "Confidential" or which the receiving Party should reasonably understand to be confidential or proprietary given the nature of the information or the circumstances of its disclosure, including without limitation symplr's SOC 2 report ("Third-Party Audit Report"), the terms and conditions of this Agreement, and the Products, Services, Documentation, and Licensed Materials. Notwithstanding the foregoing, Confidential Information shall not include information which is: (a) already known by the receiving Party without an obligation of confidentiality; (b) publicly known or that becomes publicly known other than as a result of a breach by the receiving Party of this Agreement or any other obligation to the disclosing Party; (c) rightfully received from a third-party without an obligation of confidentiality; or (d) independently developed without use of or reference to the disclosing Party's Confidential Information. If the Parties have entered into a separate nondisclosure agreement ("NDA"), the terms of the NDA shall prevail.

9.2 Disclosure and Use. Neither Party will disclose the Confidential Information of the other Party to any person, other than the employees and contractors of the receiving Party or the employees of the receiving Party's Affiliates who need to know such information to carry out the purposes of this Agreement; provided that any such employees and contractors shall be obligated to protect such Confidential Information under an agreement containing confidentiality obligations that are at least as restrictive as those contained herein, such contractors may not be employed by or work at or on behalf of any entities that develop, market or sell software, solutions, equipment or services that compete with the software, solutions, equipment or services offered by symplr. Neither Party will use the Confidential Information of the other Party except for purposes of this Agreement. Each Party will be responsible for any prohibited disclosure or use of the other Party's Confidential Information by the receiving Party's employees and contractors. Each Party shall protect the other Party's Confidential Information using not less than the same degree of care with which it treats its own Confidential Information, but at all times shall use at least reasonable care.

9.3 Disclosure Exceptions. A Party may disclose the other Party's Confidential Information to the extent required to comply with a law or court order, provided that, if permitted by applicable law, the receiving Party promptly notifies the disclosing Party of the requirement to disclose such information, cooperates with the disclosing Party in any attempt by the disclosing Party to obtain an injunction preventing such disclosure or assurances that confidential treatment will be afforded any Confidential Information so disclosed, and discloses only that portion of Confidential Information that is necessary to comply with such law or court order.

9.4 Equitable Remedies. Each Party acknowledges that any threatened or actual breach of this Section 9 shall constitute irreparable harm to the disclosing Party for which equitable remedies may be awarded by a court of competent jurisdiction.

10. Indemnification.

10.1 General Indemnity. Each Party shall indemnify, defend and hold harmless the other Party, its Affiliates, and the respective officers, directors, employees, agents, contractors and owners of each of the foregoing from and against any and all losses, liabilities, costs, damages and expenses, including attorneys' fees and other costs of legal defense ("Losses") arising out of any claim, action or demand by a third-party (each, a "Claim") to the extent based on: (a) personal injury, death or property damage to the extent attributable to such Party or any of its Affiliates; (b) gross negligence or willful misconduct of such Party or any of its Affiliates. In addition, Customer shall indemnify, defend and hold harmless symplr and its Affiliates from and against any Claims to the extent based on: (i) Customer Data or Third-Party Materials, (ii) violations of the export restrictions set forth in Section 3.3 above; and (iii) any Excluded Claim.

10.2 Infringement Indemnity. symplr shall indemnify, defend, and hold harmless Customer, its Affiliates, and the respective officers, directors, employees, agents, contractors, and owners of each of the foregoing from and against any and all Losses arising out of any Claim to the extent based on infringement or misappropriation of any U.S. patent or any non-patent intellectual property or proprietary right of any third-party by any Products that infringe or misappropriate any U.S. patent or any non-patent intellectual property or proprietary right of any third-party ("Infringing Materials") as provided by symplr to Customer. symplr shall have sole control of the defense of each such Claim.

10.2.1 If such a Claim has been made, or in symplr's opinion is likely to be made, Customer agrees to permit symplr, at its option and expense, to: (i) procure for Customer the right to continue using the Infringing Materials; (ii) replace or modify the Infringing Materials so that they become non-infringing; or (iii) terminate Customer's use of the Infringing Materials, in which case Customer will destroy the Infringing Materials and, upon symplr's receipt of written attestation of such destruction, symplr will refund to Customer Fees prepaid for such Infringing Materials that are allocable to the period after such destruction.

10.2.2 Notwithstanding the foregoing, symplr has no liability for any such Claim to the extent arising from any Excluded Claim. "Excluded Claim" means any Claim to the extent arising from: (i) the combination or use of any Products with any materials not supplied by symplr; (ii) the alteration or modification of any Products by any Party other than symplr; (iii) Customer's use of any Products after symplr has informed Customer of modifications or changes in such Products intended or required to avoid a Claim (provided symplr offered such modifications or changes without charges not otherwise required pursuant to this Agreement); (iv) symplr's compliance with Customer's designs, specifications or instructions; or (v) breach of this Agreement, including any use of any Products in a manner not authorized by this Agreement.

10.2.3 THIS SECTION 10.2 SETS FORTH SYMPLR'S ENTIRE OBLIGATION AND LIABILITY, AND CUSTOMER'S SOLE REMEDY, IN CONNECTION WITH ANY ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION BY THE PRODUCTS.

10.3 Prompt Notice. All obligations of each Party to defend or indemnify the other Party under this Agreement are conditioned upon the Party seeking defense or indemnification (the "Indemnified Party") providing the other Party(the "Indemnifying Party") with: (a) prompt notice of any such claim for indemnification or defense after receiving notice thereof; (b) sole control over the defense and settlement of such claim, provided that any settlement that will require the other Party to assume any liability other than the payment of monies will be subject to the other Party's prior written consent; and (c) reasonable assistance in such defense or settlement (at the Indemnifying Party's expense).

11. Waivers; Limitations.

11.1 WAIVER OF DAMAGES. EXCEPT FOR BREACHES OF SECTION 3.2 IN NO EVENT SHALL EITHER PARTY OR ANY AFFILIATE OF EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY SPECIAL, INDIRECT, RELIANCE, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, LOST PROFITS, LOST DATA, OR LOST REVENUE, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE LIMITATIONS IN THIS SECTION 11.1 SHALL APPLY EVEN IF ANY OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

11.2 LIMITATION OF LIABILITY. EXCEPT FOR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, BREACHES OF SECTION 3.2, A PARTY'S OBLIGATIONS UNDER SECTION 9, AND THE PAYMENT OBLIGATIONS OF CUSTOMER, IN NO EVENT SHALL THE AGGREGATED LIABILITY OF EITHER PARTY OR ITS AFFILIATES UNDER THIS AGREEMENT (INCLUDING ALL ORDER FORMS AND SOWS) EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER TO SYMPLR (EXCLUDING PAYMENTS FOR SERVICES) DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE THE CLAIM AROSE. THIS LIMITATION SHALL APPLY EVEN IF ANY OTHER REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.

12. Term, Termination, Suspension, and Transition Services.

12.1 Term. The initial term of this Agreement shall commence upon the Agreement Effective Date and shall continue for three (3) years ("Initial Term"). Upon expiration of the Initial Term, this Agreement will automatically renew for successive one (1) year renewal terms (each a "Renewal Term") unless either Party delivers written notice of termination to the other Party at least ninety (90) days prior to the end of the Initial Term or then current Renewal Term. The Initial Term and any Renewal Terms are collectively referred to herein as the "Term".

12.2 Termination for Cause. Either Party may terminate this Agreement or any affected Order Forms or SOWs (or any Products or services provided under any such Order Forms or SOWs) by giving written notice to the other Party (a) in the event the other Party is in material breach of this Agreement or an Order Form or SOW and fails to cure such breach within thirty (30) days of receipt of written notice thereof from the non-breaching Party or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors that is not dismissed within thirty (30) days after it is filed or commenced.

12.3 Effect of Termination. Upon expiration or termination of this Agreement or any Order Form or SOW, (a) Customer, its Affiliates and all Users shall immediately cease using the relevant Licensed Materials, Products and Services and symplr shall remove Customer's access to the Software, (b) Customer shall promptly destroy all copies of the relevant Licensed Materials and its database and certify to symplr in writing that such destruction has occurred, (c) Customer shall return or destroy and certify to such destruction, all Confidential Information of symplr (except to the extent Customer needs to retain such Confidential Information for performance of any other Order Form or SOW or to the extent the Confidential Information cannot be returned or destroyed, provided that all retained Confidential Information shall remain subject to Section 9 hereunder), and (d) upon Customer's written request received by symplr within thirty (30) days following such expiration or termination, symplr will make available to Customer the Customer Data then maintained by the Software by either: (i) returning Customer Data to Customer in a reasonable format, or (ii) enabling Customer to export Customer Data. Any access to Customer Data in Software after expiration or termination of this Agreement may be on a read-only basis, and except as otherwise required by applicable law, symplr may permanently erase Customer Data thirty (30) days after expiration or termination of Customer's account. Termination of this Agreement or any Order Form or SOW shall not entitle Customer to a refund of any Fees, except that in the event Customer terminates this Agreement or such Order Form or SOW under Section 12.2 above for symplr's material breach, symplr shall refund to Customer Fees for the terminated Products and Services that are prepaid, unearned, and allocable to the period after termination. Expiration or termination of this Agreement shall result in automatic termination of all Order Forms and SOWs.

12.4 Surviving Provisions. Sections 3.2, 3.3, 3.4, 3.5, 4.3, 5.1, 5.2, 7, 8, 9, 10, 11, 12.3, 12.4,12.5,12.6 and 13 of this Agreement shall survive the expiration or termination of this Agreement.

12.5 Suspension. Without prejudice to any of its other remedies under this Agreement or at law, symplr may suspend provision of Products, Services, Licensed Materials and Customer's or any of its Affiliates' or Users' access to and use of any and all Products, Services, and Licensed Materials in the event of any breach by Customer of Section 3.2, Section 3.3, or Section 7 of this Agreement. Any such suspension shall not be deemed a violation of this Agreement. Any such suspension does not relieve Customer from its payment obligations under this Agreement. symplr shall use reasonable efforts to provide Customer with notice prior to any such suspension, and symplr will restore access as soon as the event giving rise to such suspension has been resolved.

12.6 Transition Services. In the event of any expiration or termination of this Agreement other than termination due to breach of the Agreement by Customer (including breach attributable to non-payment of any undisputed amounts), symplr shall provide to Customer transition services enabling Customer to continue using the Licensed Materials for up to twelve (12) months after the effective date of such expiration or termination of this Agreement or any Order Form (the "Transition Services"), provided that the terms and conditions of this Agreement shall remain in effect during the term of such Transition Services, including Customer's payment obligations set forth in Section 7 and in any Order Form. Customer will be required to sign an Order Form reflecting the Transition Services period.

13. General Provisions.

13.1 Use of Subcontractors. symplr may use subcontractors to perform its obligations under this Agreement so long as symplr remains responsible for its obligations hereunder and for the actions and omissions of such subcontractors in the provision of services under this Agreement, and symplr may use its Affiliates to support symplr's performance and provision of Products and Services.

13.2 Excluded Provider. To symplr's knowledge, symplr and its employees performing under this Agreement are not currently excluded from participation in a Federal health care program, as defined in U.S.C. § 1320a-7b(f). If symplr becomes aware that any of its employees are excluded from participation in such a Federal health care program, symplr will replace such employee.

13.3 Medicare Access Reporting. Until four (4) years after the termination of this Agreement, the Parties will upon request make available to the Secretary of the United States Department of Health and Human Services and the United States Comptroller General, and their respective duly authorized representatives ("Secretary") this Agreement and all books, documents, and records necessary to certify the nature and extent of the costs of Services provided hereunder. If symplr engages a subcontractor to perform symplr's obligations hereunder via a subcontract worth $10,000 or more over a twelve (12) month period, the subcontract shall contain a clause requiring the subcontractor to make available, upon written request of the Secretary, the subcontract and books, documents, and records necessary to verify the nature and extent of the costs of the Services provided hereunder.

13.4 Insurance. Throughout the Term, symplr shall maintain insurance in accordance with its standard certificate of insurance, which shall be provided to Customer upon request. Customer will be responsible for its own insurance coverage as it deems to be appropriate.

13.5 Non-Solicitation. During the Term, Customer shall not solicit, offer employment to, employ, engage as an independent contractor, or otherwise obtain the services of any person employed or engaged as a full-time independent contractor then or within the preceding one year by symplr. It is not a breach of this section, however, for Customer to hire or engage such a person who independently responds to a non-targeted advertisement or otherwise voluntarily applies to work for Customer, provided that Customer did not take any action, directly or indirectly, to intentionally solicit or recruit such person prior to such person answering such advertisement or voluntarily applying.

13.6 Independent Contractor; No Third-Party Beneficiaries. symplr enters into this Agreement as an independent contractor. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties. There are no third-party beneficiaries of this Agreement.

13.7 Force Majeure. Excluding Customer's payment obligations hereunder, each Party's failure to perform under this Agreement shall be excused to the extent an act of God, act of government, civil commotion, earthquake, epidemic, pandemic, explosion, fire, flood, labor strike, national emergency, quarantine, riot, terrorist attack, war, strikes, denial of service attack, or any other occurrence or emergency beyond the Party's control makes such performance (in whole or in part) impossible, illegal or commercially impracticable. If the period of non-performance continues for more than thirty (30) days, the Party not affected may terminate any or all affected Order Forms or SOWs by giving fifteen (15) days' written notice to the affected Party.

13.8 SaaS Checkpoint. During the Term, symplr shall be permitted to review Customer's use of the Software and Customer's usage patterns against the Software License Limits. If any such review reveals any underpayments by Customer, Customer shall promptly pay to symplr any additional Fees consistent with Customer's actual use of the Software in accordance with the Software License Limits set forth in the Agreement. The payment by Customer of such additional Fees will be in addition to any other remedies symplr may have, and if Customer does not pay such additional Fees, then symplr shall have the right to terminate Customer's access to the Software.

13.9 Press Releases and Marketing. symplr shall have the right to issue press releases or other public announcements regarding this Agreement and the relationship between the Parties, so long as the Parties coordinate in the issuance of any such press releases or other public announcements. symplr may use Customer's company name and logo as a reference for marketing and promotional purposes on symplr's website, in its general customer and reference lists, and in other public or private communications, subject to Customer's standard trademark usage guideline provided to symplr. Customer agrees to work with symplr if symplr desires to develop any case studies based on the relationship between the Parties.

13.10 Waiver and Cumulative Remedies. The waiver by either Party of any right provided under this Agreement shall not constitute a subsequent or continuing waiver of such right or of any other right under this Agreement. The remedies provided herein are in addition to, and not exclusive of, any other remedies a Party may have at law or in equity.

13.11 Severability. In the event one or more terms of this Agreement becomes or is declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, each such term shall to the extent of such illegality or unenforceability be null and void and shall be deemed deleted from this Agreement. All remaining terms of this Agreement shall remain in full force and effect.

13.12 Compliance with Laws; Limitation on Time to Bring Suit. Each Party shall comply with all applicable laws, rules and regulations in its performance under this Agreement. Any suit, cause of action, claim or demand which either Party has against the other Party for any reason arising under or relating to this Agreement must be brought no later than one (1) year from the date it becomes known or should have been known by the asserting Party.

13.13 Assignment. Customer may not assign this Agreement (including without limitation in connection with a change of control of Customer) in whole or in part without the prior written consent of symplr. symplr may assign this Agreement to any of its Affiliates or in connection with a change of control (whether resulting from merger, consolidation, stock transfer, asset sale or otherwise) without the prior written consent of Customer. Any assignment in contravention of this provision shall be void. This Agreement shall be binding upon the successors and permitted assigns of the Parties.

13.14 Governing Law and Venue. This Agreement shall be governed by the internal laws of the State of Texas, without regard to conflicts of laws rules. The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Any disputes arising under this Agreement shall be brought exclusively in the state and federal courts located in Harris County, Texas, and the Parties waive any objections to jurisdiction or venue of any such court. In the event of any dispute under this Agreement, the prevailing Party shall be entitled to an award of its reasonable attorney's fees. THE PARTIES HEREBY WAIVE ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION OR LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.

13.15 Notices. Notices hereunder must be in writing and given by certified, registered or overnight mail, postage prepaid and return receipt requested, to the receiving Party at the following address (or such other address as a Party may designate to the other Party in a notice given in accordance with this section):

symplr:
315 Capitol Street, Suite 100
Houston, Texas 77002
Attn: Chief Financial Officer
With copy to: legal@symplr.com

Customer:
Address set forth in initial Order Form unless otherwise designated in writing by Customer
Attn: Chief Information Officer

13.16 Entire Agreement. This Agreement constitutes the entire agreement of the Parties and supersedes all prior and contemporaneous agreements, understandings, proposals, negotiations, representations or warranties of any kind, whether oral or written, with respect to the subject matter hereof. Each Party acknowledges it has not relied on any previous or implied representation, warranty, agreement or statement not expressly set out in this Agreement and it will have no right or remedy arising out of any such representation, warranty, agreement or statement. The terms of this Agreement shall prevail over any terms set forth in any purchase order or other document submitted by Customer. Except as set forth in Section 1.3, no modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of both Parties. This Agreement may be signed in counterparts, each of which shall be considered an original and together shall constitute one agreement. Signed electronic copies of this Agreement shall be legally binding to the same extent as original documents.

13.17 No Legal Advice. Customer acknowledges and agrees that symplr does not render legal advice or offer legal assistance, and no product, service, information or materials provided to Customer or any Customer Affiliate or User hereunder shall be construed or relied upon as the provision of legal advice or assistance