

MASTER TERMS

These Master Terms (“Terms”) apply to the Order Form between CURA4U Inc. dba SmartClinix (“SmartClinix”) and the Customer identified on the Order Form (“Customer”). The Terms together with the Order Form are collectively the “Agreement.”

1. Purpose and Structure of Agreement. The Agreement consists of (i) the Order Form identifying the Customer, Services/Products, Fees, and Term; and (ii) the provisions set forth in these Terms, which include the applicable Schedules.

2. Services.

- (a) SmartClinix will perform certain services and create and provide certain deliverables, as more particularly described the Order Form and the Schedules hereto (the “Services”). No obligation to provide any Services shall be incurred by SmartClinix until such time that an Order Form has been executed by authorized representatives of SmartClinix and Customer.
- (b) Customer acknowledges and agrees that SmartClinix may use subcontractors and consultants to perform the Services to be provided under this Agreement.

3. License to Use and Access the Service and Products.

- (a) **Grant.** SmartClinix hereby grants Customer and its Authorized Users a limited, non-exclusive and non-transferable license, without right of sublicense, during the Term: (i) to access and use within the United States, the Service and Products identified in the Order Form, and to permit Authorized Users to use such Service and Products, subject to the terms and conditions of this Agreement and in accordance with any written instruction provided with the Services or Products (the “Documentation”). All rights in the Service and Products not expressly granted hereunder are reserved to SmartClinix.
- (b) **Scope.** The license granted to Customer and Authorized Users hereunder is limited to the use and access described more fully in the Order Form and Schedules for each offering. Customer and Authorized Users shall have no right pursuant to this Agreement to distribute the Service or Products in whole or in part over the Internet, or via email or instant messaging, via an Intranet, personal digital assistant, wireless application protocol, short message service or radio system.
- (c) **Restrictions Use.** Customer and Authorized Users shall not edit, alter, abridge or otherwise change in any manner the content of the Service or Products, including, without limitation, all copyright and proprietary rights notices. Except as expressly set forth herein, Customer and Authorized Users may not, and may not permit others to:
 - (i) reverse engineer, decompile, decode, decrypt, disassemble, or in any way derive source code from, the Service or Products;

- (ii) modify, translate, adapt, alter, or create derivative works from the Service or Products;
 - (iii) copy (other than one back-up copy), distribute, publicly display, transmit, sell, rent, lease or otherwise exploit the Service or Products; or
 - (iv) distribute, sublicense, rent, lease, loan or grant any third party access to or use of the Service or Products to any third party.
- (d) Suspension of Access.** SmartClinix may suspend access to the Programs or the Services by Customer or Authorized Users immediately pending cure of any Customer breach to this Agreement, or in the event SmartClinix determines, in its sole discretion, that access to or use of the Services or Products by Customer or Authorized Users may jeopardize the Services or Products, or the confidentiality, privacy, security, integrity or availability of information within the Services or Products, or that Customer or an Authorized User has violated or may violate this Agreement, or has jeopardized or may jeopardize the rights of any third party, or that any person is or may be making unauthorized use of the Services or Products with any User ID assigned to Customer or Authorized Users. SmartClinix may terminate access of Authorized Users upon termination or change in status of Authorized User's employment with Customer. SmartClinix's election to suspend access to the Services or Products shall not have the effect of waiving any other rights it may have under this Agreement, including termination.

4. Term of Agreement.

- (a) Term of Agreement.** The initial term of the Agreement will begin as of the Effective Date and continue for the period specified in the Order Form ("Initial Term"), unless earlier terminated in accordance with the provisions of the Agreement.
- (b) Renewal.** After the Initial Term, the Agreement shall automatically renew for additional one (1) year terms (each a "Renewal Term"), unless not less than thirty (30) days prior to the end of the Initial Term or any Renewal Term, either SmartClinix or Customer notifies the other of its intent not to renew the Agreement. The Initial Term and Renewal Terms, if any, are collectively referred to herein as the "Term."

5. Termination.

- (a) Termination for Breach.** SmartClinix or Customer may terminate this Agreement at any time in the event of a breach by the other party of a material covenant, commitment or obligation under this Agreement that remains uncured: (i) in the event of a monetary breach, ten (10) calendar days following written notice thereof; and (ii) in the event of a non-monetary breach, after thirty (30) days following written notice thereof. Such termination shall be effective immediately and automatically upon the expiration of the applicable notice period, without further notice or action by either party. Termination shall be in addition to any other remedies that may be available to the non-breaching Party.

- (b) SmartClinix Termination.** SmartClinix may terminate this Agreement immediately upon notice to Customer if: 1. Customer, or any employee of Customer is named as a defendant in a criminal proceedings for a violation of federal or state law; 2. A finding or stipulation that Customer has violated any standard or requirement of federal or state law relating to the privacy and/or security of health information is made in any administrative or civil proceeding; or 3. Customer is excluded from participation in a federal or state healthcare program.
- (c) Early Termination.** Customer may terminate this Agreement before expiration of the Term provided that Customer shall pay an early termination fee equal to 50% of the Fees owed for the remainder of the applicable Initial or Renewal Term. This early termination fee is intended to be a reasonable estimate of SmartClinix's cost incurred to terminate the Customer outside of the original cycle.
- (d) Termination for Bankruptcy, Insolvency or Financial Insecurity.** SmartClinix or Customer may terminate this Agreement immediately at its option upon written notice if the other party: (i) becomes or is declared insolvent or bankrupt; (ii) is the subject of a voluntary or involuntary bankruptcy or other proceeding related to its liquidation or solvency, which proceeding is not dismissed within ninety (90) calendar days after its filing; (iii) ceases to do business in the normal course; or (iv) makes an assignment for the benefit of creditors. This Agreement shall terminate immediately and automatically upon any determination by a court of competent jurisdiction that either party is excused or prohibited from performing in full all obligations hereunder, including, without limitation, rejection of this Agreement pursuant to 11 U.S.C. §365.
- (e) Obligations upon Termination.**

 - (i) Termination of this Agreement for any reason shall not discharge either party's liability for obligations incurred hereunder and amounts unpaid at the time of such termination. Customer shall pay SmartClinix for all Services and Products rendered prior to the effective date of termination. Upon termination each party shall return or destroy the other party's Confidential Information that is in its possession at the time of termination. Upon the termination of the Agreement, Customer shall promptly return to SmartClinix any equipment, materials or other property of SmartClinix relating to the terminated Services or Products which are in Customer's possession or control.
 - (ii) Upon Customer's request at termination, SmartClinix's will make a copy of its database containing Customer Content available to Customer at SmartClinix's then applicable data transfer fees. Customer must request its Customer Content within 3 months of termination or expiration of this Agreement. SmartClinix will not be liable to maintain such data on its own and shall destroy the data in accordance with the provisions of HIPAA. The sole liability and responsibility as to Customer's practice data including patient records rests with Customer.

6. Fees and Expenses.

- (a) **Fees.** As compensation for performing all Services specified in this Agreement and for assuming all duties, responsibilities, and obligations required by this Agreement, Customer will compensate SmartClinix for all fees identified on the Order Form (the “Fees”) in accordance with the terms of this Agreement. SmartClinix may change or increase the Fees at the beginning of a Renewal Term provided SmartClinix provides Customer at least forty-five (45) days’ prior written notice of the change or increase. Rates are exclusive of taxes, levies, duties, governmental charges, and expenses (with the exception of any SmartClinix’s income taxes), which amounts will be paid by Customer.
- (b) **Expenses.** Customer shall pay SmartClinix for the reasonable expenses incurred by SmartClinix and its personnel in connection with its performance of the Services that have been pre-approved by Customer (the “Expenses”).
- (c) **Billing and Payment.** Unless other billing and payment terms are provided for in an Order Form, SmartClinix shall prepare and submit invoices to the Customer via email for all Services and Products and Expenses incurred on a monthly basis. Customer will pay invoices in U.S. dollars within fifteen (15) days from receipt of SmartClinix’s invoice. Payments due hereunder must be made by wire transfer, certified check, bank check or such other method as may be agreed upon by the SmartClinix. Customer shall have no right of offset or withholding under this Agreement. Any amounts not paid by Customer when due to SmartClinix shall be subject to interest charges, from the date due until paid, at the rate of one and one half percent (1.5%) per month, or the highest interest rate allowable by law (whichever is less), payable monthly. If any amounts due to SmartClinix from Customer becomes past due for any reason, SmartClinix may at its option and without further notice withhold further Services or Products until all invoices have been paid in full, and such withholding of Services or Products shall not be considered a breach or default of any of SmartClinix’s obligations under this Agreement.
- (d) **Compliance with Laws; Permits and Licenses.** Customer agrees, at its own expense, to operate in full compliance with all governmental laws, regulations and requirements applicable to the duties conducted hereunder. It shall be the responsibility of the Customer to pay for any necessary licenses, permits, insurance and approvals as may be necessary for the performance of the Services under this Agreement, unless otherwise specified in the Agreement.

7. Warranty; Disclaimer.

- (a) SmartClinix does not warrant in any form the results or achievements of the Services or Products provided or the resulting work product and deliverables. SmartClinix only warrants that that the Services will be performed by qualified personnel in a professional and workmanlike manner in accordance with the generally accepted industry standards and practices. CUSTOMER’S EXCLUSIVE REMEDY FOR BREACH OF THIS WARRANTY IS REPERFORMANCE OF THE SERVICES, OR IF REPERFORMANCE IS NOT

POSSIBLE OR CONFORMING, REFUND OF AMOUNTS PAID UNDER THIS AGREEMENT FOR SUCH NON-CONFORMING SERVICES.

- (b) THE WARRANTY SET FORTH IN THIS SECTION 7 IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE WITH RESPECT TO THE SERVICES AND PRODUCTS PROVIDED UNDER THIS AGREEMENT, OR AS TO THE RESULTS WHICH MAY BE OBTAINED THEREFROM. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICE AND PRODUCTS, THE CONTENTS THEREIN, AND ANY ACCOMPANYING DOCUMENTATION ARE PROVIDED ON AN “AS IS”, “AS AVAILABLE” BASIS AND SMARTCLINIX DOES NOT MAKE ANY AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS, ENDORSEMENTS, GUARANTEES, OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. SMARTCLINIX DOES NOT WARRANT THE SOFTWARE TO BE FREE OF BUGS, ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS OR PROGRAM LIMITATIONS. SMARTCLINIX SHALL NOT BE LIABLE FOR ANY SERVICES OR WORK PRODUCT OR DELIVERABLES PROVIDED BY THIRD PARTY VENDORS IDENTIFIED OR REFERRED TO THE CUSTOMER BY SMARTCLINIX DURING THE TERM OF THIS AGREEMENT, PURSUANT TO SCHEDULE OR OTHERWISE.

8. Intellectual Property. SmartClinix represents and warrants that it owns or has rights to use all Intellectual Property Rights in the Services and Products, including any Software therein.

- (a) “Intellectual Property Rights” means any and all intellectual property rights existing from time to time under any Law, including patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law (together with all of the goodwill associated therewith), unfair competition law, publicity rights law, or privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations of any of the foregoing, now or hereafter in force and effect worldwide. For purposes of this definition, rights under patent law shall include rights under any and all patent applications and patents (including letters patent and inventor's certificates) anywhere in the world, including any provisionals, substitutions, extensions, supplementary patent certificates, reissues, renewals, divisions, continuations in part (or in whole), continued prosecution applications, requests for continued examination, and other similar filings or stages thereof provided for under the laws of the United States, or of any other country.
- (b) “Software” means any computer programming code consisting of instructions or statements in a form readable by individuals (source code) or machines (object code), and related documentation and supporting materials therefor, in any form or medium, including electronic media.
- (c) “SmartClinix Software” means the Software used by SmartClinix or any SmartClinix representatives in providing the Services or Products, including Software licensed by SmartClinix or SmartClinix representatives pursuant to Third Party Agreements.

(d) “Third Party Agreements” means those agreements for which SmartClinix has undertaken financial, management, operational, use, access and/or administrative responsibility and/or benefit in connection with the provision of the Services or Products.

9. Ownership of Work Product. This is not a work-for-hire agreement. The copyright in all deliverables created hereunder for Customer shall belong to SmartClinix. All Intellectual Property Rights in all pre-existing works and derivative works (as defined in Title 17 U.S.C. § 101, as amended) of such pre-existing works and other deliverables and developments made, conceived, created, discovered, invented, or reduced to practice in the performance of the Services and Products hereunder are and shall remain the sole and absolute property of SmartClinix, subject to a worldwide, non-exclusive license to Customer for its internal use as intended under this Agreement. Except as expressly stated herein, this Agreement does not grant Customer any license to any of the other SmartClinix’s products, which products must be licensed separately.

10. Confidential Information.

(a) **Confidential Information.** The parties acknowledge that by reason of their relationship to the other hereunder, each may disclose or provide access (the “Disclosing Party”) to the other party (the “Receiving Party”) certain Confidential Information. “Confidential Information” shall mean (i) information concerning a party’s products, business and operations including, but not limited to, information relating to business plans, financial records, customers, suppliers, vendors, products, product samples, costs, sources, strategies, inventions, procedures, sales aids or literature, technical advice or knowledge, contractual agreements, pricing, price lists, product white paper, product specifications, trade secrets, procedures, distribution methods, inventories, marketing strategies and interests, algorithms, data, designs, drawings, work sheets, blueprints, concepts, samples, inventions, manufacturing processes, computer programs and systems and know-how or other intellectual property, of a party and its affiliates that may be at any time furnished, communicated or delivered by the Disclosing Party to the Receiving Party, whether in oral, tangible, electronic or other form; (ii) the terms of any agreement, including this Agreement, and the discussions, negotiations and proposals related to any agreement; and (iii) all other non-public information provided by the Disclosing Party hereunder. In no event shall SmartClinix’s use or disclosure of information regarding or relating to the development, improvement, or use of any of SmartClinix’s products be subject to any limitation or restriction. All Confidential Information shall remain the property of the Disclosing Party.

(b) **Use of Confidential Information; Standard of Care.** The Receiving Party shall maintain the Confidential Information in strict confidence and disclose the Confidential Information only to its employees, subcontractors, consultants, and representatives who have a need to know such Confidential Information in order to fulfill the business affairs and transactions between the Parties contemplated by this Agreement and who

are under confidentiality obligations no less restrictive as this Agreement. The Receiving Party shall at all times remain responsible for breaches of this Agreement arising from the acts of its employees, subcontractors, consultants, and representatives. Receiving Party shall use the same degree of care as it uses with respect to its own similar information, but no less than a reasonable degree of care, to protect the Confidential Information from any unauthorized use, disclosure, dissemination, or publication. Receiving Party shall only use the Confidential Information in furtherance of its performance of its obligations under this Agreement and agrees not to use the Disclosing Party's Confidential Information for any other purpose or for the benefit of any Third Party, without the prior written approval of the Disclosing Party. The Receiving Party shall not decompile, disassemble, or reverse engineer all or any part of the Confidential Information.

- (c) **Exceptions.** Confidential Information does not include information that: (a) was lawfully in Receiving Party's possession before receipt from Disclosing Party; (b) at or after the time of disclosure, becomes generally available to the public other than through any act or omission of the Receiving Party; (c) is developed by Receiving Party independently of any Confidential Information it receives from Disclosing Party; (d) Receiving Party receives from a Third Party free to make such disclosure without, to the best of Receiving Party's knowledge, breach of any legal or contractual obligation, or (e) is disclosed by Receiving Party with Disclosing Party's prior written approval.
- (d) **Required Disclosures.** If the Receiving Party is confronted with legal action to disclose Confidential Information received under this Agreement, the Receiving Party shall, unless prohibited by applicable law, provide prompt written notice to the Disclosing Party to allow the Disclosing Party an opportunity to seek a protective order or other relief it deems appropriate, and Receiving Party shall reasonably assist Disclosing Party in such efforts. If disclosure is nonetheless required, the Receiving Party shall limit its disclosure to only that portion of the Confidential Information which it is advised by its legal counsel must be disclosed.
- (e) **Unauthorized Use or Disclosure of Confidential Information; Equitable Relief.** In the event the Receiving Party discovers that any Confidential Information has been used, disseminated, or accessed in violation of this Agreement, it will immediately notify the Disclosing Party; take all commercially reasonable actions available to minimize the impact of the use, dissemination, or publication; and take any and all necessary steps to prevent any further breach of this Agreement. The parties agree and acknowledge that any breach or threatened breach regarding the treatment of the Confidential Information may result in irreparable harm to the Disclosing Party for which there may be no adequate remedy at law. In such event the Disclosing Party shall be entitled to seek an injunction, without the necessity of posting a bond, to prevent any further breach of this Agreement, in addition to all other remedies available in Law or at equity.
- (f) **Return of Confidential Information; Survival.** Receiving Party shall promptly return or, at Disclosing Party's option, certify destruction of all copies of Confidential Information at any time upon request or within thirty (30) days following the expiration or earlier

termination of the Agreement. Notwithstanding any expiration or termination of this Agreement, Receiving Party's obligations to protect the Confidential Information pursuant to this Section will survive for two (2) years after the expiration or earlier termination of this Agreement.

11. Privacy; Security.

- (a) Customer or its Authorized Users may input their or their patients' personal and other information ("Customer Content") into the Services or Products. Customer on behalf of itself and its Authorized Users represents and warrants that they have the right to include such Customer Content in the Services and Products. Customer acknowledges that any Customer Content entered into the Service or Products is entered at Customer's own risk, subject to the terms herein. In the event of any loss or damage to the Customer Content, Customer's sole remedy shall be for SmartClinix to use commercially reasonable efforts to replace or restore the lost or damaged data from the latest backup of such data SmartClinix has maintained in accordance with its standard archival procedures.
- (b) To the extent that SmartClinix functions as a business associate under HIPAA to Customer, the parties agree to comply with the terms of the Business Associate Agreement attached hereto as Schedule B.
- (c) SmartClinix represents and warrants that the Services and Products have security features in place to comply with all applicable laws. However, Customer understands and acknowledges that Customer is responsible for implementing and using the Services and Products in a compliant way.

12. Indemnification.

- (a) Each party (the "Indemnifying Party") agrees to indemnify, defend, and hold the other party and its affiliates and their respective officers, directors, employees, and agents harmless from and against any and all judgments, settlements, awards, losses, charges, liabilities, penalties, interest claims (including taxes and all related interest and penalties incurred directly with respect thereto), however described or denominated, and all related reasonable costs, expenses and other charges (including all reasonable attorneys' fees and reasonable internal and external costs of investigations, litigation, hearings, proceedings, document and data productions and discovery, settlement, judgment, award, interest and penalties), arising from third-party claims to the extent arising out of: (i) the Indemnifying Party's gross negligence or willful misconduct; (ii) the Indemnifying Party's violation of applicable law; (iii) with respect to SmartClinix as Indemnifying Party, the infringement or violation of such third party's registered patent, trade secret, copyright, or trademark by way of Customer's use of the Service or Product in accordance with this Agreement; and (iii) with respect to Customer as Indemnifying Party, the (a) provision of its services to its patients/customers and (b) infringement or violation of such third party's registered patent, trade secret, copyright, or trademark by way of SmartClinix's use of any Customer Content that

Customer provides to SmartClinix and SmartClinix uses in the provision of any Services or Products.

- (b)** If the Services or Products become the subject of a claim, or if SmartClinix reasonably believes that use of Services or Products may become the subject of a claim, then SmartClinix may do, at its own expense and option, at least one of the following: 1. procure for Customer the right to continue use of licensed program at no additional cost to Customer for such right; 2. replace the Service or Product with a non-infringing service or product; 3. modify the Service or Product so that it becomes non-infringing; and 4. terminate Customer's license to such Service or Product upon written notice to Customer, whereupon Customer shall immediately terminate all further use of the affected Service or Product. In the event of termination, SmartClinix shall have no liability to Customer or any other third party concerning their use of such SmartClinix Service or Product except to refund to Customer a pro rata portion of the Fees, actually paid to SmartClinix, and applicable to the remaining Term of the Agreement. THE FOREGOING STATES SMARTCLINIX'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO ANY INFRINGEMENT, ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY BY THE LICENSED SERVICES AND PRODUCTS OR ANY PART THEREOF.
- (c)** The Indemnifying Party's liability under this Section shall be reduced proportionally to the extent that any act or omission of the other party, or its employees or agents, contributed to such liability.
- (d)** The party seeking indemnification shall provide the Indemnifying Party with prompt written notice of the claim and give complete control of the defense and settlement of the Indemnifying Party, and shall cooperate with the Indemnifying Party, its insurance company, and its legal counsel in its defense of such claim(s). This indemnity shall not cover any claim in which there is a failure to give the Indemnifying Party prompt notice to the extent such lack of notice prejudices the defense of the claim.

13. Limitation of Liability; Actions.

- (a)** IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, STATUTORY, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOSS OF USE, LOSS OF TIME, INCONVENIENCE, LOST BUSINESS OPPORTUNITIES, DAMAGE TO GOOD WILL OR REPUTATION, AND COSTS OF COVER, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.
- (b)** IN NO EVENT WILL THE LIABILITY OF SMARTCLINIX ARISING OUT OF ANY CLAIM RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

- (c) NO ACTION SHALL BE BROUGHT FOR ANY CLAIM RELATING TO OR ARISING OUT OF THIS AGREEMENT MORE THAN TWELVE (12) MONTHS AFTER THE ACCRUAL OF SUCH CAUSE OF ACTION, EXCEPT FOR MONEY DUE ON AN OPEN ACCOUNT.

14. Insurance. Each party shall maintain all statutory required insurance and commercial insurance reasonable for the products and Services provided hereunder.

15. Cooperation of Customer. Customer agrees to comply with all reasonable requests of SmartClinix and shall provide SmartClinix's personnel with access to all documents as may be reasonably necessary for the performance of the Services under the Agreement.

16. Not Excluded. Each party represents and warrants that (a) neither it nor any employee, contractor or agent engaged to provide items or Services under this Agreement is excluded from participation under any federal health care program for the provision of items or Services for which payment may be made under a federal health care program; (b) no final adverse action, as such term is defined under 42 U.S.C. 1320(a)-7, has occurred or is pending or threatened against the party or, to its knowledge, against any employee, contractor or agent engaged to provide items or Services under this Agreement; and (c) neither party nor, to its knowledge, any employee, contractor or agent engaged to provide items or Services under this Agreement, is under investigation by any federal or state governmental agency in connection with any medical items or services furnished or billings submitted to any federal health care program (collectively "Exclusions/Adverse Actions"). During the Term of this Agreement, each party agrees to notify the other party in writing of any Exclusions/Adverse Action within ten (10) days of learning of any such Exclusions/Adverse Action and provide the basis of the Exclusions/Adverse Action.

17. Non-Solicitation. During the Term of this Agreement and for one (1) year following the expiration or termination date of the Agreement, Customer agrees not to directly solicit or induce any SmartClinix employee that has interacted with Customer or has been involved, directly or indirectly, in the performance, review and/or acceptance of the Services, to consider or accept employment with Customer. Customer is not prohibited from responding to or hiring SmartClinix employees who inquire about employment with Customer on their own accord or in response to a public advertisement or employment solicitation in general.

18. Relationship of the Parties. The relationship of the parties hereto is that of independent contractors. Nothing in this Agreement, and no course of dealing between the parties, shall be construed to create or imply an employment or agency relationship or a partnership or joint venture relationship between the parties or between one party and the other party's employees or agents. Each of the parties is an independent contractor and neither party has the authority to bind or contract any obligation in the name of or on account of the other party or to incur any liability or make any statements, representations, warranties, or commitments on behalf of the other party, or otherwise act on behalf of the other. The Agreement shall not be construed as constituting either party as partner, joint venture or

fiduciary of the other party or to create any other form of legal association that would impose liability upon one party for the act or failure to act of the other party, or as providing either party with the right, power or authority (express or implied) to create any duty or obligation of the other party. Each party shall be solely responsible for payment of the salaries of its employees and personnel (including withholding of income taxes and social security), workers compensation, and all other employment benefits.

19. Force Majeure. Neither party shall be liable hereunder for any failure or delay in the performance of its obligations under this Agreement, except for the payment of money, if such failure or delay is on account of causes beyond its reasonable control, including civil commotion, war, fires, floods, accident, earthquakes, inclement weather, telecommunications line failures, electrical outages, network failures, governmental regulations or controls, casualty, strikes or labor disputes, terrorism, pandemics, epidemics, local disease outbreaks, public health emergencies, communicable diseases, quarantines, or acts of God, in addition to any and all events, regardless of their dissimilarity to the foregoing, beyond the reasonable control of the party deemed to render performance of the Agreement impracticable or impossible, for so long as such force majeure event is in effect. Each party shall use reasonable efforts to notify the other party of the occurrence of such an event within five (5) business days of its occurrence.

20. Governing Law and Venue. This Agreement will be governed by and interpreted in accordance with the laws of the State of Florida, without giving effect to the principles of conflicts of Law of such state. The parties hereby agree that any action arising out of this Agreement will be brought solely in any state or federal court located in St. Johns County, Florida. Both parties hereby submit to the exclusive jurisdiction and venue of any such court.

21. Assignment; No Third Party Beneficiaries. Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party; provided, that, upon prior written notice to the other party, either party may assign the Agreement to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Notwithstanding the foregoing, SmartClinix may subcontract its obligations and rights to a third party. There are no third-party beneficiaries to this Agreement.

22. Severability. If any provision or portion of this Agreement shall be rendered by applicable law or held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions or portions shall remain in full force and effect.

- 23. Headings.** The headings/captions appearing in this Agreement have been inserted for the purposes of convenience and ready reference, and do not purport to and shall not be deemed to define, limit, or extend the scope or intent of the provisions to which they appertain.
- 24. Survival.** Each term and provision of this Agreement that should by its sense and context survive any termination or expiration of this Agreement, shall so survive regardless of the cause and even if resulting from the material breach of either party to this Agreement.
- 25. Rights Cumulative.** The rights and remedies of the parties herein provided shall be cumulative and not exclusive of any rights or remedies provided by law or equity.
- 26. Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument, without necessity of production of the others. An executed signature page delivered via facsimile transmission or electronic signature shall be deemed as effective as an original executed signature page.
- 27. Authorized Signatories.** It is agreed and warranted by the parties that the individuals signing this Agreement on behalf of the respective parties are authorized to execute such an agreement. No further proof of authorization shall be required.
- 28. Notices.** All notices or other communications required under this Agreement shall be in writing and shall be deemed effective when received and made in writing by either (i) hand delivery, (ii) registered mail, (iii) certified mail, return receipt requested, or (iv) overnight mail, addressed to the party to be notified at the address specified in the Order Form or to such other address as such party shall specify by like notice hereunder.
- 29. Waiver.** No waiver of any term or right in this Agreement shall be effective unless in writing, signed by an authorized representative of the waiving party. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or modification of such provision, or impairment of its right to enforce such provision or any other provision of this Agreement thereafter.
- 30. Entire Agreement; Modification.**
- (a)** This Agreement is the entire agreement between the parties with respect to the subject matter hereof and supersedes any prior agreement or communications between the parties, whether written, oral, electronic, or otherwise.
 - (b)** No change, modification, amendment, or addition of or to this Agreement or any part thereof shall be valid unless in writing and signed by authorized representatives of the parties; provided, SmartClinix may (i) update or increase Fees in accordance with Section 6(a) of the Terms and (ii) update or amend the Terms, inclusive of the

Schedules, upon at least thirty (30) days' notice to Customer in which case Customer has the option to terminate the Agreement before such update or amendment goes into effect. In the event Customer exercises such option to terminate in this Section 30(b)(ii), Customer will be entitled to a pro rata return of any prepaid Fees for undelivered Services or Products as of the termination date.

- (c)** Each party hereto has received independent legal advice regarding this Agreement and their respective rights and obligations set forth herein. The parties acknowledge and agree that they are not relying upon any representations or statements made by the other party or the other party's employees, agents, representatives, or attorneys regarding this Agreement, except to the extent such representations are expressly set forth in this Agreement.

Schedule A-1
Virtual Care Platform

- 1. General Product Description.** SmartClinix provides a Product that is a Virtual Care Platform (the “Platform”) for telemedicine practice that enables healthcare providers to start and run a virtual care practice. SmartClinix licenses the Platform to Customers and their Authorized Users as described below. The Platform consists of:
 - (a) SmartClinix Software
 - (b) Updates to SmartClinix Software
 - (c) SmartClinix App

- 2. Modules.** Customer may choose in an Order Form to use one or more of the following Modules for the Platform:
 - (a) Telemedicine EMR: Cloud based HIPAA compliant virtual care electronic healthcare record system module which enables providers to see patient virtually, document all the clinical notes, and order diagnostic services
 - (b) Practice Management: enables online scheduling, online payments, coding, and billing
 - (c) Inpatient Rounding: enables physicians to see patients virtually in healthcare facilities such as senior living facilities and hospitals
 - (d) E-prescribing: enables physicians to e-prescribe medicines directly to pharmacies
 - (e) Remote Patient Monitoring Module: enables physicians to enroll patients in remote patient monitoring program such as blood pressure and diabetes monitoring

- 3. Implementation.**
 - (a) SmartClinix will implement the Platform in one of two options: (i) Customized and Whitebranding: the Platform with practice branding (logo) and agreed-on customized features such as registration forms, etc. or (ii) Standard: the Platform with SmartClinix logo and all standard features. The parties will mutually agree on which implementation option will apply and a target date to complete the implementation (“Launch Date”), which shall be reflected in the Order Form.
 - (b) Customer is responsible for procuring at its expense the necessary environment to use the Platform via the internet or otherwise, including without limitation all computer hardware, software and equipment, internet access and telecommunications services (the “Customer Systems”). Customer shall make the Customer Systems available to SmartClinix as necessary to provide the Services and Products. Customer shall maintain recommended information security tools, technologies, firewalls, antivirus, spywares, and other technical and administrative precautions.

- (c) Customer is responsible to implement and maintain appropriate administrative, physical, and technical safeguards to protect information within the Platform from unauthorized access, use or alteration or using an assigned User ID. Such safeguards shall comply with federal, state, and local requirements, including the Privacy Rule and the Security Rule, whether or not Customer is otherwise subject to HIPAA. Customer will maintain appropriate security with regard to all personnel, systems, and administrative processes used by Customer or Authorized Users to transmit, store and process electronic health information through the use of the Programs and Services. Customer shall immediately notify SmartClinix in the event of any breach or suspected breach involving the Platform.
- 4. Users.** SmartClinix grants a license to use the Platform to the following “Authorized Users.” The number of Authorized Users shall be specified in the Order Form. If Customer desires to add or remove Authorized Users, the parties shall execute a revised Order Form. Customer shall remain responsible for Authorized Users compliance with the terms herein.
- (a) Practice Users: the users who are designated by Customer to use the Platform in the roles of Administrator or Provider.
 - (b) Patient Users: the patients of the practice who access the Platform in connection with receiving treatment from Customer.
- 5. User Restrictions.** Authorized Users shall:
- (a) Only use the Platform for their internal business purposes;
 - (b) Not resell the Platform in any way;
 - (c) Use the Platform in accordance with any Documentation;
 - (d) Not provide log-in credentials to anyone else;
 - (e) Comply with the applicable terms of this Agreement; and
 - (f) Agree to End User Agreement, if applicable.
- 6. Support.** SmartClinix shall provide Customer with telephone support for the Platform during business hours, which are 8 a.m. to 5:00 p.m. Eastern Standard Time, Monday through Friday, excluding holidays subject to: (i) timely payment of Fees, and (ii) Customer’s compliance with its obligations under this Agreement. Extended hours support may be available at additional cost to Customer.
- 7. Service Levels.** Service Level Agreements are as mutually agreed in the Order Form.

Schedule A-2

Remote Patient Monitoring Program

- 1. General Description.** The Remote Patient Monitoring program (the “Remote Patient Monitoring Services”) enables medical practices to monitor patient remotely for certain medical condition such as blood pressure, glucose monitoring, oxygen saturation, heart rate, etc. and can bill for these services to insurance companies as per their enrollment with them. Under the Remote Patient Monitoring Services, SmartClinix provides the platform and virtual medical assistance support.
- 2. Products.** Customer may purchase from SmartClinix certain Products integrated with the SmartClinix Virtual Care Platform, described in Schedule A-1, that can be used for the Remote Patient Monitoring Program. The terms for purchase and use of such Products are specified in Schedule A-3. Alternatively, Customer may purchase outside products for use in the Remote Patient Monitoring System; provided, additional Fees may apply if such products require input from SmartClinix to operate or read.
- 3. Supervision.** SmartClinix personnel shall follow the general clinical supervision of Customer as required by applicable billing requirements.
- 4. Third-Party Billing.** SmartClinix shall not bill any third parties for the Remote Patient Monitoring Services. SmartClinix shall accept Customer’s payment of the applicable Fees as payment in full and hereby assigns all right to collect further payment to Customer. Customer is solely responsible for choosing whether to bill a third party for the Remote Patient Monitoring Services and ensuring such billing complies with all applicable laws and requirements.

Schedule A-3

Products

- 1. General Description.** SmartClinix makes certain devices and equipment available to Customers in connection with its Services and Products. An updated list of devices and equipment is available on the SmartClinix website or will be provided upon Customer request. Devices and equipment may be integrated into the SmartClinix Virtual Care Platform, as described in Schedule A-1.
- 2. Warranties.** SmartClinix passes through all device and equipment manufacturer warranties to Customer. SmartClinix is not a manufacturer and disclaims all warranties in its personal capacity. SmartClinix functions solely as a facilitator for ordering the devices and equipment; SmartClinix is in no way liable for use of or damage caused by any devices and equipment made available to Customer.
- 3. Ancillary Costs.** Customer and/or patients are responsible for any additional costs to operate or use the purchased devices and equipment, including by way of example glucose strips, internet connectivity, etc.

Schedule B

Business Associate Agreement

This Business Associate Agreement (“BAA”) is incorporated into the Agreement and is between Customer identified on the Order Form, on behalf of itself or another covered entity (collectively, “Covered Entity”), and CURA4U Inc. dba SmartClinix (“Business Associate”) and is intended to define their respective rights and responsibilities with respect to the privacy and security of certain health information in connection with certain federal laws.

1. DEFINITIONS

For purposes of this BAA, each of the following capitalized terms shall have the meaning set forth in this Section. Except as the context of a provision dictates otherwise, a term used in this BAA that is not defined in this Section shall have the meaning accorded to it under HIPAA or HITECH, as applicable.

- (a) **Breach.** “Breach” shall have the same meaning as the term “breach” in 45 CFR § 164.402.
- (b) **Business Associate.** “Business Associate” shall have the same meaning as the term “business associate” in 45 CFR § 160.103.
- (c) **Covered Entity.** “Covered Entity” shall have the same meaning as the term “Covered Entity” in 45 CFR § 160.103.
- (d) **Data Aggregation.** “Data Aggregation” shall have the same meaning as the term “data aggregation” in 45 CFR § 164.501.
- (e) **Designated Record Set.** “Designated Record Set” shall mean a group of records maintained by or for a Covered Entity that is (i) the medical records and billing records about individuals maintained by or for a covered health care Covered Entity; (ii) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (iii) used, in whole or in part, by or for the Covered Entity to make decisions about individuals. As used herein, the term “Record” means any item, collection or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a Covered Entity as defined in 45 CFR § 164.501.
- (f) **HIPAA.** “HIPAA” shall mean the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder relating to the privacy and security of Protected Health Information, as such statute and regulations may be amended from time to time.
- (g) **HIPAA Rules.** “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

- (h) **HITECH.** "HITECH" shall mean the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009, and the regulations promulgated thereunder relating to the privacy and security of Protected Health Information, as such statute and regulations may be amended from time to time.
- (i) **Individual.** "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- (j) **Protected Health Information/Electronic Protected Health Information.** "Protected Health Information" (or "PHI") and "Electronic Protected Health Information" (or "Electronic PHI") shall have the same meaning as the terms "protected health information" and "electronic protected health information," respectively, in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (k) **Public Health Activity.** "Public Health Activity" shall mean the activities described in 45 CFR § 164.512(b).
- (l) **Public Health Authority.** "Public Health Authority" shall have the same meaning as the term "public health authority" in 45 CFR § 164.103.
- (m) **Required By Law.** "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.
- (n) **Secretary.** "Secretary" shall mean the Secretary of the Department of Health and Human Services or his or her designee.
- (o) **Subcontractor.** "Subcontractor" shall have the same meaning as the term "subcontractor" in 45 CFR § 164.103.

2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- (a) Business Associate will not use or disclose Protected Health Information other than as permitted or required by this BAA or as Required By Law.
- (b) Business Associate will develop, implement, maintain and use appropriate safeguards to prevent the use or disclosure of PHI other than as permitted or required by this BAA or as Required by Law. Business Associate will develop, implement, maintain and use appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the HIPAA Security Standards, the HITECH Act, and all other applicable laws, regulations and

requirements published by a federal agency authorized to issue guidance under HIPAA or HITECH applicable to Business Associate.

- (c) Business Associate agrees to ensure, through written agreements, that any Subcontractor to whom it provides PHI agrees to substantially the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information.
- (d) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set as directed or agreed to by Covered Entity pursuant to 45 CFR § 164.526 or take other measures as necessary to satisfy Covered Entity's obligations under 45 CFR § 164.526.
- (e) Business Associate agrees to make internal practices, books and records relating to the use and disclosure of PHI available to the Secretary for purposes of determining Covered Entity's compliance with the Privacy Rule.
- (f) Business Associate agrees to maintain and make available the information required to provide an accounting of disclosures to Covered Entity as necessary to satisfy Covered Entity's obligations under 45 CFR § 164.528.
- (g) Business Associate shall not receive any remuneration in exchange for any PHI unless such remuneration is both: (i) permitted under HIPAA and HITECH; and (ii) authorized by Covered Entity in writing.
- (h) Business Associate shall provide training to members of its workforce regarding the requirements in the Privacy and Security Standards. The training shall be updated periodically, as the laws and regulations evolve.
- (i) Business Associate shall provide written notice to Covered Entity of any HIPAA Breach of unsecured PHI without unreasonable delay, but in any event, no more than five (5) business days after the discovery of such breach. Covered Entity, in its sole discretion, will determine which party shall be responsible for providing any notification to the patient, Secretary, or media that may be required under the HITECH Act. Business Associate shall be solely responsible for any costs and expenses incurred by Covered Entity and Business Associate related to a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this BAA. To the extent known, Business Associate shall provide Covered Entity with the following information:
 - 1) the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed;

- 2) what happened, including the date of the breach and the date of discovery of the breach, if known;
- 3) the type of information involved;
- 4) any steps the affected individuals should take to protect themselves;
- 5) what the Business Associate is doing to investigate and mitigate the breach and protect against further breaches; and
- 6) information on how the Covered Entity can contact the Business Associate for more information or questions.

3. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information consistent with Covered Entity's minimum necessary policies and procedures to:

- (a) Perform services for, or on behalf of, the Individual, as specified in the services agreement between Covered Entity and Business Associate, except to the extent that such use or disclosure would violate the Privacy Rule if performed by Covered Entity;
- (b) Perform its obligations under this BAA, except to the extent that such use or disclosure would violate the Privacy Rule if performed by Covered Entity;
- (c) Conduct activities for its own proper management and administration or carry out its own legal responsibilities, provided that any disclosure of PHI for such purpose shall be either: (i) Required By Law; or (ii) made after Business Associate obtains reasonable assurances from the recipient of the PHI that the PHI will be held confidentially and used and disclosed further only for the purpose for which it was disclosed to the recipient, and that the recipient will notify Business Associate of any instances of which it becomes aware that the confidentiality of the PHI has been breached. With regard to any such disclosure to a Subcontractor, Business Associate shall first enter into an agreement with the Subcontractor consistent with the terms herein and, for a disclosure of Electronic PHI, require the Subcontractor, to whom it provides the Electronic PHI to agree to implement reasonable and appropriate safeguards to protect such information;
- (d) Provide data aggregation services, but only in order to analyze data for Covered Entity's permitted health care operations, as permitted by 45 CFR § 164.504(e)(2)(i)(B); and
- (e) Report violations of law in accordance with 45 CFR § 164.502(j)(1).

4. DE-IDENTIFIED INFORMATION

Business Associate may create, use and disclose de-identified PHI if the de-identification is in compliance with 45 CFR §164.502(d), and any such de-identified PHI meets the standard and implementation specifications for de-identification under 45 CFR §164.514(a) and (b), as they may be amended from time to time. Covered Entity transfers and assigns all rights, title, and interest in and to any de-identified PHI to Business Associate.

5. OBLIGATIONS OF COVERED ENTITY

(a) *Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.*

- 1) Covered Entity shall furnish Business Associate with its notice of privacy practices prepared in accordance with 45 CFR § 164.520 and of any modifications thereto that affect Business Associate's obligations.
- 2) Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 3) Covered Entity shall notify Business Associate of all types of accountings of disclosures that it may require Business Associate to provide under 45 CFR § 164.528 or Section 13405(c) of HITECH.
- 4) Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522 or Section 13405(a) of HITECH to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(b) *Permissible Requests by Covered Entity.* Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under HIPAA or HITECH if done by Covered Entity. Covered Entity shall not request Business Associate to use or disclose more than the minimum PHI necessary.

6. TERM AND TERMINATION

(a) *Term.* The term of this BAA shall be coterminous with the Agreement.

(b) *Obligations of Business Associate Upon Termination.* Notwithstanding anything to the contrary contained herein, upon termination of this BAA, for any reason, Business Associate will return or destroy all PHI received from Covered Entity or created or received by Business Associate on behalf of Covered Entity and will retain no copies of the PHI. If Business Associate determines that the return or

destruction of PHI is not feasible, Business Associate shall so inform Covered Entity and Business Associate will extend the protections of this BAA to the information and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI infeasible, for so long as Business Associate maintains the PHI. This provision will also apply to PHI that is in the possession of Subcontractors of Business Associate.

7. MISCELLANEOUS

- (a) *Regulatory References.* A reference in this BAA to a section in HIPAA or HITECH, as applicable, means the section as in effect or, as applicable, as it has been redesignated after execution of this BAA.
- (b) *Amendment.* The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for Covered Entity and Business Associate to comply with the requirements of HIPAA or HITECH, as each may be amended or construed by courts of applicable jurisdiction or the Secretary from time to time. All amendments to this BAA, except those occurring by operation of law, shall be in writing and signed by both Parties.
- (c) *Interpretation.* Any ambiguity in this BAA shall be resolved to permit Covered Entity and Business Associate to comply with HIPAA and HITECH.