

## Terms

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### Assurance Media, LLC Technologies Agreement

This online version of the Assurance Media Technologies Agreement (this "Agreement") is made and entered into by and between Assurance Media Technologies, Inc. or one of its subsidiaries as designated in the Sales Order ("Assurance Media") and the customer ("Customer") identified in the Sales Order that specifically references this Agreement. Capitalized terms are defined below. This Agreement sets forth the terms and conditions under which Assurance Media shall provide the Products and/or Services described in the Sales Order. The Sales Order shall reference and be governed by this Agreement. THE PERSON WHO ACCEPTS THIS AGREEMENT AND THE SALES ORDER REPRESENTS AND WARRANTS THAT HE OR SHE HAS THE POWER AND AUTHORITY TO BIND CUSTOMER AND, ACKNOWLEDGES ON BEHALF OF CUSTOMER THAT HE OR SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

This Agreement and the Sales Order constitute the complete and exclusive agreement between the parties concerning the subject matter of this Agreement and supersedes all oral or written proposals, negotiations, conversations and other communications between the parties relating to the subject matter of this Agreement.

**Term and Termination.** This Agreement shall remain in effect until terminated as provided herein and any Sales Order shall remain in effect for the term specified in such Sales Order unless terminated earlier as provided in this Agreement. Either party may terminate this Agreement or a Sales Order if the other party materially breaches this Agreement or such Sales Order, as the case may be, and does not cure such breach within thirty (30) days after the non-breaching party gives written notice of such breach describing in detail the specific nature and dates of the material breach. Either party may terminate this Agreement without cause when there are no outstanding Sales Orders. Termination of this Agreement in accordance with this Section shall also result in the termination of all outstanding Sales Orders. Any terms of this Agreement that by their nature extend beyond the expiration or termination of this Agreement, including the terms of the sections entitled Charges and Payment, Intellectual Property Rights and Limitation of Liability, shall remain in effect until fulfilled.

**Sales Orders.** If there is a conflict between the terms and conditions of this Agreement and the terms and conditions of a Sales Order (or any other document that the parties may execute), the terms and conditions of this Agreement prevail unless the conflicting term in the Sales Order expressly states that it is modifying the terms and conditions of this Agreement for that particular Sales Order. If not otherwise subject to a signed Sales Order, a Product or Service becomes subject to this Agreement when Assurance Media accepts Customer's order by: (a) providing Customer a Sales Order; (b) shipping the Product or (c) providing the Service. Customer accepts the additional terms in a Sales Order by doing any of the following: (a) signing the Sales Order or issuing a purchase order or similar document referencing the Sales Order; (b) using the relevant Product or Service, or allowing others to do so or (c) making any payment for the relevant Product or Service. The use of pre-printed forms, including but not limited to purchase orders, e-mail or acknowledgements, shall be for convenience only and all pre-printed terms and conditions stated on such forms are void and of no effect. All orders for Products or Services are subject to approval by Assurance Media at its corporate headquarters in Wilmington, Delaware.

**Charges and Payment.** Customer shall pay Assurance Media for Products and/or Services in accordance with the amounts set forth in the Sales Order, or if not so specified, then within thirty (30) days of the date of invoice, and all payments shall be made in U.S. Dollars without reduction. If any authority imposes a tax, duty, levy or fee, excluding those based on Assurance Media's net income, upon any Products or Services supplied by Assurance Media under this Agreement, Customer agrees to pay that amount as specified in the invoice or supply Assurance Media with exemption documentation. Customer's failure to pay according to the terms of this Agreement shall entitle Assurance Media, without prejudice to its other rights and remedies under this Agreement, to charge interest on a daily basis from the original due date at the rate of the lesser of 1.0% per month or the maximum amount permissible by law. Payment received when there are more than one past due invoices shall be applied at Assurance Media's discretion. Customer shall reimburse Assurance Media for all reasonable costs incurred by Assurance Media in collecting past due amounts, including collection agency fees, reasonable attorney's fees and court costs. Unless otherwise specified in the relevant Sales Order, Assurance Media may increase recurring charges for Products and Services (including hourly rates) by giving Customer sixty (60) days prior written notice.

**Assignment.** This Agreement may not be assigned, sublicensed or otherwise transferred, in whole or in part, by

Customer, whether by operation of law or otherwise, without Assurance Media's prior written consent. Any attempted assignment in violation of this Section will be void. Customer agrees that all Products, Services and Work Product shall be used solely within Customer's business enterprise, and shall not be remarketed or leased to third parties.

**Governing Law; Actions.** All rights, duties and obligations arising from or relating in any manner to the subject matter of this Agreement shall be governed by and construed under the laws of the State of Delaware applicable to agreements made and fully performed therein, without regard to its conflict of laws provisions. The state courts of the State of Delaware or the Federal District Court for the state of Delaware shall have sole and exclusive jurisdiction to hear and determine any dispute or controversy arising under or concerning this Agreement. Neither party shall bring a legal action against the other relating to the subject matter of this Agreement more than two (2) years after the cause of action arose. Nothing in this Agreement affects any statutory rights that cannot be waived or limited by contract under applicable law.

**Limitation of Liability.** Regardless of the basis on which Customer is entitled to claim damages from Assurance Media (including fundamental breach, negligence, misrepresentation or other contract or tort claim), Assurance Media is liable only for the amount of any actual direct damages, which amount shall be limited in the aggregate to the greater of \$25,000 or the charges (in the case of recurring charges, up to a maximum of 6 months' charges) actually paid by Customer for the Product, Work Product or Service that is the subject of the claim. This limit also applies to any of Assurance Media's affiliates, subsidiaries, suppliers and subcontractors, and is the maximum for which this group shall be collectively responsible. This limit does not apply to any damages for bodily injury (including death) and damage to real property and tangible personal property. In no event shall Assurance Media, its subsidiaries, affiliates, suppliers or subcontractors be liable for (i) any third-party claims against Customer for losses or damages (other than those under the immediately preceding sentence), (ii) loss of or damage to Customer's records or data or (iii) special, incidental or consequential damages (including lost profits or savings), even if they are informed of their possibility. These limitations shall apply despite the failure of the essential purpose of any limited remedy.

**Force Majeure.** No delay or default in performance of any obligation by either party, excepting all obligations to make payments hereunder, shall constitute a breach of this Agreement to the extent such default or delay is caused, directly or indirectly, by an event beyond the reasonable control of the party unable to perform, including fire, flood, earthquake, elements of nature, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, failure of the Internet or strikes, lockouts or labor difficulties.

**Severability - Entire Agreement.** If any particular provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. This Agreement, including all applicable Sales Order, constitute the complete and exclusive agreement between the parties concerning the subject matter of this Agreement and supersede all oral or written proposals, negotiations, conversations and other communications between the parties relating to the subject matter of this Agreement. All applicable Sales Orders are hereby incorporated by reference and made a part of this Agreement.

**Counterparts; Reproduction; & No Third Party Beneficiaries.** This Agreement may be signed in one or more counterparts, each of which shall be considered an original, but all of which together form one and the same instrument. Once any required signatures are obtained, any reproduction of this Agreement or any Sales Order made by reliable means (for example, photocopy or facsimile) is considered an original, unless prohibited by local law; provided, however, that this shall not preclude either party from requiring the exchange of original signatures. This Agreement does not create any benefits, rights, claims, obligations, or causes of action in, to, or on behalf of, any person or entity other than to Assurance Media and Customer under this Agreement, except as set forth in the Limitation of Liability section.

**Notices & Changes.** Except as otherwise specified in this Agreement, all notices, required or permitted under this Agreement must be given in writing to the addresses set forth above by reputable overnight courier, registered or certified first class mail, return receipt requested. Changes or waivers to this Agreement may be made only in writing signed by both parties. Changes in any other form, including additional or different terms in any purchase order or other written communication from Customer, are void.

**Representations.** Assurance Media and Customer each represent and warrant to the other that: (i) it has all requisite

power and authority to execute, deliver and perform its obligations under this Agreement; (ii) its signing of and agreement to this Agreement has been duly authorized by all requisite corporate actions and (iii) this Agreement is a valid and binding obligation, enforceable against it in accordance with its terms (assuming the due authorization, execution, and delivery by the other).

**PRODUCTS: Sections 1 thru 7 shall apply to any Sales Order in which Customer has agreed to acquire Product(s) from Assurance Media. In the event Customer only acquires Service(s) these terms shall not apply:**

- 1. Hardware, Software & Third-Party Services.** Subject to the terms herein, Customer agrees to purchase and Assurance Media agrees to sell, license and/or transfer, the Products set forth in a Sales Order. Hardware is sold to Customer subject to any additional terms and conditions (including manufacturer warranty provisions) provided with such Hardware by Assurance Media or Assurance Media's supplier. This Agreement does not transfer title to Software. Customer shall receive only the rights set forth in a license agreement for the Software to be provided by Assurance Media or Assurance Media's supplier. Third-Party Services are sold by Assurance Media but provided by the Product supplier or other third party under a separate agreement to be provided by Assurance Media or Assurance Media's supplier. Customer agrees to comply with the terms and conditions of, and, if Assurance Media so requests, to execute, any separate agreement provided with any Hardware, Software and/or Third Party Services and deliver it to Assurance Media or Assurance Media's supplier. If Customer breaches such agreement(s), Assurance Media and Assurance Media's supplier each shall have the right to enforce such agreement(s) directly against Customer.
- 2. Delivery.** Unless otherwise set forth in the Sales Order, all shipments under this Agreement are F.O.B. Assurance Media's or Assurance Media's supplier's shipping dock. Delivery of Products to a commercial carrier at Assurance Media's or Assurance Media's supplier's loading dock (or as otherwise designated by Assurance Media, such as the electronic transmission of Software) will constitute delivery to Customer, and any risk of loss and any cost and responsibility for insurance, claims, delivery, loss or damage (including, if applicable, placement and storage) after or in connection with such delivery shall be borne by Customer. Customer acknowledges that unless otherwise indicated in the Sales Order, (i) shipping dates are estimates only which are not guaranteed and are based upon prompt receipt from Customer of all necessary shipping and other information and (ii) Assurance Media may make delivery in installments, in which case each installment shall be separately invoiced and paid for by Customer without regard to subsequent deliveries.
- 3. Title and Security Interests.** Title to Hardware and/or the license to Software shall pass to Customer when Assurance Media delivers such Products to Customer as described above. However, Assurance Media reserves a purchase money security interest in each Product and in any proceeds thereof, including insurance proceeds, until it receives the amounts due and Customer will execute and deliver all documents reasonably requested by Assurance Media to protect and maintain Assurance Media's security interest. Customer also authorizes Assurance Media to act as its agent and attorney-in-fact (where permitted by law) for the limited purpose of preparing, executing in Customer's name, and filing on its behalf, a financing statement (for example, a UCC-1) to perfect Assurance Media's purchase money security interest in each Product. Until title or license has passed to Customer, Customer shall not cause nor permit the Product to be sold, leased, or subject to a lien or other encumbrance other than Assurance Media's security interest.
- 4. Installation.** Customer acknowledges that (i) Assurance Media is not responsible for installation, maintenance, upgrading, enhancement, or error correction, of the Products or for any training or other services relating thereto (unless specifically set forth in a Sales Order) and (ii) in order to obtain the benefits desired from the Products, Customer may need to obtain and integrate with the Products various other products which are not provided by Assurance Media under this Agreement. Customer is responsible for obtaining any such additional services and products under a separate agreement from Assurance Media, the Product supplier or other qualified third party. Unless otherwise provided in a relevant Sales Order, Customer shall not delay acceptance or withhold any payment otherwise due to Assurance Media based on the installation, testing, acceptance or performance of any Products.
- 5. Cancellation & Returns.** Assurance Media may cancel any or all of the Products in a Sales Order if its supplier does not accept or cancels the applicable order from Assurance Media. Product returns are solely at the discretion of Assurance Media which, if accepted, are subject to the written authorization of the distributor and/or manufacturer.

6. **Assurance Media Referral Partners.** Assurance Media has agreements with certain organizations to promote, market and support certain Products ("Referral Partners"). When Customer orders Products under this Agreement marketed to Customer by Assurance Media's Referral Partners, Assurance Media confirms that it is responsible for providing the Products to Customer under the terms of this Agreement. Assurance Media is not responsible for (a) the actions of the Referral Partners, (b) any additional obligations Referral Partners have to Customer or (c) any products or services that Referral Partners supply to Customer under their own agreements.
7. **Product Warranty.** Assurance Media PROVIDES PRODUCTS "AS IS" WITHOUT WARRANTIES OF ANY KIND EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. HOWEVER, THIRD PARTY MANUFACTURER OR SUPPLIERS MAY PROVIDE THEIR OWN WARRANTIES TO CUSTOMER WITH THEIR PRODUCTS.

**SERVICES: Sections 8 thru 14 apply to any Sales Order in which Customer has agreed to acquire Service(s) from Assurance Media. In the event Customer only acquires Product(s) these terms shall not apply:**

8. **Services, Work Product Ownership and License.** Subject to the terms herein, Customer agrees to purchase, and Assurance Media agrees to perform, the Services set forth in a Sales Order. Assurance Media may deliver Work Product to Customer. Assurance Media or third parties shall retain all right, title and interest, including ownership of copyright in such Work Product. Assurance Media grants Customer an irrevocable, nonexclusive, paid-up license to access, use, execute, reproduce, perform and distribute copies of such Work Product for Customer's internal use, including the right to authorize others to do so on Customer's behalf.
9. **Parties Independent.** In making and performing this Agreement, the parties act and shall act at all times as independent contractors and nothing contained in this Agreement shall be construed or implied to create an agency, partnership, employer and employee relationship or any form of fiduciary relationship between Customer and Assurance Media or between any party and any officer or employee of the other party.
10. **Services Warranty.** Assurance Media warrants that each Service will be performed using reasonable care and skill and according to its current description (including any completion criteria) contained in the relevant Sales Order. THIS WARRANTY IS CUSTOMER'S EXCLUSIVE WARRANTY AND REPLACES ALL OTHER WARRANTIES OR CONDITIONS EXPRESS OR IMPLIED. FURTHER, Assurance Media DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF ANY SERVICE OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE SERVICE.
11. **Personnel; Freedom of Action.** Each party is responsible for the supervision, direction and control of its respective personnel. Assurance Media reserves the right to determine the assignment of its personnel and Assurance Media personnel shall not be restricted or prevented from performing services for others that are similar to the Services provided to Customer. Assurance Media may perform its obligations through its affiliates, subsidiaries or subcontractors selected by Assurance Media; provided, however, that Assurance Media shall not be relieved of its obligations under this Agreement as a result of such use.
12. **Cooperation.** Customer shall, at its own expense, provide Assurance Media with all reasonable cooperation necessary or appropriate for completion of the Services, including (if necessary) providing access to properly equipped facilities and obtaining all Required Consents necessary for Assurance Media to provide the Services. "Required Consents" are any consents or approvals required to give Assurance Media the right or license to access, use, and/or modify any third party software, hardware or other products or information used by Customer without infringing the ownership or license rights (including patent and copyright) of the providers or owners of such items. When Assurance Media's performance of the Services requires or is contingent upon Customer's performance of an obligation (including providing Required Consents, approval or notification or taking a recommended corrective action) under this Agreement or a relevant Sales Order, and Customer delays or withholds its performance beyond the agreed time period (or beyond five business days, if a time period is not specified), Assurance Media will be relieved of its obligation to perform such Services entirely or, if it is reasonable for Assurance Media to perform once Customer performs, until a reasonable period following Customer's performance of its responsibility.
13. **Non-Solicitation.** During the term of a Sales Order that provides for Customer's purchase of Services, and for one year following its expiration or termination, neither party, without prior written approval from the other

party, shall, directly or indirectly, through an affiliate or otherwise, solicit for employment or employ, or solicit for retention or retain as an independent contractor, the other party's employees (or any individual employed by the other party at any time in the preceding six months) with whom such party had substantial contact in the course of performing its obligations under such Sales Order. Neither general advertisements (online sites or in newspapers) nor the consideration and hiring of persons responding to such advertisements shall be deemed a breach of this Section, unless the advertisement and solicitation is undertaken as a means to circumvent or conceal a violation of this provision and/or the hiring party acts with knowledge of this hiring prohibition.

14. **Confidential Information.** Each party acknowledges that certain information that it will have access to or acquire from the other party may constitute such other party's (or its clients') confidential information including information related to the business, operations, financial information, client and patient data, and certain work product of a party. Each party shall use reasonable efforts to maintain the confidentiality of information or trade secrets provided to or obtained by such party which are either identified as confidential or trade secrets or which a reasonable person should know is confidential. Each party's obligations shall terminate if the information was in, or enters through no fault of the recipient, the public domain, or was in the recipient's possession free of any obligation of confidence at the time it was communicated to the recipient by the other party; or was properly disclosed to recipient by another person without restriction or was developed by the recipient independently of any such information.

#### **Defined Terms.**

**"Hardware"** is a machine, its features, conversions, upgrades, elements or accessories, or any combination of them. Hardware includes Assurance Media Hardware and third party Hardware.

**"Product"** is Hardware, Software or a Third-Party Service.

**"Sales Order"** shall mean one or more quotations, schedules, service orders, statements of work or other transaction-specific documents for Products and/or Services including the applicable prices, to be provided by Assurance Media under this Agreement. Certain Sales Orders may require signature if requested by either Assurance Media or Customer. Unless otherwise specified in the relevant Sales Order, the terms of each Sales Order shall be independent of and shall have no effect on the terms of any other Sales Order.

**"Service"** is the performance of a task, provision of advice and counsel, assistance, or access to a resource (such as access to an information database) Assurance Media makes available to Customer as identified in the relevant Sales Order. Services do not include Third-Party Services.

**"Software"** is a commercially available computer software program, whether preloaded on Hardware or provided separately, including related licensed materials such as documentation.

**"Third-Party Service"** is a service provided by a third party, including services related to Hardware or Software (including maintenance and support services) provided by the supplier or other third party.

**"Work Product"** means software programs, programming tools, documentation, reports and drawings- or other works of authorship that Assurance Media develops for, or otherwise delivers to, Customer