SOFTWARE LICENSE AND SERVICES AGREEMENT

SIGNATURE PAGE

THIS SOFTWARE LICENSE AND SERVICES AGREEMENT between **Jacobian US, Inc.** ("Jacobian") having an address at 8 The Green #8245, Dover, DE 19901 and **the Client as identified on the Purchase Schedule** ("Client"), and is effective as of the date the first Purchase Schedule is signed. Jacobian and Client are collectively referred to as the "Parties" or individually as a "Party."

NOTICES UNDER THIS AGREEMENT SHALL BE SENT TO THE FOLLOWING UNLESS OTHERWISE INDICATED HEREIN:

Client **At the location identified on the Purchase Schedule**	**Jacobian US, Inc.** **8 The Green #8245** **Dover, DE 19901**

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

1.1. "Jacobian Information" means all items, information, tools, methodologies, deliverables, and data (technical and non-technical, and tangible and intangible), provided by Jacobian or provided by a Jacobian Product, and any ideas, input or feedback provided to Jacobian about Jacobian's portfolio of products.

1.2. "Jacobian Product" means any item listed on a Purchase Schedule.

1.3. "Agreement" means the General Terms and Conditions together with all Purchase Schedules, exhibits, addendum, and other attachments.

1.4. "Authorized Site" means an entity that meets the requirements of Section 2.2.

1.5. "Authorized User" means (a) employees of an Authorized Site; (b) contingent workers under engaged by Client through a staffing agency to supplement its workforce or temporarily fill an employee position and are under Client's training and supervision; (c) a licensed physician with admitting privileges at an Authorized Site or who provides medical consultation at an Authorized Site.

1.6. "Client Data" means all information provided by Client to Jacobian under this Agreement.

1.7. "Client Equipment" means Client's information technology infrastructure, including computers, software, hardware, databases, electronic systems, and networks.

1.8. "Deliverables" means any output produced by a Jacobian Product.

1.9. "Documents" means reference, technical and hardware specifications, and operation/user manuals for Jacobian Products.

1.10. "**Intellectual Property Right**s" means all intellectual property rights throughout the world, including but not limited to registered or unregistered copyrights, trade secrets, patents, patent applications, designs, know-how, registered or unregistered trademarks and service marks, and trade names.

1.11. "License Start Date" or "Go-Live" means when Jacobian has completed all implementation and training tasks and the respective module(s) of Software are made available to Client for productive use, or if Jacobian has no implementation or training tasks, once Jacobian has made the Software available for installation.

1.12. "Purchase Schedule" means a Jacobian issued document so titled, or a Jacobian issued quote, which lists Jacobian Products to be provided and the associated fees.

1.13. "Services" means any implementation, training, adoption services, professional services, and Support Services.

1.14. "Software" means all copies of Jacobian owned computer program(s) (including maintenance releases) with incorporated Third-Party Content, licensed under this Agreement.

1.15. **"Software"** means all copies of Jacobian-owned computer programs, including maintenance updates, and any incorporated Third-Party Content, that are licensed under this Agreement.

1.16. **"Software as a Service" or "SaaS"** means Software that is hosted on servers owned, managed, and maintained by Jacobian or its suppliers and made available to Client through internet-connected servers and infrastructure, enabling remote access and use via a web-based interface or other supported access methods**.**

1.17. **"Support Portal"** means https://support.jacobian.com/.

1.18. **"Support Services"** means maintenance and support of Jacobian Products as set forth on the Support Portal.

1.19. **"Territory"** means the United States of America, its territories and protectorates.

1.20. **"Third-Party Content"** means all non-Jacobian owned equipment, software, algorithms, rules, analytical tools, materials, and content incorporated into a Jacobian Product.

2. OWNERSHIP; RESTRICTIONS; USE; SERVICES

2.1. **Ownership.** As between the Parties, Jacobian is the sole and exclusive owner of all Intellectual Property Rights in and to the Jacobian Information and Client is the sole and exclusive owner of all Intellectual Property Rights in and to Client Data.

2.2. **Authorized Site.** A facility is an Authorized Site if it is (a) Controlled by Client, and (b) has been added to the applicable Purchase Schedule. "Controlled" means Client possessing more than fifty percent (50%) of the voting stock or similar ownership interest.

2.3. **License Grant.**

2.3.1. ***Software and Documents License.*** During the term of the applicable Purchase Schedule, Jacobian grants Client a limited, nonexclusive, nontransferable, subscription-based license within the Territory to: (i) install, for non-SaaS Software, the Software at Client's designated installation site(s) listed in the applicable Purchase Schedule; and (ii) use the Software and any associated Documents solely for Client's internal use in connection with assisting in the creation, transcription, editing, management, administration, and analysis of clinical information concerning Authorized Users' patients at Authorized Sites.

2.3.2. ***Deliverables License.*** With respect to Deliverables, Jacobian grants Client a limited, nonexclusive, nontransferable, perpetual license within the Territory to use the Deliverables for Client's internal purposes and authorizes Client to disclose Deliverables to a third party solely for insurance reimbursement purposes.

2.4. **License Restrictions.** Client shall not nor shall it allow Authorized Users to: (a) disassemble, decompile, reverse compile or reverse engineer the Products, or take any action in order to derive a source code equivalent of the Jacobian Products; (b) provide third-parties access to Jacobian Information or release to any third party results of any benchmark, performance, or functionality tests performed on the Jacobian Products; (c) release any Jacobian Information to a third-party; (d) incorporate, bundle or pre-load any portion of the Jacobian Products into any software or computing device of Client except as expressly set forth in a Purchase Schedule: (e) copy, modify or create derivative works of the Jacobian Products; (f) sublicense the Jacobian Products or any portion thereof to a third party, or otherwise permit use of the Jacobian Products including, without limitation, timesharing or networking use by any third party; (g) link, combine or use the Products with any open source software; or (h) cause the Jacobian Products to export or import data to/from a third-party product similar to the Jacobian Product.

2.5. **Third-Party Access to or Use of Jacobian Information.** Client is prohibited from providing or allowing a third-party to view, use, display, or otherwise interact with Jacobian Information, including for the development of an interface, unless the third-party has executed a Jacobian prepared confidentiality agreement and is added as an Authorized Site.

2.6. **Suspension.** Jacobian may temporarily suspend portions of its performance in the event (a) of a denial of service attack or other attack on the Software; (b) Jacobian determines there is a reasonable likelihood of risk to Client, other Jacobian customers, Jacobian, or the Jacobian Products if performance is not suspended; (c) Jacobian determines it is prudent to do so for legal or regulatory reasons; or (d) Client is in breach of the Agreement.

2.7. **Verification.** Upon thirty (30) day notice, and no more than once every twelve (12) months, Client shall allow Jacobian, or a third-party designated by Jacobian, to inspect and audit applicable books and records to verify Client's compliance with its obligations under this Agreement. In addition to other available remedies, the cost of the audit will be paid for by Client if the audit reveals a violation of Jacobian's Intellectual Property Rights, licenses issued under the Agreement, or an unauthorized release or use of Jacobian Information.

2.8. **Third-Party Content.** Jacobian reserves the right to unilaterally add or delete Third-Party Content required by the Third-Party Content provider as a condition of use ("Passthrough Provision"). Passthrough Provisions added under this section will not result in Client's payment of fees to the Third-Party in addition to those paid to Jacobian. Passthrough Provision are found on Exhibit B.

2.9. **Use of Client Data.** When Client Data is uploaded, submitted, stored, or otherwise sent to Jacobian through or in connection with a Jacobian Product, Client gives Jacobian the right to aggregate and modify Client Data, and develop, enhance, deliver, and support the Jacobian Product(s) and their underlying technologies. This right is subject to all laws restricting the use of the applicable types of Client Data.

3. ADDITIONAL OBLIGATIONS

3.1. **Jacobian's Obligations.**

3.1.1. ***Security.*** Jacobian is responsible for the security of, access to, and use of Client Data, and the security of any Jacobian Product that is installed or stored on Jacobian equipment or hosted on by a third-party on behalf of Jacobian.

3.1.2. ***Support.*** Support Services are not provided if Client: (i) is in breach of the Agreement; (ii) fails to place a Support Service request as set forth in the Support Portal; (iii) fails to provide Jacobian reasonable access; and (v) has not installed the most recent maintenance release.

3.1.3. ***Access.*** To the extent required by law, Jacobian and applicable subcontractors, will make available to the Secretary of Health and Human Services or Comptroller General of the United States, or any of their duly authorized representatives, this Agreement and such books, documents and records necessary to verify the cost of services furnished to Client by Jacobian.

3.2. **Client Obligations.**

3.2.1. ***General.*** Client is responsible for: (i) ensuring Authorized Sites and Authorized Users adhere to the requirements of the Agreement; (ii) its business decisions and any medical care it provides; (iii) the acquisition and maintenance of Client Equipment that can operate the Jacobian Product and any necessary software; (iv) installing maintenance releases to Jacobian Products on Client Equipment; (v) performing routine backups (e.g., incremental backups performed daily, and full backups performed weekly) of its data and providing Jacobian with only copies of Client's original data sets; (vi) reasonably cooperating with requests made by Jacobian; and (vii) delays or deficiencies caused by special requests made by Client or a government authority (authorized to regulate or supervise Client). Reasonable cooperation entails but is not limited to: (i) adhering to the I&T plan; (ii) providing constant and informative communication; and (iii) providing the necessary access, data, personnel, facilities, equipment, and technical resources contemplated and required.

3.2.2. ***Security.*** Client is responsible for: (i) security of, access to, and use of Jacobian Information; and (ii) within fifteen (15) calendar days of discovery, notifying Jacobian of unauthorized use, disclosure of, or access to Jacobian Information.

4. CONFIDENTIAL INFORMATION

4.1. **Confidential Information.** For the purposes of this Agreement, "Confidential Information" means any business, technical, or personnel information that a Party ("Disclosing Party") discloses to the other Party ("Receiving Party") that: (a) if disclosed in writing, is marked "confidential" or "proprietary" at the time of disclosure; (b) if disclosed orally, is identified as "confidential" or "proprietary" at the time of disclosure, or is later summarized in writing by the Disclosing Party to the Receiving Party; or (c) if not so identified or marked as stated previously, information that would be reasonably understood to be confidential due to the nature of the information or the circumstances in which it was disclosed.

4.2. **Confidential Treatment.** Each Party will: (a) keep the Disclosing Party's Confidential Information confidential; (b) use the Disclosing Party's Confidential Information only as authorized or necessary to perform its obligations under this Agreement; and (c) protect the Disclosing Party's Confidential Information by using the same degree of care, but not less than a reasonable degree of care, to prevent the unauthorized disclosure or use of Confidential Information as the Receiving Party uses to protect its own confidential information of a like nature. Neither Party acquires rights to the other Party's Confidential Information, and a Receiving Party shall hold harmless the Disclosing Party, from any unauthorized use or disclosure by the Receiving Party, or its suppliers, of the Disclosing Party's Confidential Information.

4.3. **Disclosures Required by Law.** The Receiving Party may release Confidential Information as required to comply with applicable law, regulation, valid court order, or other binding requirement of a competent governmental authority, provided that in any such case, where permitted by applicable law: (i) the Receiving Party will immediately notify the Disclosing Party in writing of any such requirement (and in any event, prior to disclosure of Confidential Information); (ii) the Receiving Party provides all reasonable assistance to the Disclosing Party in any attempt by the Disclosing Party to limit or prevent the disclosure of Confidential Information; and (iii) the Receiving Party agrees to furnish only that portion of the Confidential Information that is legally required to be furnished and, in consultation with the Disclosing Party, to use all reasonable efforts to ensure, to the extent possible, that the information is maintained in confidence by the party to whom it is furnished.

4.4. **Exceptions.** A Party's Confidential Information does not include information that: (a) is made available to the public by the Disclosing Party; (b) was known to the Receiving Party prior to its receipt from the Disclosing Party as evidenced by the Receiving Party's written records; (c) is received by the Receiving Party from a third party who is not subject to an obligation of confidentiality and without breach of any agreement or violation of law to the Disclosing Party and without breach of any agreement or violation of law; or (d) is independently developed by the Receiving Party without reference to Confidential Information received hereunder. The Parties agree that the existence of a copyright notice shall not cause or be construed to cause the Software or Documents to be a published copyrighted work or in the public domain. A Party's information that would otherwise be Confidential Information, but for a breach of an agreement or violation of law, shall remain the Disclosing Party's Confidential Information.

5. JACOBIAN WARRANTIES; INDEMNIFICATION

5.1. **Jacobian Warranties.**

5.1.1. ***Debarment/Exclusion from Participation Warranty.*** Jacobian warrants to Client that neither it nor any of its officers, directors, or employees performing Jacobian's obligations under the Agreement (collectively "Jacobian Party") is excluded from participation in any applicable Federal or State health benefits program. Upon discovery that a Jacobian Party is excluded, Jacobian will immediately remove the Jacobian Party from involvement with this Agreement. REMOVAL OF A JACOBIAN PARTY FOR EXCLUSION IS CLIENT'S SOLE REMEDY, UNLESS JACOBIAN IS THE EXCLUDED PARTY, IN WHICH CASE CLIENT'S REMEDY IS TO TERMINATE THE AGREEMENT AND TO RECEIVE A PRORATED REFUND OF PREPAID FEES.

5.1.2. ***Software Warranty.*** Jacobian warrants to Client that the Software will substantially conform to the Documentation; however, Jacobian does not warrant that the Software will operate without interruption or be error-free, nor that all minor non-conformities with the Documentation can be corrected. If Client provides written notice that the Software does not meet this warranty, Jacobian will provide Support Services. IF JACOBIAN IS UNABLE TO REMEDY A BREACH OF THIS WARRANTY, CLIENT'S REMEDY SHALL BE TO TERMINATE THE JACOBIAN PRODUCT THAT FAILS TO MEET THE WARRANTY AND RECEIVE A PRORATED REFUND OF APPLICABLE PREPAID FEES.

5.1.3. ***Hardware Warranty.*** Any warranty for Hardware is provided by the manufacturer of the Hardware. "Hardware" means tools, machinery, and other tangible equipment.

5.1.4. ***Services Warranty.*** Jacobian warrants to Client that Services will be performed in a workman-like manner, using generally recognized commercial practices and standards. All notices of a breach of this warranty must be provided by Client to Jacobian within thirty (30) days after the Service was performed. IF JACOBIAN IS UNABLE TO REMEDY A BREACH OF THIS WARRANTY, CLIENT'S REMEDY IS, AT JACOBIAN'S OPTION TO EITHER: (I) RE-PERFORM THE SERVICES IN A MANNER CONSISTENT WITH THIS WARRANTY; OR (II) REFUND TO CLIENT ANY AMOUNTS PAID FOR THE SERVICES THAT FAIL TO MEET THIS WARRANTY AND TERMINATE THE SERVICES GIVING RISE TO THE CLAIM WITHOUT FURTHER OBLIGATION ON THE PART OF EITHER PARTY.

5.1.5. ***Disabling Code Warranty.*** Jacobian warrants to Client that after using reasonable industry-standard anti-virus technology that the Jacobian Product does not contain viruses, worms, trojan horses, spyware, ransomware, trap doors, time bombs, or other similar devices and techniques. Nothing prevents the inclusion of technical protection measures in the Jacobian Product for purposes of preventing unauthorized use under the license agreement, are not considered Disabling Code. IF JACOBIAN IS UNABLE TO REMEDY A BREACH OF THIS WARRANTY, CLIENT'S REMEDY SHALL BE TO TERMINATE THE JACOBIAN PRODUCT THAT FAILS TO MEET THE WARRANTY AND RECEIVE A PRORATED CREDIT OF APPLICABLE PREPAID ANNUAL FEES.

5.2. **Client Warranties.**

5.2.1. ***Client Data Use.*** Client warrants that it has all rights and permissions necessary to grant Jacobian the authorizations to use Client Data as set forth in the Agreement.

5.3. **Jacobian Indemnification.** Jacobian will indemnify, defend, and hold Client harmless from amounts finally awarded against Client (or paid under a settlement controlled by Jacobian) arising from a third-party claim that Client's use of the Jacobian Product infringes, misappropriates, or violates that third party's U.S. patent, trademark, copyright, or trade secret (an "IP Claim"). Client will promptly notify Jacobian in writing of any IP Claim and provide reasonable information and cooperation. The selection of counsel, the defense, and any settlement of the IP Claim is within the sole control of Jacobian. Client will reasonably cooperate in Jacobian's defense and settlement of an IP Claim. If use of the Jacobian Product is enjoined or Jacobian reasonably determines it is likely to be enjoined, Jacobian will, at its expense and option: (i) procure the right for Client to continue using the Jacobian Product; (ii) replace or modify the Jacobian Product so it is non-infringing and materially comparable; or (iii) terminate the affected Jacobian Product and provide a pro-rated refund of prepaid fees. Jacobian has no obligation under this Section to the extent the IP Claim results solely from use or licensure of the Jacobian Product in combination with any item not furnished by Jacobian and the claim would not have arisen from use of the Jacobian

Product alone. THIS SECTION STATES CLIENT'S REMEDY FOR ANY ALLEGED INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS OR IMPLIED.

5.4. <u>Exclusions.</u>

5.4.1. ***Warranty Exclusions.*** THE LIMITED WARRANTIES SET FORTH IN THIS AGREEMENT DO NOT APPLY TO PROBLEMS ARISING OUT OF OR RELATED TO: (I) 3AM PRODUCTS, OR THE MEDIA ON WHICH IT IS PROVIDED, THAT IS MODIFIED OR DAMAGED BY CLIENT; (II) ANY OPERATION OR USE OF, THE JACOBIAN PRODUCT NOT IN THE DOCUMENTS, INCLUDING ANY INCORPORATION OR USE WITH A TECHNOLOGY OR PRODUCT, NOT SPECIFIED IN THE DOCUMENTS OR EXPRESSLY AUTHORIZED BY JACOBIAN IN WRITING; (III) CLIENT'S OR ANY AUTHORIZED USER'S NEGLIGENCE, ABUSE, MISAPPLICATION OR MISUSE OF THE JACOBIAN PRODUCTS; (IV) CLIENT'S FAILURE TO PROMPTLY INSTALL MAINTENANCE RELEASES MADE AVAILABLE BY JACOBIAN; (V) OPERATION OF OR ACCESS TO CLIENT EQUIPMENT; AND (VI) THIRD PARTY PRODUCTS.

5.4.2. ***Third-Party Content.*** IF JACOBIAN RECEIVES A WARRANTY ON THE THIRD-PARTY CONTENT, TO THE EXTENT ALLOWABLE, SUCH WARRANTY SHALL BE PASSED THROUGH TO CLIENT, OTHERWISE, ALL THIRD-PARTY CONTENT IS PROVIDED "AS-IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

5.4.3. ***Disclaimer.*** EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES SET FORTH IN SECTION 5, JACOBIAN DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND THOSE ARISING FROM TRADE USAGE OR COURSE OF DEALING.

6. LIMITATIONS OF LIABILITY

6.1. <u>EXCLUDED DAMAGES.</u> JACOBIAN IS NOT LIABLE FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR ECONOMIC LOSS, BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR ANY OTHER LEGAL THEORY EVEN IF JACOBIAN HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, CLIENT DATA, OR CLIENT'S INABILITY TO OBTAIN OR ACCESS, MEDICAL OR OTHER DATA.

6.2. <u>MAXIMUM LIABILITY</u>. JACOBIAN'S MAXIMUM CUMULATIVE ANNUAL LIABILITY FOR ALL DAMAGES, COSTS OR EXPENSES OF ANY TYPE OR NATURE BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR ANY OTHER LEGAL THEORY IS LIMITED TO TWO (2) TIMES THE FEES PAID TO JACOBIAN FOR THE JACOBIAN PRODUCT GIVING RISE TO THE LIABILITY, IN THE YEAR LIABILITY AROSE. ALL OTHER LIABILITIES NOT SPECIFICALLY LINKED TO A JACOBIAN PRODUCT IS LIMITED TO THE FEES PAID IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. JACOBIAN'S MAXIMUM CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED ONE MILLION DOLLARS ($1,000,000). THIS SECTION DOES NOT APPLY TO INDEMNIFICATION OBLIGATIONS.

7. FEES; AND INVOICING

7.1. <u>Payment Terms.</u> All fees are to be paid in U.S. dollars and are due thirty (30) days after the date of the invoice ("Payment Period"). During the Payment Period, Client may dispute an invoiced item it reasonably believes is incorrect, and for which Client intends to withhold payment; provided that within the Payment Period Client: (a) gives Jacobian written notice detailing the specific invoiced items in dispute, and the basis of the dispute: and (b) pays all undisputed amounts in full.

7.2. <u>Late Payment; Suspension.</u> Undisputed fees that remain unpaid following the Payment Period are subject to a late payment charge at a rate of up to one percent (1%) per month or as otherwise permitted by law. If Client fails to pay undisputed amounts within the Payment Period, Jacobian may suspend its obligations until all past due fees are fully paid.

7.3. <u>Invoicing.</u> Invoicing. Software fees are invoiced at Go-Live and annually thereafter. Service fees are invoiced when added to the Agreement and, for Services that recur annually, annually thereafter.

7.4. <u>Fee Increases.</u> Fees in the Purchase Schedule may increase by up to 5% annually unless the Purchase Schedule states otherwise.

7.5. <u>Delays and Additional Expenses</u>. If Client delays or postpones a Purchase Scheduled event with less than seven (7) day notice, Client shall pay to Jacobian all reasonably incurred and nonrefundable expenses associated with the event. If business travel and miscellaneous expense are not included in the quoted fees, they will be billed to Client without mark-up.

7.6. **<u>Taxes.</u>** Fees do not include applicable taxes, duties, or amounts levied in place of taxes (collectively "Taxes"). Jacobian will invoice Client all applicable Taxes unless Client provides Jacobian with a tax-exempt form. Client is not responsible for paying Jacobian's personal property taxes on Jacobian Products nor taxes based on Jacobian's net income.

8. TERM AND TERMINATION

8.1. **<u>Term of the Agreement.</u>** The Agreement begins on the Effective Date and ends on the termination of the last Purchase Schedule.

8.2. **<u>Termination for Cause.</u>** Either Party may terminate the Agreement if: (a) the other Party has failed to take reasonable steps to cure a breach of this Agreement within thirty (30) days after receiving written notice describing the breach; (b) the other Party becomes insolvent; or (c) either Party ceases to conduct business relevant hereunder. If Client becomes a competitor of Jacobian, Jacobian may immediately terminate the Agreement or any portion thereof.

8.3. **<u>Obligations upon Termination.</u>** Upon termination of this Agreement or a Jacobian Product from the Agreement, each Party shall immediately cease use of the other Party's relevant Confidential Information. Within fifteen (15) days of termination, Client shall: (i) de-install the relevant Software, or if the Software requires Jacobian to assist in the de-instillation have scheduled with Jacobian a date acceptable to Jacobian for Jacobian to de-install the Software; and (ii) return or destroy all applicable Documents. Within ninety (90) days of the termination of the Agreement, the Parties will have destroyed all the other Party's Confidential Information, except those copies necessary to comply with legal obligations or justify conclusions or results, or where destruction is infeasible.

9. GENERAL PROVISIONS

9.1. **<u>Entire Agreement.</u>** This Agreement constitutes the entire agreement between the Parties with respect to its subject matter and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral. No amendment or ancillary obligation is binding unless set out in a written instrument that expressly refers to this Agreement and is signed by both Parties. Terms or conditions on purchase orders or in Client's vendor-registration system are rejected and have no force or effect.

9.2. **<u>Adding Products.</u>** A Software or Service may be licensed through the execution of an Amendment or a Jacobian prepared quote that references the Agreement.

9.3. **<u>Interpretation, Priority.</u>** The headings and captions contained in this Agreement are for convenience only and shall not constitute a part hereof. In the event of any conflict of terms, the more specific parts of the Agreement prevail over more general; as such, any conflict shall be resolved in the following order of priority unless specifically stated otherwise (the more specific and controlling document listed first): Purchase Schedule, Exhibit, then General Terms and Conditions.

9.4. **<u>Assignment.</u>** Client shall not assign or otherwise transfer this Agreement, including but not limited to, an acquisition or change of control of Client (*e.g.*, merger or sale) without Jacobian's consent, which shall not be unreasonably withheld, and any attempt to do so shall be void.

9.5. **<u>Force Majeure.</u>** Neither Party is liable for any failure or delay in performing this Agreement caused by events beyond its reasonable control, including *acts* of God, war, labor disputes, embargoes, or government actions ("Force Majeure Event"). If a Force Majeure Event prevents payment or performance, the Parties will work in good faith to reach a mutually acceptable solution, and affected obligations will be suspended as necessary.

9.6. **<u>Announcements; Trade Name.</u>** Neither Party may use the other Party's trade name or logo or issue an announcement concerning this Agreement to the trade press or industry consultants without prior written consent.

9.7. **<u>Notices.</u>** All notices shall be given to the address listed on the Signature Page. Any notices of a breach of warranty or indemnification obligations must be delivered by personal delivery, certified or registered mail, overnight carrier, or to a designated email address. A change of address or representative shall be promptly communicated in writing to the other Party.

9.8. **<u>Governing Law.</u>** This Agreement and any questions, claims, disputes or litigation concerning or arising from its creation, performance or termination, shall be venued in and governed by the laws of the State of Delaware, without giving effect to the conflicts of laws doctrines of any state. The Parties consent to the personal jurisdiction of the venued court.

9.9. **<u>Dispute Resolution.</u>** The parties shall attempt in good faith to resolve any controversy, claim or dispute (cumulatively, "Dispute") arising from or relating to this Agreement by negotiations between representatives of the parties. Prior to any litigation, the parties agree that "C-Level" executive from each party will discuss with one another to seek a resolution. In the event of litigation both parties hereby waive any right of trial by jury. Nothing herein shall preclude a Party from taking any action necessary to preclude imminent and irreparable harm, nor diminish a Party's obligation to minimize damages.

9.10. **<u>No Third-Party Beneficiaries.</u>** Nothing expressed or implied in this Agreement is intended, nor shall be deemed, to confer benefits on any third party. The sole beneficiaries of this Agreement are Jacobian and Client.

9.11. **<u>Insurance.</u>** The Parties shall each maintain insurance policies appropriate to its obligations under this Agreement, certificates of which shall be provided to the other Party upon request.

9.12. **<u>Compliance with Laws.</u>** Each Party shall comply with the provisions of all applicable laws, ordinances, regulations, and orders pertaining to the performance of its obligations under this Agreement, including applicable data privacy laws. Each Party's compliance with relevant privacy laws is further detailed in Exhibit A.

9.13. **<u>Subcontractors.</u>** Jacobian is responsible for the acts and omissions of any subcontractors it utilizes in the performance of its obligations under this Agreement.

9.14. **<u>Independent Contractors.</u>** Nothing contained in this Agreement shall be construed to create the relationship of employer and employee, principal and agent, partnership or joint venture, or any other fiduciary relationship.

9.15. **<u>Survival.</u>** All provisions of this Agreement reasonably expected to survive termination shall survive, including all confidentiality requirements.

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Exhibit A

Business Associates Addendum

This Business Associate Addendum ("BAA") is entered into as of the Agreement Effective Date by and between **Jacobian** ("Business Associate") and **Client** ("Covered Entity").

1. **Definitions.** Terms used in this BAA, whether lower case or capitalized, but not otherwise defined, have the same meaning as those terms in the HIPAA Rules.

   1.1. **"HIPAA Rules"** means the Health Insurance Portability and Accountability Act of 1996, and the rules and regulations promulgated thereunder, and Subtitle D of the Health Information Technology for Economic and Clinical Health Act, and the rules and regulations promulgated thereunder.

   1.2. **"Protected Health Information"** or **"PHI"** when used in this BAA have the same meanings given to such terms in the HIPAA Rules, limited to the information that Business Associate creates, receives, maintains, or transmits from or on behalf of Covered Entity.

   1.3. **"Underlying Agreement"** means any agreement between the Parties under which Business Associate creates, receives, maintains, or transmits Protected Health Information (PHI) on behalf of Covered Entity.

   1.4. **"Unsuccessful Security Incidents"** means, but is not limited to, pings and other broadcast attacks on Business Associate's firewall, port scans, unsuccessful log-on attempts, denials of service and any combination of the above, so long as no such incident results in unauthorized access, use or disclosure of PHI.

2. **Use and Disclosure of PHI.**

   2.1. Use and Disclosure as Permitted by Law. Business Associate will not use or further disclose PHI other than as permitted or required by this BAA or as required by federal or state law.

   2.2. Permitted Uses and Disclosures by Business Associate. Business Associate may use and disclose PHI:

   1. as provided for in, or necessary to perform the services in, the Underlying Agreement(s);
   2. for the proper management and administration of Business Associate or to carry out its legal responsibilities. Disclosure under this Section must be Required by Law or Business Associate must first obtain reasonable assurances from the person or entity to whom the PHI is disclosed that it will remain confidential, be used or further disclosed only as Required by Law for the purpose for which it was disclosed, and the person or entity will notify Business Associate of any instances of which it is aware in which the confidentiality of the PHI has been breached;
   3. to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B); and
   4. to de-identify PHI in accordance with the standards set forth in 45 CFR § 164.514(b).

   2.3. Limited Data Set & Minimum Necessary. In accordance with 45 CFR §§ 164.502(b) and 164.514(d), Business Associate will use or disclose PHI, to the extent practicable, as a limited data set or limited to the minimum necessary amount of PHI to carry out the intended purpose of the use or disclosure.

   2.4. Reporting of Violations. Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR §164.502(j)(1).

3. **Obligations and Activities of Business Associate.**

   3.1. Subcontractors. In accordance with 45 CFR §§ 164.308(b)(2), 314(a)(2)(i), and 164.502(e)(1)(ii), Business Associate will enter into a written agreement with any subcontractor that creates, receives, maintains or transmits PHI on behalf of Business Associate for the software and services provided by Business Associate to Covered Entity. The written agreement will obtain satisfactory assurances from the agent or subcontractor that it will appropriately safeguard the PHI in accordance with the HIPAA Rules.

   3.2. Access to Data. Business Associate will make available to Covered Entity PHI in a Designated Record Set, for PHI that Covered Entity does not otherwise possess a copy of or maintain, as necessary to satisfy Covered Entity's obligations under 45 CFR § 164.524. If an Individual makes a request or inquiry directly to Business Associate about the right of access, Business Associate will direct the Individual to contact the Individual's healthcare provider or payor.

   3.3. Amendment. Business Associate will amend PHI in a Designated Record Set, for PHI that Covered Entity does not otherwise possess a copy of or maintain, as directed or agreed to by Covered Entity pursuant to 45 CFR § 164.526. If an Individual makes a request or inquiry directly to Business Associate about amending PHI, Business Associate will direct the Individual to contact the Individual's healthcare provider or payor.

3.4. Document and Accounting of Disclosures. Business Associate will 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. If an Individual makes a request or inquiry directly to Business Associate about an accounting of disclosures, Business Associate will direct the Individual to contact the Individual's healthcare provider or payor.

3.5. Performance of Covered Entity's Obligations. If performing Covered Entity obligations under the Underlying Agreement, Business Associate will comply with the HIPAA Rules applicable to Covered Entity.

3.6. Internal Records. Business Associate will make its internal practices, books, and records, relating to the use and disclosure of PHI, available to the Secretary, for purposes of the Secretary determining Covered Entity's and Business Associate's compliance with the HIPAA Rules, and this BAA.

3.7. Sanctions. As required by 45 CFR §§ 164.308 and 164.530, Business Associate will document and apply appropriate sanctions against its employees, agents, and subcontractors who fail to comply with this BAA or the HIPAA Rules.

4. Unauthorized Use or Disclosure, Security Incidents, and Breaches. Business Associate will notify Covered Entity of a Use or Disclosure of PHI not permitted under this BAA, Security Incident, or Breach without unreasonable delay, and in any event no more than 30 days following discovery.

4.1. Notice of an Unauthorized Use or Disclosure, or a Security Incident. Business Associate will notify Covered Entity upon discovery of (a) any use or disclosure of PHI not permitted by this BAA and (b) any Security Incident involving PHI. This Section constitutes notice by Business Associate to Covered Entity of the ongoing existence and occurrence of Unsuccessful Security Incidents.

4.2. Notice of Breach. Business Associate will notify Covered Entity upon discovery of a Breach in accordance with the requirements set forth in 45 CFR § 164.410, which currently includes: (a) identification of everyone whose PHI has been, or is reasonably believed by Business Associate to have been accessed, acquired or disclosed during the Breach; (b) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; (c) a description of the types of unsecured protected health information that were involved in the breach (such as whether full name, social security number, date of birth, home address, account number, diagnosis, disability code, or other types of information were involved); (d) any steps individuals should take to protect themselves from potential harm resulting from the breach; and (e) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate harm to individuals, and to protect against any further breaches. Information that was not available at the time of the initial notice and later becomes available to Business Associate will be included in a supplemental notice.

4.3. Breach Notification and Credit Monitoring Costs. Business Associate will reimburse Covered Entity for any additional incremental costs above Covered Entity's standard operating costs incurred by it in complying with the requirements of Subpart D of 45 CFR § 164 that are imposed on Covered Entity because of a Breach committed by Business Associate.

4.4. Mitigation. Business Associate will, to the extent practicable, mitigate any known harmful effects of an unauthorized use or disclosure of PHI.

5. Obligations of Covered Entity.

5.1. Transmit Secured Data. Covered Entity will not transmit Unsecured PHI to Business Associate.

5.2. Notification. Covered Entity will provide all notifications required by applicable law, and the BAA, to Business Associate within 30 days after the occurrence of the event requiring notification.

6. Term and Termination.

6.1. Term. The Term of the BAA begins on the BAA Effective Date and ends the latter of when: (a) all the Underlying Agreement(s) between Covered Entity and Business Associate have terminated, or (b) all PHI provided by Covered Entity to Business Associate is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy PHI, protections are extended to such information.

6.2. Failure to Comply with a Material Term of the BAA. Upon a party becoming aware of the other party's failure to comply with a material term of this BAA, the party will provide written notice describing the non-compliance and allow 30 business days to cure. If, after that period, the non-compliance has not been substantially cured or cannot be cured, the party that provided notice may terminate this BAA, and those portions of the Underlying Agreement that necessitate this BAA.

6.3. Effect of Termination. Upon termination of the BAA, Business Associate will return or destroy all PHI within 90 days. If Business Associate determines return or destruction is infeasible, for so long as Business Associate maintains the PHI, it will: (a) extend the protections agreed to in the BAA to the PHI; and (b) limit further uses of the PHI to those purposes that make destruction infeasible, for so long as Business Associate maintains the PHI.

7. Miscellaneous.

7.1. Ownership of PHI. Business Associate does not claim any ownership in the PHI.

7.2. Amendment & Waiver. The Parties agree to take such action as is necessary to amend the BAA from time to time as may be required due to updated to the HIPAA Rules. This BAA may be modified, or any rights under it waived, only by a written document executed by the authorized representatives of both Parties.

7.3. Cooperation in Investigations. The Parties acknowledge that certain breaches or violations of this BAA may result in litigation or investigations pursued by federal or state governmental authorities of the United States resulting in civil liability or criminal penalties. Each Party will cooperate in good faith in all respects with the other Party in connection with any request by a federal authority for additional information and documents or any governmental investigation, complaint, action or other inquiry, unless such Party is a named adverse party in such litigation or investigation.

7.4. Entire Agreement. This BAA supersedes and replaces any other agreement terms between Covered Entity and Business Associate with respect to obligations under the HIPAA Rules.

7.5. Independent Contractors. Business Associate is an independent contractor and is not acting as an agent for Covered Entity.

7.6. Interpretation. Any ambiguity in this BAA will be resolved to permit compliance with the HIPAA Rules.

7.7. Third Party Beneficiaries. Nothing expressed or implied in this BAA is intended, nor will be deemed, to confer benefits on any third party.

7.8. Designated Record Set. Unless specifically contract for in the Underlying Agreement, Business Associate does not maintain a Designated Record Set on behalf of Covered Entity.

7.9. Notices. Any notices pertaining to this BAA will be given in writing and is deemed received upon signed confirmation of receipt or sending of an email to the designated email address. All notices will be addressed to the appropriate Party as follows:

If Covered Entity:	**If Business Associate:**
At the location identified on the Purchase Schedule	Email: security@jacobian.com w/copy to: Attn: Legal & Privacy Name: Jacobian US, Inc. Address: 8 The Green #8245 Dover, DE 19901

* * *

EXHIBIT B

THIRD-PARTY CONTENT REQUIRED TERMS

[Reserved]