

END USER LICENSE AGREEMENT

This License and Services Agreement (this “**Agreement**”) is made as of the day of your signatures on the WellWink Proposal / Upgrade to paid version (the “**Effective Date**”), between WellWink, LLC, a New Jersey corporation (“**WellWink**”, “**We**”), and you (“**Licensee**”, “**You**”). **You and WellWink are collectively referred to as the “Parties.”**

WellWink is complete Patient Engagement Software Technology for Patient Care Coordination to meet and exceed physicians, care coordinators, medical practices needs for patient communication, chronic care management remote patient monitoring and associated services. In consideration of the rights and benefits that they will each receive in connection with this Agreement, the parties, intending to be legally bound, agree as follows:

- 1. Definitions:** For the purposes of this Agreement, the terms set forth in this section have the meanings assigned to them below. Terms not defined below (whether or not capitalized) have the definitions given them in HIPAA, unless the context requires otherwise “**Accounting Log**” means accounting records compiled and maintained by WellWink regarding the usage of the Program by the Licensee, which records may include, for example, a schedule of the times at which a Program was used by the Licensee and /or the amount of time any given Authorized User used the Program or any portion thereof.

“**Agreement**” means this License Agreement (paper or electronic) or any amendment thereof.

“**SaaS**” or “**Software as a Service**” or “**Subscription**” means the delivery of Applications over the Internet via a standard set of communications protocols as warranted by this Agreement.

“**Authorized User**” means you and those members of your Workforce who are individually authorized by you and WellWink to have access to WellWink Programs and Services to assist you in providing treatment and obtaining payment for treatment, and to whom we have assigned a unique identifier for access to the WellWink Programs and Services.

“**Confidential Information**”, means any information concerning our business and includes all data, materials, products, technology, computer programs, specifications, manuals, business plans, software, trade secrets, workflows, customers, source code, data models, marketing plans, methods of operation, financial information, and other information disclosed or submitted, orally or in writing, or through the licensed programs and services or by any other media from one party to another pursuant to this Agreement or any other information that is treated or designated by us as confidential or proprietary, or would reasonably be viewed as confidential or as having value to our competitors. Confidential Information shall not include information that we make publicly available or that becomes known to the general public other than as a result of a breach of an obligation by you. Confidential Information does not include individuals’ health information.

“**WellWink Information**” means Reference Information and all documents, communications, emails, training materials, online help, user manuals, reports, analysis and other material prepared, created or transmitted by WellWink to the Licensee.

“WellWink Materials” means all software, Program, Updates and copies of all or portions thereof (including demonstration copies), user Manuals, and other documentation provided by, or on behalf of, WellWink to the Licensee including WellWink programs, subscription, services, and all files, data, and other materials and information provided through or as part of this agreement.

“WellWink Program and Services” means all parts of the solution delivered other than third party and Sublicensed Programs. However, “Programs and Services” or “Programs”, “Software” shall include WellWink Programs and or Services and third party programs and or services. Your indemnification, confidential information and intellectual property obligations hereunder are for WellWink Programs and Services as well as third party programs and services. “Hosted Applications” shall also mean both WellWink and third party programs and services.

“De-identified Information” means information that has been de-identified in accordance with the provisions of the Privacy Rule, and “De-Identify” means make information into De-Identified Information.

“Equipment” means the operating system, hardware, software and networks on or through which the WellWink programs are used or accessed by the Licensee Software Support and Maintenance includes telephone support, e-mail and fax support, patch upgrades and any other auxiliary activities that may be conducted to facilitate the use of the WellWink Software and Services covered under this Agreement.

“HIPAA” means the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder, including the Privacy Rule and the Security Rule.

“New Product” means any software program or other products, subscription or services, other than Programs or Updates which WellWink provides to its customers. WellWink may charge a separate fee for any New Product as specified or determined by WellWink in accordance with the applicable rates.

“Policies and or Procedures” means our rules, regulations, policies and procedures for access to and use of the WellWink Programs and Services including third party programs and services, as changed from time to time and as made available or communicated to You, or posted electronically on our Internet website.

“Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164, subparts A and E.

“Security Rule” means the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR part 160 and part 164, subparts A and C.

“Services” means any and all services that You request and or WellWink deliver.

“Term” means the initial term and all renewal terms of this Agreement.

“Full Time Provider” means any provider that works more than 2 days a week and has a valid National Provider Identifier (NPI), including but not limited to Physicians, Nurse Practitioners, Physician Assistants, Audiologists, Optometrists, Therapists, Occupational Therapists, Physical Therapists, Music Therapist, Speech Therapists, Massage Therapists, Chiropractors, Anesthesiologists, Psychologists, Dentists, Hygienists, Licensed Social Workers, Midwives, Nutritionists, Dietitians, Counselors, Mental Health Practitioners, Neurophysiologists, care managers, care coordinators and Podiatrists employed by or under contract with Licensee to provide healthcare services. Each Full Time provider may be provided a maximum of five (5) non-provider licenses free of cost. Additional non-provider licenses shall be charged at \$50/user per month.

“Optional Services” means additional services that WellWink may offer to license-holder of WellWink Programs from time to time.

“Part Time Provider” means any provider that works 2 days or less per week. Licensee must have a minimum of one (1) Full Time provider in a practice. If the Provider increases the number of days worked, Licensee will be required to purchase a full time provider license and pay the increase in license fees. WellWink may conduct an audit at any time, and if the provider is found to be working more than 2 days per week then the Licensee must purchase the full time license and will incur a 10% penalty on both the license fee, support and maintenance. All fees / penalties will be retroactive. If the practice has Part Time providers only, then the first Part Time provider will be considered as a Full Time Provider.

“Non-Provider License” means a limited license for any personnel employed by or under contract with Licensee who do not have a National Provider Identifier (NPI), including but not limited to office managers, nurses, secretaries, or other administrative staff. Non-provider licenses for Part Time providers shall be charged at \$30/user per month.

“System” means the Licensee’s computer system in which Programs are installed, including allied Equipment, programs, and related optional software, hardware and or auxiliaries.

“Updates” means any changes, enhancements or modifications to a Program, documentation, services, and materials that are provided by WellWink to Licensee. The determination of whether or not to issue a change, enhancement or modification or to designate any change, enhancement or modification as an Update shall be, in each case, made solely by WellWink. Updates do not include new Products, materials, services, documents or major enhancements and or early release versions of any new or existing products and services.

“User” or **“End User”** means you and any other user of the Programs and Services authorized by you.

“User Manuals”, means the documentation, and materials that accompany any Program and are published and distributed by or on behalf of WellWink to the Licensee from time to time.

“Workforce” means employees, agents and independent contractors.

“Website” means the website accessible from the URL <http://www.WellWink.com> or other WellWink domains.

“Your Health Information” means health information that you or your Workforce or other Users enter into the WellWink Programs.

“Your Site” means the location you provided us upon registration, and such other location or locations as we may approve from time to time.

2. **License:** WellWink grants and Licensee accepts a non-exclusive, non-transferable, limited license for the registered users to access and use the functionality of WellWink Programs and Services during the term, subject to your full compliance with the terms and conditions set forth in this Agreement and with our Policies and Procedures. The Licensee shall not permit any other person or entity to access or use the Programs. The Programs shall be used with Equipment comparable in operation to the recommended operating system, hardware types and network settings and peripherals as recommended by WellWink from time to time.

The Licensee acknowledges and agrees that the Programs and other WellWink Materials are licensed solely for the internal use of Licensee organization in clinical operations and administration in the ordinary course of business in the United States of America. The Licensee may not use the Programs or other WellWink Materials for any other purposes, such as use to provide data processing services to other health care organizations, integrate with other third party solutions or services or embed, include additional services in any circumstances without prior written authorization from WellWink and or cause to exhibit software, programs, documentation or materials. Additionally, You will not:

use the WellWink Programs and Services or any portion thereof for time-sharing, rental or service bureau purposes including without limitation use methods, applications, techniques, efforts to develop functionally similar Software and or workflows/design/functionalities or permit any third party to do any of the foregoing. You agree to not grant access to any Third party for any purpose whatsoever without the prior written consent of WellWink;

- 1) make the Programs and Services, in whole or in part, available to any other person, entity or business;
- 2) sell, sublicense, lease, permit, transfer, copy, reverse engineer, decompile or disassemble the Programs
- 3) and Services, in whole or in part, or otherwise attempt to discover the source code to the software used
- 4) in the Programs; or
- 5) modify, alter, integrate, combine the Programs and Services or associated software
- 6) with any other software or services not provided or approved by us. You have and will obtain no rights to the Programs and Services except for the limited rights to use the Programs and Services expressly granted by this Agreement.

Except as expressly provided herein, each Sub-licensed Program may be used solely with, or as part of, for the purpose of running the Program(s) and for no other purpose. In addition to the terms and conditions set forth in herein, the use by the Licensee of each Sublicensed Program shall be governed by the additional terms and conditions applicable to such Sub-licensed Program set forth herein. The Programs may only be used by the Licensee in the territory of the United States of America, unless otherwise agreed upon in writing by the mutual consent of the parties to this Agreement.

The Programs and Services include certain third party software and services, which may require that you enter into separate subscription or licensing agreements with third party vendors. You agree to execute such agreements as may be required for the use of such software or services, and to comply with the terms of any license or other agreement held by us, relating to third party products included in the WellWink Programs and Services.

The parties may add to this Agreement the license of New Programs, or Programs for installation on additional file servers by execution of additional Program Reference Schedule and payment by the Licensee of the Subscription fees and other additional subsequent fees as may be agreed upon by both the parties. All such amended or additional schedules shall be executed by the Licensee and delivered to WellWink, and shall become effective upon acceptance and execution by WellWink upon the payment of initial and additional fees.

- 3. Hosting and Access Control:** Subject to the terms and conditions of this Agreement, if you are signing up for Client Web Server version of the Programs, you will locally host them on your own servers, and will make it available to WellWink via the Internet or physically for regular WellWink Application level support and maintenance and for verifying compliance with WellWink policies and the terms and conditions hereof.

However, if you are signing up for the SaaS version of the Programs, WellWink will:

- make the Hosted Applications and allied services available to Licensee via the Internet on Software as a Service basis;
- make the Documentation for the Hosted Applications available to Licensee; and
- provide to Licensee a URL, user name, password and other information required to use the Application.

Licensee will not on a unilateral basis withhold, deny, delay or interrupt WellWink's access to the hosted Servers and/or application. Licensee shall use the WellWink Applications for lawful purposes and in compliance with applicable laws. Licensee shall be responsible for all uses of WellWink Programs by its Users regardless of whether such use is authorized or not by the Licensee or WellWink.

WellWink Applications are provided for use in conformance with the terms and conditions hereof. If WellWink becomes aware of possible violations, WellWink may initiate an investigation including gathering information from Licensee and examination of material and the data logs. During the investigation, WellWink in its sole and absolute discretion, may suspend access to WellWink Programs and/or remove the content or other material. If WellWink determines, in its sole discretion, that a violation of this Agreement has occurred, it may take responsive action, including without limitation, permanent removal of the content on WellWink Programs, or any portion thereof, along with issuance of warnings to Licensee and/or suspension/termination of this Agreement and application access.

- 1) Licensee shall be solely responsible for:
 - a) procuring, at its expense, the necessary environment at the Licensee's location(s) to use the Hosted Applications via the Internet or otherwise, including, without limitation, all computer hardware, software and equipment, Internet access and telecommunications services (collectively, the "Licensee Systems");
 - b) complying with all laws, rules and regulations related to the Licensee's use of its Systems and the licensed Programs and services hereunder;

- c) keeping its user name and password secret and confidential, and, for any communications or transactions that are made, using the same;
 - d) changing its user name and password if it believes that the same has been stolen or might otherwise be misused;
 - e) maintain recommended information security tools, technologies, fire walls, antivirus, spy wares, etc. and other technical and administrative precautions to preserve and protect the protected health information (PHI);
 - f) obligations under any third party agreements to which Licensee is a party, including, without limitation, any agreement pursuant to which Licensee procures the Licensee Systems or any portion thereof, regardless of whether WellWink provides Licensee with any assistance in such procurement;
 - g) acquiring adequate system know-how in order to correctly use Programs and Services and follow WellWink and its Licensors' verbal and written guidelines, policies, education material or procedures in regard to the use of Programs and Services as well as recommended workflows related thereto.
- 2) Permitted Uses: Subject to the terms of this Agreement, we authorize you to access and to use the Programs and Services for treatment and for obtaining payment for treatment, and for other purposes expressly authorized in our Policies and Procedures and or other communication from us in writing; provided that, except as expressly authorized in our Policies and Procedures,
- a) you may access only information pertaining to individuals with whom you have a treatment relationship or for whom a provider who has a treatment relationship with has requested a professional consultation from you, or from whom you have received authorization to use their health information; and
 - b) you may use only the minimum necessary information for payment purposes. You agree that you will not access or use the Programs and Services for any other purposes. In particular:
 - i) You will not reproduce, publish, or distribute content in connection with the programs and services that infringes any third party's trademark, copyright, patent, trade secret, publicity, privacy, or other personal or proprietary right;
 - ii) You will comply with all applicable laws, including laws relating to maintenance of privacy, security, and confidentiality of patient and other health information and the prohibition on the use of telecommunications facilities and other mediums to transmit illegal, obscene, threatening, libelous, harassing, or offensive messages, or otherwise unlawful material;
 - iii) You will not: (a) abuse or misuse the Programs or the Services, including gaining, facilitating or attempting to gain unauthorized access to the programs or services; altering or destroying information in the programs except in accordance with accepted practices; (b) use the Programs or Services in such a manner that interferes with other Users' use of the System; or (c) use the Programs or the Services in any manner that violates this Agreement, our guidelines or those of concerned third parties and or our Licensors and or our Policies and Procedures. You are solely responsible for requesting and obtaining the relevant guidelines on your own.
 - iv) You acknowledge and agree that the programs and services, materials, and subscription/access provided hereunder or any other agreement or addendum

thereof by WellWink or its licensors are not intended to be used as diagnostic tools or to provide medical diagnoses or determinations and the Licensee and its authorized users accept all the risk and are solely responsible for using due care and exercising their independent professional judgment with regard to patient examination, diagnosis, and treatment.

- v) You will be responsible for ensuring that your authorized users follow proper procedures required by law and by good professional medical and data handling practice with regard to the form of patient records, the creation and storage of backup copies of computerized patient records, consents to treat or disclose, and use of release of data. You acknowledge that in the event that license fees are not paid within thirty (30) days of when due, without limitation of WellWink rights to take actions, the licensed programs may automatically convert to read only mode until the delinquent license fees together with WellWink's standard late payment fees and reconnect charges are paid to WellWink. WellWink further reserves the right to disable the Licensee's read-only access to the WellWink products, materials and services in case of continued default of payment within a period of 15 days thereafter.
- vi) You acknowledge and agree that You are solely responsible for ensuring that each authorized user is aware of the material terms of this agreement, and that no person who is not an authorized user be allowed access to the WellWink programs, related documents, and training materials etc. Authorized WellWink resellers are not authorized to execute any agreement on behalf of WellWink or otherwise bind or commit WellWink in any respect. Any agreement so executed on behalf of WellWink will be null and void.

3) Safeguards:

- a) You will be solely responsible to implement and maintain appropriate administrative, physical and technical safeguards to protect information within the Programs from unauthorized access, use or alteration or using a User ID assigned to you or a member of your Workforce. Such safeguards shall comply with federal, state, and local requirements, including the Privacy Rule and the Security Rule, whether or not you are otherwise subject to HIPAA. You will maintain appropriate security with regard to all personnel, systems, and administrative processes used by you or members of your Workforce to transmit, store and process electronic health information through the use of the Programs and Services.
- b) Compliance: You will immediately notify us of any breach or suspected breach of the security of the Programs and Services of which you become aware, or any unauthorized use or disclosure of information within or obtained from the Programs and Services, and you will take such action to mitigate the breach or suspected breach as we may direct, and will cooperate with us in investigating and mitigating the breach. You will comply with the terms of this Agreement, our Policies and Procedures, guidelines, including third party policies and procedures as applicable to you, and all applicable laws, rules and regulations. You will be solely responsible for the use of the Programs and Services by you and your Workforce, and shall indemnify us and hold us harmless from any claim, cost or liability arising from such use, including reasonable attorneys' fees.
- c) User Identification: We authorize you and your Authorized Workforce to use the User IDs assigned to you by us. You acquire no ownership rights in any User ID, and User IDs may be revoked or changed at any time in our sole discretion. You will adopt and maintain reasonable and appropriate security precautions for User IDs to prevent their disclosure

to or use by unauthorized persons. Each member of your Authorized Workforce shall have and use a unique identifier. You will use your best efforts to ensure that no member of your Workforce uses a User ID assigned to another person.

- d) **No Third party Access:** Except as required by law, you will not permit any third party (other than your Authorized Workforce) to have access to the Programs and or Services without our prior written agreement. You will promptly notify us of any order or demand for compulsory disclosure of health information if the disclosure requires access to or use of the Programs and Services. You will cooperate fully with us in connection with any such demand.
 - e) **Your Workforce:** You may permit your authorized Workforce to use the Programs and Services on your behalf, subject to the terms of this Agreement. You will obtain a unique User ID from us for each member of your Authorized Workforce; train all members of your Authorized Workforce in the requirements of this Agreement and the guidelines and Policies and Procedures relating to their access to and use of the Programs and Services, and ensure that they comply with such requirements; take appropriate disciplinary action against any member of your workforce who violates the terms of this Agreement or the guidelines, Policies and Procedures; ensure that only you and your Authorized Workforce access the Programs and Services from Your Site; immediately notify us of the termination of employment of any member of your Authorized Workforce, or of your withdrawal of authorization for any such person to access the Programs and Services.
 - f) **Compliance with Law:** You are solely responsible for ensuring that your use of the Programs and Services (including making health information available through the Programs and Services) complies with applicable law. You will not undertake or permit any unlawful use of the Programs and Services, or take any action that would render the operation or use of the Programs and Services by us or any other User unlawful. We offer no assurance that your use of the Programs and Services under the terms of this Agreement will not violate any law or regulation applicable to you.
 - g) **Professional Responsibility:** You will be solely responsible for the professional, advisory, analytical and technical services you provide. We make no representations concerning the completeness, accuracy, availability or utility of any information in the Programs and Services, or concerning the qualifications or competence of individuals who placed it there. We have no liability for the consequences to you or your patients of your use of the Programs or Services.
 - h) **Cooperation:** You will cooperate with us in the administration of the Programs and Services, including providing reasonable assistance in evaluating the Programs and Services collecting and reporting data requested by us for purposes of administering the Programs and Services.
- 4. Term of License:** The term of license for WellWink program shall commence from the effective date provided under the Subscription Proposal. Either party can give notice of non-renewal, at least 30 days before the expiration of the first term, at its sole or absolute discretion, without cause and without stating any reason thereof. If Licensee fails to give notice of non-renewal, Licensee shall be deemed to have agreed to the applicable renewal rate reflected through the monthly invoice, for the next fee term. Licensee may terminate this license on a 60 (sixty) days written notice if WellWink materially breaches any provisions of this Agreement, and such breach has not been cured after notice of the same within such 60 day period, and not otherwise.

- 1) **Modification:** We may change the Programs and Services by providing you not less than thirty (30) days' notice, and the terms under which they are provided to you (including terms set forth in this Agreement) at any time. Upon receipt of such a notice or notification of the change in the terms of the Agreement electronically provided within the Programs or in writing you may terminate this Agreement by giving written notice to us on or before the effective date of the change. You agree that your failure to give notice of termination prior to the effective date of the change in Programs and Services or acceptance of the change in the terms and conditions of this Agreement by pressing 'I Agree' Button in the WellWink Programs or receipt of the notice of the change in the terms and not objecting to the same within 2 weeks constitute acceptance of the change, which shall thereupon become part of this Agreement.
 - 2) **Termination, Suspension or Amendment as a Result of Government Regulation:** Notwithstanding anything to the contrary in this Agreement, we have the right, on notice to you, immediately to terminate, suspend, or amend this Agreement, without liability: (a) to comply with any order issued or proposed to be issued by any governmental agency; (b) to comply with any provision of law, any standard of participation in any reimbursement program, or any accreditation standard; or (c) if performance of any term of this Agreement by either Party would cause it to be in violation of law, or would jeopardize its tax-exempt status.
 - 3) **Judicial or Administrative Procedures:** We may terminate this Agreement immediately upon notice to you if: (a) you are named as a defendant in a criminal proceeding for a violation of federal or state law; (b) a finding or stipulation that you have violated any standard or requirement of federal or state law relating to the privacy or security of health information is made in any administrative or civil proceeding; or (c) you are excluded from participation in a federal or state health care program.
 - 4) **Insolvency or Bankruptcy:** Licensor shall also have the right to immediately terminate the license if the Licensee discontinues business, or becomes insolvent, or if any action relating to the bankruptcy or insolvency of the Licensee is instituted. In such an event, WellWink shall be nominated as the 'first creditor' with regards to the allocation of the Licensee's assets and any recovery thereof.
- 5. Suspension of Access:** We may suspend access to the Programs or the Services by you or any member of your Workforce immediately pending your cure of any breach of this Agreement, or in the event we determine in our sole discretion that access to or use of the Programs or Services by you or the member of your Workforce may jeopardize the Programs or Services or the confidentiality, privacy, security, integrity or availability of information within the Programs and or Services, or that you or the member of your Workforce has violated or may violate this Agreement or our Policies and Procedures, 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 Programs and or Services with any User ID assigned to you or a member of your Workforce. We may terminate the access of any member of your Authorized Workforce upon termination or change in status of his employment with you. Our election to suspend the Services shall not waive or affect our rights to terminate this Agreement as permitted under this Agreement. This Agreement and the rights granted are effective until terminated. Licensee's rights under this Agreement will terminate automatically without notice from WellWink if Licensee breaches any terms of this Agreement. Sections which by their terms contemplate survival will survive any termination of this Agreement. As explained earlier, WellWink reserves the right to update the terms of this Agreement from time to time without notice and acceptance to the updated agreement shall be secured either electronically or on paper at the sole discretion of WellWink. The latest copy of the

Agreement may be downloaded from within the WellWink Programs at any time or may be requested via fax or email. Upon the effective date of termination of this Agreement, for any reason, the Licensee shall promptly:

- 1) Return and deliver to WellWink all the WellWink Materials, documents, and manuals;
- 2) Discontinue use of WellWink Programs, subscription and services; destroy copies of programs, materials, documents and manuals on the Licensee's System;
- 3) Immediately render all sums and payments for all billed and unbilled invoices due and owing to WellWink the fees for the balance of the Term upon termination;
- 4) In the event of termination for any default or breach by the Licensee, pay to WellWink all expenses incurred by WellWink in the form of damages, additional costs and legal expenses, including reasonable attorney and expert fees;
- 5) Remove all software provided under this Agreement from your computer systems, cease to have access to the Programs and or Services, and return to us all hardware, software and documentation provided by or on behalf of us. The foregoing rights and remedies of WellWink shall be cumulative without limiting any other additional rights and remedies available to WellWink at law, in equity or otherwise. If this Agreement is terminated for any reason, the rights of the Licensee arising under the Agreement shall terminate with immediate effect but:
 - a) The obligations of the Licensee (other than those set forth in Sections 5 and other applicable sections of this Agreement);
 - b) Any liability for unpaid license fees as well as any breach by the Licensee of any term or provision of this Agreement arising on or prior to the date of such termination, shall survive such termination.
- 6) Return of your Practice Data: If you decide to leave WellWink service, upon your request and at your expense, WellWink will make the copy of its database available to you. Unless you demand your practices data including patient records within 3 months of termination or expiration of this Agreement by paying the then applicable data transfer fees to WellWink, WellWink 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 your practice data including patient records rests with you.
- 7) Data Access: If there are disputes between WellWink and you, which have not been resolved through normal notice and cure resolution steps, including payment default, we reserve the right to immediately suspend or terminate your access until the default is cured.

DURING THE TERM OF THIS AGREEMENT AS WELL AS AFTER THE EXPIRATION OR TERMINATION HEREOF AND REGARDLESS THE CAUSE OF TERMINATION, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD WELLWINK HARMLESS FROM AND AGAINST ANY CLAIMS, DAMAGES, COSTS, LOSSES AND EXPENSES THAT YOU OR ANY THIRD PARTY MAY INCUR AS A RESULT OF (I) YOUR INABILITY TO CLAIM THE DATA WITHIN 3 MONTHS OF TERMINATION OR EXPIRATION OF THIS AGREEMENT REGARDLESS OF THE CAUSE OF TERMINATION; OR (II) SUSPENSION, TERMINATION OR CHANGE OF YOUR ACCESS TO PROGRAMS AND SERVICES.

For purposes of software modifications, improvements and debugging, WellWink, its Licensors or agents have the right to enter your database at any time. This access to your

information will be strictly for the purposes mentioned herein, and in full compliance with HIPAA regulations.

- 8) **Additional Data Storage Space:** The basic WellWink subscription comes with 5 gigabytes of free space. In case additional Data Storage space is required by you, WellWink will provide that additional space at an additional charge (Additional Data Storage Fees). WellWink reserves the right to implement guidelines concerning Data Storage Space and Service, and update those guidelines as needed. Your continued use of the Data Storage Space constitutes your acceptance of the then current guidelines.

6. **License Fees:** In case you are the client of the SaaS version of the Programs, beginning on the Effective Date, you will pay directly to WellWink the monthly subscription fee in advance as specified in the WellWink Proposal. In case you are the client of the Web Server version of the Programs, beginning on the Effective Date, and on each anniversary thereafter, Licensee will pay directly to WellWink the cumulative Monthly License Fee then in effect as determined and specified by WellWink, in advance, for the license of each WellWink Program and Services for the following twelve months as specified in the WellWink Proposal. The Effective Date of the monthly subscription or yearly maintenance period shall be the day your account is activated through the implementation portal. The amount of the License and Subscription Fees and or other WellWink service charges may be changed by WellWink, from time to time, in accordance with WellWink's then current general pricing policies for WellWink Programs and Services.

Price revisions will be notified through the advance monthly invoices. In case Licensee does not agree to such revisions, Licensee may return the invoice marked "not acceptable" to initialize the early termination as per the termination procedure given herein.

The fee for subscribing to the Services ("Subscription Fee") is set forth above. The Subscription or License Fees shall be determined on the basis of the number of Registered Providers authorized to use the Product, each of whom shall be registered (each, a "Registered User.") The Products may contain embedded controls limiting user log-on to the number of Registered Providers and such counters may interfere with use of the Products beyond the number of Registered Providers licensed. Office managers, secretaries and Nurses (not Nurse Practitioners) practicing directly in conjunction with a licensed provider do not require a separate license. The amounts payable shall be due and payable on the date specified in this Agreement or if not specified then within thirty (30) days of receipt of invoice therefore and payment must be made in U.S. Dollars. WellWink will assess Licensee a late payment charge on any amount which remains unpaid thirty (30) days after it is due, computed at the rate of one and one-half percent (1½%) per month or the highest allowable by law, whichever is lower, on the unpaid amount for every month the amount remains unpaid. All payments will be made without setoff, counterclaim, recourse or other defense. Nothing mentioned herein will limit any additional rights and remedies available to WellWink at law, in equity and / or otherwise arising due to the default of payment by the Licensee. Additional third party programs, network access, connectivity solutions, subscription services, tools, knowledge bases, data bases and libraries, etc. whether provided separately or within WellWink Program will be subject to additional charges, and their use shall be subject to the acceptance of their individual terms and conditions by the Licensee which will be communicated to Licensee from time to time. A reconnection fee equal to one (1) month's Subscription Fee shall be charged to re-establish connection after termination due to non-payment. If Licensee adds one or more Registered Users to its practice, the software counters shall be adjusted to permit such Registered Users to use the Software, upon payment of additional License

Fees at the rate specified herein, or the then-current rate, including any Support and Maintenance fees calculated at the then-current rate for additional providers, and pro-rated for the applicable portion of the year in which the provider(s) is added. If Licensee loses one or more Registered Users, there shall be no change in the License Fees.

Licensee acknowledges and agrees that there shall be no refunds under this Agreement for any reason, any service delivered or scheduled to be delivered, whatsoever, including termination of this Agreement regardless of the cause of such termination. In case Licensee requests early termination for any reason whatsoever, Licensee shall be liable for all past due payments along with \$1500 per 1st provider; \$1000 per each additional full time provider, \$500 per each part time or non-billing provider. In addition, the Client shall be liable to pay \$100 per provider every month for the remaining contractual term. This will cover all internal and third party costs that WellWink incurred for the creation and functioning of Licensor's account for the agreed upon term hereof, and other out of the pocket expenses related thereto. Licensee also agrees to pay, at our then current rates, for all additional products, features, or services that Licensee requests from WellWink. Licensee also agrees to pay, at our then current rates, for all products, features or services that Licensee requests from WellWink and that are not included in our standard product and services ("Miscellaneous Charges"). WellWink will notify Licensee of the applicable Miscellaneous Charges before performing services or providing features and or products to which a Miscellaneous Charge will apply. The Miscellaneous Charges may change from time to time. Current fees and charges may be obtained by calling (332) 334-0009.

- 7. Bug fixes and Updates:** So long as the subscription for a Program is in effect, subject to the timely payment of WellWink fees and dues, the Licensee will be entitled to receive bug fixes available to other WellWink customers for that program version. WellWink may issue Updates/upgrades from time to time and will specify, in its sole discretion any costs that may be associated with the updates so issued. Updates, if issued, may apply to selected Programs, modules, features, or platforms, as may be specified by WellWink from time to time. In case of payment default, the issuance of updates may be stopped and WellWink may specify any other service charges in addition to the clearance of outstanding subscription/service charges, financial charges etc., and there may be additional charges for the resumption of services and updates. Major product updates requiring migration of key business processes or data elements or templates and/or other configuration will be charged as per the standard development rates by WellWink. WellWink shall retain sole editorial discretion with respect to the licensed programs and services and the information contained therein and retain the right to revise, supplement or discontinue the licensed programs and services or any portion thereof or information contained therein.
- 8. Support Services:** WellWink shall provide Licensees with telephone support for the Software during business hours, which are 8:00 a.m. to 5:00 p.m. Eastern Standard Time, Monday through Friday, excluding holidays (the "Business Hours") subject to: (i) timely payment of WellWink invoices and support fees, and (ii) Licensee's compliance with its obligations under this Agreement. Upgrades, maintenance and phone support is provided for Client hosted installations for a 20% charge of the accumulative license fee of all Providers plus the base system cost. Extended support shall be available at the request of the Licensee at the rate of \$250 per hour. Licensee agrees that all timings and costs, specified herein, may be changed at the discretion of WellWink without any prior notice to the Licensee.

9. Communication: Licensee will obtain, and at all times maintain, a screen sharing connection and other peripherals/communication platforms, as may be required by WellWink, to initiate communications with, and receive communications from, WellWink. Licensee will arrange for such Programs and or peripherals/communication platforms to connect with WellWink system when required. Licensee authorizes WellWink and its staff to send and receive electronic communications through such communication platforms for the following purposes:

- 1) To send or receive e-mail communications;
- 2) To modify or provide Updates to any software Program;
- 3) To maintain the Accounting Log; (iv) To perform maintenance or support services; (v) To verify the list of WellWink Authorized Users;
- 4) To monitor functionality of the Programs;
- 5) In each case with prior consent of the Licensee, to retrieve Reference Information (as hereinafter defined).

All charges, such as for example, installation, usage, maintenance and outgoing toll charges for the modem telephone line and above mentioned communication platforms shall be at Licensee's expense.

10. System Monitoring, Compliance, Taxes and other Guidelines: WellWink reserves the right to monitor the System electronically from time to time and to access and disclose any information as permitted or required by applicable laws or regulation, to operate its System properly, or to protect itself or others. It is not WellWink's intention that the Services, System or WellWink's facilities be used in contravention of the Communications Decency Act of 1996, 47 U.S.C. Section 223, or any other applicable law. It is Licensee's responsibility to ensure that its usage of WellWink at all times remains compliant with all applicable Federal, and State laws, rules and regulations. Licensee shall indemnify and defend WellWink for any claims, suits, losses or actions against WellWink arising from, related to or in connection with any violation by Licensee of the Communications Decency Act, and other applicable State, Federal law, rules and regulations.

In the event that WellWink grants Licensee permission to modify any of the WellWink Programs, then Licensee assumes all liability for such modified programs. Licensee hereby acknowledges and agrees that WellWink disclaims all warranties, express or implied, regarding any Licensee-modified programs.

All charges and fees shall be exclusive of all federal, state, municipal, or other government excise, sales, use, occupational, or like taxes now in force or enacted in the future, and you agree to pay any tax (excluding taxes on our net income) that we may be required to collect or pay now or at any time in the future and that are imposed upon the sale or delivery of items and services purchased under this Agreement.

In case of Licensee signing up for any additional feature, product or service with WellWink, the terms and conditions of this Agreement shall prevail and be applicable, and an additional addendum for the pricing of that additional feature, product or service shall be signed. Licensee is solely responsible for any charges that Licensee incurs to use the Products and Services, such as telephone and equipment charges, and fees charged by third party vendors of products and services.

11. Reference Information & Data Migration: WellWink from time to time may request (by letter, facsimile, or electronic communication) to retrieve information as specified in the request including but not limited to usage patterns, behaviors, trends, error reports, etc. and other information to help

improve product and service quality, use the information for staff training, etc. The Licensee shall not unreasonably withhold or delay approval of such requests. You understand and agree that prior to contacting or allowing WellWink to perform patient data migration from your previous systems and or databases or to perform any other services on your computer, it is your responsibility to back-up the data, software, information or other files stored on your computer disks and/or drives.

WellWink will not be held responsible for any problems arising from third party software installed on your computer by our technicians, you, or other third party. WellWink will not be held liable for lost data due to hardware failure, virus, spyware, corruption or any other situation. If any problems with third party software or hardware arise, it is your responsibility to obtain support from the manufacturer of the product at fault.

Keeping in view the limitations of the online data migration process, in addition to the issues and failures which may result from, including without limitation, non-availability of technical support staff at your practice's location; incompatibilities in data formats; already-corrupted data, you acknowledge and agree that the migration will be at your sole and exclusive risk. You also acknowledge and agree that WellWink assumes no liability or responsibility for any loss or damage of any kind whatsoever arising from or related to this migration including without limitation to incorrect, missing, lost or corrupted data.

Under no circumstances shall WellWink be liable to you or any other person for any damages, including without limitation any indirect, incidental, special or consequential damages, expenses costs, profits, lost savings or earnings, lost or corrupted data, or other liability arising out of or related to the services provided by WellWink or out of the installation, de-installation, migration, use of, or inability to use your computer equipment, hardware, peripherals, database, or the network as a result of the services provided hereunder.

12. Indemnity: WellWink, subject to the limitations on its liability set forth in Section 22 and other applicable sections hereof, shall hold harmless and defend Licensee against suits based solely on a claim that the use of licensed program by Licensee in accordance with the terms hereof, infringes on any U.S. patent, copyright or trademark, and the use of such program in such manner is prohibited by a court of competent jurisdiction, provided that Licensee gives WellWink prompt written notice of such suit and gives WellWink full authority, information and assistance to defend such suit, and permits WellWink to control the defense thereof. However, this indemnity will not apply unless Licensee gives WellWink prompt notice of such claim or action alleging such infringement and has given WellWink full opportunity and sole authority to control the response thereto and the defense thereof, including, without limitation, any agreement relating to settlement. WellWink shall have no obligation to the extent a claim is based upon:

- 1) use of any version of program which is altered by, or at the request of Licensee, if infringement would have been avoided by a current, unaltered version; or
- 2) combination, operation or use of the program with software and/or hardware not delivered by WellWink if such infringement could have been avoided by not combining, operating or using of the program with such software and/or hardware.

13. Remedial Measures: If the licensed program becomes the subject of a claim, or if WellWink reasonably believes that use of licensed program may become the subject of a claim, then WellWink may do, at its own expense and option, at least one of the following:

- 1) procure for Licensee the right to continue use of the licensed program at no additional cost to Licensee for such right;
- 2) replace the licensed program with a non-infringing product;
- 3) modify the licensed program so that it becomes non-infringing; or
- 4) terminate Licensee's license to such program upon written notice to Licensee, whereupon Licensee shall immediately terminate all further use of the affected licensed program.

In the event of termination, WellWink shall have no liability to Licensee or any other third party concerning their use of such WellWink program except to refund to Licensee a pro rata portion of the License Fees, actually paid to WellWink, and applicable to the remaining term of the Agreement.

14. No other Remedies Regarding Infringements: THE FOREGOING STATES WELLWINK'S ENTIRE LIABILITY AND LICENSEE'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 PROGRAM OR ANY PART THEREOF.

WellWink's indemnification obligations under this Section 11 shall not apply in the event that any of the losses are covered by Licensee's indemnification obligations set forth under Section 19 hereof. WellWink may from time to time, in user documentation or through other communications, provide the Licensee with recommended procedures for dealing with confidentiality of patient records, with patient informed consent in regard to use and maintenance of patient clinical records, and with other matters relating to patient information. However, WellWink makes no representation or warranty, express or implied, with respect to the legal effect of such recommendations, and the Licensee acknowledges that the Licensee and Licensee's Authorized Users are responsible for ensuring that those procedures required by law and by good professional medical practice are followed with regard to the copies of patient records, the maintenance of backup copies of patient records, consent to treatment or disclosure, and use and release of data. WellWink shall not be liable under the foregoing indemnity or obligations under Section 10 above for claims arising from failure of the Licensee to fulfill such responsibilities and WellWink shall be entitled to assume that the Licensee has fulfilled such responsibilities.

15. Licensee Information: The Licensee warrants that the Authorized Users information provided to WellWink is true and complete and the Licensee will promptly inform WellWink when such information changes thereafter. The Licensee further represents and warrants that each Authorized User is legally bound as Licensee hereunder.

16. Licensee Authority: The Licensee represents and warrants that it has obtained each approval, authorization and consent necessary to enter into this Agreement and perform its obligations, comply with the terms and conditions, and engage in the actions contemplated by this Agreement. The Licensee warrants that to the best of its knowledge no conflict of interest exists or is likely to arise in the performance of its obligations under the Agreement. The Licensee agrees that for the term of this agreement and for all succeeding terms, the Licensee shall not enter into any contractual obligations with any WellWink competitors and shall refrain from direct communication with WellWink's competitors regarding WellWink Products and Services, including but not limited to its features, performance benchmarks and any other information not publicly available. Individuals' Rights: You shall be solely responsible for affording individuals their rights with respect to Your Health Information, such as the rights of access and amendment. You will not undertake to afford an

individual any rights with respect to any information in the Programs and Services other than Your Health Information.

17. Relationship of WellWink and the Resellers: The Licensee agrees and acknowledges the relationship of WellWink and its authorized independent resellers (the “Resellers”) is that of an independent contractor. The Resellers do not have any right or authority to bind or assume or create any obligation or responsibility, express or implied, for or on behalf of WellWink, or in WellWink’s name. WellWink and the Resellers are not partners or joint ventures and their relationship is not one of employer and Employee, master and servant, franchiser and franchisee, or principal and agent. The Licensee agrees that WellWink is not responsible for any act, omission, failure or damage relating to work or any other matter performed by, or on behalf of, any Reseller for the Licensee, any Authorized User, or any other Person.

18. Title: The Licensee agrees that, as between WellWink and the Licensee, WellWink shall have sole and exclusive ownership of, and all right, title, and interest in and to, the WellWink Materials, including the Programs and Material, and all modifications and enhancements of the Programs or User Manuals (including ownership of all copyrights and other intellectual property rights), subject only to the rights expressly granted to the Licensee under this Agreement. This Agreement does not provide the Licensee with title or ownership of any WellWink Material, but only a limited right to use the same solely upon the terms expressly set forth in this Agreement.

19. Use of Information:

- a. The purpose of the WellWink Programs and Services is to store Your Health Information and (i) To make it available to you and your Authorized Workforce; and (ii) to facilitate the sharing of individuals’ health information among Users and Patients. You may make Your Health Information accessible to other Users through the Programs and Services for these purposes. You authorize us, as your business associate, to use and disclose Your Health Information as follows, subject to the recipient’s agreement to comply with our and our Licensors Policies and Procedures and with applicable laws and regulations relating to the use and disclosure of health information, and subject also to the provisions of Section 18(b).
- b. We may: (i) permit access to Your Health Information to you, Your Authorized patients and your Authorized Workforce; (ii) permit access to Your Health Information by health care providers and their business associates for treatment; (iii) disclose or permit access to Your Health Information to health plans, health care clearinghouses, medical groups, independent practice associations and other parties responsible for payment and their business associates for the purpose of obtaining payment for services you provide; (iv) De-Identify Your Health Information, and use and disclose De-Identified Information as provided by Section 18 (b) (x); (v) create limited data sets from Your Health Information, and disclose them for any purpose for which you may disclose a limited data set; and you hereby authorize us to enter into data use agreements on your behalf for the use of limited data sets, in accordance with applicable law and regulation; (vi) aggregate your health information with that of other users, and share aggregated information among Users; (vii) use Your Health Information for the proper management and administration of the WellWink Programs and Services and our business, and to carry out our legal responsibilities; we may also disclose Your Health Information for such purposes if the disclosure is required by law, or we obtain reasonable assurances from the recipient that it will be held confidentially and used or further disclosed only as required

- by law or for the purpose for which it was disclosed to the recipient, and the recipient notifies us of any instances of which it is aware in which the confidentiality of the information has been breached. Without limiting the foregoing, we may permit access to the Programs and Services by our contracted system developers under appropriate confidentiality agreements. (viii) use or disclose Your Health Information for other purposes, as from time to time described in our Policies and Procedures; provided that we will not make or permit any such use or disclosure that would violate applicable law or regulation if made by you or your business associate. Except as provided in subsection 17(b)(iv) and 17(b)(v), and notwithstanding any other provision of this section, we will not use or disclose Your Health Information in any manner that would violate the requirements of the Privacy Rule.
- c. **Responsibility for Misuse by Other Users:** You acknowledge that in granting access to the WellWink Programs and Services for the purposes set forth in section 17(a) & (b), we will rely on the assurances of the recipients of the information as to (i) their identity and credentials, (ii) purposes for which they are accessing the WellWink Programs and Services, and (iii) the nature and extent of the information to which they will have access. You acknowledge that, while the WellWink Programs and Services will contain certain technical safeguards against misuse of the WellWink Programs and Services, it will rely to a substantial extent on the representations and undertakings of Users. You agree that we will not be responsible for any unlawful access to or use of Your Health Information by any User resulting from the User's misrepresentation to us, or breach of the User's user agreement or our Policies and Procedures or guidelines including third party guidelines, policies and procedures as applicable on you and your Workforce or Authorized Users.
- d. **Specially Protected Information:** We apply the standards of the Privacy Rule in permitting access to the WellWink Programs and Services. You acknowledge that other federal and state laws, rules and regulations impose additional restrictions on the use and disclosure of certain types of health information, or health information pertaining to certain classes of individuals. You agree that you are solely responsible for ensuring that Your Health Information may properly be disclosed for the purposes set forth in section 17(a) & (b), subject only to the restrictions of the Privacy Rule. In particular, you will: not make available through the Programs and Services any information subject to any restriction on use or disclosure (whether arising from your agreement with the individual or under law), other than the general restrictions contained in the Privacy Rule; obtain any necessary consents, authorizations or releases from individuals required for making their health information available through the Programs and Services for the purpose set forth in section 17(a) & (b); include such statements (if any) in your notice of privacy practices as may be required in connection with your use of the Programs and Services; not place in the Programs any information that the you know or have reason to believe is false or materially inaccurate.

20. HIPAA; Business Associate Provisions and De-identified Information:

- a. To the extent required by the Health Insurance Portability and Accountability Act of 1996 and regulations related to privacy promulgated there under (the "Privacy Standard"), and notwithstanding anything to the contrary herein, WellWink will maintain the confidentiality of Protected Health Information or PHI as defined by the Privacy Standard, WellWink will: not use or further disclose PHI other than as permitted or required by this Agreement or as required by law (as such term is defined by the Privacy Standard); use appropriate safeguards

to prevent use or disclosure of PHI other than as provided for by this Agreement; report to Licensee any use or disclosure of PHI not provided for by this Agreement of which WellWink become aware; ensure that any agent, including a subcontractor to whom WellWink provides PHI received from, or created or received by Licensee on behalf of, Licensee agrees in writing to the provisions of this Agreement; mitigate, to the extent practicable, the harmful effect of any use or disclosure of PHI not permitted by this Agreement; upon expiration or termination of this Agreement, return to Licensee or destroy all PHI received from, or created or received on behalf of Licensee (including all copies thereof) then in WellWink possession or under its control; or if, return or destruction is not feasible, provide Licensee with written notice in which WellWink describes why return or destruction is not feasible and agree in writing to extend the protections of this Section to the PHI and limit further uses and disclosures to those purposes that make return or destruction infeasible. WellWink agrees that this Agreement may be amended from time to time if necessary to comply with HIPAA. The requirements of this Section will survive this Agreement.

- b. Business Associate Provisions: In maintaining, using and affording access to Your Health Information in accordance with this Agreement, we will:
1. Not use or further disclose the information except as permitted or required by this Agreement or as required by law;
 2. Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by this Agreement, including administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the information;
 3. Report to you any use or disclosure of the information not provided for by this Agreement of which we become aware, or any security incident as a result of which we determines that unauthorized access has been obtained to Your Health Information;
 4. Ensure that any of our agents or subcontractors to whom we provide Your Health Information for purposes of assisting us in providing the Programs or the Services, agrees to the same restrictions and conditions that apply to us with respect to such information, including the obligation to implement reasonable and appropriate safeguards to protect it (it being understood that other Users of the System are not our agents or subcontractors);
 5. Make available protected health information in accordance with ¶ 164.524 of the Privacy Rule;
 6. Make available protected health information for amendment and incorporate any amendments to protected health information in accordance with ¶164.526 of the Privacy Rule;
 7. Make available the information required to provide an accounting of disclosures in accordance with ¶ 164.528 of the Privacy Rule; Make our internal practices, books, and records relating to the use and disclosure of protected health information received from, or created or received by us on your behalf available to the Secretary of the United States Department of Health and Human Services for purposes of determining your compliance with the Privacy Rule; and
 8. At termination of this Agreement, if feasible, return or destroy all protected health information received from, or created or received by us on your behalf that we still maintain in any form, and retain no copies of such information; or, if such return or destruction is not feasible, extend the protections of this Agreement to the

information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible. You acknowledge that it will likely be infeasible to segregate Your Health Information for removal from the System. However, we will provide you with an electronic copy of Your Health Information in the format in which it is produced by our standard procedures for copying or archiving such information. You acknowledge that you may have to purchase proprietary software in order to access such information.

9. De-Identified Information: You hereby transfer and assign to us all right, title and interest in and to all De-Identified Information that we make from Your Health Information pursuant to Section 17(b) (iv) free of any fee or charge whatsoever. You agree that we may use, disclose, market, license and sell such De-Identified Information for any purpose without restriction, and that you have no interest in such information, or in the proceeds of any sale, license, or other commercialization thereof. You acknowledge that the rights conferred by this section are the principal consideration for the provision of the Services, without which we would not enter into this Agreement.

21. Indemnity by Licensee: To the fullest extent permitted by law, you will indemnify, defend and hold harmless WellWink, its Licensors and other users as well ours and their affiliates and their respective directors, officers, employees, agents and representatives from and against any and all Losses, damages (including but not limited to compensatory, consequential, special and punitive damages), demands, claims, costs, penalties, injuries, interest, or expenses (including without limitation reasonable attorney fees and costs as incurred by counsel of WellWink's choice) howsoever caused, sustained by you, WellWink or any third party, at all levels of litigation or other proceeding at any time, arising out of or relating to (i) the use, non-use or misuse of the Programs and or Services or any portion thereof by you or your Workforce; (ii) any act or omission including a tortuous act as well as breach or alleged breach by you or your Workforce of any representations, warranties, obligations, responsibilities or agreements contained in this Agreement; (iii) the modification of the Programs and Services or any information contained therein, integration, alteration or the combination of all or part of Programs and or Services with any other software, program, product or device that is not expressly permitted under this Agreement, by or at the request of the Licensee, the user or the Workforce, regardless of whether or not we gave our consent to or performed such combination, integration, alteration or modification; (iv) any personal injury or death sustained by an individual, any third party or another, alleged or otherwise; (v) Licensee's violation of federal, state or local laws, rules or regulations; (vi) any act or omission (negligent, willful or otherwise) or misconduct by Licensee, its directors, officers, Workforce, employees, contractors, or agents; (vii) the actions of any person gaining access to the Programs and Services under a User ID assigned to you or a member of your Workforce; (viii) the use or consumption of Programs and or Services or any part thereof not in strict conformance with WellWink or its Licensor's guidelines, policies, procedures, recommendations, training/education material; (ix) ignoring standard workflows or following a way other than the recommended procedure/workflow or functionality built into the Programs or non-use of a standard or recommended workflow, functionality etc.; (x) any errors or inaccuracies contained in the patient data or practice data as delivered by Licensee to WellWink; (xi) any medical treatment, diagnosis, or prescription rendered by Licensee or its agents (including physicians and healthcare professionals); (xii) the completeness or lack thereof of prescription benefit or medication history information; or (xiii) the actions of anyone using a User ID, password or other unique identifier assigned to you or any member of your Workforce that adversely affects the Programs and or Services or any information accessed or any action performed through the Programs and or Services, provided

however, you may not enter into any settlement that would admit any wrongdoing by or impose any liability on the part of WellWink, or impose any obligation on WellWink, without WellWink's prior written consent.

22. DISCLAIMER: IT IS EXPRESSLY AGREED THAT IN NO EVENT SHALL WELLWINK, ITS LICENSORS INCLUDING SURESCRIPTS AS WELL AS DISTRIBUTORS BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR REVENUES, LOSS OF USE, OR LOSS OF INFORMATION OR DATA, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, EVEN IF WE HAVE BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING. WE DISCLAIM ANY AND ALL LIABILITY FOR ERRONEOUS TRANSMISSIONS AND LOSS OF SERVICE RESULTING FROM COMMUNICATION FAILURES BY TELECOMMUNICATION SERVICE PROVIDERS OR THE SYSTEM. YOU ACKNOWLEDGE AND AGREE THAT THE FEES AND OTHER CHARGES WHICH WELLWINK IS CHARGING UNDER THIS AGREEMENT DO NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY WELLWINK OF THE RISK OF CLIENT'S DIRECT, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR OF UNLIMITED DIRECT DAMAGES. LICENSEE AGREES THAT EACH PROGRAM AND EACH OF THE OTHER WELLWINK MATERIALS AND SERVICES AND INFORMATION CONTAINED THEREIN OR PROVIDED THEREWITH ARE PROVIDED ON "AS IS" AND "AS AVAILABLE" BASIS ONLY, WITHOUT WARRANTY OF ANY KIND, AND ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, CONDITIONS, REPRESENTATIONS, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TIMELINESS, COMPLETENESS, ADEQUACY AND NON-INFRINGEMENT OR WARRANTY ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OR TRADE ARE EXCLUDED BY WELLWINK. WELLWINK DOES NOT WARRANT THAT THE PROGRAMS WILL MEET THE REQUIREMENTS OF ANY PERSON AND OPERATE ON AN UNINTERRUPTED OR ERROR-FREE BASIS. LICENSEE IS SOLELY RESPONSIBLE FOR ANY AND ALL ACTS OR OMISSIONS TAKEN OR MADE IN RELIANCE ON THE PROGRAMS AND SERVICES OR THE INFORMATION CONTAINED THEREIN, INCLUDING INACCURATE OR INCOMPLETE INFORMATION. WITHOUT LIMITING THE FOREGOING, WELLWINK AND ITS LICENSORS DO NOT WARRANT THE QUALITY, ACCURACY, COMPLETENESS OR SUITABILITY OF INFORMATION PROVIDED THROUGH THE WELLWINK PROGRAMS FOR ANY PURPOSE, INCLUDING PRESCRIPTION BENEFIT OR MEDICAL HISTORY INFORMATION. THE LICENSEE AGREES THAT WELLWINK HAS MADE NO AGREEMENTS, REPRESENTATIONS OR WARRANTIES OTHER THAN THOSE EXPRESSLY SET FORTH IN THIS AGREEMENT, AND THAT NO FUTURE AGREEMENT, REPRESENTATION OR WARRANTY OF WELLWINK WITH REGARD TO PROGRAMS OR SERVICES PROVIDED UNDER THIS AGREEMENT SHALL BE EFFECTIVE UNLESS EXPRESSLY STATED IN AN AMENDMENT TO THIS AGREEMENT SIGNED BY BOTH PARTIES. SURESCRIPTS USES AVAILABLE TECHNOLOGY TO MATCH PATIENT IDENTITIES WITH THEIR PRESCRIPTION DRUG BENEFIT AND PRESCRIPTION DRUG RECORDS IN ORDER TO PROVIDE PHYSICIANS WITH PATIENTS' PRESCRIPTION DRUG BENEFIT AND MEDICATION HISTORY INFORMATION. BECAUSE PATIENT INFORMATION IS MAINTAINED IN MULTIPLE PLACES, NOT ALL OF WHICH ARE ACCESSIBLE TO SURESCRIPTS, AND BECAUSE NOT ALL PATIENT INFORMATION IS KEPT IN A STANDARD FASHION OR IS REGULARLY UPDATED, IT IS POSSIBLE THAT FALSE MATCHES MAY OCCUR OR THAT THERE MAY BE ERRORS OR OMISSIONS IN THE PRESCRIPTION DRUG BENEFIT OR MEDICATION HISTORY INFORMATION. THEREFORE, ANY TREATING PHYSICIAN OR OTHER HEALTH CARE PROVIDER OR FACILITY SHOULD VERIFY PRESCRIPTION DRUG BENEFIT OR MEDICATION HISTORY INFORMATION WITH EACH PATIENT AND/OR THE PATIENT'S REPRESENTATIVES BEFORE SUCH INFORMATION IS RELIED UPON OR UTILIZED IN DIAGNOSING OR TREATING THE PATIENT. SURESCRIPTS IS NOT A HEALTH PLAN, HEALTH CARE PROVIDER OR PRESCRIBER. WELLWINK AND ITS LICENSORS INCLUDING SURESCRIPTS DO NOT AND CANNOT INDEPENDENTLY VERIFY OR REVIEW THE INFORMATION,

INCLUDING PRESCRIPTION BENEFIT AND MEDICATION HISTORY TRANSMITTED THROUGH THE LICENSED PROGRAMS AND SERVICES INCLUDING SURESCRIPTS SYSTEM FOR ACCURACY OR COMPLETENESS. WELLWINK AND ITS LICENSORS INCLUDING SURESCRIPTS MAKE NO REPRESENTATION OR WARRANTY REGARDING THE AVAILABILITY THROUGH THE SURESCRIPTS SYSTEM AND OTHER LICENSED PROGRAMS AND SERVICES OF ANY PARTICULAR DATA SOURCE OR OTHER PARTICIPANT. AT ANY TIME, DATA SOURCES OR OTHER PARTICIPANTS MAY BE ADDED TO OR DELETED FROM THE SURESCRIPTS SYSTEM OR MAY LIMIT LICENSEE ACCESS TO THEIR DATA, AND SUCH CHANGES MAY OCCUR WITHOUT PRIOR NOTICE TO WELLWINK OR LICENSEE. THE LICENSEE ACKNOWLEDGES THAT WELLWINK: HAS NO CONTROL OF OR RESPONSIBILITY FOR THE LICENSEE'S USE OF THE SERVICE OR CONTENT PROVIDED THEREON; HAS NO LIABILITY TO ANY PERSON FOR ANY DATA OR INFORMATION INPUT ON THE SERVICE BY THE LICENSEE TO THE SERVICE. CARRIER LINES: YOU ACKNOWLEDGE THAT ACCESS TO THE PROGRAMS AND SERVICES WILL BE PROVIDED OVER VARIOUS FACILITIES AND COMMUNICATIONS LINES, AND INFORMATION WILL BE TRANSMITTED OVER LOCAL EXCHANGE AND INTERNET BACKBONE CARRIER LINES AND THROUGH ROUTERS, SWITCHES, AND OTHER DEVICES (COLLECTIVELY, "CARRIER LINES") OWNED, MAINTAINED, AND SERVICED BY THIRD PARTY CARRIERS, UTILITIES, INTERNET SERVICE PROVIDERS, ALL OF WHICH ARE BEYOND OUR CONTROL. WE ASSUME NO LIABILITY FOR OR RELATING TO THE INTEGRITY, PRIVACY, SECURITY, CONFIDENTIALITY, OR USE OF ANY INFORMATION WHILE IT IS TRANSMITTED ON THE CARRIER LINES, OR ANY DELAY, FAILURE, INTERRUPTION, INTERCEPTION, LOSS, TRANSMISSION, OR CORRUPTION OF ANY DATA OR OTHER INFORMATION ATTRIBUTABLE TO TRANSMISSION ON THE CARRIER LINES. USE OF THE CARRIER LINES IS SOLELY AT YOUR RISK AND IS SUBJECT TO ALL APPLICABLE LOCAL, STATE, NATIONAL, AND INTERNATIONAL LAWS. UNAUTHORIZED ACCESS; LOST OR CORRUPT DATA: WE ARE NOT RESPONSIBLE FOR UNAUTHORIZED ACCESS TO YOUR DATA, FACILITIES OR EQUIPMENT BY INDIVIDUALS OR ENTITIES USING THE PROGRAMS AND OR SERVICES OR FOR UNAUTHORIZED ACCESS TO, ALTERATION, THEFT, CORRUPTION, LOSS OR DESTRUCTION OF YOUR DATA FILES, PROGRAMS, PROCEDURES, OR INFORMATION THROUGH THE SYSTEM, WHETHER BY ACCIDENT, FRAUDULENT MEANS OR DEVICES, OR ANY OTHER MEANS. YOU ARE SOLELY RESPONSIBLE FOR VALIDATING THE ACCURACY OF ALL OUTPUT AND REPORTS, AND FOR PROTECTING YOUR DATA AND PROGRAMS FROM LOSS BY IMPLEMENTING APPROPRIATE SECURITY MEASURES, INCLUDING ROUTINE BACKUP PROCEDURES. YOU HEREBY WAIVE ANY DAMAGES OCCASIONED BY LOST OR CORRUPT DATA, INCORRECT REPORTS, OR INCORRECT DATA FILES RESULTING FROM PROGRAMMING ERROR, OPERATOR ERROR, EQUIPMENT OR SOFTWARE MALFUNCTION, SECURITY VIOLATIONS, OR THE USE OF THIRD PARTY SOFTWARE. WE ARE NOT RESPONSIBLE FOR THE CONTENT OF ANY INFORMATION TRANSMITTED OR RECEIVED THROUGH OUR PROVISION OF THE SERVICES.

23. Service Level Guarantee: WellWink guarantees to have your subscription access available through internet access 99% of the time in any given month. In the event that your access is not available for more than 99%, WellWink will credit the following month's service fee as follows. Such credit shall be retroactive and shall be as calculated below and as measured 24 hours a day in a calendar month, with the maximum credit not to exceed fifty (50) percent of the monthly subscription charge for the affected month.

Monthly Uptime Percentage	Credits
95% to 98.9%	10%
90% to 94.9%	20%
89.9% or below	50%

In order for you to receive a credit on your account, you must request such credit within seven (7) days after you experienced the down time. You must request credit by sending an electronic mail message to support@WellWink.com. For security, the body of this message must contain your account number, the dates and times of the unavailability, and such other Licensee identification requested by WellWink. Credits will usually be applied within sixty (60) days of your credit request. Credit to your account shall be your sole and exclusive remedy in the event of outage or service degradation. This Service Level guarantees and credits are subject to Force Majeure Clause hereof, as well as availability of Licensee systems and access capability at the time of outage. This guarantee applies to Licensees in good financial standing with WellWink at the time of a service outage. WellWink retains sole discretionary power when determining whether or not this guarantee has been met. This guarantee and all its terms apply to additional services subscribed to by Licensee. For instance: implementation, data entry, custom development, data migration, training and support, revenue cycle management etc. For all these services, the Monthly Uptime will mean the percentage of error-free-service delivery guaranteed by WellWink hereunder. The service levels credits will apply accordingly. The issuance of credits to you hereunder shall be your sole and exclusive remedy for any claim and you hereby waive the right of any action, legal or otherwise, against WellWink by accepting the applicability of the Service Level Credits to any claims you might have relating to the quality of service hereunder.

24. Limitation of Liabilities: IT IS EXPRESSLY AGREED THAT IN NO EVENT WELLWINK OR ANY OF THE DIRECT OR INDIRECT OWNERS OF WELLWINK, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, STOCKHOLDERS, AGENTS, AND EMPLOYEES, OR ANY LICENSORS OF WELLWINK SHALL HAVE ANY LIABILITY WHATSOEVER FOR INSTANCES INCLUDING BUT NOT LIMITED TO ANY LOSS OR CORRUPTION OF DATA, ANY INABILITY TO RECORD OR ACCESS DATA, ANY FAILURE TO RESTORE DATA, OR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, REVENUES OR GOODWILL, LOSS OF USE, OR LOSS OF INFORMATION OR DATA, OR FROM INCREASED EXPENSES OR COSTS, FORESEEABLE OR UNFORESEEABLE, WHETHER A CLAIM FOR ANY SUCH LIABILITY OR DAMAGES IS PREMISED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY OF LIABILITY, EVEN IF WELLWINK HAS BEEN APPRISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING THAT MAY BE INCURRED OR SUFFERED BY THE LICENSEE OR ANY OTHER PERSON FROM THE USE OR INABILITY TO USE THE PROGRAMS AND SERVICES WHETHER UNDER THE LAWS OF CONTRACT, STRICT LIABILITY, TORT OR OTHERWISE, ARISING FROM THOSE OR OTHER CAUSES. WELLWINK DISCLAIMS ANY AND ALL LIABILITY FOR ERRONEOUS TRANSMISSIONS AND LOSS OF SERVICE RESULTING FROM COMMUNICATION FAILURES BY TELECOMMUNICATION SERVICE PROVIDERS OR THE PROGRAMS. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THEORY OF LIABILITY, SHALL BE LIMITED TO THE AGGREGATE FEES ACTUALLY PAID BY YOU UNDER THIS AGREEMENT FOR THE SIX (6) MONTH PERIOD PRECEDING THE EVENT FIRST GIVING RISE TO THE CLAIM.

25. Conditions for Breach: We will not be deemed to be in violation of this Agreement unless you have first have given us written notice specifying the nature of the default, and we have failed within thirty (30) days of receipt of the notice either to cure the default or, if cure within such period is not practicable, to be diligently proceeding to cure the default. In the event Licensee fails to comply with the WellWink implementation, training and policy guidelines, including but not limited to installation of compliant hardware, bandwidth or infrastructure, HIPAA, HITECH, and other federal / state laws, or as a result of inactivity fails to respond to any communication for a period of six (6) months after

signing up, the Licensee shall be considered dormant and automatically released from this Agreement. Any payment deposits, up-front or recurring, shall be forfeited accordingly and WellWink will not be held liable for any loss or damage suffered by the Licensee. Thereafter, if the Licensee wishes to resume our services, they will have to renew their Agreement with WellWink, subject to additional charges.

26. Data Protection: The Licensee agrees that it will establish procedures for handling and protecting patient data consistent with good data management for important and sensitive data, including but not limited to measures such as:

- a. Implementation of physical and electronic security measures to prevent unauthorized persons from having access to the Programs;
- b. Use of a continuously active computer virus detection and deletion program on the System, upgraded regularly, together with procedures to ensure that all data or files that are loaded into the System are checked for viruses prior to use;
- c. Ensure that all Authorized Users are trained in proper security and data protection procedures, such as alertness to evidence of unauthorized access, avoidance of use of modems for Internet access, and avoidance of use of diskettes that have not been checked for viruses.

27. Assignment: The Licensee's rights, duties and obligations under this Agreement may not be, directly or indirectly, transferred, leased, assigned, delegated, sublicensed or otherwise conveyed or disposed of, nor may the Licensee undergo a change of ownership or control (in each case, "a Transfer") without the prior written consent of WellWink, which may be withheld in WellWink's sole and absolute discretion; provided, however, that WellWink shall not unreasonably withhold its consent to a Transfer that involves the sale by the Licensee of all of its assets, or a merger of the Licensee into another Person, so long as, prior to such Transfer, the transferee: Provides WellWink with such information as WellWink may reasonably request and such information is satisfactory to WellWink; Assumes all obligations of the Licensee to WellWink under this Agreement or otherwise; and Pays to WellWink, WellWink's re- license fee. No Transfer shall relieve the Licensee of any of its obligations, whether under this Agreement or otherwise. Any purported Transfer by the Licensee in violation of this Section 24 shall be null and void. WellWink may assign its rights and delegate obligations under this Agreement without the consent of the Licensee subject to the foregoing; this Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns.

28. Protection of Proprietary Rights & Confidential Information: The Licensee acknowledges that the WellWink Information, the WellWink Materials and other Related technical and business information and documentation (all together the "Proprietary Information") provided to the Licensee by or on behalf of WellWink or an authorized WellWink reseller classify as confidential information and are valuable proprietary rights of WellWink or its licensors, including ideas, concepts and techniques contained in the Programs, reference data, system design, data models, product performance and functionality, planned products and services, marketing and product plans, processes, formulas, and methodologies for developing, analyzing and presenting data, and the terms and conditions of this Agreement, as it may be amended from time to time, and any other agreements between WellWink and the Licensee. The Licensee agrees not to (i) Provide or otherwise make available what's outlined above or any WellWink Information, WellWink Material, any backup copies of Programs if permitted to be made under this Agreement, or other documentation of WellWink in any form to any person, corporation or entity, (ii) Disclose Proprietary Information to any person,

corporation or entity, including preparation and provision to any third party, or allowing any third party access to the Programs to prepare any benchmark analysis of the performance of the Programs or comparison of the Programs or the Optional Services with the products or services of any other party or (iii) remove or obscure any copyright and trademark notices or other proprietary notices relating to licensed software. The Licensee shall exercise the same level of care to protect the proprietary nature of WellWink Proprietary Information as it exercises to protect its own proprietary and confidential information and shall, in addition, take such actions as are required under this Agreement or shall be reasonably specified by WellWink in a written notice to the Licensee hereafter for such purpose. Licensee agrees that the Confidential Information is to be considered confidential and proprietary to WellWink and Licensee shall hold the same in confidence, shall not use the Confidential Information other than for the purposes of its business with WellWink, and shall disclose it only to its officers, directors, or employees with a specific need to know, who will then be bound to the same effect as the Licensee under the terms of this agreement to the extent of (or in reference to) the Confidential Information so disclosed. Licensee will not disclose, publish or otherwise reveal any of the Confidential Information received from WellWink to any other party whatsoever except with the specific prior written authorization of WellWink. Confidential Information furnished in tangible form shall not be duplicated by Licensee except for purposes of this Agreement. Upon the request of WellWink, Licensee shall return all Confidential Information received in written or tangible form, including copies, or reproductions or other media containing such Confidential Information, within ten (10) days of such request. At Licensee's option, any documents or other media developed by the Licensee containing Confidential Information may be destroyed by Licensee. If the Licensee chooses not to destroy any such documents or other media containing Confidential Information, it must, however, essentially remove any part there of containing references to the Confidential Information mentioned therein. Licensee shall provide a written certificate to WellWink regarding destruction within ten (10) days thereafter.

Nothing contained herein shall be construed as granting or conferring any rights by license or otherwise in any Confidential Information. It is understood and agreed that neither party solicits any change in the organization, business practice, service or products of the other party, and that the disclosure of Confidential Information shall not be construed as evidencing any intent by a party to purchase any products or services of the other party nor as an encouragement to expend funds in development or research efforts. Confidential Information may pertain to prospective or unannounced products. Licensee agrees not to use any Confidential Information as a basis upon which to develop or have a third party develop a competing or similar product/service. Licensee may disclose Confidential Information as required to satisfy any legal requirement of a competent government body provided that, immediately upon receiving any such request and to the extent that it may legally do so, Licensee advises WellWink the request prior to making such disclosure in order that WellWink may interpose an objection to such disclosure or take such other action as it deems appropriate to protect the Confidential Information. Each party's Confidential Information shall remain the property of that party. Nothing contained in this section shall be construed as obligating a party to disclose its Confidential Information to the other party or as granting to or conferring upon a party, expressly or impliedly, any rights or license to the Confidential Information of the other party. Licensee agrees that WellWink will suffer irreparable harm if Licensee fails to comply with its obligations set forth in this Section 25 including other obligations set forth in this Agreement pertaining to WellWink's intellectual property rights (which shall survive the termination or expiration of this Agreement, regardless of the cause of termination), and you further agree that monetary damages will be inadequate to compensate us for any such breach. Accordingly, you agree that we will, in addition to any other remedies available to us at law or in equity, be entitled to the issuance of injunctive relief to enforce

the provisions hereof as well as seek specific performance, immediately and without the necessity of posting a bond.

29. Scope of Agreement: This Agreement is the exclusive agreement between the Licensee and WellWink, with respect to the Programs and Services and the subject matter of this Agreement and, as of its Effective Date supersedes all prior and contemporaneous agreements, negotiations, representations and proposals, written or oral, related to its subject matter. WellWink shall not be bound by or liable to the Licensee for any representation, promise or inducement made by any agent of WellWink or any other Person, which is not embodied in this Agreement or in another writing signed by WellWink. WellWink shall have no obligation under this Agreement in the event that the representations and warranties of the Licensee set forth in this Agreement are untrue in any material respect.

30. Governing Law: This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of New York as it applies to a contract made and to be performed in such state. The Licensee consents and agrees that the courts of New York and the United States District Court for New York shall have personal jurisdiction over the Licensee, as well as subject matter jurisdiction with respect to any provision of this Agreement, and shall be the exclusive forums for any litigation arising out of or relating to this Agreement. The Licensee also agrees to and hereby does waive its rights to a trial by jury and agrees to accept service of process by mail.

31. Modifications and Waivers: This Agreement may not be modified except by a writing signed by authorized representatives of both parties. A waiver by any party of its rights under this Agreement shall not be binding unless contained in a writing signed by an authorized representative of the party waiving its rights. The non- enforcement or waiver of any provision on any occasion shall not constitute a waiver of such provision on any other occasions unless expressly so agreed in writing. It is agreed that no usage of trade or other regular practice or method of dealing between or among the parties to this Agreement shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement.

32. Dispute Resolution:

1. **Negotiation:** Should a dispute arise between the parties as to the interpretation or the legal effects of the Agreement, the parties shall first seek to resolve such dispute through negotiations. If such negotiations do not succeed within fifteen (15) working days, or a different period agreed by the parties, each of the parties may request that the dispute be brought before an independent expert or submitted for mediation.
2. **Independent Expert:** The parties shall in connection with the conclusion of the Agreement appoint an independent expert, whose name shall be specified in an Addendum to this Agreement, and who shall hold such qualifications as the parties believe to be the most appropriate in the light of the Agreement. If this has not been done, the parties may agree on the appointment of an independent expert at the time of a dispute. The parties shall in advance choose either to comply with the solution proposed by the expert (binding), or use the solution proposed by the expert as a basis for reaching a solution themselves (advisory). The detailed approach to these efforts shall be determined by the independent expert, in consultation with the parties. If a dispute related to this Agreement has not been resolved after negotiations or by an independent expert, the parties may attempt to resolve the dispute through mediation. Mediation may also be used without the

prior use of an independent expert, if this is agreed by the parties. The detailed approach to mediation shall be determined by the mediator, in consultation with the parties.

3. **Joint Rules for Mediation or Independent Expert:** The independent expert and/or mediator shall act impartially and independently in the performance of his or her duties. Prior to accepting an assignment, the expert/mediator shall notify the parties of any potential circumstances that are likely to give rise to a suspicion of insufficient impartiality or independence on his or her part. The expert/mediator shall also give the parties such notice during the assignment if the parties have not previously received such information, or if the relevant circumstances arise during the assignment.

At the start of mediation, the expert/mediator shall inform the parties of the basis on which his or her remuneration will be calculated. Unless otherwise agreed, each party shall pay its own costs and half of the costs of the expert/mediator. The expert/mediator has the right to request the parties to pay a sufficient advance to cover the costs and remuneration of the mediator/expert, or to request the parties to provide sufficient security.

The assignment of the independent expert or mediator shall be concluded in one of the following ways: through a proposed solution from the expert that the parties have agreed in advance shall be binding; through a written settlement or agreement between the parties, based on the solution proposed by the expert/mediator; through the expert/mediator informing the parties that he or she does not deem it appropriate to continue the assignment, or through a party informing the expert or the mediator that such party wishes to conclude the assignment. Litigation or Arbitration: If a dispute is not resolved through negotiations, through mediation or by an independent expert, each party may require such dispute to be resolved by arbitration and if the resolution is not reached, with final effect before the courts of law in the New York City, United States of America.

In the event of any dispute or controversy hereunder (including, without limitation, any dispute involving the existence, validity or breach of this Agreement), the parties shall submit same to arbitration privately and confidentially in New York, New York by one arbitrator mutually agreed (or, if none appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association), subject to the arbitrator executing an appropriate confidentiality agreement. The result of any such arbitration shall be binding but shall not be made public unless necessary to confirm same after non-compliance by a party. Nothing contained herein shall limit or curtail WellWink's right to any remedy or relief under any applicable law in reference to any dispute or controversy. Both parties agree that that no action at law shall be taken by either party previous to an unsuccessful resolution by arbitration. However, if Licensee considers litigation as recourse for dispute resolution, Licensee will be solely responsible for all legal fees and expenses incurred by WellWink to defend or resolve the dispute. This provision shall survive the termination of this agreement, regardless, of the cause of such termination.

- 33. Enforceability/Injunctive Relief:** It is understood and agreed by the parties to this Agreement that it is their intention that if a court of competent jurisdiction shall determine that any of the terms of this Agreement are invalid or otherwise unenforceable, that such court shall substitute terms, therefore, with such court determines are enforceable, so as to result in the enforcement of the original terms to the maximum extent permitted by law. The Licensee agrees that any non-compliance with the terms of this Agreement, or any unauthorized or improper use of any WellWink trademarks or WellWink Materials will cause irreparable damage to WellWink.

The Licensee therefore agrees that if the Licensee engages in any one or more of such noncompliance, unauthorized use and improper use of WellWink trademarks or WellWink Materials, during or after

the Term of License, WellWink shall be entitled to both temporary and permanent injunctive relief against the Licensee from any court of competent jurisdiction, in addition to all other remedies which WellWink may have at law, in equity or otherwise.

- 34. Marketing:** The Licensee agrees that during the term of this Agreement WellWink may publicly refer to the Licensee, orally and in writing, as a Customer of WellWink and may also use Licensee's trademark or logo for this purpose. Any other reference to Customer by WellWink requires the written consent of Customer.
- 35. Notices:** Unless otherwise provided, any notice required or permitted under this Agreement shall be given in writing and shall be deemed effectively given upon personal delivery to the party to be notified or on the fifth (5th) day following deposit with the United States Post Office, by registered or certified mail (return receipt requested), postage prepaid and addressed to the party to be notified at the address of such party set forth in this Agreement, or at such other address as such party may designate by ten (10) days advance written notice to the other party.
- 36. No Third party Beneficiaries:** Nothing express or implied in this Agreement is intended to confer, nor shall confer, upon any person or entity other than the parties, their licensors, and their respective successors or assigns any rights, remedies, obligations, or liabilities whatsoever.
- 37. Non Solicitation:** Each party to this Agreement agrees not to recruit or hire any employee or agent of the other party, either as an employee or consultant, or recruit any such person for another company, while such person is employed or retained by the other party and for a period of twelve (12) months after the employee leaves the employ of the other party, or for a period of twelve (12) months after the termination or expiration of this Agreement, whichever period ends at the latest date.
- 38. Advice of Counsel & Authority:** Each Party acknowledges: (a) having fully read this Agreement in its entirety; (b) having had full opportunity to study and review this Agreement; (c) having been advised that counsel for us has acted solely on our behalf in connection with the negotiation, preparation, and execution of this Agreement; (d) having been advised that all parties have the right to consult and should consult independent counsel respecting their rights and duties under this Agreement; and (e) having had access to all such information as has been requested. The individuals, corporations or entities entering into this Agreement represent and warrant that they are competent and capable of entering into a binding contract, and that they are authorized to enter into this Agreement on behalf of the Parties.
- 39. Interpretation:** Section headings are for reference only, and shall not be construed as substantive parts of this Agreement. Each capitalized term used in this Agreement (including any schedule or exhibit of this Agreement) shall have the meaning attributed to it in any part of this Agreement (including any such schedules or exhibits).

In the event that WellWink is entitled to make any decision or determination, or grant or withhold any consent or approval, pursuant to any term of this Agreement, it shall be entitled to do so in its sole and absolute discretion. Each use of the term including, in this Agreement, unless otherwise expressly stated in connection with such use, shall mean including without limitation.

40. Survival & Period of Claims: Licensee acknowledges and agrees that the covenants and agreements made in this Agreement are made for the benefit of WellWink and its Licensors and the obligations existing prior to the termination or expiration hereof shall survive the termination or expiration of this Agreement. Other than that all indemnification, confidentiality, intellectual property, non-compete, non-solicitation, governing law, dispute resolution, enforceability/injunctive relief, Limitation of Liability, Disclaimer and other clauses including those provisions which by their terms contemplate survival shall survive the termination or expiration of this Agreement regardless of the cause of such termination. In the event of any breach by Licensee of the terms of this Agreement, in addition to other relief to which WellWink shall be entitled, WellWink shall be entitled to terminate this License.

No action, regardless of form, relating, directly or indirectly to this Agreement or the Programs or Services or other goods or services rendered may be brought more than one 6 months after cause of action has arisen, except that an action for nonpayment may be brought within one 1 year after the date of the most recent payment. This limitation however, shall not be applicable to WellWink intellectual property as well as indemnification rights. If any claim or cause of action is not filed within said six (6) month time period, the claim or cause of action shall be forever barred.

41. Insurance: You will obtain and maintain such policies of, general liability, errors and omissions, and professional liability insurance with reputable insurance companies as is usually carried by persons engaged in your business covering the Term of this Agreement. Such insurance shall be in amounts no less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) in the annual aggregate. Furthermore, you will hold WellWink harmless from all claims, demands and suits arising out of the performance of your obligations hereunder or for any other damages to you, WellWink or any third party that could have been covered by obtaining proper insurance.

42. Force Majeure: Neither party shall be liable to the other party for damages or losses, except for payment obligations, on account of failure of performance by the defaulting party if the failure is the result of an Act of God (e.g., fire, flood, inclement weather, epidemic, or earthquake), fear, possibility, war or act of terrorism, including chemical or biological warfare; labor dispute, lockout, strike, embargo; communication line, hardware or power failures; governmental acts, orders, or restrictions; failure of suppliers or third persons; nuclear or other civil or military emergencies; acts of legislative, judicial, executive, or administrative authorities; or any other reason where failure to perform is beyond the reasonable control, and is not caused by the negligence, intentional conduct or misconduct of the defaulting party, and the defaulting party has exercised all reasonable efforts to avoid or remedy such force majeure. The defaulting party must provide written notice of the force majeure event to the remaining parties within two (2) business days of such event.

43. Misuse of Third Party Product: You agree that You will use Third Party Products only in accordance with the permitted or licensed use of such Third Party Products and You agree to defend, indemnify and hold WellWink, its affiliates, resellers and licensors as well as their respective employees, officers, or contractors harmless from any claim by or on behalf of any third party which is brought against WellWink, its affiliates, resellers and licensors as well as their employees, officers, or directors arising out of any improper use of any third Party Product or any infringement of any third party's rights with respect to your use, copying, modification, distribution, display or other activity relating to any Third Party Product unless such activity is licensed to You under this Agreement with respect to the applicable Third Party Product.

44. Federal Government: In the event that the Licensee under this Agreement is the United States Government, this clause will apply: The Programs and accompanying materials are commercial computer software provided with RESTRICTED RIGHTS. Use, duplication or disclosure by the Government is subject to restrictions as set forth in (a) this Agreement pursuant to DFARs 227.7202-3(a); or (b) the Commercial Computer Software- Restricted Rights clause at FAR 52.227-19 subdivision (c)(1) and (2), as applicable. The Programs and accompanying materials are provided with disclosure prohibitions, as provided in this Agreement, notwithstanding any copyright notice, and the terms of FAR 52.227-19 subdivision (d) are expressly disclaimed. Contractor/manufacturer is WellWink, LLC, 120 Broadway, New York, NY 10271.

45. Additional Services: The following table lists the terms and conditions of the Business Associate Agreement and the Additional Services provided by WellWink. By using the Programs and Services, you agree to the Business Associate Agreement and to the terms and conditions of the Additional Services used by you.

WellWink Services – Terms and Conditions
Chronic Care Management Services Remote Patient Monitoring Digital Marketing Services Resource Augmentation Web Development